



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 24 April 2019

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
13th Meeting 2019, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)
*John Finnie (Highlands and Islands) (Green)
*Jamie Greene (West Scotland) (Con)
*Richard Lyle (Uddingston and Bellshill) (SNP)
*John Mason (Glasgow Shettleston) (SNP)
*Mike Rumbles (North East Scotland) (LD)
Colin Smyth (South Scotland) (Lab)
*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)
*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Barnes (Scottish Government)
Fergus Ewing (Cabinet Secretary for the Rural Economy)
Allan Gibb (Scottish Government)
Rhoda Grant (Highlands and Islands) (Lab) (Committee Substitute)
John Kerr (Scottish Government)
Andrew Watson (Scottish Government)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 24 April 2019

[The Convener opened the meeting at 10:00]

Agriculture and Fisheries (Update)

The Convener (Edward Mountain): Good morning, and welcome to the committee's 13th meeting in 2019. I ask everyone present to ensure that their mobile phones are turned to silent. Apologies have been received from Colin Smyth, and Rhoda Grant is attending as a substitute member. Although she has been on the committee before, I ask Rhoda Grant to declare any interests for the record before we go any further.

Rhoda Grant (Highlands and Islands) (Lab): I do not have interests that impact on the committee, but I am a member of Unison and the Co-operative Party.

The Convener: Thank you, Rhoda, and welcome.

Agenda item 1 is an agriculture and fisheries update. It provides an opportunity for the committee to receive updates from the Cabinet Secretary for the Rural Economy and Scottish Government officials on a range of matters relating to agriculture and fisheries management.

Before I welcome the cabinet secretary and his team, I ask members for any declarations of interests that they have relating to the subject. I will open by saying that I am a member of a farming partnership.

Peter Chapman (North East Scotland) (Con): I am also a member of a farming partnership.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a very small registered agricultural holding.

The Convener: I formally welcome Fergus Ewing, Cabinet Secretary for the Rural Economy, and, from the Scottish Government, Allan Gibb, acting deputy director of sea fisheries; Mike Palmer, deputy director for aquaculture, Crown Estate, recreational fisheries, European maritime and fisheries fund and Europe; Andrew Watson, deputy director for agricultural policy implementation; David Barnes, national adviser on agriculture policy; and John Kerr, head of agriculture policy division.

I invite the cabinet secretary to make an opening statement of no more than three minutes.

The Cabinet Secretary for the Rural Economy (Fergus Ewing): Good morning, convener and members. By mid-March of this year, it looked likely that the United Kingdom would crash out of the European Union without a deal on 29 March. As late as 10 April, the UK could have crashed out two days later. The UK Government has now secured a longer extension but that has only delayed the risks. The problems have, therefore, not been solved; they have been deferred.

The impasse at Westminster remains and the Scottish Government believes that the way to break it is by a people's vote, but the UK Government continues to resist that. The Prime Minister still hopes to deliver her deal—which we cannot support, given the grave impacts that it could have on Scotland—but a no-deal exit remains a very real risk. Exit day could be before the European Parliament elections or at the beginning of June, or at the end of October, or at any other date before or after. You could hardly make things less certain if you tried.

Therefore, the risks of a no-deal exit have not gone away. Our exports could be blocked due to tariff or non-tariff barriers and imports could rise thanks to import policies decided unilaterally in London, which could lead to price collapse in certain sectors. Before the immediate post-exit period, there are other serious risks: the risk that the UK Government will fail to replace all of Scotland's EU funding and the risk that farmers, fish processors, growers, abattoirs and other businesses cannot get the labour that they need.

There are things that the Scottish Government can do. For example, we are working tirelessly to minimise the impact of the new export certification that Brexit causes. However, many more things are outwith our control as a devolved Administration but have the potential to cause huge damage in rural Scotland. For example, customs delays at Dover could irreparably damage the export of live seafood. The UK Government has control over policy in regard to temporary workers and migrant labour. The permission for them to stay rests with London and, frankly, it is all a bit of a boorach.

Very serious threats to rural Scotland remain, linked to agriculture and fisheries. We have tried our best and worked extremely hard across all officials and all Government directorates to prepare ourselves and the sectors for what might come. However, given the limited co-operation from the United Kingdom Government and the uncertainty that surrounds Brexit, I hope that members will support the Scottish Government as

we work to achieve the least worst outcome from this unprecedented situation.

The Convener: Thank you, cabinet secretary. We will move on to questions, and the first one is from Maureen Watt.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Cabinet secretary, in your opening remarks, you rightly focused on Brexit. What practical impact does the extension to 31 October of the deadline for the UK to leave the European Union have on the Scottish Government's work in relation to agriculture and fisheries?

Fergus Ewing: In one sense, it defers the problems that I alluded to in my opening statement that would have arisen on 29 March or 12 April. However, it does not eliminate those problems; it simply defers them to a later unspecified date. That is not 31 October but—we think—some time between now and 31 October. Who knows? Maybe 31 October, like 29 March, is a deadline that will be extended.

I am just stating that there is a range of possibilities and that the trouble that the Government and Government officials have in making preparations for all this is that, by definition, the more uncertainty there is, the more difficult it is to make proper preparations for Brexit.

As a responsible Administration, we had to prepare for the risk of crashing out in a no-deal situation, which meant that we made preparations for an emergency response-style operation centre that would have been staffed by Government officials. The officials that would have staffed that emergency hub would have been taken away from their day-to-day duties, which they would therefore have been unable to attend to. Arrangements were quite properly considered and ready to be put in place for that emergency-style hub but, now that there has been a deferral of the possibility of a no-deal exit, those arrangements have had to be stood down and we can release the staff back to other duties.

This is not a theoretical matter. The gentlemen sitting next to me are all senior Government officials who have had to devote a huge amount of their time to the possibility of a no-deal exit. Inevitably, that time is time that they cannot spend in taking forward the Government's agenda. With respect, from all accounts, the same scenario applies in spades—in a higher suit—in Westminster. It has had a very real effect.

The delay prolongs the uncertainty under which businesses are operating. For example, I know from discussions with meat wholesalers that they have had to make arrangements to stockpile and to acquire or procure additional chilled storage, which has added to their costs. Stockpiling for 29

March has now been replaced by stockpiling for 31 October or possibly some other date, as I have alluded to.

Again, those are not theoretical matters but matters that, as I have heard from business, involve real costs. The same applies to supermarkets and meat processors stocking up. All of them make the point that that involves costs that they have had to incur because of the no-deal scenario. It is capital expenditure—significant sums, in some cases—that could have been, and was intended to have been, invested in other things to promote the success of their ventures.

As you know, I do not like to go on, but those are just some of the things that come to mind as problems that face us all at the moment and which I hope we all recognise that we need to challenge. However, it is extremely frustrating that we have to do so because the no-deal option has not been entirely removed from the table.

Maureen Watt: As a result of the six months' extension or delay, farmers will be going into another cycle and will not know, for example, what to plant and what not to plant or whether to acquire more sheep and so on. In your discussions with the agriculture and fisheries sectors, what have they said to you about the delay?

Fergus Ewing: There are specific concerns regarding, for example, the impact of a no-deal exit on the lamb sector because one third of Scotch lamb is exported to European markets. UK Government modelling estimated that the impact of the loss of that European market or being subject to a tariff of up to 40 or 50 per cent would cause a collapse in the price of up to 45 per cent and substantial lost revenue in a range between £54 million and £73 million. That is from memory; I can come back with correct figures.

That risk is very real. I recently met hill farmers from Lochaber, as a guest of Donald Cameron MSP. They are really worried; they are already worried about the future of hill farming, but adding the possibility of losing export markets for up to a third of produce is very serious. The UK Government, at the behest of the Scottish Government and the Welsh and Northern Irish Administrations, has been modelling a compensation scheme for sheep farmers. On 11 April, when Parliament was supposed to reconvene, I took the opportunity to meet with agriculture stakeholders and we agreed in principle that a headage scheme, with compensation payable directly to crofters and farmers, would be the least worst option in that situation. I am now advancing and pressing the UK Government with the help of officials, so that we can use the time that we have to prepare the details of a compensation scheme. John Kerr can

probably add more about that. The dairy sector is also affected.

The general point is that the deal on the table—if it can be called a deal, as it is an agreement to agree in many respects—takes us just to the end of 2020. If the delay is until 31 October 2019, less time would be available after that clarity is provided until the end of 2020 to sort out all the matters that have not been agreed in the withdrawal agreement and political declaration.

Maureen Watt: That is fine. We might come back to sheep later on.

The Convener: We might indeed. The next question is from Peter Chapman, who wants to follow up on that point.

Peter Chapman: Cabinet secretary, you have spoken about some of the stuff that you have done to try to prepare for the future of the various sectors. Last time we discussed the future of support for agriculture, you said that you were about to set up another new expert panel to try to find a way forward. Will you update us on how well that is going? When will we find out who the panel members are and when are they likely to give us an idea of their ideas for the future support of agriculture?

Fergus Ewing: You are right that Parliament has mandated me to do precisely that, on the basis of text that Mr Rumbles had a hand in adjusting by discussion and consideration together. I was happy to do that and we are working hard on it. The task is complex and detailed, and I do not want to put a time limit on it now.

