



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Monday 25 January 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Monday 25 January 2021

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SUBORDINATE LEGISLATION.....	2
Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2020 [Draft].....	2
Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [Draft]	11
Crofting Community Right to Buy (Procedure, Ballots and Forms) (Scotland) Regulations 2020 (SSI 2020/451)	19
Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (SI 2020/1557)	20

ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE

2nd Meeting 2021, Session 5

CONVENER

*Gillian Martin (Aberdeenshire East) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Angus MacDonald (Falkirk East) (SNP)

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

*Liz Smith (Mid Scotland and Fife) (Con)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Robin Cornwall (Scottish Government)

Ben Macpherson (Minister for Rural Affairs and the Natural Environment)

Andrew Voas (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Virtual Meeting

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Monday 25 January 2021

[The Convener opened the meeting at 13:30]

Decision on Taking Business in Private

The Convener (Gillian Martin): Good afternoon, everyone, and welcome to the second meeting in 2021 of the Environment, Climate Change and Land Reform Committee. Our first item is to decide whether to take in private item 8, which is consideration of our draft response to the House of Lords Common Frameworks Scrutiny Committee's inquiry into post-Brexit common frameworks. If members do not agree to take that item in private, please indicate that.

As there are no objections, we agree to take item 8 in private.

Subordinate Legislation

Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2020 [Draft]

13:30

The Convener: Our second item is evidence on the draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2020. I welcome Ben Macpherson, the Minister for Rural Affairs and the Natural Environment, to his first appearance before the committee. He is joined by officials from the Scottish Government. Fiona Taylor is the head of land use and land reform, Robin Cornwall is a senior policy officer, and Kirsty Slee is a lawyer. I welcome the minister to his new post. We are very pleased to be the first committee to host him.

A number of members have questions on the register of persons holding a controlled interest in land, on which we reported and carried out quite a lot of scrutiny, as the minister will know.

I hand over to Finlay Carson.

I am not sure whether we have Finlay. We will go to Mark Ruskell first, then come back to Finlay, once he is back on board.

Mark Ruskell (Mid Scotland and Fife) (Green): I welcome the minister to his new portfolio. I have a couple of questions about public accessibility of the new register. You will have seen from evidence that we have taken that people have a real desire to access the information. That desire has probably only intensified since lockdown, as people spend more time in their communities and are becoming more aware of land reform and ownership issues.

Evidence from Registers of Scotland said that user testing would take place to see how the register could be incorporated into Scotland's land information service—ScotLIS. However, when the committee wrote to the Government, we did not get any more information. How will the register be fully integrated into the ScotLIS system? What user testing has been undertaken?

The Minister for Rural Affairs and the Natural Environment (Ben Macpherson): I thank Mark Ruskell for his questions. The register will be integrated on the system with other registers that are held by Registers of Scotland, and will be accessible as part of the ScotLIS system. The register will be fully available to members of the public. From a company law perspective, there will also be integration, to the extent that it is possible, with registers that are held by Companies House.

I would be grateful if my officials could elaborate on what I have said and give Mr Ruskell feedback on testing.

Robin Cornwall (Scottish Government): The first thing to say is that Registers of Scotland is at the very early stages of developing the system, because it does not want to pre-empt the parliamentary process. It has begun initial scoping. As far as I am aware, it has not started specific testing by individuals, but will do so very soon. As the minister said, the register will be fully incorporated into ScotLIS, which is the portal that is used to access the land register. In terms of accessibility, all the information on the register will be completely free to access.

Mark Ruskell: Right. I have a related supplementary question. When do you expect that register to go live? We have been waiting a long time; the initial consultation was in 2016. For our constituents, when do you expect a fully live functional and intuitive system, on which we can find the information that we need, integrated among all the registers and sources of information?

Ben Macpherson: Collectively, we want that to be implemented as quickly as possible. Of course, I am aware and grateful that the committee appropriately accepted the Cabinet Secretary for Environment, Climate Change and Land Reform's position that implementation should be delayed because of the pandemic.

However, we want to pass the regulations today, which will provide for a 12-month transition period. The duties that are implied and required as a result of the regulations will commence on 1 April 2022, and the offences provisions will commence from 1 April 2023. That gives people sufficient time to comply with the regulations and for Registers of Scotland, which is accountable to Parliament, to implement the necessary systemic changes and information technology updates, in order to deliver the register in the manner that Mr Ruskell and all our constituents wish to see.

