



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Environment, Climate Change and Land Reform Committee

**Tuesday 19 March 2019**

**Session 5**



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**ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE**  
**10<sup>th</sup> Meeting 2019, Session 5**

**CONVENER**

\*Gillian Martin (Aberdeenshire East) (SNP)

**DEPUTY CONVENER**

\*John Scott (Ayr) (Con)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Finlay Carson (Galloway and West Dumfries) (Con)

\*Angus MacDonald (Falkirk East) (SNP)

\*Mark Ruskell (Mid Scotland and Fife) (Green)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Lindsay Anderson (Scottish Government)

Roseanna Cunningham (Cabinet Secretary for Environment, Climate Change and Land Reform)

Hugh Dignon (Scottish Government)

Andrew Thin (Scottish Land Commission)

Hamish Trench (Scottish Land Commission)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Environment, Climate Change and Land Reform Committee

*Tuesday 19 March 2019*

*[The Convener opened the meeting at 09:32]*

### Decision on Taking Business in Private

**The Convener (Gillian Martin):** Welcome to the Environment, Climate Change and Land Reform Committee's 10th meeting in 2019. I remind everyone to switch off their mobile phones, as they might affect the broadcasting system.

The first item of business is a decision on taking agenda item 5 in private. Are we all agreed?

**Members indicated agreement.**

## Scottish Land Commission

09:33

**The Convener:** The second item on the agenda is an evidence session with the Scottish Land Commission on its current work programme. For the first time in my convenership, I am delighted to welcome to the committee Hamish Trench, chief executive, and Andrew Thin, chair, of the Scottish Land Commission. Good morning to you both.

I will start by asking about the public meetings that you have been holding. What have the key themes of the meetings been? Have the themes differed in urban and rural locations?

**Andrew Thin (Scottish Land Commission):** That was going to be the first part of my answer, as the themes have been different. As you would expect, in rural Scotland, the themes have been mainly rural; predominantly, they have been about the balance of power, the use of power and the way in which communities are or are not engaged in decision making, which is a theme that the Parliament has returned to many times. Another theme is rural housing, access to land for housing and access to land for communities to purchase for other reasons, such as amenity.

Interestingly, in urban Scotland, we get asked a lot about rural issues—urban Scots care about rural Scotland and what is happening there, with the same issues, particularly about scale and power, coming up again and again. A major theme that also comes up—although this varies a little bit depending on which bit of urban Scotland we are talking about—is vacant and derelict land. As one might expect, we have a very high proportion of such land in Scotland and many communities resent living next to vacant and derelict sites and want to know and understand what we are going to do about the situation.

The last thing that is common to all public meetings—indeed, it is partly why we hold them—is our being held to account and challenged on, for example, why we have prioritised this or that. That is a good thing and is, as I have said, partly why we have the meetings.

**The Convener:** Do you get a sense at the meetings that there is an understanding of what the Land Commission has done up to this point and what land reform actually means for communities? Are people switched on to their rights?

**Andrew Thin:** Yes and no. Many Scots are, as you would expect, very well informed and passionate about land reform; in fact, that is probably why they choose to come to the meetings. The fact that many Scots are thoughtful

about the issue is, I think, why it has a degree of political weight. After all, the Parliament has returned to it a number of times since its creation in 1999.

However, many people who come to the public meetings simply have an interest in the subject. We use social media extensively, write to all the community councils and so on, and a lot of people come because they are inquisitive, but they are not well informed, particularly about what is happening in urban Scotland. People understand that in rural Scotland there are issues with the big estates, community ownership and so on, but many urban Scots do not recognise that land reform is of huge social and economic importance to them, too. We have to deal with that and bridge the gap.

**The Convener:** I can see that. How will the discussions between you and the public at the meetings inform the Land Commission's work?

**Hamish Trench (Scottish Land Commission):** We actually find the meetings very useful in taking the temperature of local issues and understanding how they are playing out on the ground in different places. The experience that we take back informs the work that we are putting together on, for example, land ownership. Some recommendations that we made last year on community ownership were informed not just by our research on the matter but by discussions in the public meetings, and the same is true of our forthcoming research on land ownership.

Our urban engagement, in particular, links very strongly to our work in partnership with SURF—Scotland's independent urban regeneration network—on community engagement in urban areas and land use decision making. Over the past year, we have done some work with Young Scot and SURF on how people feel able to engage with decisions that affect their surroundings and their place in urban centres. A lot of what we take from the meetings links in with and helps us to shape our wider work programme.

**The Convener:** You have said that those who come to the meetings are already interested in the subject. Have you thought about having more meetings to reach into communities and out to people who you feel could benefit from knowing a little bit more about what you are doing and from getting more involved?

**Andrew Thin:** We have thought about that a huge amount—

**The Convener:** We think about it a lot, too.

**Andrew Thin:** I have a couple of points to make on that. First, it is not just the well informed who come to the meetings; as I have said, many people come simply because they are inquisitive.

That is really good, but I realise that it is a very slow, drip-drip approach.

As a result, over the next year or two, we will change gear slightly. The public meetings must be in part about our being held to account; that is an important dimension that I do not want to lose, because it is a really good discipline for us to be challenged on our priorities and everything else. However, increasingly, we will make some of the public meetings about specific topics, to enable us not only to target promotion but to capture people's interest. If you say, "Come to a meeting on land reform," a lot of people will just yawn, but if you say, "Come to a meeting on affordable housing," or "Come to a meeting on turning this derelict area into a park," they will come. You will see that sort of shift in the next 12 to 24 months, but it will be a shift, not a switch; our approach will evolve.

**Mark Ruskell (Mid Scotland and Fife) (Green):** There is intense discussion in urban communities about housing development and derelict land, including as part of the local development planning process. Can you align with those active debates in communities, which often do not look fully at the context and at the development pressures, or opportunities, that present themselves?

**Hamish Trench:** We need to keep tapping in through existing networks, such as local authority networks and community planning networks, and work with organisations such as SURF and the Development Trusts Association Scotland, which are already building up networks in urban communities in particular. That work goes beyond our public meetings. We will continue to hold the public meetings, but we need to tap in through some of the existing networks at the same time.

Some of the work that we have done over the past year with, for example, YoungScot and SURF has started to introduce questions about how engaged people are on the issue of land use decisions and what changes they would like and how we can feed that into the work that we are doing on vacant and derelict land or, more generally, on access to land for housing and community facilities.

**The Convener:** Let us move on to talk about some of the independent papers that you have commissioned to, I guess, stimulate debate and inform the future work of the Land Commission. The discussion paper on the housing land market says that

"a reliance on the private sector"

has led to

"an under-supply of housing and escalating housing costs".

Are you in agreement with that statement? I am interested to know how the discussion papers filter through to the work of your organisation and what you are taking from them.

**Hamish Trench:** The discussion papers are there to stimulate debate and raise ideas; they do not pretend to provide immediate answers but are there to stimulate the right questions on which we can work with stakeholders.

The housing land market paper is an interesting one. It sits well with another paper that we published on public interest-led development. Together, the two papers have helped to stimulate a debate with local authorities, the housing sector and the planning and development sector on how we make much more proactive use of public bodies to deliver good development in the right place, which is as much about culture change as it is about legislation.

That has fed into research work that we are now starting on land-value capture and land banking. Having stimulated discussion on those issues, we can home in on precisely what the research requirements are and move forward with partners to get ideas and recommendations. For example, we will take forward our research on the housing land market over the course of this year and will expect to come back with some ideas and recommendations for potential reforms of that market in about a year's time.

**The Convener:** You mentioned that the scale of land ownership has come out in your public meetings as an issue that interests the ordinary Scot. Might the commission consider looking at a statutory intervention on that on public interest grounds?

**Andrew Thin:** The short answer is that we have a completely open mind about everything, so yes, of course—we would be remiss if we closed our minds to things. We are anxious to be evidence led, so we go into things thoroughly before starting to produce conclusions.

It is worth adding that Scotland sits in an international context and lots of other countries are grappling with these issues, too. It is important that we do not reinvent the wheel and that we look abroad, particularly to the European continent. Quite a bit of our research does that, including on that subject.

09:45

**The Convener:** You said that people in urban areas are interested in what happens in rural areas, too. You also mentioned the continent, where, in quite a lot of countries, people in urban areas have access to the countryside. Is it

important that people in urban areas have access to their own natural capital?

**Andrew Thin:** People tell us that all the time; there is no question about it. That is why the Parliament has legislated in the past on such things as access rights—to reflect what the people of Scotland want.

We need to work harder at helping people to know how things are done in other countries. Sometimes the discussion is a wee bit insular; we say, "This is how Scotland does it—that is how we have always done it." However, Germany, Denmark or Holland might do it differently, and our being outward facing helps us to understand and learn from them.

**Claudia Beamish (South Scotland) (Lab):** Good morning to you both. I will develop the discussion that the convener started. The discussion paper "Land: For the many, not the few? Limitations on the Scale of Land Ownership" states:

"For many the current concentrated ownership patterns represent a structural inequality in Scotland of significant proportions which arguably limits or acts against furthering the achievement of greater social justice."

Will you develop the points that are raised in the paper about the experience of concentrated land ownership?

**Hamish Trench:** First, I will say a word about how we developed that work. After we published the discussion paper last year, we commissioned research on international experience of interventions in managing land ownership, picking up on the theme of looking at how other countries deal with things, which Andrew Thin spoke about. That was published about a year ago and looked at a range of countries in Europe and more widely. It found that interventions to address public policy issues in determining who can own how much land and the obligations around doing so is common practice in many countries around the world.

We then had a public call for evidence on issues relating to the scale and concentration of land ownership, which had more than 400 responses—that is a good set of responses, with rich information. Tomorrow, we will publish a report resulting from that work.

**Claudia Beamish:** Has any evidence or information led you to have further thoughts on whether there should be an absolute limit on the scale of ownership? If so, without going into too much detail, can you talk about the views that have been expressed on what the limit should be and why?

**Andrew Thin:** We will publish a lot of detail tomorrow and it would be difficult to get through it all now. There is a lot of data.

**Claudia Beamish:** We can leave it until tomorrow. I did not mean to press you on it.

**Andrew Thin:** I am quite happy to deal with the main issue, which is whether the issue is scale or something else. In broad terms, we are clear that it is not about whether people have 5,000 or 10,000 acres but about power and monopoly and about the constraints on power, which are quite normal—if we think about other aspects of the economy, we do not allow oligopoly or a monopoly to develop; we have constraints. It is unlikely that a blunt tool—such as saying that the limit is 5,000 acres or whatever—would deal with the issue, because it is not about the number of acres but about power. Therefore, we need to think about the issue in a more intelligent way—that perhaps sounds a bit unkind, so in a more thoughtful or subtle way. Just setting arbitrary limits is unlikely to deal with the issue.