With respect, an enormous amount of time has rightly been devoted to a no-deal exit, including Scottish Government resilience room meetings every week and meetings of the food, fish and aquaculture sectors that I chaired by conference call. Something has got to give. We have rightly devoted the lion's share of our attention, time and effort to that so, by definition, other things could not be progressed as quickly as we would have liked—that is a statement of fact.

However, that piece of work is important and I commit to the committee, as I have done in the Parliament's chamber, that we are working on it. We will have to consult with relevant organisations in order to do that, and we are working hard to get the right people. The remit is to look at a long-term post-Brexit policy, which is quite difficult to do at the moment in the complete absence of certainty about what the short and medium term will hold.

David Barnes or John Kerr might have something to add.

The Convener: Before they do, it might be appropriate to bring in Mike Rumbles, as he had a follow-up question.

Mike Rumbles (North East Scotland) (LD): That was the question that I was going to ask, so I will leave it.

The Convener: Cabinet secretary, would David Barnes like to add to what you said?

Fergus Ewing: It is Andrew Watson.

The Convener: Would Andrew Watson like to add briefly to the answer?

Andrew Watson (Scottish Government): Mr Ewing outlined the main issues. In approaching people to give up their time to participate in such events, we have been conscious that we need to be clear about the remit that they are working to. Because of the short-term uncertainties in relation to Brexit and the no-deal scenario, it felt appropriate to take stock before we got into detailed conversations with people. As the cabinet secretary said, we are now moving ahead with the project and we will update Parliament as soon as we can.

10:15

Peter Chapman: We have focused on agriculture so far, but I will ask the same question about fisheries. What are you doing to prepare for the fishing industry's future?

The Convener: I feared that—

Peter Chapman: The issue is in our papers.

The Convener: We will come to fisheries in a moment, so I ask the cabinet secretary to speak briefly about fisheries before we move on.

Fergus Ewing: Members will know that we recently published a discussion paper on the future of fisheries policy, which says that that policy should be made in Scotland and based on sustainability. As far as we can, we should involve local governance and encourage new entrants, and we should ensure that coastal communities throughout Scotland and our islands can fish sustainably and benefit from new arrangements. The discussion paper, which was the result of a long period of internal work by officials, including Mr Gibb, has been fairly well received. It sets out a clear prospectus for the future of fisheries policy.

If a no-deal Brexit occurred on 31 October, that would be in the thick of the fisheries negotiations—the bilaterals or trilaterals with Norway, Iceland and the Faroes. All those negotiations come to a close at that time, so deferring the deadline to 31 October has added new complexity.

If we are out of the EU on a no-deal basis, we will not be at the table in Brussels for the fisheries negotiations in December, which means that we will have no voice in the determination of total allowable catches and quotas. The UK will not be at the table—Scotland is not at the table in her own right anyway, but we will be unable to play a part in the UK delegation, which I have sought to do constructively for the past three months.

Those are just two points; there are many others, but the convener asked me to be brief, so I will stop there.

The Convener: We will move on to the next question.

John Finnie (Highlands and Islands) (Green): The committee produced a report on crofting, and the Scottish Government committed to examining the modernisation of crofting law to make it

“more transparent, understandable and workable”.

In your briefing to the cross-party group on crofting in March 2018, you outlined a phased approach. The committee was keen for anything that came forward to be completed before the end of the parliamentary session.

On 12 April last year, you talked about using non-legislative means, which included a national development plan for crofting and a new entrants scheme. When will the plan be published? Do you plan to revive the new entrants scheme? I ask about that because the young farmers and new entrants start-up grant schemes are closed, as is the capital grants scheme. Will you give an update on that?

Fergus Ewing: Mr Finnie has raised quite a few things. He is correct that I committed to seeking to introduce a crofting bill in sufficient time for it to be passed before the end of the session. That commitment remains. Members will recall that there was no clear consensus on the way forward, but we decided to take a two-phase approach. Phase 1 focuses on delivering changes that will resolve known issues, improve transparency and promote simplicity; phase 2 will continue a more fundamental review of crofting legislation. *[Interruption.]*

The Convener: I ask Peter Chapman, Mike Rumbles and other members to bear it in mind that I struggle sometimes to hear witnesses over conversations that are going on. I want to hear the cabinet secretary's words, so I ask everyone to listen to him. Members will all get a chance in due course to ask their questions in, I hope, the order that we agreed.

I am sorry, cabinet secretary—I would like to hear your answer.

Fergus Ewing: That is quite all right. I will do my very best to make my answers even more scintillatingly interesting. *[Laughter.]*

We are taking a two-stage approach. We have committed to introducing legislation. The issue is close to my heart. I am passionately committed to taking action on crofting. We need to take action and I feel a moral obligation to do so. Members should not get the impression—not that any Opposition politicians would ever rush to different conclusions—that there is anything vague or insincere about what we propose. We will do this. When I say that I will do my damndest to do it, I am sticking my neck out a bit, because Brexit is predated on the legislative timetable and the committee's time, as the convener knows better than I do.

Mr Finnie also asked about new entrants and a national development plan for crofting. Such a plan will form a critical part of the support for crofters and the crofting community, so it will be an important document. A draft plan has been shared with members of the crofting stakeholder focus group and the cross-party group on crofting, and it is due for further consideration at the next stakeholder forum meeting. We are taking a big-tent approach, which involves consulting the stakeholder group and bringing people into the discussion, in an effort to get a degree of consensus in an area in which, when legislation has been introduced, we have often found that that consensus can break down. That is why it is important that we proceed in that way, and we are making progress with that.

Mr Finnie is right to raise the issue of new entrants. Since 2015, the Crofting Commission has approved more than 850 assignments, 140 lets and 120 divisions. That is the normal bread-and-butter work of the commission, but it is important to remember that that work leads to new entrants. A significant number of new entrants have benefited from the approvals that I listed, which is a good thing.

In addition, I have taken a personal interest in the crofting grants scheme for houses on crofts. I have tried to maximise the number of people— younger people, in particular—who can get a home in their own part of Scotland. That, too, is very close to my heart. From memory—my officials will correct me if this is wrong—I think that, since 2017, we have enabled 800 or 900 families to get crofts in their own part of Scotland. That is a direct way of helping new entrants.

Officials are working with stakeholders on a pilot new entrants scheme that will be aimed at encouraging older or less active crofters to transfer their croft to a new entrant. That model can also be applied to farming. Older farmers

could mentor, help and encourage younger people to become new entrants to farming.

A lot of work is being done. As I have said, such work takes more time than we would all wish, but I am confident that we are making significant progress in many areas, and we intend to build on that in the coming years.

The Convener: I want to bring in Rhoda Grant on crofting, after which John Mason will ask a more general question.

Rhoda Grant: The problem with previous crofting bills has been that, because crofting has evolved differently in different areas, a bill that has suited one area has not always suited another. When a crofting bill is introduced, what we really need is time between stages 2 and 3, so that we can make sure that it will have no unintended consequences. Will there be sufficient time to do that, to ensure that the bill is fit for purpose and that we do not fall into the trap that we have fallen into previously?

Fergus Ewing: Rhoda Grant makes an excellent point. In my 20 years in Parliament, I have often thought, especially with complex bills or bills that deal with arcane areas of law with which most of us are not familiar, that it would be extremely useful to have a slightly longer period between stages 2 and 3.

I am pleased that Rhoda Grant has raised that point. I will drop a note to the Minister for Parliamentary Business and Veterans to make the same point to him, because I think that that would be a useful approach. I am not in charge of the parliamentary timetable—the Parliamentary Bureau deals with that—but the suggestion is good. I am inclined to recommend that Rhoda Grant's suggestion be given very favourable consideration. It would do no harm to flag up the matter with Graeme Dey now, so I will do that. That would also help to embed the approach that I am trying to take to the crofting bill. Rather than being a party-political or partisan bill, it should be a Parliament bill, as far as that is possible.

I have here a note of examples of the phase 1 proposals, which cover seven issues. If you like, I could read them out.

The Convener: No. I would like at this stage to bring in John Mason with a general question that might allow you to mention some of those proposals.

John Mason (Glasgow Shettleston) (SNP): I accept your point that you are not in control of the parliamentary timetable and that anything that you say, hope for or commit to will be subject to that timetable.

You were just asked specifically about crofting legislation, but what do you see happening in

terms of other legislation over the next two years? There have been proposals on, for example, a good food nation bill and an inshore fisheries bill. The future of fisheries and the future of agriculture are also areas on which there might be legislation. Can you give us an indication of your current thinking on those areas? I will not hold you to what you say—it will not be set in stone.

Fergus Ewing: Thank you for that caveat, which is designed to protect me from erring.

The Government's legislative programme has not been finalised, so I am afraid that I cannot give definitive answers, because there is, rightly, a proper process for that. However, I met the Minister for Parliamentary Business and Veterans a couple of weeks ago and I made a case for each of the bills in my portfolio that the Government would like to take forward. Mr Dey made it clear that the Government will have to fit in with the amount of parliamentary time that is available and the potential workloads of individual committees, including this one.

I can answer briefly on each of the areas that you referred to.

John Mason: Colleagues might want to ask you to answer in more detail later on fisheries, for example. At this stage, an overview will be fine.