My experience from my previous portfolio is that Registers of Scotland's response to the pandemic has been remarkably proficient. It has continued to provide its services and has made significantly positive and constructive progress on a number of its responsibilities. I expect it, as an established and well-running institution, to implement the regulations efficiently and within the timescales that are set in the regulations.

Mark Ruskell: I have one more question. Are you 100 per cent sure that the regulations align with the 2018 European Union anti-money laundering directive?

Ben Macpherson: I will allow officials to come in on that shortly. The regulations have been

designed to incorporate Westminster changes, including proposed company law legislation, in order to make sure that the new register gives the most effective and comprehensive analysis and set of information for the public, and provides the transparency that is the essence of the Land Reform (Scotland) Act 2016.

I would be grateful if officials could come in on the EU directive that Mr Ruskell mentioned.

Robin Cornwall: Yes—we are content that the regulations comply with that directive.

Mark Ruskell: It is good to have that on the record.

The Convener: We are having difficulty getting Finlay Carson back, but I know what he was going to ask, so I will ask it on his behalf.

The committee understands that ScotLIS has two tiers of access: open public access and registered users' access. We would welcome an explanation of what access those give to each tier. That was the thrust of Finlay Carson's question; on the back of that, I have a follow-up question.

Ben Macpherson: Robin Cornwall can come in on that, having liaised with Registers of Scotland on the more technical side of implementation and on ScotLIS.

Robin Cornwall: Yes. On the two tiers of access, I believe that free access takes you to the boundaries of the specific title number and the last sale price of the property. For additional access to information on who owns the property and outstanding charges, there is currently a fee of around £3, I think. That was drastically reduced in the past year from around £30.

All the information on the register that we are discussing will be completely free of charge for the public to access, so there will not be two tiers of access for the information that is held on that register.

The Convener: So, that is a change from the existing arrangements: there will not be two tiers any more, and everyone will just have free access to everything. Is that what you are saying?

Robin Cornwall: No—they will not have free access to the land register data. The information that will be held by the register that the committee is discussing with us will be completely free.

The Convener: Okay, but for access to the enhanced information, there will be a fee of £3. Is that per search?

Robin Cornwall: As far as I am aware, the fee is per search, although I would have to double check that with Registers of Scotland.

The Convener: I will move on to the other thing that Finlay Carson was wanting to ask. We have asked whether there is a view on a requirement to have a Scotland registered address in order to register interest in land. We did not get a response on that, minister, so do you have information on what you are doing in that respect? Are you requiring people to have a registered Scottish address?

Ben Macpherson: For clarity, the register that we are talking about today will be free. As has been articulated previously by officials, the charges have been significantly reduced for accessing searches on the land register. There are interrelated, but different, aspects of registers.

On the question of a fixed Scotland address for a controlled interest, recording on the register that we are discussing will be of all those who, under the regulations, have a controlled interest, whether they are in Scotland or they are overseas entries. I will let Robin Cornwall comment on the detail of that point and its relationship with the purchase and ownership of property in Scotland more generally.

Robin Cornwall: There is no requirement within the regulations to provide an address in Scotland; the key thing is that there must be an address at which the person is contactable. People who are based overseas might decide to use a solicitor's address, for instance, but there is nothing specific in the regulations that requires people to provide an address in Scotland.

Ben Macpherson: There are concerns that overseas legal entities that own, or that lease land under a long lease of 20-plus years, can often be opaque, so it can be hard to identify who actually controls the decision making in relation to that land. That is one of the aspects that the register addresses. The definitions in the register and the construction of the regulations will improve our understanding of who sits behind those entities.

The Convener: Finlay Carson will probably want to follow up on a couple of those answers. If we cannot get him back, I might suspend the meeting briefly. Before we do that, however, and as we give Finlay a chance to get on board again behind the scenes, I will take questions from Claudia Beamish. We hope that Finlay will rejoin. If he cannot, we will suspend the meeting as we try to get him back.

Claudia Beamish (South Scotland) (Lab): I welcome the minister to his first session with the Environment, Climate Change and Land Reform Committee.