**Claudia Beamish:** On the general issue of power, which you have highlighted several times, some argue that what matters is how the land is managed, not who owns it, whereas others say that what matters is who owns the land because, in the end, the landowner can say no to anything. Has much of that dialogue come up in urban and rural Scotland?

**Andrew Thin:** It has. We will both answer the question, but to put it crudely, the issue is about power, and power is about ownership—it is important to recognise that those two aspects cannot be separated.

Hamish Trench can add a wee bit.

**Hamish Trench:** In the evidence that has come to us in the past year and in the discussions that we have had in public meetings around the country, it has been clear that ownership and the use of land are inextricably linked. That goes back to the decision-making power that ownership conveys. For us, the two aspects are closely linked.

**Claudia Beamish:** This is the final question that I will pose. Has rural depopulation come up as an issue in relation to power? That connects to our convener's question about housing and goes into a lot of other economic issues.

**Andrew Thin:** The issue comes up in public meetings, particularly in the north of the country but also in urban Scotland. People are anxious about what they perceive as depopulation, often in the past.

On the whole, Scotland's population is rising, so we must not get the issue out of proportion. However, if someone owned a large area of land,

which gave them the power to determine whether houses could be built, jobs could be created or anything else could happen, they could have power over what happened to the population.

**Hamish Trench:** The work that we are doing on housing and development relates directly to the challenge of depopulation and rural repopulation in particular. Our work has two angles in relation to housing—one workstream concerns reducing constraints around ownership to ensure the release of land in the right place and at the right price, and the other concerns how we ensure that land values shape the situation effectively and do not prevent development from happening in the right place, where it is needed.

**John Scott (Ayr) (Con):** Two issues are being confused, as there is a difference between access and ownership. I agree that the first land reform act, in 2003, provided access, and that was a huge success.

With ownership comes responsibility. You are not quite saying this, but you are implying that landowners are responsible for the depopulation of Scotland—perhaps you will give me clarity on that point, but that seems to be your direction of travel. You seem to suggest that, by exercising power inappropriately through their ownership of land, landowners are somehow responsible for depopulation in areas that are being depopulated. Notwithstanding that I am a farmer and a minor landowner—I declare that interest—I find that implication offensive to the landowners I know, and I am surprised to hear it.

I presume from what you say in your recommendations to ministers about willing buyers and willing sellers that you foresee the end of that approach for the exchange and purchase of land. Do you seek to control that process?

**Andrew Thin:** I make it absolutely clear that I certainly did not and would not say that landowners are responsible for the depopulation of Scotland. I said that, if someone owned a large amount of land and had as a consequence power over housing and employment, they could have power over population and depopulation. How that is exercised is another matter. There are instances throughout history in which landowners have contributed to population growth and population falls.

**John Scott:** You use the phrase “throughout history”. How far back are you going? Are we not taking evidence on the basis of today?

**Andrew Thin:** I am not going back anywhere; I am simply making a logical point about what could happen if someone had such power. That is the only point that I am making.



I repeat that Scotland's population is broadly rising in almost all parts of the country.

**John Scott:** Yet you somehow imply that the power that land ownership gives to landowners is being improperly used.

**Andrew Thin:** Let me be clear—I am not implying one way or the other; I am simply saying that the power exists. I made an analogy with other parts of the economy. Where monopoly power exists, we have to decide whether we wish to regulate its use.

**Mark Ruskell:** Obviously, you are considering very important questions relating to economic participation, but I want to go back to a conventional economic argument around economic productivity, if you do not mind. Perhaps that is a bit odd coming from me. Are you looking at economic productivity from land and what opportunities there might be through more diverse ownership models? Is that an issue, or is the current system the most economically productive one that we can have?

**Hamish Trench:** We would not assume that the current system is necessarily the most productive system. In the objectives for the commission's work, we have deliberately put a strong emphasis on productivity alongside diversity and accountability in land ownership and use. Our sense of productivity is strongly about economic productivity, but it is also about the wider public value that we get from our land. There are ideas about the social, cultural and environmental value that we get from land, alongside the economic value.

Whether in urban or rural Scotland, we should increasingly be open to questioning the model of economic productivity to get more out of land use. Elements of that have certainly come through in the evidence that we have taken over the past year, particularly in respect of the scale and concentration of ownership, economies of scale and potential different models.

**Finlay Carson (Galloway and West Dumfries) (Con):** On the back of John Scott's comments, I, too, am a bit concerned that landowners' power to influence rural depopulation or otherwise has been highlighted. Is that significant if we consider the powers that local authorities have through their planning policies to indicate where housing is or is not allowed, or local authorities' investment in economic development? Are they not far more significant when it comes to rural depopulation or housing than landowners deciding whether they should have houses?

**Hamish Trench:** It is very clear to us that the system requires all those parts of the jigsaw to play their part in order to deliver housing where it is needed. There is no question but that the

planning system has a crucial role to play. In work that we have done over the past year, we have identified that there are questions about the role that planning plays in shaping land values and the proactive role that we can play through planning to make things happen more quickly. It is clear from the evidence that ownership plays a part in that, as well. We have to match up the willingness and the ability to release land in the right place, the planning system and the right land value approach.

**Finlay Carson:** Which is more significant: local plans that local authorities put in place or barriers that landowners put in place?

**Hamish Trench:** I am not sure that I can answer that question. I am aware of many sites that are zoned for planning that are not being built out. It is clear that there are other constraints beyond planning.

**Angus MacDonald (Falkirk East) (SNP):** For the record, I refer members to my entry in the register of members' interests. I own a non-domestic property in the Outer Hebrides, which is situated in an estate that is subject to a community buyout attempt. That is at a sensitive stage.

I turn to the SLC's strategic priorities for 2018 to 2021. We know that the remit is to build on existing land reform legislation and the work of the land reform review group. Four priority work areas have been identified, one of which—agricultural holdings—comes under the responsibility of the Rural Economy and Connectivity Committee. The remaining three areas are land for housing and development, land ownership, and land use decision making. How are the commission's strategic priorities decided? Which areas were considered but not included?

10:00

**Andrew Thin:** I will have to try to answer that question, as Hamish Trench was not present until the latter stages.

The board was established in December 2016. We conducted a large number of public meetings all over the place; a lot of people came, and a lot of them had their own priorities. Out of all those, we distilled four, which we then discussed with the Government. There were a lot of people who undoubtedly would have liked us to focus on other things, but we have to prioritise.

**Angus MacDonald:** In considering those priorities, will you give consideration to reserved matters as well as the potential impacts of the United Kingdom's exit from the European Union, if that happens?

**Andrew Thin:** Yes.

**Angus MacDonald:** Will the guidance and codes of conduct be sufficient to deliver real progress on the ground in areas such as promoting a culture of inclusivity, collaboration and accountability?

**Andrew Thin:** We do not see land reform as primarily or exclusively a legislative matter; fundamentally, it is a cultural shift that is needed here, and that is why we have put so much emphasis on developing protocols and so on.

We do not know the answer to your question, but we think that we should find out what it is, which is why we are going to do this. What we do know—I was very much involved with this activity—is that, when we have put in place codes of conduct, guidance and so on for agricultural holdings, the landlords, land agents and tenants in that sector have responded well, and many in the sector are saying that they are in a much better place now than they were three years ago. We know that it can work, but we need to find out whether it will work everywhere and in all circumstances. We might well be back here in a while to tell you what we have found out in that regard.

**Angus MacDonald:** That is good to hear, particularly given the evidence that we took in the run-up to the land reform legislation in 2016.

**John Scott:** The Scottish Land Commission's programme of work from 2018 to 2021 states:

"The Commission's role combines leadership and non-regulatory culture change with statutory functions to review and advise on legislative and policy change."

A moment ago, you said that your main emphasis was a cultural shift, but your role as defined by the Government appears to be

"to review and advise on legislative and policy change."

Where is the balance in that respect? What you have talked about is essentially a cultural shift, but that emphasis appears to be different from the information that I have seen.

**Andrew Thin:** I am not sure that that is what I said. I said that there needs to be a cultural shift in Scotland, and that is the message that has been brought home again and again at public meetings. That is what people are looking for. How that shift is delivered will depend on a number of factors, some of which will be legislative and some of which will come down to codes of practice and all the rest of it. At the moment, we just do not know how easy it will be to achieve that. I do not have the legislation in front of me, but the Land Commission's job is not only to advise Government but to advise and produce guidance for others, which is where the protocols come in.

**John Scott:** What key changes were made to your programme of work between September 2017 and March 2018?

**Hamish Trench:** I think that you are referring to the fact that we updated our programme of work at the start of the financial year, but that reflected the point that we had reached. Obviously, 2017 was the commission's establishment year, and we were putting together the staff team, doing the initial work and getting the initial priorities under way. Having done that, we had much more of a focus on the key issues that we were going to address from March 2018 onwards, which is the date from which the programme of work was updated. That has led us through our work over the past year on international experience of land ownership and land value taxation, historical experience on land value capture and the research and recommendations on the community right to buy, which came out last November. Those issues were the main focus of our work over the past year.

**John Scott:** Was the initial programme of work overambitious, given that it was reviewed after only six months? Have the skills and experience of Scotland's research community been insufficient in carrying out the specified work? Are there any gaps in knowledge or understanding?

**Andrew Thin:** No. We have always made it clear that the programme of work will be updated perhaps every six months or so. We have not been rigid about that, because it is really important that we are able to adapt and evolve our thinking as we learn where the priorities lie. I would expect us to publish a revised programme of work roughly every six months—and I would stress that word "revised". It will not be a new or different programme of work, but one that evolves with circumstances and, indeed, as a result of what people are telling us.

**John Scott:** So there will be a rolling update every six months.

How will the commission approach areas in which there is little or no consensus on a way forward? Can stakeholders be compelled to engage with you?

**Andrew Thin:** No.

**John Scott:** Well, that was clear. Will the commission highlight examples of poor land management and ownership practices and identify individuals who are considered not to be working collaboratively with either the SLC or local communities?

**Hamish Trench:** We see that as part of the broader picture of supporting good practice in land rights and responsibilities. That will involve not only identifying good practice and establishing

expectations with regard to normal, reasonable and expected behaviour, but being willing to call out examples of bad practice and other poor examples wherever we see them. That is very much our approach to, for example, the protocols on community engagement, and we are offering support and advice to ensure that good practice becomes the norm.