Fergus Ewing: The overview—I will reiterate a point that I have already made—is that the factor, in terms of workload, that is additional to what we envisaged in our manifesto and in our programme for government, is Brexit. We believe that in order to deal with Brexit, we will have to have one or, perhaps, two bills. We think that we might also need a fisheries bill. No doubt we can come on to deal with that, but if you want just an overview at this stage, I make the point that, bluntly, something has to give. If I am to have two or three Brexit bills before this and other committees, that will use up the available parliamentary time. I am not sure how we can do that, unless we start sitting until 10 pm or midnight—which we have, of course, done previously. I am not sure how we can squeeze a gallon into a pint pot. That is the predicament that faces us and there is no point in skirting around it. It is a direct result of Brexit. That is not an excuse, convener; it is a response to Mr Mason's question about where we are.

The Convener: I think that I interrupted you earlier when you were about to give your wish list of bills for the next two years. Perhaps listing them now would be helpful, because committee members would then know what they have to look forward to.

Fergus Ewing: What was in my mind before you intervened, convener, was to say that the good food nation legislative consultation closed on 18 April, which is just a few days ago. It would

plainly be wrong to prejudice the outcome of analysis of the responses. That is not to duck questions: it is just a statement of the obvious. We had a wide-ranging consultation and have not yet had the opportunity to study the responses. That will take some time and must be done carefully.

John Mason: Do you hope that that consultation will result in legislation?

Fergus Ewing: I hope that all proposed bills can be accommodated, but hope is one thing, and reality very often clashes with aspiration. However, we will see. I am determined to do my best to take forward, and to implement as far as possible, all the commitments.

Running through the list, I see that we have a proposed crofting bill, the proposed good food nation bill—which we have mentioned—a rural finance bill, possibly an urgent bill for 2020 common agricultural policy payments and possibly a fisheries bill. Those are on the list that I have just been provided with. I have run through them briefly, but no doubt we will come back to each of them.

John Mason: Is the first stage of the crofting legislation still a priority?

Fergus Ewing: We have made a solid commitment to introduce a crofting bill. It is accepted across the political divide and it would be extremely unfortunate if we were unable to implement that, so I will do everything that I can to ensure that such a situation does not arise.

10:30

Jamie Greene (West Scotland) (Con): You listed several bills and said that you hope that they will be introduced in the current parliamentary session. Are they in any particular order? Is it more likely that the Brexit-related or financial bills will be presented to Parliament before the ones on crofting or good food, which are more policy oriented?

Fergus Ewing: The legislative programme has not been finalised. Various time considerations in respect of each bill must be taken into account. I am not in a position to make a statement on the order of introduction of the bills—that work has not yet been done. However, I have made a commitment that if legislation is required by a certain date, we will introduce a bill by that date. The agri-fisheries officials will keep me right on this, but I suspect that that applies to the rural finance bill, which would be required not in order to continue payments under the European funding of the Scottish rural development programme and CAP, but to allow changes to programmes to be made.

All the statutory instruments that the committee has been dealing with over the past few months have been put in place. Their purpose was to enable the mechanism to continue payments of the current schemes as they are. As we have indicated in “Stability and Simplicity: proposals for a rural funding transition period”, if we want to make changes in order to simplify or streamline—to pilot more sustainable methods of farming, for example—we will want to have, from 2021 onwards, the legal mechanism, capacity and competence to make such changes. Working backwards from that, we would have to have the rural finance bill in place by a certain time to allow us to make the changes.

There are time considerations of different sorts for every bill, but there is a particular time requirement in respect of the Brexit legislation.

Jamie Greene: That is very helpful. In today’s meeting you are describing the bill as a “rural finance bill”, but in a previous statement to Parliament, you used the phrase “rural support bill” and in other statements you have said that the Government will introduce an “agriculture bill”. Are those three the same bill or are they different? If they are different, how are they different?

Fergus Ewing: I have been using those titles as shorthand. The bill, including its short and long titles, has not been finalised—that is part of the drafting process. The bill will cover financial support under the whole of the CAP and not only farming—it will include LEADER, the agri-environment climate scheme, rural priorities and forestry. That will enable us to make changes to the myriad of rural support schemes. In that respect, a title such as “finance rural support bill” might be a better description of what the bill is intended to address. It will not apply solely to agriculture, although that will make up the lion’s share. We have not finalised the title.

The Convener: I think that the question that Jamie Greene is trying to get to is whether there will be three bills, two or one. The title is not necessarily the important thing. It would be helpful for the committee to understand how many bills there will be.

Fergus Ewing: He asked about three names, so I was trying to clarify the point. I hope that I have done so. We believe that “finance rural support bill” is a title that describes the purpose of the bill.

I will turn to your question, convener. We believe that we will require the bill in order to make changes to the scheme for the reasons that I have described. However, there is another technical issue that we are keeping an eye on that might require another bill. It is also possible—subject to

advice—that it could be combined with the rural finance bill. That is currently under consideration.

The technical issue is that, if the Prime Minister's deal were to be passed in its current form, EU law, except the CAP direct payments regulation for 2020, would continue to apply in the UK until the end of 2020. As I have said previously, if that potential issue becomes real, and if the Scottish Parliament is required to pass a short piece of technical legislation to deal with it, we will introduce such legislation. Although I cannot pre-empt the outcome of the policy development work on the rural finance bill, it is possible that such legislation could be combined in that bill. That is under consideration. The matter is very technical, and I am always mindful that my officials are at least as well versed as I am in matters. I do not know whether David Barnes or John Kerr wants to add anything.

David Barnes (Scottish Government): I confirm everything that the cabinet secretary has said. The issue in the withdrawal agreement is, in effect, a technicality that is, unfortunately, quite complicated. The issue would not apply only to Scotland; it would apply across the entire United Kingdom. As with many other things, we are talking to, and comparing notes with, the other Administrations. Only this week, we have been talking to colleagues from the other Administrations about the potential for consequential knock-on changes for the statutory instruments that the committee has been dealing with. I mention that simply to give an idea of the depth of the technical work that we need to do before officials can give advice to ministers, who can then consider with Parliament how to take the matter forward. We are on the case, but the issue is complicated and there are still uncertainties about whether the withdrawal agreement will be passed, and about what the other Administrations plan to do.

The Convener: So, for clarification, one bill will definitely be needed, and there will potentially be two.

Fergus Ewing: Yes.

The Convener: Thank you for clarifying that, because it was unclear in my mind.

Jamie Greene: That provides additional clarity, so I thank the cabinet secretary.

I appreciate, as the cabinet secretary described, that the lion's share of the bill—whatever name it has—will be about the Scottish Government's ability to pay farmers in Scotland. Will that be different from, for example, the content and purpose of the UK Agriculture Bill? Will a Scottish agriculture bill be introduced? I do not want to touch on the World Trade Organization elements of the UK Agriculture Bill, because my colleague

John Finnie will discuss those later. I am looking more at the wider picture. Will we have a rural finance and support bill that covers forestry, agriculture and so on, and an agriculture bill that mops up some of the similarities in the UK Agriculture Bill? I am still a bit unclear about that.

Fergus Ewing: David Barnes will give you the technical answer, but I will make a simple point about the one bill—possibly, two bills—that I am contemplating introducing to deal with rural support payments and the ability to change them. The matter is technical, so the bill will not range into all sorts of policy matters: it will deal just with the financial mechanism, and it will be drafted to make that clear. The bill will be a tool in the box; it will not be a post-Brexit rural policy bill. It will provide us with the ability to formulate policy and to change financial support schemes accordingly.

I will let in David Barnes.

Jamie Greene: I am sorry, but before David Barnes answers, I want to clarify whether there will be another bill that covers policy matters relating to agriculture in Scotland, because that is the crux of the issue.

Fergus Ewing: The work that is being done for the situation post-Brexit is policy work; I understand that primary legislation will not necessarily be required. Last summer, we published "Stability and Simplicity", and in January we confirmed in a debate in Parliament the principles and approach that are set out in that document. That gives us—the farming community, in particular—a period of relative confidence for five years. That is the way to formulate policy.

Legislation is not necessarily the vehicle for policy formulation, but legislation is required for power to provide support mechanisms and make financial payments in relation to that support. I hope that I have got all that right. David Barnes will tell me if I have not.

The Convener: David, could you stick to Scottish legislation, please?

David Barnes: Indeed. I confirm what the cabinet secretary said. The bill that my team is working on will create the tool to deliver the policy approach that was, as set out in the "Stability and Simplicity" consultation paper, set for five years.

As was discussed previously, the policy for beyond that period is work that has yet to be done. As the cabinet secretary said, by definition, the analysis on what that does or does not require in legislative terms cannot be done until the policy work has been done. The focus of the bill that we are preparing now is entirely on delivering stability and simplicity, on which there was the consultation last year. The cabinet secretary confirmed in the debate in January that the Government will, in light

of the positive responses, press ahead with that approach.

The Convener: That leads us on to the next topic.

Peter Chapman: We are back to fisheries. Your recent discussion paper “Future of Fisheries Management in Scotland” indicates that the proposed inshore fisheries bill will now be included in wider fisheries legislation. What else will be included in wider fisheries legislation?