I wish to follow up on an aspect that you touched on briefly. You mentioned offences. Our convener, Gillian Martin, wrote to the cabinet secretary about that and about concerns about

parity between the maximum fines for offences related to the register, and comparable offences and breaches in relation to other registers, which are, as you will know, set at £10,000. A number of stakeholders, including Community Land Scotland, feel that the lower rate of £5,000 for fines related to the register that we are discussing is not adequate as a deterrent.

The cabinet secretary's response, as noted at paragraph 49 in our report, was that

"There is no indication of an intention to review the 2016 Act."

I understand that, in the context of the pandemic, but can you clarify whether the intention is that in the future it will be ensured that there are similar sanctions for similar breaches irrespective of which register the information is held on?

13:45

Ben Macpherson: As you alluded to in your question, the criminal penalties that we have included in the regulations are the maximum that are permitted under the 2016 act. That maximum could be amended in the next or a future session of Parliament through secondary legislation under section 39(6) of the 2016 act, which can enable an increase in penalties.

However, we consider that the criminal penalty in the regulations is a significant deterrent to non-compliance, and that the amount of the fine is appropriate and proportionate. That is because penalties for crimes must be commensurate to the crime, not to the offender; we cannot raise the penalty just because, for example, some offenders might be wealthy enough that only a high penalty would have deterrent value. We must proceed on the basis that most people seek to comply with the law, because criminal offences are for the purpose of deterring those who intend otherwise.

Overall, what we propose today is proportionate and appropriate, but if Parliament or the committee want to revisit the question in future years, that would be a decision for that time. At the moment, we think that what is proposed is appropriate and correct.

Claudia Beamish: Thank you; I wanted to highlight that point, as stakeholders have highlighted it to us. I tend to agree with it, but there we are.

The Convener: We do not seem to have been able to get Finlay Carson back while we have been live on air, so I suspend the meeting briefly.

13:47

Meeting suspended.

13:52

On resuming—

The Convener: We appear to have sorted out the technical issue with Finlay Carson's connection. Finlay, I am not sure whether you heard the minister's responses to the questions that I asked on your behalf, and I think that it is important that you get your chance to scrutinise the regulations. Would you like to go over the questions with the minister again and iron out any areas that you need answers on?

Can you hear me? We are having difficulty hearing you. We will allow broadcasting to try to sort that out. I see that your microphone is muted, but we will see whether broadcasting can deal with that.

It is not looking very good. Can someone give me an indication of whether Finlay is still in the meeting? We might have to move on. Yes—he has dropped out of the meeting again.

Minister, I am aware that I did not allow you to make any opening remarks. That is on me. While we are waiting for Finlay to rejoin us, if we can get him back, you might want to draw members' attention to some of the things that you wanted to say about the regulations in general.

Ben Macpherson: Thank you, convener. I could proceed through the opening statement that I intended to make, if that would be helpful to the committee.

The Convener: That would be helpful. I should have allowed you to do that in the first place, so I apologise. If you give your statement, members can then ask any other questions that they have. If there are none and we cannot get Finlay Carson back, we will move on.

Ben Macpherson: Thank you, convener.

As members know, the regulations, if they are approved by Parliament, will bring into force part 3 of the Land Reform (Scotland) Act 2016, which provides that

"The Scottish Ministers must by regulations make provision—

(a) requiring information to be provided about persons who have controlling interests in owners and tenants of land, and

(b) about the publication of that information in a public register kept by the Keeper of the Registers of Scotland."

As I said, the duties in the regulations will commence on 1 April 2022, which will be the date on which the new register becomes operational.

The purpose of the new register is to improve public transparency about land ownership, and it will achieve that by making information about those who have a controlling interest in land

publicly available—in other words, those who ultimately make decisions about land management or the use of land, even if they are not registered or recorded as the owner of the land.

There can no longer be categories of landowner or tenant where, intentionally or otherwise, control of decision making is obscured. In conjunction with other transparency regimes, that means that it will be possible to look behind every category of entity in Scotland, including overseas entities and trusts, to see who controls land. We do not require double reporting for entities that are subject to other regimes, as we do not want to duplicate existing publicly available information.

A further key purpose of the register is to make it easier to identify the decision makers in order to enable communities and individuals to engage with people who make decisions about land that will affect them. Mark Ruskell mentioned that. The regulations will also aid policy making by enabling us to gain a fuller picture of those individuals who have control over decisions about land in Scotland.