**Andrew Thin:** With agricultural holdings, Parliament has asked us to put in place a very specific process with codes of practice for allegations of breaches and so on, so there is already a process for, if you like, calling out bad practice in that respect. We will have to see what we can learn from that, but the process might well have wider applicability. We just do not know yet.

**John Scott:** I am a bit naive when it comes to current jargon. What do you mean by “calling out” examples of poor or good practice?

**Andrew Thin:** If there is a code of practice for, say, conducting a rent review and someone does not follow it, a breach of that code might be alleged to the Tenant Farming Commissioner, who might decide to investigate and might, if he so wishes, publish his findings.

**John Scott:** Right. So you would expect to highlight good and bad practice—or would it just be bad practice?

**Andrew Thin:** The process that the Parliament has put in place relates to alleged breaches of the code.

**John Scott:** I see.

**Hamish Trench:** Speaking more widely, we are deliberately promoting examples and case studies of good practice not just on the agricultural side. For example, there is a wide range of support with regard to community engagement, including examples and case studies of good practice. After all, that is the most effective way of sharing what should be normal.

**John Scott:** I think that that should be the recommended approach. The dissemination of good practice is probably much more valuable than the highlighting of bad practice, but that is just a personal point of view.

**Claudia Beamish:** Let us turn our minds to the land use strategy and its relation to your work. You know this already, but I point out just for the record that the Land Reform (Scotland) Act 2016 specifically says that the commission can review and recommend changes to the strategy. I did not know that previously, but I—along with the previous committee convener Graeme Dey and other committee members in the previous session of Parliament—have taken a keen interest in the issue. Do you plan to review the effectiveness of the land use strategy as a whole? I should say that

this issue has also been highlighted by Scottish Environment LINK.

**Hamish Trench:** We have no plans for a formal review of the land use strategy, but we are continually talking to stakeholders and the Government about the implementation of the current one. A strong theme that came across in many discussions that we have had over the year is that participation in land use decision making is a core area.

Whether it is in public meetings or some of the other research work that we have done, undoubtedly we see an opportunity to improve the ways in which people—particularly in local communities—are able to engage in decisions about land use and land use change in their surrounding area. We see a particular role for the land use strategy in improving regional and local decision-making mechanisms; it should bring to a head choices and understanding about land use choices, trade-offs and priorities and ensure that a wide range of views influences and feeds into our understanding of those decisions.

**Claudia Beamish:** This question goes back to the programme of work. In relation to either the land use strategy or your wider remit, have you looked specifically at how we use land in the battle against climate change? For example, recently, there have been a lot of concerns about driven grouse moors and protection of peatlands. Do any of those issues form part of the commission's considerations?

**Andrew Thin:** Not specifically. At the moment, we have no plans to do specific reviews in relation to those subjects, but they are integral to a lot of our other work—particularly, the issue of community involvement in decision making. In many of the public meetings in rural Scotland, people tell us that they would like to participate in decision making about, for example, the management of grouse moors. Some of those people want to participate because they are anxious about climate change, wildlife or jobs—you would expect that. We are developing protocols, guidance and good practice case studies—all the things that we have just been talking about—around community involvement in decision making. If we can make that happen, people will feel a lot more comfortable. It is the sense that people are unable or powerless that is frustrating them.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Before I ask my questions, I declare that, jointly with my wife, I have a 3-acre registered agricultural holding.

I will use that to illustrate some of the issues around owning land, particularly in a rural area. If I were to sell those 3 acres of hill grazing, I might

get £5,000 for them. However, they are an adjunct to a rural house in an area where many householders want to keep horses; therefore, they probably add £20,000 to the value of the house. Those figures are arbitrary and not to be questioned; it is the principle that is important. If I could persuade the local authority to provide planning permission for four houses, the land would probably be worth £250,000 or thereabouts. I hasten to add that the local authority's policy that means that that is an extremely distant prospect—it is not going to happen.

That brings me to the role of councils in relation to land, housing and business development. In particular, I am talking about vacant and derelict land—not my holding, which is neither. Has the commission been working with councils? There is a view that the price and availability of land is, to some extent, determined by how much land councils choose to designate for housing developments in local plans. If I was simple-minded, I would say that the price would halve if they designated twice as much land, but, as Adam Smith would remind us, it is not that simple. What has the commission been doing with local councils to tackle vacant and derelict land? I am not trying to open up the broader issue of land ownership, which we will come to later in our questions.

**Hamish Trench:** We are speaking with a number of councils, particularly on those issues and in relation to vacant and derelict land. That leads into the broader questions of land value capture and the role of public bodies in brokering development.

From our point of view, there are two strands. One is the effective use of the planning system in zoning sufficient land and the role of planning policies in shaping land values. The other equally important strand is in the role that public bodies, including local authorities, can play in using their power of brokerage and leverage to help good development happen. That goes back to the proactive role that local planning authorities can play in relation to funding infrastructure and unlocking development in marginal sites.

10:15

With regard to vacant and derelict land, there are some great examples of local authorities making things happen at sites in challenging circumstances. The role of the group that we have put together—the task force, which is working with the Government—is to learn the lessons from those examples and to make some changes to the system, whether in regulation, finance or planning, so as to unlock development at more sites across the country.

I go back to the fundamental role that public bodies play in proactively brokering development. Internationally, it is quite common for public bodies to play a role in land assembly, in facilitating infrastructure investment through land value capture and in returning sites to the private sector for development. Indeed, they can take a stake in a joint venture approach to development. Those are the kinds of approaches that we think we should be exploring further.

**Stewart Stevenson:** This is a slightly cheeky question, but are you aware of any significant housing development that has not attracted objections from adjacent people?

**Hamish Trench:** I am not sure that I could answer that.

**Stewart Stevenson:** Let me turn it this way. The councils clearly have a set of tools at hand and, although communities want more housing, they do not want it next to them. Is that the sense that you get from your consultation and your meeting with communities? There is that tension between the status quo for people who are in an area and the need to develop land.

**Andrew Thin:** The short answer is yes—that is the sense that we get. At many public meetings, we hear from people who are desperate for more land to be released for housing. At quite a few public meetings, people turn up and tell us about a housing development that they think is wrong and ought to be dealt with by the Land Commission. In some ways, that takes us to the fringes of our remit. Planning decisions are a democratic matter for local authorities. Local authorities not only have to decide about individual cases; they have to produce strategic plans that will meet the needs of their communities.

I would not say that land reform is separate—it is clearly integrated—but it is an additional aspect. I accept that people will always come to our public meetings hoping that we might be able to solve their particular angst.

**Stewart Stevenson:** Let me steer us back to vacant and derelict land. How are we doing on that? Are measures such as compulsory sales orders proving to be of value?

**Hamish Trench:** Last year, we put together a proposal for a compulsory sales order mechanism. I understand that there is a commitment to bring that into legislation. It is important to say, however, that that is designed only to tackle a subset of sites. In most cases in that subset, ownership is a barrier, perhaps with the owner holding out for an unrealistic expectation of value. A compulsory sales order mechanism would shift the balance in the negotiation.

As you will be aware, there are many other sites where the issues are simply to do with financial viability and cost, including the cost of remediation of vacant and derelict sites. We are currently working with Scottish Enterprise and the Scottish Futures Trust to break down the vacant and derelict land register into what are essentially baskets of different types of site. There will be very different solutions at different sites. There will be a subset of sites that are marketable and that can go through normal market channels. Many others will be suitable for community-led regeneration and green infrastructure; others will require public intervention in order to bring the sites back into use.

**Stewart Stevenson:** I hear what you are saying, and I cannot disagree with a word that you have said, but how are we doing in practice on vacant and derelict land?

**Hamish Trench:** We are reducing the register by about 1.3 per cent a year at the moment. At the current rate, it would take us 77 years to complete that.

**Stewart Stevenson:** So, there is room for further improvement.

**Hamish Trench:** There is significant room for transformation.

**Stewart Stevenson:** I had a constituency case in which there was a derelict house—in fact, it was perhaps even more than derelict—in a village. It took us 10 years to get effective communication with a trust based in Panama, which would deal with us only if we communicated in Spanish. That cost my office expenses budget quite a lot of money. The outcome was successful, I hasten to add, although we still do not know who actually owned the house.

I do not want to open up the issue of ownership, but where ownership of vacant and derelict land is uncertain, particularly in urban areas, do we have the tools to help us?

**Hamish Trench:** I understand your point that ownership and establishing the identity of the owner remains an issue for some sites. The work on transparency of land ownership and the register of controlled interests is designed to help to address that, but it remains an issue for the moment.

**Finlay Carson:** According to the programme of work, certain activities are scheduled to start in 2019. Can you provide an update on the research into land assembly, the housing market and land banking? If that work has not started already, when will it commence?

**Hamish Trench:** It is an on-going process. The work that we have delivered over the past year takes a historic view of the land value capture

experience and looks at how we can learn lessons from the many previous attempts to do that, particularly in the 20th century. We have moved on to work with the Scottish Futures Trust to model options for land value capture that might work in different markets around Scotland, recognising the different geographies and land values. We will be publishing some initial work on land value capture in relation to the Planning (Scotland) Bill.

In the past couple of months, we have commissioned a review of land banking. That is an initial piece of work, because it is important that we understand what we collectively mean by land banking and the different types of things that we call land banking. We also need to understand the implications of land banking and how prevalent it is. That work will look at rural towns and communities as well as the main urban context.

Those are the building blocks. In the coming year, we will schedule a more formal review of options to improve the operation of the housing land market. We would expect to come back with recommendations on that next year.

**Finlay Carson:** My next questions were on the parameters of that work, but I think that you have already answered them.

**Mark Ruskell:** I want to go back to one of the points that emerged from Stewart Stevenson's question, about the challenges that local authorities face when they have identified a suitable site for housing and new development through the planning system and are trying to assemble the right up-front infrastructure—schools, facilities for active travel or whatever—to make the community sustainable from day 1. Given your thinking around what happens elsewhere, in relation to land value tax and other tools, are there ways in which we can ensure that new communities can be built so that they are sustainable? It is true that we need more housing and more communities in Scotland.

In my region, there are several stalled sites that were earmarked for development years ago, but that development has never happened because the up-front money is not in place to get them up and running.

**Hamish Trench:** A more proactive approach to land assembly is key. That brings together several bits of work, including the work on land value capture, which is looking at how we use some of the value inherent in land to make that infrastructure investment happen, and the work on the role of public bodies and the potential for joint ventures and different approaches.

Recently, we published some work on how public authorities in Germany and the Netherlands approach those issues. In other countries, it is

quite common for public bodies to play a more active role in the land market, either by stepping in to assemble land where necessary or by forming joint ventures with private developers to do that, using the land value to provide the infrastructure and then either selling the land on or continuing to play an active part as a joint venture partner. There are several approaches that we are keen to explore further, not just around land value capture and the potential role of land value tax, but around the proactive role of public bodies in land assembly mechanisms. I fully expect us to model and test some of the different options for land assembly measures over the next year.