Fergus Ewing: As Mr Chapman knows, the Fisheries Bill is currently before the Westminster Parliament. It would be premature to bring fisheries legislation before the Scottish Parliament when we do not know what additional powers the UK Fisheries Bill would confer on Scotland. We understand, from ministerial statements, that it is envisaged that the bill will confer further powers for fishing on Scotland, but it is impossible for us to legislate on those matters until we know what powers—if any—will be passed to Scotland by the bill.

Once the bill has received royal assent, we will consider all the powers that are available to us, as well as any remaining gaps in those powers, and we will reflect on our direction of travel following the discussion on the paper on the future of fisheries management. At that point, we will decide whether additional legislation is required.

Peter Chapman: You are basically saying that, until there is more clarity about Brexit, nothing will change as far as inshore fisheries in Scotland are concerned. Is that a true reflection of what you just said?

Fergus Ewing: I was about to say that I agreed, but you added a twist at the end.

We cannot legislate here unless or until we know what powers that we will have, and we do not. That is just a statement of fact; I am not making a political point at this stage. We need certainty to be able to legislate, because legislation is about conferring certainty by means of the legislative provisions included in any bill. If we do not have certainty, we cannot legislate.

That does not mean that we cannot advance the cause of inshore fisheries, though. Day in, day out, Mr Gibb and his colleagues are working hard with fisheries communities around Scotland to identify how we can help them. The provision of assistance to fisheries, which is a devolved area, is going on daily. It is important to make the distinction. Legislation is one thing, but most of the work that Mr Gibb and his colleagues do is to implement legislation to advance the cause of sustainable fisheries and support communities. That might involve piloting schemes of different types of fisheries—which we have been doing

quite successfully recently in respect of electrofishing, with trials in the Western Isles and so on—or helping in other ways, such as through providing grant finance for smaller vessels in the scallop sector so that they can be equipped with remote electronic monitoring equipment, which leads to sustainable fisheries and deals with other, quite controversial problems. It is important to make the point that that work goes on in what is already a devolved area.

10:45

The Convener: Stewart Stevenson has some further questions about fisheries.

Stewart Stevenson: I want to go beyond inshore fisheries and look at the UK Fisheries Bill more generally. The Scottish Government made proposals on quota, effort, seafood levies and a number of other matters. Have you had a definitive response on what the UK Government intends to do with those proposals?

Fergus Ewing: The answer is no. To be fair, I would not expect there to be copperplate answers on the post-Brexit situation at the moment. I stress that I had good working relations with George Eustice before he resigned—I do not think that his resignation was anything to do with me, I hasten to add. We tried to work together. It is not the case that the future policy on the matters to which Mr Stevenson referred has been settled.

However, it is the case that different approaches should be and are taken in respect of some of those matters, such as the maximum sustainable yield, choke species and the approach to quota. Mr Gibb might be able to provide some more technical information on that.

Allan Gibb (Scottish Government): As the cabinet secretary said, we have slightly different management aspirations from other parts of the UK when it comes to how we manage our quotas and the landing obligation. The Scottish Government has always been very supportive of the maximum sustainable yield commitment. The target for 2020 is extremely challenging. We prefer to have a focus on the international obligation, which involves working towards the maximum sustainable yield. That is one slight difference. The fisheries north of the border are very different from those south of the border, so their management is likely to require different approaches.

John Finnie: I would like to ask about the UK Agriculture Bill and the WTO clause. We understand that the Welsh Government has laid a legislative consent memorandum for changes to the Agriculture Bill in the House of Commons, which includes a memorandum of understanding between the UK Government and the Welsh Government on the WTO provisions and how they

will operate. Has the Scottish Government made any arrangements with the UK Government about the WTO provisions in the UK Agriculture Bill?

Fergus Ewing: Yes. We have worked constructively with the UK Government, including at official level, and that work continues. There has been disagreement about whether some of the provisions in the bill deal with devolved or reserved matters. We believe that the implementation of WTO rules and laws is a devolved area, but the UK Government takes a different view—it says that that is entirely a reserved function. We have had to agree to disagree on that.

However, we have continued to work constructively with the UK Government and with our Welsh and Northern Irish colleagues. That work has included the development of mechanisms to ensure that the UK will continue to comply with its WTO obligations with regard to notification, reporting and engagement on WTO committees and exploration of a fair and equitable allocation of the UK's amber box support limit, which is a constraint on the extent to which payments for agriculture can be made in certain ways. I emphasise that we are seeking to work together constructively on such matters.

We have made it clear that the disagreement on the WTO clause could be resolved by the UK Government agreeing that regulations that are made under it will require the consent of Scottish, Welsh and Northern Irish ministers. That would respect devolution and would underpin the constructive joint working that we favour. We do not quite understand why the UK Government is unwilling to accede to our request.

On the other clauses in the Agriculture Bill on which there is disagreement about whether powers are devolved or reserved, which relate to producer organisations and fairness in the supply chain, we have presented amendments to the Department for Environment, Food and Rural Affairs. We have not just said, "We don't agree with you—yah-boo!"; we have submitted amendments that would address our concerns. Although the relevant UK Parliament committee has rejected them, we hope that they will be looked on more favourably as the bill progresses.

John Finnie: Thank you. For the avoidance of doubt, are you saying that there is no formal mechanism whereby, if there was a disagreement between the devolved Administrations and the UK Government, some arbiter would be applied? Following on from that, is it the Scottish Government's intention to lodge another legislative consent motion in relation to the bill?

Fergus Ewing: I believe that the joint ministerial committee is the body that would consider any

formal request around differences, although I am not sure that that is likely. I do not want to be unfair to the JMC, but I am not sure whether, given its constitution, it would be likely to reach any other opinion. It would be like its marking its own homework rather than being an independent, non-political body. Nevertheless, I offer the JMC as the answer to your first question. Can you remind me of your second question?

John Finnie: Is the Scottish Government likely to lodge another legislative motion in respect of the bill?

Fergus Ewing: We think that there might be a requirement for it to do so. The new clause on the red meat levy relates to devolved issues, so that requires the Scottish Parliament's consent. It is not a Brexit-related issue, but other matters that DEFRA is considering might require consent. The answer to your question is, therefore, yes, because we might need to bring forward a legislative consent memorandum. Progress has been made in respect of the red meat levy and the repatriation of money that is attributable to Scottish animals that are slaughtered down south. I might be anticipating the point of another question with that information.

The Convener: As you often do, cabinet secretary.

Fergus Ewing: Sorry about that. I just try to be helpful.

John Finnie: That is grand. Thank you.

John Mason: Are you now comfortable with what the UK proposes on the red meat levy?

Fergus Ewing: I am not quite sure that I am ready to sit comfortably in my armchair. I am optimistic that we might have reached a positive outcome. However, when preparing for this meeting, it occurred to me that I would prefer to see the proposal in writing and be absolutely clear that Quality Meat Scotland is satisfied that we know exactly what the agreement is going to be and have a fair understanding of the additional revenue that will come to QMS for marketing Scotch beef, lamb and pork. I am not absolutely certain that that is the case, but there are grounds for optimism. I will get back to the committee on that, if I may. I just wanted to make the position absolutely clear before indulging in exuberant overconfidence.

John Mason: We do not expect you to be exuberant or overconfident. If the extra money that you mentioned came back, would it go to Quality Meat Scotland specifically for work in that area?

Fergus Ewing: That is its job. Quality Meat Scotland exists to promote quality meat that is produced in Scotland, so we anticipate that the funding would go there. As far as I know, that is

where the funding would go, and it would be deployed for further marketing. The marketing has been tremendously successful, and I would like to see a lot more of it. If there is a threat to Scotch lamb exports, for example, perhaps there should be a big effort in the UK to promote Scotch lamb and lamb from other parts of the UK, to encourage consumption by UK consumers. We have put that idea to Mr Gove in discussions, and I think that it has broad support in principle.

Richard Lyle (Uddingston and Bellshill) (SNP): On 28 March 2019, your department wrote to the convener of the Public Audit and Post-Legislative Scrutiny Committee with an update on the delivery of rural payments. Given what the letter stated, will 95 per cent of basic payments be made by the end of June 2019? In addition, are you content that all issues with the CAP information technology system are now resolved?

Fergus Ewing: On the first question, I am confident that we are on track to meet our obligations by the legal deadline towards the end of June. I have a weekly conference call with senior CAP officials, which often includes Mr Watson. I was advised in that call this morning that just over 9,000—52 per cent—of the 2018 pillar 1 payments have been paid this year and a further 3,800 are in the pipeline to be paid relatively quickly. That means that we are ahead of where we were last year, so that is progress. Let us not forget that the vast majority of the recipients of those payments will have received loan payments in October last year—two months ahead of the rest of the UK.

In respect of the question whether our CAP IT system is perfect, we have made solid progress and we have implemented a software and computer apparatus, which I am no expert in but which allows us to operate the system—including, principally, LPIS, the land parcel identification system—more effectively. We have used the services of a company that is based in Slovenia, which has been extremely responsive and helpful in working with us on the system. LPIS allows us to match the information that is obtained at the inspections by the RPID—rural payments and inspections division—inspectors who go out with a backpack and a big piece of kit to check the boundaries at various points of every landholding and then apply that data. There are over 1,000 million pieces of data, and that data is applied to the digital mapping of every landholding in Scotland in order that we can effectively apply the rules for the individual payment schemes to each holding.