The Scottish Government consultation on the policy proposals for a new register ran from September to December 2016, and a further consultation was carried out from June to November 2018 after the publication of the proposed draft regulations for a new register. We have analysed the consultation responses and engaged widely with relevant stakeholders, as the committee has, and we have listened to the committee's views throughout the process.

The final laying of the regulations at this time marks a significant step towards delivering greater transparency about land ownership in Scotland. This will put Scotland at the forefront in Europe and deliver greater transparency than exists in any other part of the United Kingdom. I am particularly pleased that access to the new register will be free to the public, as I emphasised earlier.

Although some have wanted the register to include beneficial interests, its purpose is to provide transparency about who controls and makes decisions about land in Scotland in order to increase and promote constructive engagement. That purpose is different from those of wider UK regimes, which aim to combat illegal activities such as money laundering.

The UK Government has signalled a desire to introduce a draft registration of overseas entities bill, which we support. That would establish a new beneficial ownership register of overseas entities that own UK property. We are engaging closely with our UK Government counterparts as that proposal develops, particularly as it would require a legislative consent motion in the Scottish Parliament. We have no firm timescale from the

UK Government and we expect that the bill will be introduced when UK parliamentary time allows. The regulations that we have laid therefore take account of overseas legal entities. That approach maintains flexibility should the UK Government's proposals be delayed or not suitable for our purposes. As I said, we support the proposal in general terms but, obviously, we will have to look at what the UK Government brings forward.

On substantive changes to the regulations since the second laying, I note that we have added a provision that the keeper must provide the Scottish ministers with such information as they require in order to monitor the efficacy of the register. That will allow the Scottish ministers to scrutinise and analyse the data from the register in a robust fashion to ensure that the policy aims are being met and the right outcomes are being delivered.

The regulations that are before the committee have been subject to an enhanced affirmative procedure, as set out in the Land Reform (Scotland) Act 2016. This is, in fact, the third time that the committee has scrutinised the regulations.

The regulations have been complex and technically challenging. I thank committee members and the committee's clerks for their robust scrutiny and attention to detail, and I thank all stakeholders for actively engaging in the development of the regulations.

I am happy to answer any further questions from the committee.

14:00

The Convener: All members apart from Finlay Carson have asked their questions. I will give it one more try to hear from him. If we cannot hear from him, he can follow up his questions to the minister and we will proceed to the motion.

Finlay Carson (Galloway and West Dumfries) (Con): Can you hear me, convener?

The Convener: Yes, we can.

Finlay Carson: I have not heard any of the previous discussions. My concern is about access. ScotLIS currently has two tiers of access: open public access and registered user access. We asked the Scottish Government for further information, but that has not been provided. Can you give assurances that the two levels of access will give people the level of information that they are looking for?

I also have a simple question. Will the Scottish Government provide its view on whether an address should be available in—*[Inaudible.]*

The Convener: Robin Cornwall took us through those questions when I asked them, so I would be

very grateful if he could go through them again for the benefit of Mr Carson.

Robin Cornwall: As I said, ScotLIS is the main system ROS uses to provide access to the two property registers: the land register and the register of sasines. In relation to the land register, a snapshot of the cadastral map and information on the last sale price are available for free. There is a £3 fee for a citizen to access what is called the title sheet, which gives information on any rights, burdens and charges and on the owner of the land register title.

People will be able to access information that is held on the register of persons holding a controlled interest in land completely free of charge, but there will still be a £3 fee to access the enhanced information on the land register.

The Convener: I think that the minister covered the question about addresses in Scotland.

Ben Macpherson: It is important to emphasise that most of the content of the land register is available for free, as will be the case for the register that we are discussing today. Access to title sheets in the land register incurs the £3 fee. The fee has, of course, recently been reduced by 90 per cent from £30.

Mr Carson asked whether a Scotland address is required. As I stated earlier, that is not the position.

The Convener: I invite the minister to move motion S5M-23896, in the name of Roseanna Cunningham.

Motion moved,

That the Environment, Climate Change and Land Reform Committee recommends that the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 [draft] be approved.—*[Ben Macpherson]*

The Convener: I will have a look in the chat box to see whether any members wish to comment. I see that they do not. Does the minister have anything to say to wind up?

Ben Macpherson: I urge the committee to recommend that the Parliament approves the regulations. I look forward to working together on the matter, because I think that we all want the register to be implemented and taken forward successfully.