**Mark Ruskell:** This morning we have had quite a lot of discussion on the scale and concentration of land ownership. What has the discussion with the Scottish Government on those issues been like? Are you pushing certain reforms? Which bit of Government are you talking to? Are you talking to the Cabinet Secretary for Environment, Climate Change and Land Reform, Kevin Stewart, in relation to planning and local government or Fergus Ewing in relation to the rural remit? How do you engage with the Government and what response are you getting to the issues?

**Andrew Thin:** Maybe we should both answer that question. On how we engage with the Government, we report mainly to Roseanna Cunningham, and to Fergus Ewing for the agricultural stuff. That is the formal line of reporting, and there are all the usual regular meetings and briefings and so on.

Because of the nature of the work, we also cut across into other areas on issues such as land value tax, for example. We have managed to establish communication channels with other parts of Government. It is quite early days in dialogue on the specific points that you raised, but I will ask Hamish Trench to tell you exactly where we are.

**Hamish Trench:** In the programme for government, the Government asked us, first, to look specifically at community ownership, and we reported on that in November last year, and, secondly, to look at issues associated with scale and concentration of ownership, which we will report on this week. Those were the two headline asks from the Government.

As Andrew Thin has said, our lead relationship is with the land reform policy team. At the operational level, we have good connections across regeneration and planning, local taxation and other Scottish Government teams.

**Mark Ruskell:** That is clear, and the recommendations on land concentration and ownership will be out this week.

The other strand that you mentioned is community ownership and where we are with the

proposed community ownership delivery group. Do you know when that might happen? Which interests will be reflected in that group?

**Andrew Thin:** I will pass that to Hamish Trench.

**Hamish Trench:** The Scottish Government is taking the lead in setting up the community ownership leadership group, and I fully expect it to be up and running in the next month or two. It will deliberately draw together representatives from sectors such as land ownership, community development and planning. That group needs to be cross-sectoral to bring together the different interests that are needed, and it follows the direction of travel that we set out last year around community ownership needing to be a normal option for communities across Scotland, and for it to be seen very much as a part of regeneration and community planning.

**Mark Ruskell:** Where are you with the research into charitable and trust status in land ownership?

**Hamish Trench:** This year, we have been carrying out some initial scoping work to understand the nature of land ownership by trusts. It is important that we separate private trusts and public and charitable trusts, as each has different issues. We have been doing some work and taking some legal advice on the background and context of such trusts and will publish a paper for discussion within the next few months. That is very much intended to stimulate discussion with the land ownership sector and the professional advisors to understand the issues and the relationships in charitable and trust status ownership.

**Finlay Carson:** Does the commission expect that the recently enabled community right to buy abandoned, neglected and detrimental land will have a significant impact on the amount of land in community ownership? Will there be a difference between land that is owned in rural areas and land that is owned in urban areas?

**Hamish Trench:** It is partly too early to tell, but I suspect that that power will be used for relatively few specific sites. It is a last-resort mechanism.

Going back to our recommendations on community ownership, what we would like to see as the norm, and what is necessary for community ownership to become more widespread and a normal part of the picture, is a negotiation between a willing buyer and a willing seller. That is by far the most productive, constructive and likely route to securing more community ownership.

**Finlay Carson:** How does the absolute right to buy in that instance fit with the presumption for negotiated transactions between a willing seller and willing buyer?

**Hamish Trench:** It is well established that both are part of the picture, and it is right that backstop measures are in place to provide communities with the ability to take action when they need to. However, that should not prevent normal practice being about willing negotiations.

10:30

**Finlay Carson:** On the proposed land value taxation, a recent paper found a lack of evidence that land value taxes deliver the theoretical benefits that are attributed to them, so how is that issue progressing?

**Hamish Trench:** I think that you are referring to the work that we published on the international experience. About 30 countries in the world use some form of land value tax, and it is important that we learn the lessons from that. The research pointed to three areas that will be taken forward this year as the next phase of work on land value tax.

The first area is vacant and derelict land. We do not know, but we want to investigate whether a land value tax could have a part to play in unlocking a subset of vacant and derelict sites. The second area is broader and relates to land value capture, particularly in relation to the housing market. We will consider whether land value tax has a role in a long-term approach to land value capture and reinvesting land value in making development happen. The third area is whether land value tax has a role in increasing the diversity of land ownership. Those are the three areas that we have identified to explore further. We will set up an expert working group this year to take an overview of that land value tax work.

**Finlay Carson:** When do you expect the report to be delivered?

**Hamish Trench:** We expect the group to report at about this time next year. It will be a substantial bit of work over the coming financial year.

**The Convener:** I have a supplementary question on the issues that Finlay Carson raised about the willing buyer, willing seller approach. Is there anything in place to deal with the situation when a willing buyer has plans to retain an empty or derelict building and use it for public good whereas the seller wants to dismantle the building and use it for something that is not necessarily in line with the public good? Do we need to look at that? As you can probably guess, I am thinking of a particular example. When something is not in line with the regeneration of a town or land is not being used for the public good, where does that leave communities that want to develop an asset for the good of the community rather than other interests?

**Hamish Trench:** In those circumstances, the community right to buy for sustainable development is likely to offer more scope and be a more useful mechanism. The right to buy abandoned and neglected land is clearly and deliberately designed for very specific circumstances and probably does not address such use issues.

**The Convener:** Could that be looked at? In your public engagement sessions, have issues been raised about situations in which people have very different views on the use of a particular site?

**Andrew Thin:** That has come up, but it is very early days and we simply do not know how the right to buy for sustainable development will work. Very few cases are developing, and there may well be a legal challenge to it, anyway. So, we will have to wait and see. As Hamish Trench said, the vast majority of community acquisitions have taken place through negotiations between a willing buyer and a willing seller, and I think that that will continue to be the case.

The international work that we did on the issue shows that, in a large number of countries across Europe, it is the norm for communities to own or control in some way land in and around settlements. As we try to move towards that kind of pattern, I anticipate that most landowners will be willing sellers. That is part of the cultural and behavioural shift that needs to happen. I think that it is helpful to highlight what normal looks like in many other countries.

**John Scott:** I am not quite au fait with all of this but, particularly in Ayrshire, where I am from, there are a lot of brownfield sites in villages and towns that are ripe for redevelopment and housing. Are those sites available under the community right to buy as well, or is the community right to buy just for rural areas?

**Hamish Trench:** No—it is very much for urban land as well. Currently, many of the applications coming to the Scottish land fund are for urban sites, buildings or urban plots. The right to buy and the wider support for community engagement are focused on urban as well as rural sites.

**John Scott:** My limited experience of Scotland suggests that there might be more brownfield sites where there is neglected and derelict land than there are in rural areas. Do you have a feel for that?

**Hamish Trench:** Sites that are officially on the vacant and derelict land register are generally urban or town based. For the community right to buy, there is a broader definition of abandoned and neglected land. I suspect that there is a quite a wide variation across rural towns and communities as well as in urban centres, and the

community right to buy is certainly designed to apply to both.

**John Scott:** Forgive my not knowing this, but is there a standard definition of neglected and detrimental land?

**Hamish Trench:** I will not try to remember it; I would have to refer to the guidance.

**John Scott:** Is the definition the same for urban and rural areas, or is it different?

**Hamish Trench:** In how the regulations work, the definition is the same, whatever context you are operating in. I refer you to the guidance for that particular right to buy.

**Stewart Stevenson:** I have a quick question on the willing buyer, willing seller approach. It is asserted quite regularly that the existence of compulsory purchase powers as the backstop when there is not a willing seller are often an incentive for a seller to become willing and to engage in the process. Do you have evidence to hand that either sustains or shoots down that assertion? It is one for which I have some sympathy.

**Andrew Thin:** It is almost certainly the case that there are instances in which that is true. However, it is wrong to see landowners as unwilling sellers in this instance—that is not the case. The vast majority of landowners in Scotland understand and, so far, have co-operated, which is partly why we have such a large amount of community-owned land already.

In our report on the issue, we tried to set out the fact that we need to refocus, rethink and learn from other parts of Europe, so that, rather than having the types of acquisitions that have taken place over the past decade or so, we have something that is more typical of Europe. Community ownership should not be an end in itself; it has to be a means to an end, and we need to be clearer about the ends that communities are trying to achieve. We can learn an awful lot from other parts of Europe where community ownership or control of land around settlements is the norm. Often, that land has been acquired over the past 200 or 300 years—the community ownership is not necessarily recent. We can learn from that experience and be directed by it. I have seen no evidence to suggest that the majority of Scotland's landowners would not be willing participants in that process.

**Finlay Carson:** Does any of your work highlight the issues that arise where there might be a willing seller but there are liabilities associated with a building or a piece of land? Examples that spring to mind are Ayr Station hotel and the old Stena east pier in Stranraer. The sellers might be very willing, but the liabilities that are associated with

those pieces of land are a huge barrier to local authorities or communities buying them. Could that cause problems in the future, and can you suggest any solutions to such situations?

**Andrew Thin:** Community ownership might not be the solution in such situations—I want to make that very clear. We have to be clear about the purpose of community ownership. It is not just to take on problems—that would be a mistake. That is partly why we have emphasised the point that it should be not an end in itself but a means to an end. It is highly likely that the solution in the case of Ayr Station hotel, for example, is not community ownership, although I do not know for sure.

A lot of work is going on in that area. The Scottish land fund has been excellent in helping communities to figure out what their purpose, end and capacity are and to work out what is sensible. However, we must not underestimate the capacity of communities. There are some extraordinary examples of communities taking on and successfully developing chunks of land, delivering a great deal more public value out of them than was delivered before and doing that very well indeed.

**Finlay Carson:** Could the land fund be limiting communities' ability to take over such things? I am thinking of properties in town centres that are not being used and that are hindering development. In the case of the east pier in Stranraer, there is a financial burden associated with bringing that piece of land back into manageable use. Is that limiting communities' ability to take ownership?

**Andrew Thin:** It is one factor, but, as we emphasise in the report, the land fund has come along only recently. Prior to that, the vast majority of community acquisitions were privately funded through crowdfunding, philanthropy and so on. We must not lose sight of that very important issue. It would be extremely unfortunate if the public sector started to crowd out private funding.

Clearly, a community taking over something like the pier in Stranraer presents a financial challenge, but, more than that, there is a capacity issue, too. I emphasise that it is horses for courses. We must not see community ownership as the solution to all our problems.