I am confident that a lot of progress has been made, thanks to the good work of Scottish Government officials. If any more information is

sought, Andrew Watson can supply absolutely all of it—can you not, Andrew?

Andrew Watson: Sure.

The Convener: Before Richard Lyle asks his next question, I want to clarify something. Some two years ago, cabinet secretary, you kindly shared with the committee—in confidence—a report on the CAP IT system. Would it be possible for you to update the committee on which of the recommendations in the report have been met, so that we are kept fully apprised of the situation? That seems to be the baseline data that the committee has.

Fergus Ewing: I am happy to look into that and perhaps write to the committee, because I cannot recollect all the recommendations from two years ago. The report is an important piece of work, so, unless Mr Watson has anything else to add, we will look at that report and get back to the committee in writing.

The Convener: That would be very helpful. When I reread the report the other day, I saw that there were a huge number of recommendations, so I would not expect you to have answers on all of them, but it would be very helpful for the committee to have that information.

Richard Lyle: I went to the office in Hamilton and saw all the equipment that the staff are using, and I pay my compliments to the staff who are doing that work.

I will move on to another subject that people would like to know about. Are the loans for basic payments here to stay whether the UK stays in the EU or leaves it?

Fergus Ewing: The loan payments for the basic payment pillar 1 scheme and for the less favoured area support scheme—LFASS—have provided crofters and farmers with an element of stability and certainty, not least because the loan payments have mostly been made at the level of 90 per cent of entitlement. Also, in all but a very limited range of circumstances, there is no interest on the payments. Therefore, although they have to be called loan payments, they are de facto advance payments more than anything else, unless there is an overpayment and the clawback is not paid within 28 days.

The loan payments have provided stability to farmers and crofters, in particular, and to the whole supply chain that relies on that money—around £300 million to £400 million a year—going into the rural economy. Are those loans here to stay? I think that they have served a useful purpose. As long as they are required, I will certainly be advocating them to Mr Mackay as a useful tool in the box, because they perform such a useful purpose and because they have gained a

degree of currency, acceptability and familiarity. Future budgetary decisions have not been made, however, and will need to be discussed carefully with Mr Mackay.

11:00

Another factor is that loan payments were brought in because we were not certain about the date by which we could make full payments. Unless or until I have near to 100 per cent certainty about when full payments can be made, I will be loth to move away from loan payments, provided that the financial transactions budget can support them.

It would be incorrect to say that loan payments are here to stay, but they are extremely useful. As long as they are required, I, as the minister for farming, will continue to advocate their use in helping farmers, communities and rural Scotland.

Mike Rumbles: I understand that the loans were introduced because the failure of the computer system meant that payments to those who were entitled to receive them could not be guaranteed. From what you just said, I understand that you want to keep the option of loans, but the intention must surely be to return to direct payments. As soon as you are as certain as you can be that the system has been restored, will you return to normal operation?

Fergus Ewing: That would be the optimal solution—for every payment to be made as swiftly as it can be made. I am not persuaded that we are there yet, although we have made enormous progress. I am being candid with the committee—there is no point in being anything else. As long as we need loan payments, I will advocate their deployment, although that is for discussion with the finance secretary, who has been extremely helpful and has been appreciative and understanding of rural Scotland's needs.

I respectfully point out that we are not the only Administration in the UK to have had issues. Readers of *Private Eye* will have followed DEFRA's progress—or lack of it—with environmental payments. There seems to be more interest in DEFRA's situation than in ours, which may be because we are overcoming our difficulties.

Be that as it may, getting a handle on the situation remains the top priority in my day job. We have got a handle on it, but, if I were less than 99 per cent certain, it would be imprudent to move away from a useful tool that has served rural Scotland well.

Most farmers and crofters in Scotland receive 90 per cent of their entitlement in October, which is two months earlier than those in the rest of the

UK are paid. If we think ahead to the uncertainty of a no-deal possibility on 31 October, there becomes a compelling narrative, reason and motive for doing everything that we can to mitigate the effect of that. To be candid, that factor is in my mind. As soon as the Brexit situation is clarified, that will make approaching the decision about whether to seek other loan provisions from Mr Mackay easier.

The Convener: For clarity in my mind, will you say whether you intend to move back to the system of the past, in which the majority of people received 100 per cent of their payments by Christmas?

Fergus Ewing: That would be the optimal outcome.

Gail Ross (Caithness, Sutherland and Ross) (SNP): You said as far back as February that you want to maintain LFASS payments at 100 per cent of current levels, although they were due to go down to 80 per cent of those levels in 2019 and 40 per cent of those levels in 2020. Will you give a progress update on that, please?

Fergus Ewing: Yes. LFASS is an essential form of financial support for farmers and crofters, not least in the part of Scotland that Gail Ross represents. The economic modelling and analysis indicates that that support is extremely important to those farmers. That and the importance of sustaining rural communities that are enriched by the active farmers and crofters in their midst are all factors that I weigh heavily.

This year, under LFASS rules, we are able to make payment at the full amount. Indeed, I think that this year's payments have exceeded those of previous years. However, next year, under LFASS rules, the maximum payment will be 80 per cent of the total, and the following year it will be 40 per cent. It is my aim to try to maintain the support at the existing levels, in real terms, in so far as it is possible to do so. That is challenging, because one must operate within the SRDP, CAP and finance manual rules.

Officials are currently engaged in workarounds to see what the options are so that we achieve the objective, broadly speaking—not exactly or precisely—of keeping the levels of income around where they are for those who many people would adjudge need it most. It is a complex matter. I think that Mr Kerr can add a bit more detail if the committee wishes, but that is an overview of what I want to do and where we are at the moment.

Gail Ross: John, do you have anything to add?

John Kerr (Scottish Government): I can expand on what the cabinet secretary said. We are working hard to resolve the issue and it has a lot of our attention. We have been in informal

discussions with a wide range of stakeholders about the potential solutions and have received quite supportive comments from them. NFU Scotland, the National Beef Association, the National Sheep Association and others have spoken to us. We recognise the constraints, but we are absolutely committed to supporting the businesses in our hill and upland areas that need it most.

Gail Ross: If we were to keep the level of support where it is at the moment, meaning an extra 20 per cent next year and an extra 60 per cent the year after, do you have any idea how much that would cost?

John Kerr: We have a clear sense of what the money would be if we were to pay at the full rate, and it is about £13 million for the first year. However, we need to bear in mind that, because of the way that our internal convergence has operated, many people in the cohort that we are talking about are in receipt of additional basic payments. The total picture is a bit more complicated than just the LFASS replacement or an additional compensation arrangement to ensure that those people are adequately safeguarded financially in terms of the constraints that they face when they are farming. It is a complicated picture, and we are trying to work through those issues as best we can.

Gail Ross: Cabinet secretary, you quite rightly stated how important LFASS payments are to a lot of our crofters and farmers. If we do not manage to mitigate the impacts in that way, what will we do instead?

Fergus Ewing: At the moment we are looking hard for a workaround to manage those impacts. That is an extremely important piece of work for me. As John Kerr said, we have discussed it with stakeholders, and we will continue those discussions and that work.

There is another element to this, which is the Lord Bew review on CAP convergence that is under way. Any additional funding arising from that review would be prioritised for LFA. Given that Scotland's payment rate per hectare is only 45 per cent of the EU average, full convergence uplift would be a step in the right direction. It would still leave us short of the 196-hectare EU threshold, but I am due to meet Lord Bew and present our arguments on the convergence issue. It would be unthinkable that the review would not result in additional money coming to Scotland. We are due that money. That money was for Scotland. It came to the UK only because of Scottish farmers. With all due respect to the rest of the farmers in the UK, they had payments per hectare in excess of the trigger of 90 per cent of the EU average. This year, Scotland is at the very bottom on the league

table of payments per hectare of any farmers in the EU. That is the reality and a matter of fact.

To be fair to Michael Gove, I note that he has expressed his desire to support hill farmers in Scotland, which is broadly a proxy for LFASS, and I have a reasonable working relationship with him. I hope that his fine phrases and sentiments will be matched by the deeds in the upshot of the Bew review. We expect that review to conclude reasonably soon, in the next month or so.

I thought that I should add what I have said because it is another piece of the jigsaw and it is important to put the pressure where it should be put—on the UK Government, to make good the loss of convergence money.

The Convener: Cabinet secretary, there are a few follow-up questions on that. Peter Chapman will go first, to be followed by Rhoda Grant.

Peter Chapman: I am particularly worried by the answers that we have just had on LFASS. It would appear that there is a real danger that levels will be cut. I have heard nothing from the cabinet secretary or his officials to say that anything has been achieved.

Months ago, you spoke about a workaround, and you have used the same phrase today in saying that you are trying desperately for a workaround, but I hear nothing that gives me or hill farmers across Scotland any comfort that you are achieving that. I am worried, as most of the farming community will be, that you are not achieving much. I just throw that out there. Are you in any way confident that you can achieve the workaround that you have spoken about?

Fergus Ewing: First, let us rewind and go over some of the facts, shall we? This year's payment has been made at 100 per cent. You will remember that, last year, the EU plan was that the payment for this year should be reduced to 80 per cent. That decision was countermanded by intervention from the European Parliament and, towards the end of the financial year, that led to us being able to pay LFASS at 100 per cent. I bust a gut to make sure that we could move from the 80 per cent for which we budgeted to 100 per cent. The fact is that I have already illustrated and acted to make sure that LFASS was maintained at the full level. I have already done that. That is just a matter of fact.