Motion agreed to.

Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [Draft]

The Convener: Our next item is evidence taking from the minister and his officials on a draft set of animal welfare regulations. The minister is now joined by Andrew Voas, the veterinary head of animal welfare; John Nicolson, senior policy manager in the animal welfare team; and Grant McLarty, who is a lawyer for the Scottish Government. I believe that the minister has an opening statement to make.

Ben Macpherson: Thank you, convener. I am very glad to appear before the committee to discuss the draft licensing regulations, the delivery of which is a programme for government commitment.

As the committee knows, the Scottish Government takes animal welfare very seriously, and we are committed to the highest possible standards. That is why we established the Scottish Animal Welfare Commission; we want to ensure that future policy on animal welfare is informed by independent and expert advice. It is also why we had the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 passed into law. That act increases the maximum penalties that are available for the most serious animal welfare and wildlife crimes, as well as offering other protections for animals.

The regulations before the committee represent another important milestone in our work to enhance and safeguard the welfare of animals in Scotland. They provide a robust and modern risk-based framework for the licensing of certain activities involving animals. The intention is for that framework to develop further in the future to cover a wider range of other activities involving animals. That is an important point.

The regulations replace existing legislation covering dog breeding and pet sales that is outdated and no longer fit for purpose. They also require cat and rabbit breeders, operators of animal welfare establishments, such as animal sanctuaries and rehoming centres, and those who actively source animals from within Scotland or elsewhere with a view to rehoming them as pets in Scotland to be licensed, provided that they meet the criteria for licensing.

The licensing of those activities will deliver much-needed accountability and transparency, and will ensure that those who are engaged in such activities operate to high standards of animal welfare. Importantly, they will provide reassurance to everyone who cares about the provenance of pet animals and wants to feel confident that the pet that they buy for themselves or their family has

had the best start in life and that it and its family have been treated and cared for appropriately.

The regulations also include provision to prohibit anyone who sells pets in the course of a business from selling puppies and kittens that have been sourced from third parties, which is an activity that has become increasingly linked to the unlicensed puppy trade. That delivers on the programme for government commitment to introduce the so-called Lucy's law in Scotland, which is an important step forward in our ambition to limit the abuse of animals.

As we promised to do, the regulations deliver on one of the key proposals that Christine Grahame made in her member's bill on responsible breeding and ownership of dogs. In particular, the regulations will require anyone who breeds three or more litters of puppies in a 12-month period to be licensed, with a number of limited exceptions. For context, I point out that the existing legislation refers to the breeding of five or more litters in that period.

I want to acknowledge the contribution that Jeremy Balfour has made to the development of the new pet-selling provisions. As I am sure the committee is aware, Mr Balfour undertook a significant amount of work, including public consultation, as part of his proposed member's bill on the licensing of pet shops, which sought to modernise and strengthen the existing licensing provisions that are set out in the Pet Animals Act 1951. Mr Balfour's proposals accorded fully with those of the Scottish Government to introduce a modern and flexible licensing framework to further improve the welfare of animals in Scotland.

I am delighted that we have been able to incorporate and deliver the provisions of the bill in our new licensing regulations. I hope that the committee agrees that the regulations represent a further significant step forward for animal welfare in Scotland.

I am happy to answer any questions that members may have.

The Convener: We have some questions. The first is from Liz Smith.

Liz Smith (Mid Scotland and Fife) (Con): It is appropriate to put on record the thanks of my colleague Jeremy Balfour for the work that the Scottish Government has done. He is appreciative of everything that has taken place during the consultation stage and as the proposals have been drawn up.

Jeremy Balfour has a question, which I will ask. He believes that an awful lot of this will be about the guidance; in other words, it is important to have the right guidance so that everybody is aware of exactly what should be happening. What

will the process and the timescale be for publishing the guidance?

Ben Macpherson: As Liz Smith has said, detailed accompanying guidance will be developed over the next few months in close collaboration with key stakeholders and enforcement bodies. Subject to the committee and the Parliament agreeing to the regulations, the timeframe for constructing the guidance and ensuring that the appropriate collaboration takes place is between now and the proposed coming-into-force date of the regulations, in September. Perhaps Andrew Voas will say a bit more about that.