**The Convener:** John Scott has some questions on land use decision making.

**John Scott:** Before I ask those questions, I should say that it is not the intention of the people in the Ayr constituency, which I represent, to see the Station hotel turned over to community use—at least, not as far as I am aware.

Can you update us on the baseline research to establish appropriate measures and indicators of community involvement in land management



decision making? Has that work been implemented?

**Hamish Trench:** The very simple answer is that, because we are currently doing that work, it has not yet been implemented. Our recent focus has been on publishing the protocol for community engagement and getting the support for good practice in place. We are conscious that, in two years' time, we will be asked to advise the Government on the effectiveness of the guidance on engaging communities, and that is what the baseline measures are being put in place for.

**John Scott:** Thank you. What has been the impact of the land rights and responsibilities statements and the guidance on engaging communities in decisions relating to land, and what impact are they expected to have? What further clarity does the commission expect to give on implementing the land rights statement?

**Andrew Thin:** It is very early days as far as the impact is concerned, but the vast majority of landowners are well aware that they have responsibilities—indeed, you have said so yourself—and I think that the statement has been helpful in highlighting that. The guidance, too, has been helpful in setting out a clear methodology, but we are still some way from a wide understanding of why the level of awareness is still quite low. We have just produced a protocol on community engagement that builds on that by attempting to provide people with clear and simple guidance on what is sensible. The short answer, though, is that it is still early days.

**John Scott:** How does the commission intend to monitor the success of the newly published protocol on community engagement in decisions relating to land? Does it apply equally to private and community landowners, regardless of whether the land is urban or rural?

**Hamish Trench:** On the last question, we are very clear that the guidance and expectations apply equally across all types of landowner, whether they be public, private, non-governmental organisation or community. Equally, the expectations are reciprocal on those with responsibility for managing or owning land and those in the community who use the land. It is very much a case of understanding the reciprocal expectations and how such an arrangement should work.

As for your question about how we will measure these things, we have specifically asked in the protocol for examples of good and bad practice to be fed back to us, and that information will form part of our monitoring. We intend to use survey mechanisms with communities as well as landowners and managers to establish an on-

going measure of awareness and effectiveness of the guidance.

**John Scott:** What kinds of measure did you say you intend to use?

**Hamish Trench:** Surveys, predominantly.

**John Scott:** Thank you. Can you provide an update on the review of the costs and impacts of fiscal policy in relation to diversity of ownership and land use decision making that is due to commence in 2019?

**Hamish Trench:** Yes. That review has not started. In a lot of our work over the past couple of years, we have identified and effectively scoped out a number of issues on which fiscal and, in particular, tax policies have an important part to play. Over the coming financial year, we will pull together a group to look at tax, including—as was mentioned earlier—land value tax, but in the wider context of the existing tax regime. The group will also look at options for change and will try to understand their implications.

**John Scott:** Have the specifications and parameters been drawn up and the contracts awarded for that research?

**Hamish Trench:** No, not yet.

10:45

**John Scott:** I have a final question. What aspects of economic, social and cultural human rights might be further realised by the commission that are not being, or have not already been, covered by the work programme?

**Hamish Trench:** I will have a go at answering that question. We see the human rights framework less as a workstream in itself and more as something that runs through all our work and that provides a frame for and influences much of it. I would say that, in practical terms, economic, social and cultural rights are significantly about rights to housing, employment and so on. The framework has influenced our work on, for example, a compulsory sales order proposal and land ownership. I think that it is a way of framing some of the issues that we are looking at rather than a topic in itself.

**John Scott:** Mr Thin mentioned the risk of legal challenge to some of the work that you are doing. Are there any specific or outstanding areas in which you expect such a challenge?

**Andrew Thin:** No, not at the moment.

**The Convener:** My final question brings us full circle, back to the public. Two or three years on from the land reform legislation having gone through Parliament, do you feel that there is enough straightforward guidance for members of

the public who feel that there is a part of their town, village or whatever that their community could benefit from? Have guidance on the processes for helping communities and good practice from where such moves have worked been shared enough? Looking at this from the viewpoint of a resident of a village who might be thinking, “Where do I start with this?”, do you think that that sort of thing needs to be looked at more?

**Andrew Thin:** I do not want to imply any criticism of the huge amount of effort that has gone into this. It is a huge challenge. A great many organisations, including not just the Government but NGOs, Community Land Scotland and so on, have done and are doing a huge amount of work on it, and there is an awful lot more information available than there was two years ago. Is there enough, though? I very much doubt it. We all have to continue with this work as part of the cultural shift and the shift in dialogue. This is about not just guidance but expectation, confidence, capacity and a range of different things. With these things, you cannot just flick a switch—they take time.

**Hamish Trench:** There is quite a lot of technical guidance out there, but the issue is much more to do with support and capacity. For example, as part of our recent work with SURF, we have been having conversations in Kirkcaldy, Rothesay and Govan about engagement and the options for the communities in those areas.

I emphasise that this is a long process. It is a case not of going in with a bit of technical guidance on how to use a particular right to buy but of having a more fundamental discussion with the community about their expectations and how they can be realised through a whole set of measures, some of which are to do with land reform and some of which are far broader than that.

**The Convener:** Okay. As my colleagues have no more questions, I thank you for your time.

10:48

*Meeting suspended.*

11:27

*On resuming—*

## Subordinate Legislation

### Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2019 (SSI 2019/64)

**The Convener:** Welcome back to the 10th meeting in 2019 of the Environment, Climate Change and Land Reform Committee.

The third item on our agenda is evidence on the Conservation (Natural Habitats &c) Amendment (Scotland) Regulations 2019. I welcome Roseanna Cunningham, who is the Cabinet Secretary for Environment, Climate Change and Land Reform; Hugh Dignon, who is the head of wildlife and biodiversity at the Scottish Government; and Lindsay Anderson, who is a solicitor for the Scottish Government.

As members will be aware, at last week’s meeting John Scott indicated his intention to lodge a motion recommending that the regulations be annulled, which he has done. Before we hear from the cabinet secretary and her officials, I offer John the opportunity to speak to his motion.

**John Scott:** I will be brief. I declare an interest as a farmer and landowner, although one who is currently not affected by beaver release.

The background to my lodging a motion to annul the species introduction regulations is that an illegal release of beavers into the Tay catchment area is leading to the European beaver becoming a protected species. That species introduction will, potentially, cause damage to farmland and property, which will inflict a cost burden on farmers and riparian owners. In addition, it will put property and bridge infrastructure, as well as land and property other than farmland, at flooding risk. The introduction will also potentially damage wild salmon breeding patterns and reduce salmon populations in some of our most famous salmon rivers. Above all, it will make food production from agricultural land in Scotland more difficult and expensive. It has all been done without any debate in the Scottish Parliament, with the exception of a member’s business debate in 2005.

11:30

**The Convener:** We now move to the question-and-answer session. Members should indicate that they would like to ask a question and to whom it is directed—the cabinet secretary and her officials, or John Scott. I invite John Scott to ask the first question.

**John Scott:** What estimates have been made of the costs of beaver introduction for farmers and riparian owners?

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** It would be very difficult to make specific cost estimates. There are some areas in Scotland where the impacts are greater than others, so it would be very difficult for us to make a cost estimate across the whole of Scotland. We are very conscious of the impacts of beavers on what we have designated as prime agricultural land. That designation, in the context of the statutory instrument, is specifically to deal with those impacts. The reason for the long delay, between my original announcement in 2016 that we were going to proceed and the instrument's introduction, was that we were having conversations and trying to work out how best to mitigate the undoubted impacts that beavers have.

I need to correct John Scott's assertion that the instrument is the result of the release of beavers in Strathtay. The fact is that had it not been for the release of the beavers in Strathtay, it is probable that the SSI would have been presented to Parliament some considerable time ago. Far from triggering the introduction of the regulations, the release of the beavers in Strathtay and the issues around that has delayed them.

**John Scott:** Do you mean that, notwithstanding the experimental basis of the release, it was always your intention to release beavers?

**Roseanna Cunningham:** Is that what I just said? I do not believe that it is.

**John Scott:** I think that it is what you said.

**Roseanna Cunningham:** There was a formal trial. I make the point that discussions about the reintroduction of beavers date as far back as 1998, when Scottish Natural Heritage first carried out a consultation across Scotland on the issue. The five-year trial that was embarked on in Knapdale in Argyll, which was the formal Government-led trial, was begun on 29 May 2009, when release of three beaver families took place. The five-year trial lasted until 2014.

We took considerable time to think about the situation because, simultaneously, there had been either accidental or deliberate illegal release of beavers in the Tay area, which complicated the debate. The formal trial finished in 2014, and at the end of 2016 I came to the view that given the formal trial results and the increasing number of beavers in the Strathtay area, the appropriate thing to do was to seek to formalise the situation. As I indicated, had we been dealing with only the Knapdale beavers, it is likely that the SSI would have been something of a formality.

I have been criticised from many quarters for taking such a long time to proceed with the instrument. However, that was absolutely necessary in order to allow the continued conversation and consultation over the intervening period between the end of 2016, when I made the announcement, and February 2019, when I laid the instrument.

**Stewart Stevenson:** I have two questions for John Scott, the first of which is very simple. Has he actually read the Conservation (Natural Habitats, &c) Regulations 1994, which are being amended?

**John Scott:** No.

**Stewart Stevenson:** In that case, I draw the member's attention to the effect of adding the beavers to schedule 2 of the 1994 regulations. I particularly direct his attention to regulation 39, which covers

"Protection of wild animals of European protected status".

That is conferred on beavers by the instrument that is before us. Regulation 39(2) reads:

"It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part".

The effect is that, if beavers had been added to the list earlier—we have heard that the addition was delayed by the criminal introduction of beavers in Tayside—the people who have the beavers would have been prevented from being able to

"keep, transport, sell or exchange"

them in the first place. Therefore, the Tayside release would not have happened. The effect of adding beavers to the list in schedule 2 of the 1994 regulations, which are being amended, would have been to prevent the people concerned from being able to have the beavers, which—depending on one's interpretation—either escaped accidentally or, as I suspect is more likely, were deliberately placed. Adding the species to schedule 2 of the 1994 regulations will serve the purpose that John Scott and farmers across Scotland want.

John Scott is right to bring the issue up. I want to make it clear that I am trying not to distort what he is trying to do but to draw us back to the piece of legislation that we are amending and to say that it would be good for us to actually read and understand the amendment's legal effect. I hope that John will acknowledge that.

It is also worth saying that *Salmo salar*, which is salmon, is included in schedule 3 of the 1994 regulations. Without having read it in detail, I believe that there is scope for that species's protection.