It is not easy to make in-year changes to budgets, I can tell you. Budgets are planned on an annual basis. They are not mucked about every month just because somebody wishes it. It is more complicated and orderly than that. I made absolutely sure that we went to 100 per cent as soon as we were able to do that, as well as pressing for that outcome. I am determined to find

a workaround, but these issues are not straightforward.

My second point is that we do not know what the rules will be for 2020 because they will depend on the outcome of Brexit. We are trying to make a workaround within the rules, but I am afraid that not knowing exactly what those rules will be does not make our task any easier.

Finally, if the Scottish Conservatives wished to fully sign up to our campaign to get the money that is due to Scotland back to Scotland and to Scottish farmers, I would be a happy man.

Peter Chapman: As far as convergence money is concerned, you have our support. We have always given you support on that, but this is a different issue. It appears to me that you have no real confidence that you will be able to make up the difference going forward.

I believe that it is correct that the reduced LFASS payments required by the EU will actually save the Scottish Government money because the EU share will still come in at the same level and it will save the Scottish Government money through the reduced LFASS payments.

11:15

Fergus Ewing: No—that is not correct. I am determined to make progress on the matter. We should not be bleakly pessimistic in our approach. We face a challenge, but we are working very hard to overcome it. I have stated where we want to get to and we will continue to inform the committee of the progress that we make.

The issues of convergence and LFASS are umbilically connected. The purpose of convergence is to restore the imbalance that currently exists, whereby Scottish farmers and crofters get the lowest amount of support per hectare of any farmers in Europe. If the balance of £160 million that was due to Scotland were to be paid, as it should be—I am pleased that Mr Chapman agrees that that should happen—the problem would disappear. If the lesser option of the Bew review money for 2020 to 2022 results, as it should do, in a substantial payment to Scotland, that will go a substantial way in allowing us to tackle the funding challenge that we face.

I say with respect to Mr Chapman that the two issues are strongly interlinked. We will continue our efforts and will report to the committee as soon as it is appropriate for us to do so.

The Convener: If the back payment of £160 million—the convergence uplift that you mentioned—was made, would the money go directly to the farmers to whom it was due for the years for which they missed out on it?

Fergus Ewing: That is partly a technical matter. I have made it clear that that money should go to the rural community, and I think that it would fall within the overall ambit of the SRDP. Politically, the answer to your question is yes—after all, the money is for the farming community rather than the health service or education—but as well as being a question of political will, it is partly a technical question. In that regard, Mr Kerr might have something to add.

John Kerr: From a technical point of view, for the payment to be made in a legal way, that would depend partly on how the back payment came to us. If the Treasury was to right the wrong of the past and simply transfer the money to us, we could, as the cabinet secretary said, spend it where we thought that it was needed most. We have made plain where we think that it should be spent. However, if the back payment came to us in the form of money that would have to be paid out under the CAP ceilings, we would be slightly more constrained in how we could pay it out. We are still working through those issues.

Rhoda Grant: Am I right in saying that if someone's basic payment goes up, their LFASS payment goes down? Is my understanding of what you said correct?

John Kerr: No. The two forms of support are not linked in that way.

Rhoda Grant: I must have picked that up wrongly. I thought that that is what you said.

Have you considered having a natural constraints payment scheme? I think that that would fit in with the EU's needs in a way that LFASS does not. Why have you not moved in that direction? What are the implications of that?

Fergus Ewing: We looked carefully at an area of natural constraints scheme, which, as Rhoda Grant says, is an EU-approved alternative to LFASS, but there was no clear consensus on any particular option or mechanism for such a scheme. In addition, it was clear that some current recipients of LFASS would lose out under an ANC scheme and that some other people who—rightly, one could argue—do not receive LFASS might qualify for support under such a scheme. Those considerations led us to conclude that, whereas LFASS offers the benefits of certainty and clarity, moving to an ANC scheme would not enjoy consensual support and would involve substantial changes. Although there would be some gainers, there would be many losers, and we did not consider that such a scheme would work for the Scottish context.

The Convener: I will ask the next question, which is on a wider agricultural issue. Do you agree with Lord Gill, who said that the Land

Reform (Scotland) Act 2016 is stifling the creation of new agricultural tenancies?

Fergus Ewing: I take Lord Gill's view very seriously. I read the reports of what he had to say.

It is safe to say that progress has been made on relations between landlord and tenant. I do not have the right bits of paper in front of me, but I will give the headline points. An analysis of relationships between landlords and tenants showed a high satisfaction rate—of about 80 or 90 per cent—among landlords and a slightly lower level among tenants. I took it from that that most landlord and tenant relationships are operating reasonably well. A minority are not, which is a serious issue, but the picture is less bleak than is sometimes painted.

A second point is that the changes under part 10 of the 2016 act have led to the creation of about 70 or 80 new modern limited duration tenancies.

My third general point is that, in response to Lord Gill's comments, which have provoked a useful debate, Chris Nicholson from the Scottish Tenant Farmers Association said that the changes that we brought in, such as the waygo compensation measures and the modern limited duration tenancies, and the commitments on rent review provisions and on assignation were all welcome. In addition, the creation of the tenant farming commissioner, who is Bob McIntosh, has been well received.

There are different views. I respect all views and I am keen to understand the views of everyone—landlords, tenants and others—but the body that represents tenant farmers feels that there is no case for a widespread review, as Lord Gill suggested, of the landlord and tenancy legal framework at this point, because we are bedding in the changes and working on bringing in the remainder of the changes to assignation and rent review that Parliament mandated us in 2016 to implement.

The Convener: I am glad that you mentioned satisfaction among landlords and tenants. The information that I have seen is that, in the vast majority of cases, the relationship is good. However, less land is being made available for agricultural tenancies. It remains my strong wish—and, I am sure, that of everyone else on the committee, although I am not speaking for them—that more agricultural tenancies will be created and new entrants will have more opportunities, but we do not see that. Is it time to grasp the nettle and take action to ensure that new tenancies are created?

Fergus Ewing: As I said, the nettle has been well and truly grasped. Modern limited duration tenancies came into force on 30 November 2017,

and at least 69 of them—I was looking for that figure earlier—were already in operation in 2018.

I referred to the favourable comments from Christopher Nicholson, but I agree that there is more work to do. In a previous response to the committee, we said that the Government has no plans to introduce an absolute right to buy for tenant farmers. We would like the available vehicles for tenancies to be taken up more. As you are well aware, convener, there is also scope for contract farming arrangements—flexible arrangements that some farmers find to be a useful business model to pursue.

The feeling across the parties is perhaps that we want to do more on new entrants, although the Government has done a lot in this parliamentary session, as we have been the only part of the UK to devote considerable funding to new entrants. We would like to do more to bring in new blood, but an awful lot of positive things are happening. I had the pleasure of meeting a group of young farmers who were on a scholarship visit to California and they were a credit to Scotland, as are young farmers and crofters throughout the land. I resist the invitation to be overly gloomy, convener.

The Convener: I am not gloomy about the potential that is out there, but I have not seen the ability to realise that potential by making more land available.

Maureen Watt: Cabinet secretary, in your answer to my opening question, you touched on the impact of Brexit on the sheep sector. Alarming headlines have emanated from Westminster about the need for the mass slaughter of sheep. Can you spell out in a bit more detail the implications of Brexit for the sheep sector? What is the worst-case scenario for the sector and how can we in Scotland help our sheep farmers?

Fergus Ewing: A third of UK land production is exported and the lion's share goes to the continent. It is principally a no-deal Brexit that we are concerned about in this respect. Exports to Europe would face tariffs of 40 per cent or more, making them uncompetitive. It is relevant to point out that at the same time as Scotch lamb and UK lamb would face tariffs of 40 per cent, over 100,000 tonnes of New Zealand lamb could be imported to Europe tariff free. That is what we would colloquially call a double whammy. It leads directly to serious concerns that, if there were a no-deal Brexit, there would be a collapse in the export market and the UK market or other markets could not readily absorb the extra volume of lamb that currently goes to European markets.

Nobody wants that to happen—everybody wants to avoid it. The best outcome is to avoid it happening. Purchasers, clients and customers in

Europe want to continue to buy Scotch lamb. They want to buy it because it is high quality and because people enjoy it. Therefore, there is a commercial impetus to continue to export it to Europe, so let us not be too pessimistic about this. However, we have to plan for a compensation scheme. Along with Lesley Griffiths in Wales, the Northern Irish Administration, NFU Scotland, the National Farmers Union south of the border and the National Sheep Association, I have been pressing Michael Gove and his colleagues for a compensation scheme for some considerable time. To be fair, DEFRA has done some modelling that shows the need for a compensation scheme. John Kerr can perhaps remind me in a moment of the precise estimated quantum of the compensation required. It would be a substantial amount.

There was a debate about how such a scheme should operate—through a cull system or through a headage payment. There are variants. Although we would all prefer to avoid this, if it has to be the case, the consensus is that the headage scheme is the one that most of the stakeholders—at least, in the meeting that I had on 11 April—agreed would be the least worst.