Andrew Voas (Scottish Government): As the minister has said, we have been working closely with stakeholders in drafting the regulations. It was always clear that a certain amount of accompanying guidance would be needed, as there are some quite technical specifications in the regulations.

We have been well engaged with the stakeholders in developing the regulations. We will carry on with that engagement to develop the detailed guidance that will be necessary to cover the different aspects of the regulations.

Liz Smith: That is helpful.

With an impending election, the timescale is tight. Are you confident that you will be able to engage sufficiently with stakeholders and enforcers before September, which is not that far away? Jeremy Balfour wants clarification about whether you are confident that it can all be taken up quite quickly.

Ben Macpherson: Given that Andrew Voas has had direct engagement with stakeholders and enforcers in recent weeks, I would be grateful if he would answer.

Andrew Voas: We have been clear with stakeholders that the work is on-going and that we will go directly on to it as soon as the regulations are approved. We have a member of staff ready to do that as quickly as possible, and we are certainly committed to doing so over the next few months.

Obviously, the work can go ahead despite the election and any political developments. That will not prevent us, as officials, from talking to stakeholders and developing the fairly detailed technical guidance that will be needed. We are committed to doing that work, which might lead on to training events. As we get into the summer and nearer to the time of implementation, we might be able to develop some of the guidance to present it to the enforcement authorities in the form of training, perhaps through helping out at training events that local authorities organise.

Ben Macpherson: I will supplement that. Provided that the Parliament agrees to the regulations, which I urge members to do, as the Minister for Rural Affairs and the Natural Environment, I will progress the preparation of the guidance with the efficiency, diligence and commitment that members would expect.

Liz Smith: Thank you.

14:15

The Convener: Minister, your predecessor and Andrew Voas will remember that one of the things that we flagged up was the issue of people who have been convicted of animal welfare offences moving to a different local authority area that does not have a record of the offences. We asked the Government to consider the development of one central database so that, no matter where somebody is in Scotland, they can be checked up on if they purchase or own animals. Has the Government given that idea consideration?

Ben Macpherson: That is a very important point, which also speaks to how, as we move forward digitally—particularly in the post-Coronavirus era—we have that greater integration of services. The Scottish Government will shortly publish a digital strategy to help to progress that work in the round.

With regard to the area of animal welfare, as the committee is aware, the regulations that are before us today do not specifically address the need for better information sharing between local authorities and other enforcement bodies, but that need is recognised by the Scottish Government and is being taken forward separately. Discussions are going on about standardising the databases that local authorities use to record information about animal welfare and related investigations and about how relevant information can be more efficiently shared with Scottish SPCA, Animal and Plant Health Agency and Food Standards Scotland investigators while, at the same time, the necessary data protection legislation is complied with.

Police Scotland already has a central record of convictions and can supply information to other enforcement authorities when they request it for legitimate reasons. The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 requires a report to be produced within the next five years on the steps that have been or are being taken to ensure sharing of information on persons who have been issued with a fixed-penalty notice or who have been convicted of offences under animal health and welfare or wildlife crime legislation, including on offences for which a disqualification order has been issued.

We will take that work forward in the future. Like the committee, we see that as an area that needs attention, and I hope that my answer gives the committee the assurance that, although the issue is not addressed in the regulations, it is a matter of real concern that we, along with local authorities and other agencies, are focused on improving.

The Convener: It is good to hear that that is being actively worked on.

Mark Ruskell: It is good to hear the answer to that last question. The information sharing needs to be seamless.

I will ask about bringing forward the regulations. We have had several members' bills, as well as the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, but the UK legislation was brought in in 2018. Why has it taken so long to bring those provisions into Scots law?

Ben Macpherson: I cannot speak for the period behind us, but, as I said, the Scottish Government sees the area as a whole as a priority and is keen for the regulations that are before us to pass today and be taken forward by Parliament. We want to move as expediently and diligently as we can, with the coming-into-force date in September and the implementation of the regulations thereafter. Does Andrew Voas want to come in with further details?

Andrew Voas: Obviously, we are introducing some completely new elements such as the licensing of animal rescue centres and rehoming activities and the licensing of cat and rabbit breeding. Those things are not being done in the UK, so they are new initiatives.

As to why this has taken so long, we said that we would introduce the licensing of animal rescue centres a few years ago, and in the intervening time we have had the huge pressures of EU exit as well as of developing our Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill. We cannot do everything that we would like to do as quickly as we would want, but we have taken forward the measures at a time of unprecedented pressure from other work, so we are probably doing reasonably well.