**John Scott:** Thank you for the question. I have not read the regulations that are being amended, because the intention is perfectly clear.

However, the Tayside release, which you helpfully note was a criminal release in the first place, was not properly dealt with at the time. Had it been dealt with, perhaps the cabinet secretary would have been able to lay regulations earlier. However, the people who knowingly and criminally broke the law at that time would not necessarily have been deterred simply by knowing that they were breaking the law, because it was clear that they were already breaking the law in that illegal release. The fact that, under the law, they would not have been able to keep or access beavers would not necessarily have been a deterrent. The problem is that the Scottish Government did not deal with that illegal release at the time.

I have more questions, but other members may have some.

**The Convener:** Does the Government wish to respond to that?

**Roseanna Cunningham:** I will make the point that it is simply wrong to say that the Scottish Government did not deal with the illegal release at the time. Over a number of years, real attempts were made to capture and remove beavers from the Tayside area.

I was the minister with responsibility for the environment between 2009 and 2011, and I distinctly remember that, over that two-year period, the matter was a consistent part of the conversations that I had with SNH as we attempted to reduce the numbers. Unfortunately, it was quite clear that, by that point, there were already too many beavers for that to be easily done.

In the circumstances, I am not at all clear what John Scott's efforts today could achieve. I note that Maurice Golden, who is the Tory shadow environment spokesperson, takes the view that beavers "must be ... removed" from the Tay area. I do not know how he imagines that to be possible.

Regardless of what happens today, there will continue to be a significant and growing beaver population in Strath Tay. We are trying to put in place proper formal management of that, which has not been the case until now, pending the SSI.

**The Convener:** Stewart Stevenson made the assertion that, had measures already been in place for control and for listing among protected species of beavers, it might have been easier for the Government to convict the perpetrators—the people who released the beavers. Will you clarify that?

**Roseanna Cunningham:** I will not step in and give a legal opinion that I am not qualified to

provide. We have a Government lawyer here, who might wish to do that.

I have been careful to say that we cannot be certain what the basis of the release was. Was it accidental, negligent or deliberate? I do not know, and that was the fundamental point at the time: nobody could know. Although people think that they know where the beavers came from, nobody actually knows, which is a fundamental issue that has been a problem from that time.

I am not sure for how long the beavers had been released before people realised that they were there. Folk need to remember that they are largely nocturnal and are not particularly easy to see unless there are large numbers of them. They could have been living in the area for some time before it became apparent that there was a problem.

Hugh Dignon was in the Scottish Government at that time—I do not know whether he can recall at what point it was first flagged up that there were beavers in the wild in an area in which there should not have been beavers.

**Hugh Dignon (Scottish Government):** I remember that the first reliable reports that we received came after we released the animals in Knapdale.

**Roseanna Cunningham:** That was in about 2009.

**Hugh Dignon:** Yes. There were some reports before then, but they were not confirmed. We started getting confirmed reports after 2009.

**The Convener:** The instrument is designed to manage beavers. My understanding is that annulment of it would not mean that beavers had to be removed.

**Roseanna Cunningham:** No, but I was quoting directly from what sounds like a misunderstanding of what an annulment would achieve. The quote from Maurice Golden that was in the newspaper the day after last week's committee meeting was that beavers

"must be immediately removed."

I am sorry but, in practical terms, that is now an astonishing expectation, unless it is seriously being mooted that we send out kill squads of people to remove them. I do not understand why the misunderstanding exists that not passing this SSI would lead to removal of the beavers. It would not.

**Mark Ruskell:** My first question is for Mr Scott. Is Mr Scott aware of the position of Scottish Land & Estates, which represents landowners in Scotland? Scottish Land & Estates has written to me to say that its position remains that beavers

should be given European protected species status and that it is confident that

“the proposed management framework”

in the instrument

“is both practical and adaptable and provides a range of suitable management options and tools ... our focus will now return to the framework’s implementation, ensuring it works for all land managers.”

Is Mr Scott aware of that support for the instrument from landowners?

11:45

**John Scott:** I am aware of the position of Scottish Land & Estates. It is not a view that I share, and I believe that it is not a view that the majority of landowners share. Notwithstanding the position of Scottish Land & Estates on the matter, most landowners would prefer that the beavers were not there and that they had not been introduced in the first place.

**Mark Ruskell:** Are you saying that the position of Scottish Land & Estates is not representative of landowners’ views on the matter?

**John Scott:** I regret to say so, but yes.

**Mark Ruskell:** Thanks for that.

I will turn to a question for the cabinet secretary. We have already talked this morning about the planned reintroduction at Knapdale under controlled circumstances and about the situation and the challenges that emerged in Tayside. What is the Scottish Government’s vision for beavers in Scotland? Is it about containing the animals where they currently exist, or is it about facilitating or allowing their spread to other areas of Scotland, where they can bring tremendous benefits to our environment, as well as some practical management challenges? I think that it was pointed out in the previous evidence session that beavers are already spreading—they are now in the Forth valley and in a range of different areas—so I am interested to know what the Government’s vision is. Is it about containment or is it about facilitation?

**Roseanna Cunningham:** I have previously made the Government’s position clear, but I will restate it. We now anticipate that beavers will simply be allowed to spread naturally. We will not be attempting to formally contain them in certain areas, but neither will we be particularly incentivising them to spread further, and we will certainly not tolerate pop-up beaver populations in completely separate areas of Scotland. In our view, now that the beavers are here, they must be left to simply spread into a natural range—that is the best way for matters to proceed.

Twenty other countries in the world have reintroduced beavers and I am sure that Scotland cannot be the only country where that cannot be done successfully. I do not want to downplay the impacts either, because it does not do us any service to pretend that there are not significant impacts, some of which will be on land management and some of which [may be biodiversity impacts. It is not always an absolute, 100 per cent given that, even in a biodiversity sense, there will not be some impacts. There can be a tendency for people to overromanticise the issue. I see references to the creation of gently stilling pools and so on, which is fine, unless you are standing in a field where a beaver has built a dam in a field drain and that productive field, which is meant to be getting ploughed, is being flooded as a result. That is a pretty big impact and we wish to help land managers to manage such things.

It does not do anybody any service to downplay the impacts, but neither does it do anybody any service to imagine that we can somehow remove animals that are already living here and are now part of our landscape and biodiversity, which a Government has chosen to reintroduce. I would be very glad if Scotland were to be the 21st country to successfully reintroduce the beaver—I certainly hope that we will be successful.

**The Convener:** Other members have questions, but I will come back to Mark Ruskell if we have time.

**Mark Ruskell:** I have two other questions, so I would like to come back in.

**Finlay Carson:** My Conservative colleague and I strive for the highest standards in animal welfare, whether that relates to domestic animals, farm animals or wild animals. I am aware that the sequence of events stems from 2016, when beavers were given protected status—

**Roseanna Cunningham:** No. Beavers do not have protected status at the moment. That is the point. In 2016, I announced that I was intending to give them protected status, but it has taken us more than two years to get here, because we have had to deal with some of the issues that arose.

**Finlay Carson:** My apologies. The sequence of events started in 2016 and we are now at the point of giving beavers protected status. We are very concerned about animal welfare, just as Scottish Land & Estates and NFU Scotland are, so I welcome those parts of the framework that ensure animal welfare. No one wants any animal to suffer or be shot without due consideration for animal welfare.

However, I welcome John Scott’s intervention in the debate, because it highlights some of the issues that remain around giving the animals protected status. I am disappointed that more work

has not been done on mitigation or the compensation of landowners who could suffer as a consequence of the natural expansion of beavers. There appears to be an assumption that farmland other than farmland of the highest quality could be lost to beavers yet there is no clarity on the compensation. At our last evidence session, I asked questions about public good for public money, which is a concept that most landowners buy into, but there was no clear direction of travel or policy on how that would be rolled out in the future.

What compensation will there be for farmers and landowners where the natural progression of the beaver colonies reduces those people's ability to make a living?

**Roseanna Cunningham:** We are working closely with farmers to ensure that they can manage land and put in mitigation measures early so that the consequences suggested by Finlay Carson do not arise. SNH is engaging closely with the farmers who are at the sharp end of this right now on the work that needs to be done. Farmers have to manage a range of issues. At the moment, we are not considering financial compensation; we are getting alongside farmers on management of the issue to ensure that they are equipped with the tools necessary to prevent beavers from having maximum negative impact and to manage the impact of beavers in those areas that we have called prime agricultural land.

We are not designating Strathclyde as the only area of prime agricultural land in Scotland, but it happens to be the epicentre of the maximum number of active beavers.

**Hugh Dignon:** There is no question of other bits of Scotland other than prime agricultural land not having access to the same licensing and management arrangements. Exactly the same considerations and arrangements will be available to farmers or any other land managers everywhere. The only difference is that on the prime agricultural land of Tayside, SNH has made some arrangements to recognise that it already well understands the issues and that those arguments do not need to be replicated for every licence application. The same consideration of licences will be available to farmers anywhere in Scotland, should they need them.

**Claudia Beamish:** Good morning. I am very pleased to see these iconic animals back in the countryside and Scottish Labour is happy to support adding them to the list of protected species under the 1994 regulations.

There has been a bit of discussion this morning about the negative impacts of beavers, but the cabinet secretary will be aware that, since their reintroduction, beavers have contributed to the

public good in a number of ways. I understand that one of those is in the soil quality in the areas that they inhabit. Can you or your officials comment on that?

**Roseanna Cunningham:** We may not be quite prepared to comment on very specific benefits.

**Claudia Beamish:** Perhaps you can speak about the positive impacts more generally.

**Roseanna Cunningham:** It is important that we take a balanced view of the issue. For obvious reasons, most of the focus in this session is on negative impacts, because that is the nature of the discussion. I prefer to talk about challenging impacts. The challenges go beyond the impacts on productive land; they are also about tunnelling under riverbanks and so on. There are issues that need to be addressed, but there are also enormous benefits, as we are all well aware. The point of the reintroduction trial in the first place was to provide biodiversity benefits over and above the reintroduction of the animal itself. That was the purpose of the entire trial project and of the process that SNH began with the consultation in 1998. Given that it has been debated in Scotland since that time, we have not rushed to any judgment on the issue.

**Claudia Beamish:** I have a question for my colleague John Scott that follows up one from Mark Ruskell. What evidence do you have to lead you to consider that landowners are against the SSI, and how has that evidence been gathered?