The other question is who would pay for the compensation. Frankly, the need for it would be a direct result of a no deal. We do not have a compensation budget; we do not have money hanging around waiting to be used for this because we have no budgetary provision for it. The UK Treasury would be responsible for it. I have repeatedly pressed Mr Gove to confirm that the UK will meet these responsibilities and, in the meeting that took place in January, Mr Gove made a commitment that Brexit costs would be met by the UK Government. That commitment was minuted and those minutes were not challenged so, on the face of it, Mr Gove has formally undertaken—as recorded and reflected in the minutes of a formal meeting—that the UK will pay for that compensation scheme.

That said, we have yet to receive confirmation that Mr Gove's commitment will be matched by a Treasury commitment and we will, over the next weeks and months, press further on that commitment—not to score points but to set up a scheme. We need to discuss it with those affected in order to get the scheme right, and we need to have it ready to be deployed if necessary—I hope that it is not necessary.

John Finnie: I would like to ask about the impact of extreme weather events on the agricultural sector. You may be familiar with a recent WWF Scotland report that estimates that extreme weather events in 2018 may have resulted in losses to the agricultural sector of £161 million—you will recall that we had severe snow in

March and higher feeding costs over the summer. What action is the Scottish Government taking to engage with and support the sector in managing the consequences of extreme weather events? Would you accept that such events are just one of many reasons why people think that there should be a climate emergency bill?

11:30

Fergus Ewing: Mr Finnie is absolutely correct that last year's weather had significant impacts. The heavy rain and snow at the end of February increased the numbers of fallen stock and the late spring resulted in delays to the growing season for arable farmers. Straw and fodder remained in short supply and the lack of growth in grass in the spring meant that there was a need to source more expensive feed. Some farmers talked about not being able to get their cattle out in the fields early enough, which meant that they had to use more of their bought-in feed reserves. That all potentially had a knock-on effect, because if animals are not fed to the desired level, their value is reduced in the subsequent year.

The very dry and sunny weather and the lack of water over the summer exacerbated the problems. In some areas, such as the north-east, that is a factor that we may still have to bear very much in mind.

From their own work, the farmers around the table will understand these things better than I do. I have had countless discussions with farmers, though, all of whom have said that last year was particularly difficult and trying for them.

The Scottish Government does not have the budgetary capacity to compensate for weather-related losses—it is simply not possible. We have to be quite candid about that, and not be mealy-mouthed and pretend that we can do things that are beyond the ken of any Government. That is not feasible, I am afraid. However, we responded to the situation in a measured, proportionate and direct way. We set up a fallen stock scheme with £250,000. We donated additional funding to the Royal Scottish Agricultural Benevolent Institution, which I have met again in the past couple of months. It does terrific work reaching out directly to individual farmers who are isolated and real pressure.

We also set up a national rural mental health forum, chaired by Jim Hume, formerly a member of this place. The forum is a joint initiative between me and Clare Haughey, the Minister for Mental Health. Mental illness among farmers is a serious matter, which I raised with Mr Gove. Without being unduly alarmist, I think that suicide is a serious problem in the farming community in Britain. One must be alert to the fact that additional pressures

will only increase the risks of loneliness and isolation. When people feel under massive pressure, there can be a feeling of helplessness. I am keen for us to continue to do what we can, in practice, working with the grain. RSABI does a good job—it is there and it provides the service.

The weather advisory panel that we set up will meet again as and when needed. It has worked with farmers to find practical solutions. I should not underestimate the extent to which farmers have learned from the difficulty and used the lessons to change their practices in order to deal with the situations that arise.

Mr Finnie mentioned a climate emergency bill. That is something for Ms Cunningham to take forward. Of course, I would be happy to hear the arguments for that and take part in those discussions internally.

To conclude, this is an extremely serious matter and we are all keen that Governments do everything that we can do, recognising that there are some things, I am afraid, that we really cannot do.

John Finnie: I am grateful for that detailed response, and I align myself with the cabinet secretary's comments about the support that is provided for agricultural workers and others in the rural sector and the good work that is done by the Royal Scottish Agricultural Benevolent Institution.

You said that you had had candid exchanges. Can I therefore assume that you have said to the sector that, unless there is radical change, it can expect further weather episodes of the kind that I described?

Fergus Ewing: I might be wrong, but I think that the candour that I was referring to related to the way in which I expressed my views to Mr Gove. In fact, it is a dead certainty that I would have been candid in expressing my views to Mr Gove. I was not thinking about a climate emergency bill when I made that remark. However, I agree that the problem is extremely serious and I support consideration of any ways in which we can address it in practice.

Jamie Greene: I want to move on to "Scotland's Forestry Strategy 2019-29". Recently, you were quoted as saying:

"Forestry and farming should go hand in hand, and we're determined that the smaller guy gets more of the cake".

Who is the smaller guy and what is the cake?

Fergus Ewing: There are lots of smaller guys, and we want to help them all.

We have our new forestry strategy, which was laid before Parliament. That was a large piece of work that had buy-in from most, if not all, stakeholders. The next stage is to move on to an

implementation plan. In the meantime, we have been working extremely hard to support a number of initiatives in agroforestry, forestry on croft land and community forestry. We have supported smaller businesses through harvesting and processing grants; for example, we have supported small and medium-sized enterprises through the Association of Scottish Hardwood Sawmillers, the Scottish Woodlot Association and the woodland crofts partnership.

In addition, the take-up of forestry grants under the main forestry grant scheme by applicants with smaller projects has been quite high. The statistics indicate that, from April 2015 to October 2018, 50 per cent of the total approved area, or 11,884 hectares, related to schemes of under 50 hectares. To help the smaller guy, the grant funding per hectare is typically much higher for small-scale projects than it is for larger projects. That represents a deliberate attempt to encourage applications from smaller landowners or others who, for example, might wish to have an element of forestry on their farm.

Jamie Greene: I am glad that you mentioned the forestry strategy, which was published in February. It says:

"Within 12 months of laying this Strategy before the Scottish Parliament the Scottish Government will publish a more detailed implementation, monitoring and reporting framework."

When can we expect to see that more detailed plan?

Fergus Ewing: We will publish it by April of next year—in other words, approximately one year after the laying of the strategy. It will include milestones, indicators and a reporting schedule. We will also establish a national stakeholder group that will involve key forestry stakeholders to advise on the plan and support the implementation of the strategy.

I stress that a power of work is already being done. The strategy is being implemented. A huge amount of very good activity is under way in forestry across the range. The complete devolution of forestry, which was brought about by the Forestry and Land Management (Scotland) Act 2018 at the beginning of April, will allow us to do even more and will enable all the directorates and public agencies involved to work more closely together to deliver that activity.

Peter Chapman: We know that the plan is to increase the number of hectares of forestry that are planted each year from 10,000 to 15,000. I think that I read recently that you had commented that we might even be able to get up to 18,000 hectares per year. Is that your stated aim?

Fergus Ewing: As members know, I always like to surpass expectations. The formal position is

that our existing target is 10,000 hectares a year. Around June, we should ascertain whether we have met that target; the signs are promising. The target rises in steps to 15,000 hectares a year by 2025. The 18,000 figure comes from Confor, which recently set out details of its ambitious proposals for an increase in forestry across the UK, for both economic and climate change reasons. Its allocation to Scotland of that enhanced ambition for forestry is for 18,000 hectares a year to be plantable by 2030, as I understand it. I welcome that aspiration.

There is a huge amount of land in Scotland; the question and the debate is about getting the right land for the right purpose and balancing the needs of various types of land usage. There is no shortage of potential land that is suitable for various types of forestry throughout Scotland, as is evident when one closely studies a map.

The Convener: We will move back to a subject that we have already touched on, as we have some time in hand. Peter Chapman has the next question on it.

Peter Chapman: We are back to fisheries again. There is a legislative target in the common fisheries policy to fish at MSY—maximum sustainable yield—by 2020 for all stocks. Is that a reasonable aspiration and something that we can achieve?

Fergus Ewing: The UK, fully supported by Scottish ministers, has consistently spoken at the December council of its support for steady progress towards the setting of TACs at maximum sustainable yield levels by 2020. At the same time, the UK has consistently and publicly reserved the right to argue for extensions to the target in certain limited situations.

Would Alan Gibb like to expand on that? It might be helpful to the committee.

Allan Gibb: In my experience, I am yet to find a professional adviser who has suggested that meeting maximum sustainable yield for all stocks in mixed fisheries, such as we have in the North Sea and on the west coast of Scotland, is likely to be easy, far less achievable. Regardless of that, however, the Scottish Government has promoted that when we set catch quotas based on scientific advice—the majority of our key fish stocks are set on that basis. There are genuine reasons to depart from that. I refer to west of Scotland cod and whiting and, most recently, the mackerel negotiations that we did last year.

It should be borne in mind that this is not within the gift of the Scottish or UK Governments alone. A lot of this is done in international forums. The 2020 target is a CFP target, so our Norwegian colleagues, for example, are not bound by it. They are bound by international law, which states that

people should work towards MSY, but does not give a fixed-date target. That is one of the issues that we are working through with our DEFRA colleagues in relation to the UK Fisheries Bill.

Peter Chapman: You mentioned mackerel. How do you respond to the Marine Stewardship Council's decision to suspend MSC certification for north-east mackerel fisheries? What will the Scottish Government do to improve the situation?