**John Scott:** I have visited some of the landowners involved. Also, as a farmer, I know just how difficult it is to work on riverbanks, either by hand or with heavy equipment. I know how dangerous it is, and because of a lifetime's experience in farming, I know that the reintroduction of beavers will lead to a significant amount of additional work and checking of rivers, burns and streams in affected areas. That will have to be done on a very regular basis, because any dam that is there for longer than a fortnight cannot be removed. Therefore, if farmers want to remove a dam in their own best interests, they will have to check those river courses at least once a week. Farming is in an industry that in many cases is under extreme pressure to produce food at below the cost of production—as the TIFF figures testify, and as the member and the cabinet secretary are well aware. What we are discussing is an additional cost burden that would be inflicted on those food producers in Scotland, and I have spoken to enough of them myself—I do not think that you would expect me to name names—to know that that is very much their point of view. Several press articles, which the member may or may not be aware of, concur with what I am saying.

**Claudia Beamish:** I will quickly follow up on that point and touch on one made by Finlay Carson. I understand from the cabinet secretary that it is not the case at the moment, but if there were some financial recognition of the need for additional work by land managers and farmers in areas where beavers have been found, would you reconsider your opposition to the SSI?

12:00

**John Scott:** That should be the case, but it will be a matter for the agriculture bill that the cabinet secretary, Fergus Ewing, will introduce in due course to show how to support farmers through public good payments. I hope that that will be part of the consideration of the public good requirement that has been inflicted on farmers.

To answer the rest of your question about whether that would encourage me to drop my opposition to the introduction of the SSI, I regret to say that it would not. I am firmly of the view that, even if farmers are compensated under an agricultural support scheme, I very much doubt that it will get anywhere close to the real costs of, for example, having to clear dams with track diggers in burns or rivers. It costs thousands of pounds to do that. Farmers will be between a rock and a hard place with their insurance if they do not do that. If they do not do it, it may subsequently cause other areas downstream to flood, because beaver dams get washed away in once-in-20-year, once-in-30-year and once-in-40-year floods. That could block bridges.

Where does all that stop? I am immensely concerned about the implications, as I will say when I move the motion in my name in the debate.

**Roseanna Cunningham:** I want to clarify something about dam removal. Dams can be removed for up to a fortnight with no costs. Farmers do not have to refer to anybody or ask anyone's permission. They can remove a dam that they see being built. If the dam is there for longer than a fortnight, it can still be removed, but the farmers have to ask for and ensure that they have permission to do so. It is not true that farmers cannot remove a dam after it has been there for two weeks. They can remove such a dam; the difference is that they would need permission. They can remove dams that are in the early stages up to 14 days.

**Hugh Dignon:** I will add one point to what the cabinet secretary said. Some dams will never need a licence or permission to be removed. The only dam that will need a licence to be removed is what is known as a natal dam, or one that is protecting a breeding place. Beavers make dams for any number of reasons and all other dams can

be removed without any need for a licence at any time.

**John Scott:** Nevertheless, the cost will still fall on the farmer and the person who does the work to remove the dam. What estimate has been made of the cost to SNH and the Scottish Government of mitigation of beaver damage, and will new additional funding be given to SNH for that?

**The Convener:** Please speak through the chair, Mr Scott.

**John Scott:** Forgive me.

**Roseanna Cunningham:** SNH will manage the cost. It has worked closely with landowners on the costs and they will be managed within SNH's budget. I continue to remind members that SNH's initial consultation was done in 1998, so SNH has been planning for and working on this for a long time.

**The Convener:** Mr Scott, I will come back to you, but other members want to ask questions.

**Angus MacDonald:** If I recall correctly, when we took evidence on the matter previously, possibly from Hugh Dignon, it was said that there are approximately 500 beavers in the Tayside region. We have also heard that they are moving into the Forth Valley area. As I understand it, and as we have heard today, the SSI is not about whether beavers remain in Scotland; they are already here so annulling the SSI will not remove them. Does John Scott acknowledge that?

Does John Scott further agree that it would be good for animal welfare to have a licence condition that states that anyone who carries out lethal control of beavers should have undergone training in humane dispatch best practice?

**John Scott:** Yes, I fully accept the second point—that those who will be charged under licence with culling beavers should be properly trained marksmen.

On the first point, if the instrument were annulled, beavers would almost inevitably continue to prosper as a species, given—as Angus MacDonald rightly points out—that the most recent estimates show that there are now some 500 of them in the catchment areas, despite the fact that they have not been protected. The species is thriving enormously. The initial projections—if my memory serves me correctly—are that their numbers will reach something approaching 700 by 2042 or thereabouts. That would suggest that they are thriving way beyond the expectations in 1998, when SNH first proposed their introduction.

I am not the only one who finds the role of SNH in the matter odd. When beavers were discussed in 2005, Fergus Ewing, now our esteemed cabinet

secretary, said that he thought that SNH was conflicted in being the body to judge whether or not beavers should be introduced, yet it is now charged with bringing forward, supporting and enforcing the regulations. I am not certain where that leaves questions around a legal challenge, but perhaps someone else would like to talk about that.

I thank Mr MacDonald for his questions.

**The Convener:** I have a key question for you. If you can distil it for us, what do you think that your proposal to annul will achieve in the management of beavers in Scotland?

**John Scott:** That is a good question. Without the instrument and related legislation being in place, beavers have gone from strength to strength, despite the current efforts of landowners to reduce their spread. Therefore, the status quo, which has existed by force of circumstance, should continue.

**The Convener:** You are asking Parliament to annul the SSI. What will that do to manage the existing population?

**John Scott:** The SSI offers beavers a level of protection and, given that they will become a protected species, the opportunity to expand their numbers even more.

**Mark Ruskell:** Good.

**John Scott:** I hear Mark Ruskell saying “good”. That is his point of view, but it is not mine. Beavers are already causing more than enough damage in the areas into which they have been illegally introduced. Nobody questions the fact that they will spread, and they will do damage wherever they go, putting cost burdens on those who have to deal with that damage.

**The Convener:** We have about 10 minutes left for this part of the meeting, Mr Scott. I think that you wanted to ask the cabinet secretary some other questions.

**John Scott:** Thank you, convener.

What assessment has the Scottish Government made of the impact on public liability insurance costs for landowners and riparian owners where beaver populations exist or are expected to exist?

**Roseanna Cunningham:** I do not have an answer to that at the moment. I can ensure that we write to John Scott with the details, but that issue has not been a factor in our decision-making process.

**John Scott:** What assessment has the Scottish Government made of the impact of beaver populations on land that is classified as non-prime agricultural land?

**Roseanna Cunningham:** The classification that we are discussing is prime agricultural land, and the issue is simply about the ability of landowners in pressured situations to fast-track some management procedures. As Hugh Dignon has indicated, management procedures will be available to everyone, regardless of the category of land that they are on. There is an interesting discussion about the extent to which beavers might move into areas that are less favourable, but, at this stage, it is hard to say whether that will be the case.

**John Scott:** Has the Scottish Government looked at zoning, as practised in Norway, the Netherlands and Germany, during its consideration of how best to introduce European beavers into Scotland?

**Roseanna Cunningham:** I am not aware of what the zoning procedures in those three countries involve. Our original decision to put beavers into Knapdale rather than areas such as Strathtay indicates that we are very conscious that there are some parts of the country where it would not necessarily be helpful to trial beavers. I do not think that we thought of that formally as zoning. At the time, we anticipated that the badger population in Knapdale would be the one that we would gradually begin to grow. As I indicated, our intention is simply to allow beavers to increase their range naturally. We have not looked at the potential for zoning, unless we count the designation of prime agricultural land as a kind of zoning, but that is perhaps not the zoning that John Scott is thinking of. We have designated areas in which we expect owners to be able to fast-track management procedures, whereas that might not be the case for landowners in the Knapdale area, for example.

**John Scott:** Given that the introduction of beavers is a hugely significant event in rural Scotland, why has there been no Government debate on the subject in Parliament since 2005? Even the debate in 2005 was a members' business debate.

**Roseanna Cunningham:** I cannot speak about the period between 2005 and 2007, because we were not in government.

The issue of beavers has come up pretty regularly in questions and in wider debates that have not focused on one animal. I say this without any reference to parliamentary business or the Parliamentary Bureau but, had we tried to hold a debate on one specific animal, I do not know whether that request would have been looked on particularly favourably. We have had debates about biodiversity, and the issue of beavers was part of that discussion. We have had debates about land management, during which issues about beavers could be raised. It would not have



occurred to me to ask for a debate about one specific animal. Beavers are important. As well as presenting challenges, they can have significantly good impacts. They are part of a much bigger debate about biodiversity, and that is the debate that Parliament should be having.

**John Scott:** Finally—

**Roseanna Cunningham:** In the gentlest possible terms, I need to say to the member, whom I have now known for a very long time, that at no point have I received any formal representations from other parties about beaver management. There has been no indication directly to me that there would be any consideration such as that which he has brought to the committee. It might have been helpful to have had an opportunity for discussion before this, so that some of the specific things that John Scott is concerned about could have been talked through directly with him.

12:15

**Mark Ruskell:** One of the consequences of our not having a management regime in place is that there has been a free-for-all around beaver control, particularly in Tayside. As a result, there have been animal welfare abuses, with pregnant animals—and probably kits, as well—being shot.

In a previous evidence session, we talked about the certainty of having a close season, in which the lethal control of animals is not allowed. We sought clarity from SNH on the transparency of the licensing regime, so that we can know exactly what is happening on the ground at certain times of the year. I am broadly content with what came back. However, it would be useful if the data on licensing actions, including lethal control, could be broken down on a quarterly basis, so that we can know what happens during the period when beavers are pregnant or looking after their young. Will there be quarterly data?

**Roseanna Cunningham:** I will feed back your question about whether SNH will gather the information on a quarterly basis. The close season is April to August. It might be instructive to look at what SNH's figures show, but of course that information will not be particularly meaningful for a year or two—I hope that you accept that.

**Claudia Beamish:** What steps do you intend to take to ensure that everyone who has an interest is able to contribute to the process of finalising the management framework? Is there a proposed timescale in that regard?

**Roseanna Cunningham:** The management framework has been published on the SNH website, but we continue to have conversations. One of the most important groups in that respect is

the Scottish beaver forum, which comprises 13 or 14 different interest groups and which, for us, will continue to be the primary point of discussion as we go into a future in which—I hope—beavers are a protected species.

We anticipate that there will be a need to continue tweaking and reconsidering some aspects—I do not think that anyone would anticipate otherwise. SNH itself accepts that. That is why dialogue must continue.

**The Convener:** The final question is from Finlay Carson.

**Finlay Carson:** I am looking for a simple yes or no answer, just to get this on the record.

**Roseanna Cunningham:** Ha! *[Laughter.]*

**Finlay Carson:** Do you support fully compensating landowners, through land management contracts or in the spirit of public good for public money, given the Government's desire to see the natural expansion of beaver colonies?