Allan Gibb: I have positive news about that. The negotiating mandate that the cabinet secretary approved for me allowed us to take a principled approach. The scientific advice was for a 61 per cent cut. We sought and managed to persuade all parties to accept a 20 per cent cut, which is a constraint mechanism.

All scientific advice for fish is uncertain, but that advice was more uncertain than ever before, with significant issues on environmental factors. We asked for it to be re-benchmarked, and that has been done. I heard last night that we are likely to publish revised advice that will move from 320,000 tonnes up to 770,000 tonnes. That confirms the view of the Scottish Government and its advisers that there were errors and that that was the right thing to do. Our understanding is that when the MSC sees the published advice, which has been pushed for by the Scottish Government for that very purpose, it will be in a position—we hope—to re-accredit the mackerel fishery.

Although Scottish pelagic fishermen have been disappointed about the loss of accreditation, they have not been adversely affected as the accreditation was lost to all parties and not just to Scottish fishermen. There is positive news on that point.

11:45

Peter Chapman: The industry—the fishermen at the sharp end—have always said that the scientific advice was suspect. The fishermen said that they were seeing good shoals of mackerel fish when they were out working. You are confirming that and saying that the advice has changed.

Allan Gibb: The revised advice is going to change considerably. We always work closely with our stakeholders. They are the people who know best and at first hand what is happening out there.

Stewart Stevenson: Minister, one of the big changes in fishing has been the introduction of the discard ban. Will you update us on the Scottish Government's view of how that is going and what improvements are being explored or sought?

Fergus Ewing: The discard ban presents a number of challenges, not least the buy-in from the industry, uncertainty about compliance levels and, in particular, the so-called choke species

issue, which has the potential significantly to limit fishing activity because of the lack of available quota in the system, as you know. We are addressing those challenges and have been doing so for some time on a number of fronts, including close working with producer organisations and industry representatives to develop practical solutions such as quota pools for undersized fish.

As you know, at the recent December council, we prioritised finding solutions for choke risks associated with low or zero total allowable catch stocks. We are working on a range of potential solutions, not least for west of Scotland cod and whiting.

We continue to support the use of remote electronic monitoring as the most effective way of monitoring and enforcing the landing obligation. We continue to press other member states to create the level playing field that is needed if remote electronic monitoring is to be introduced. Fishermen in Scotland would not thank us if they had to comply with the approach but foreign vessels fishing in UK waters were not subject to the same rules. That would be an unlevel playing field and plainly unfair. This is one of those situations in which it is easy to recognise in principle that remote electronic monitoring has a role to play, but everyone needs to abide by the rules if the approach is to have buy-in from the industry and the desired effect.

Stewart Stevenson: You referred to the activity of other member states' fishermen in our waters, which goes to the heart of concerns that fishermen have always had about the common fisheries policy. I very much welcomed a piece of secondary legislation that was introduced as part of Brexit activity, under which foreign vessels will require a locally issued licence to fish, post Brexit.

On a more general point, are we moving to a position in which it might be possible to get foreign vessels that are fishing in our territorial waters to abide by the same rules as our local fishermen? That is the current focus in relation to discards and it has been a focus across a range of areas. Is anything possible in that regard, and is anything happening?

Fergus Ewing: You are absolutely right to say that that is what is required. There cannot be a set of draconian rules for Scottish fishermen that foreign vessels are not required to abide by. That would not work and it would be a recipe for disaster, so it is not something that we can advocate. However, we want sustainable fishing. That is a central part of our discussion paper. Society increasingly—and rightly—expects fisheries to be sustainable. Therefore, remote electronic monitoring equipment, which is being taken up in some fisheries, such as the scallop fishery, has a role to play.

Mr Gibb might enlighten the committee about the technical and practical aspects in relation to the licensing of foreign vessels.

Allan Gibb: If we are out of the EU under Brexit, equivalence will be delivered. There will be a requirement for all non-UK vessels in UK waters and Scottish waters to be issued with a licence. That will require them to abide by all the rules that Scottish fishermen must abide by.

The cabinet secretary is on record as committing to having cameras on board, initially, our pelagic vessels when the equivalence point is reached. Meanwhile, in the CFP—in the EU—we are working with the regional groups to try to ensure that equivalence is reached. We are working on a discard reduction ban that would collectively be applied by all member states for cod and whiting on the west coast of Scotland. That is challenging and difficult to do but, if it becomes a standard rule in the CFP, all member state vessels will need to abide by it. If it is just a domestic rule, there will be an issue with equivalence.

Under Brexit, as Mr Stevenson pointed out, licensing will deliver that equivalence.

Jamie Greene: Notwithstanding my or the cabinet secretary's views on Brexit, will leaving the CFP be a good thing for Scottish fishermen? I am not making a political point. Will leaving the structures of the CFP present any positives?

Fergus Ewing: We have always opposed the CFP. Indeed, the compromise proposals that we put forward more than two years ago as part of the Brexit debate recommended that we continue our membership of the single market and the customs union but come out of the CFP. Those were our proposals at the time.

The CFP has caused real problems for the fishing communities, particularly in the past, and the way in which the choke species issue is being tackled is frustrating not just for Scotland and the UK, but for other nations. During the fisheries council meetings that I have attended, just about every maritime state has expressed extreme concern about the handling of the choke species issue. They have come at the matter from the same angle and said that, with a more flexible approach, there are ways of tackling the issue effectively and sustainably. Therefore, there are disadvantages to the CFP.

However, the settlement that we achieved in Europe two years ago was very favourable to Scotland. Thanks largely to the work of Mr Gibb and his team, we were able to influence the UK's approach to negotiation positively and, as a result, get satisfactory outcomes. Therefore, our membership is not a complete disaster. There is a

tendency to be a little bit monochrome in our analysis of the issue.

It is also not clear what will replace the European maritime and fisheries fund. We know that it will be replaced by something called the UK shared prosperity fund but, other than those four words, we know nothing. There was meant to be a consultation on the fund in 2018, but that was shelved, and we are now told that it will take place at some unspecified date. As I learned when I visited ports including Peterhead, Fraserburgh, Scrabster, Eyemouth and many others, the EMFF has played a positive role. It is not part of the CFP, but it is part of the EU.

On the EU workers issue, as Ryan Scatterty—a fish processor from the north-east whom I know a bit and have visited and spoken to—said, you can have all the fish in the world, but it is not much use if you do not have the workers to process them. There is that aspect, too.

There is not a single issue; the picture is multifaceted. I will not go on and on because, as you know, convener, I do not like to do that, but we need to consider things in the round.

Richard Lyle: The Royal Navy is boosting its fishery patrol fleet ahead of the UK's exit from the EU, and the Welsh Government has announced the names of new fishery protection vessels. Last year, you were asked by my colleague John Finnie about Marine Scotland's preparedness, particularly in relation to fisheries protection. Are you happy with the number and adequacy of the fishery protection vessels that will be available to Marine Scotland following the UK's exit from the EU?

Fergus Ewing: Mr Lyle raises an important point. As part of our no-deal planning and our commitment to protect the interests of our businesses, including fishery vessels, and coastal communities, we have taken steps to maintain and enhance our marine compliance capabilities and ensure the maintenance of law and order at sea. Those issues are extremely important and they have been considered by many.

Our work has included not only tendering for an additional inshore patrol vessel, but securing a significant increase in our aerial capabilities to patrol the Scottish zone, in order to deter illegal activity. A programme of refits has been undertaken to ensure that existing assets are capable of doing more so that they can meet the potential increasing demands on their time and efforts. I have outlined the steps that we are taking in this important area, and we are keeping the issue under close review.

The Convener: I thank the cabinet secretary and his team—Allan, Mike, David, Andrew and John—for the evidence that they have given.

I will not suspend the meeting before we move on to the next item, so I ask the witnesses to leave quietly, please.

Subordinate Legislation

Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2019 (SSI 2019/98)

Scottish Road Works Register (Prescribed Fees) Regulations 2019 (SSI 2019/96)

11:56

The Convener: Under item 2, we will consider two negative instruments. No representations or motions to annul have been received in relation to the instruments. Do any members have any comments or recommendations?

John Finnie: I have no issue with the content or direction of the instruments. I am impressed by the comprehensive nature of the supporting documents. Impact tests for Scottish firms are included, and there are references to competition, consumers, legal aid, digital and so on.

However, there is no mention of an islands impact assessment, although there is mention of Shetland. I accept that such an assessment may not have been done yet but, given the comprehensive nature of the documentation, the inclusion of some additional comment on the matter would have set a good example. Can we write to the Scottish Government to establish whether such an assessment should have been done and recommend that the Government does everything possible—I accept that it has a heavy workload—to put one in place for things in future, between now and the time when there requires to be one?

The Convener: Given that we were the committee that considered what became the Islands (Scotland) Act 2018, I think that it would be appropriate for us to write to the Government and ask whether there should have been an islands impact assessment. We should suggest that, now that the legislation has been passed and enacted, it would perhaps be appropriate for the committee to have such assessments to consider in future. Does the committee agree to do that?

Members indicated agreement.

The Convener: On that basis, is the committee happy to make no further recommendations on the instruments?

Members indicated agreement.

The Convener: That concludes today's committee business.

Meeting closed at 11:57.

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