**Roseanna Cunningham:** At the moment, that is not what we are discussing; we are discussing management, mitigation and how we equip farmers with the necessary tools and knowledge so that we do not get to a point at which that is necessary.

**The Convener:** Thank you.

I invite John Scott to speak to and move motion S5M-16304.

**John Scott:** I thank the convener for allowing me to speak and the cabinet secretary and her officials for attending. I declare an interest as a farmer.

Let me give some of the reasons why I am seeking to annul this negative instrument. My concern is, first, that the Scottish Government is seeking today to achieve protection for beavers as a result of an illegal act—the illegal introduction of beavers into the Tay catchment area.

At the time, the Scottish Government chose not to remove beavers from the Tay catchment. That population of beavers is expanding rapidly. In 2012, it was estimated that there were around 146 individual beavers, and modelling predicted that the population would expand to a mean of 771 beavers in 160 families by 2042, assuming no human interference. In 2018, the estimate was that the population had already grown to 550 in just six years—that is without protection. The population has continued to grow since 2018. Illegally released beaver numbers are growing very rapidly even without protection. The statutory instrument will offer the beaver population protection, allowing it to grow even more rapidly.

The costs of that are many and various, and include the costs of removal of beaver dams and of repairing riverbanks and field drains. An article in *The Courier* in 2018 estimated the cost of repair of riverbanks at about £2,000 to £3,000 per repair, with the estimated cost of dam removal to be about £200. However, as the cabinet secretary said, the cost to farmers and landowners of such damage will vary from incident to incident.

In addition, there will be costs to local authorities. *The Courier* reported that it was expected that Angus Council would have to seek additional funds from the Scottish Government to protect roads such as the A90. Beaver felling of trees reported in the Kingoldrum area has already created unexpected hazards where roads are close to beaver breeding grounds. Trees felled into rivers and the creation of dams will not just put at risk food production on agricultural land, but create local flooding risk in the Tay and Earn catchment area and further afield, as beavers spread naturally—as they will—enjoying the protection of the Scottish Government as they go.

For example, residents of Pitlochry were aware of beaver attempts to build a dam in the mill pond in 2016, with wood and debris removed daily by nearby hotel staff. That demonstrates that constant monitoring and removal of wood, branches and dams are required. In areas affected by beavers, riverbanks will now have to be inspected weekly, if not more regularly, and debris removed on a similarly regular basis. All of that costs time and money for those living in affected areas and trying to make a living in those areas.

For dam removal requiring in-river work, controlled activities regulations licences will be required, at a cost of some thousands of pounds for the granting of the licences, never mind the potential costs of putting a track digger into a river to remove trees and branches that are too large to remove by hand.

The cost of insurance for farmers and landowners of land that is likely to flood will rise because of beaver activity. The potential impact of unremoved dams, which, when breaking up or dislodging in massive floods, can cause further damage downstream, such as blocking bridges, means that public liability insurance is likely to become a problem for river owners and landowners. Carefully planned natural flood management prevention schemes will be put at risk by the unmanaged and uncontrolled activities of beavers, and the risk of flooding in places such as Perth will become greater if the instrument is not annulled.

Finally, it is my view that fishing interests will also be affected by beaver introduction. Spawning upstream is likely to become much more difficult for hen salmon seeking to access their traditional

spawning grounds, which will damage salmon fishing interests in the long term. As we all know, sustainable wild salmon fishing is under significant pressure across Scotland and introducing physical barriers to spawning grounds, as well as a new predator of salmon, can only make a difficult situation worse. Now is not the time to be introducing beavers into Scotland and affording them protection.

I move,

That the Environment, Climate Change and Land Reform Committee recommends that the Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2019 (SSI 2019/64) be annulled.

**Stewart Stevenson:** I will not speak at great length. John Scott was perfectly correct to seek to address the effect of beavers on land management. There is nothing whatever wrong with his doing that. Just as he is, I am concerned about the effect that the illegal introduction of beavers has had on some areas. He concluded his remarks by saying that now is not the time to introduce beavers. Unfortunately, however, they are here, so we need to manage the consequences.

John Scott talked at great length about how successful beavers have been without the proposal that is before the committee today but said relatively little about how the situation would be different if we were to annul the instrument.

In my questioning, I established that John Scott has not read the 1994 regulations that are being amended—I understand why he would not do so; they are 61 pages long—so I would like to highlight a couple of points from them in relation to the granting of licences to manage the impact of species. Regulation 44(e) says that the grounds that may be used in that regard involve

“preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”.

In other words, if economic interests are damaged, it is perfectly proper that licences be granted to deal with that.

Further, regulation 44(g) says that licenses can be granted for the purposes of

“preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.”

In other words, all the issues that John Scott mentioned in his remarks are issues that suspend, under licence, the protection that the order will give under regulation 39, with reference to schedule 2.

I say, very gently, that it is always worth reading the legislation—I almost always do—because it tells you things that you will not get anywhere else.

Without the amendment order, beavers have gone from strength to strength. With the order, they can continue to do so—I wish them every success—but they will do so within a legislative framework that properly protects them while striking a balance with economic and agricultural interests that need to be protected through issuing of licences to deal with problems that arise. Therefore, I will not be able to support the motion that John Scott will move.

**Claudia Beamish:** I, too, will be unable to support the motion that John Scott has had us consider today.

This has been an interesting debate. I speak in support of the protection of the species. As Stewart Stevenson said, beavers are here. It is important that management and mitigation arrangements are formally developed in an inclusive way as we progress, and that the criteria for licences to kill should be revisited once there has been time to establish how matters are developing. I will follow developments with care. I hope that the cabinet secretary will agree to update the committee, if we are where I hope we will be after the vote.

**Mark Ruskell:** It is no surprise that I will not support the motion to annul, either. Having said that, I put on record the fact that I am not insensitive to some of the challenges that are being faced by farmers, in particular in arable farming areas of Perthshire. I have visited a number of farms there and have seen some of the challenges that farmers face through having active beaver populations on their farms.

However, I have also seen the other side of the coin: for example, extensive wetland creation on an estate in Highland Perthshire, where a contained population of beavers has been working for many years. I do not think that we can ignore those benefits, if they are delivered in a controlled way in the right places.

We are failing on our biodiversity targets. Wetlands are hugely important, not only for retention of water but for the creation of more complex biodiverse ecosystems. We are signed up to international conventions to deliver that, so there is a potential win-win for farmers and land managers in delivering those public benefits. In many ways, I cannot see a more iconic animal for this age of climate change than the beaver. If they are properly managed and in the right place, they make a valuable contribution.

12:30

However, it is clear that there is much to learn. We need to educate people about the benefits of well-managed beaver populations and about the management issues, and we need to create the right incentives. Finlay Carson pointed to the need for that. It is not just about compensation for damage; it is about active management and looking at where we can incorporate some of the amazing public goods that beavers deliver into our agricultural subsidy system. The same goes for flood management.

We have seen the benefits in tourism, as well. Introduction of beavers is a popular move that the Government is getting behind. I am aware of one local paper in Perthshire—the *Blairgowrie Advertiser*—that has run an active campaign for many years to protect beavers in that area.

Notwithstanding the concerns about active management, we can get behind the process. I close with this point: we must ensure that the new management regime that is being put in place does not create animal welfare challenges. It permits lethal control of beavers, so we need to maintain close scrutiny of it. I have heard what the cabinet secretary has offered today. There will be further discussions with SNH on transparency in licensing. I would like to look over the *Official Report* of the meeting to get certainty on that, because we have seen an animal welfare crisis in relation to the Tayside situation, which I am concerned about. I want to see an end to that. Lethal control is absolutely the last resort and it must be done in a controlled and transparent way.

**The Convener:** Would the cabinet secretary like to speak to the motion?

**Roseanna Cunningham:** I will not speak in favour of the motion and I hope that the committee will not vote for the motion. Mark Ruskell raised an important point about international conventions. The SSI brings us into compliance with the EU habitats directive. I have been keen to ensure that we will—notwithstanding the B-word—continue to accept and carry out all our duties and responsibilities, as we have done up to now.

I remind John Scott that the beavers are here now; this is not about reintroducing them. That stable door has long been open and the horse has gone. Beavers are here.

The SSI has not been triggered because of illegally released beavers: I do not know how often I have to say it. If anything, the SSI has been delayed because of the illegally released beavers. If we had not had that Strathhtay beaver population, I expect that the SSI would have been dealt with fairly quickly and with no particular controversy.

I listened with interest to John Scott's somewhat apocalyptic vision of the impact of beavers. I do not accept that apocalyptic vision. Even by his own admission, if the SSI is not passed today, none of what he believes to be happening would change, so I do not understand what the point of not passing the SSI would be. I do not buy into his vision, but even if it were true in every single jot and iota, not passing the SSI would change none of it. That, to me, is the remarkable thing about the current discussion.

**The Convener:** Thank you, cabinet secretary. Would John Scott like to make any closing remarks before we go to a vote?

**John Scott:** I welcome the debate and thank members for their contributions. I thank Stewart Stevenson for his support for my approach to raising the matter, if not for seeking annulment of the instrument.

I thank Claudia Beamish for her contribution and note that neither she nor Mark Ruskell will support my motion to annul the instrument. I note Mark Ruskell's point that beavers support biodiversity, which I entirely agree with, but it remains my view that the costs to farmers and landowners outweigh the benefits of the species being given protection.

I regret that I do not share the view of Scottish Land & Estates on the matter. I note the cabinet secretary's comment that beavers are here and that they are here to stay. That is a self-evident truth. However, I am not convinced of the need for the instrument, because it offers additional protection to a species that is already thriving under the circumstances that it currently enjoys.

I press my motion to annul.

**The Convener:** The question is, that motion S5M-16304, in the name of John Scott, be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Scott, John (Ayr) (Con)

**Against**

Beamish, Claudia (South Scotland) (Lab))

MacDonald, Angus (Falkirk East) (SNP)

Martin, Gillian (Aberdeenshire East) (SNP)

Ruskell, Mark (Mid Scotland and Fife) (Green)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

**Abstentions**

Carson, Finlay (Galloway and West Dumfries) (Con)

**The Convener:** The result of the division is: For 1, Against 5, Abstentions 1.

*Motion disagreed to.*

**The Convener:** Are members content for me to sign off the committee's report on the SSI?

**Members indicated agreement.**

**The Convener:** That concludes the committee's business in public today. At its next meeting, on 26 March, the committee will hear from the Minister for Energy, Connectivity and the Islands on the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2019. We will also consider our future work programme. I thank the cabinet secretary and her officials for their attendance.

12:36

*Meeting continued in private until 12:38.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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