One of the criticisms in England has been that the Government was trying to do too much too quickly, and it introduced a lot of new, detailed requirements that local authorities perhaps felt they did not have the time to get to grips with before being expected to implement them. There can occasionally be some advantages to learning from other Administrations and taking a little bit more time to get things right, or as good as we can get them in the time available.

Ben Macpherson: Andrew Voas has outlined some of the differences between the regulations in

England and the draft regulations that are before us today. One important matter to point out, which relates to the previous question on information, is that the English regulations do not require local authorities to publish information about licences that they have issued, whereas the draft regulations that are before us place a duty on licensing authorities to publish a register of licences on their websites. Such registers will help the public to distinguish legitimate licence operators from those that are engaged in the unlicensed trade.

In addition to what Andrew Voas has just said, there are some improvements. Obviously, we want greater animal welfare across the whole UK, but we are well placed with our regulations, having taken them through a process of considering how best to deliver for the needs of Scotland while improving on what is currently in force in England and making our regulations even more appropriately comprehensive and effective.

Mark Ruskell: Thanks for that.

I have a couple of further questions. The first is on some specifics. Another colleague has an interest in how councils have received the regulations and how they will be working with them, but I want to ask specifically whether there will be a full cost recovery model for councils in implementing the regulations.

Secondly, I have a question about how the regulations relate to those who are in effect rehoming animals from countries outside Scotland and the UK. You will be aware that a number of charities take dogs from countries where dogs are living on the street, and they try to rehome them here. I am interested in how the regulations work when multiple parties are working across international barriers.

Those are two quick ones for you, minister.

Ben Macpherson: We recognise that local authorities already have responsibility for the licensing of breeding establishments and pet sales, and they have generally welcomed the proposed move to a more modern, flexible, risk-based licensing system, which will be easier for them to administer in several respects. There will, however, be additional responsibilities for local authorities, namely the licensing of cat and rabbit breeders, animal welfare establishments and those engaging in rehoming activities.

We had various discussions with local authorities when we were preparing the regulations, and they raised a particular concern about avoiding rushing through detailed new requirements with insufficient time to become familiar with them, as that was reported to be a problem when the licensing regime for animal activities was—[Inaudible.]—what we just

discussed. Because of that, we have proposed the introduction date of—*[Inaudible.]*—September. We will work closely with local authorities and other stakeholders to develop the necessary guidance on the regulations over the next few months. The Scottish SPCA has generally offered to assist local authorities, if requested, with inspections of animal welfare establishments—for example, through its specialist knowledge of exotic animal species—when that is needed.

I would be grateful if Andrew Voas could speak about the cost element and any engagement with local authorities on costs, as well as about the international aspect of Mark Ruskell's question.

Andrew Voas: I am happy to cover those points.

We expect local authorities to charge a suitable licence fee to allow them to recover costs. We have not gone any further than that in the regulations. Basically, our understanding is that local authorities will be able to charge licence fees that allow them to recover costs.

The importation of animals from abroad was a major concern and consideration when we were developing the legislation to control animal rescue centres and rehoming activities. We are well aware of the need to control people who do not necessarily have premises in Scotland but who might be rehoming animals from other premises and bringing in animals from abroad to place in homes in Scotland.

The regulations will cover anyone who does that. Anyone who rehomes with people in Scotland five animals or more in a 12-month period, wherever those animals come from, will require to be licensed in the future. That will allow some control over that activity. As Mark Ruskell probably knows, a few concerns have been raised regarding dogs not being suitable for the homes that they were placed in. That can lead to difficulties in dealing with the dogs or possibly to their being returned, if that is appropriate. The regulations will catch activities regarding animals that are imported from abroad.

The Convener: I assume that Mark Ruskell does not want to come back in and that we can move to Finlay Carson.

Finlay Carson: Thank you, convener—I hope that you can hear me.

The Convener: We can.

Finlay Carson: I am concerned that we have not had much time to look at the regulations, given the public interest in animal welfare issues. Last week, we considered proposed stand-alone legislation regarding sheep worrying, and many animal charities called for a consolidation bill to bring all animal welfare offences together into

something robust, but unfortunately that is not happening.

My question is for Andrew Voas. What is his estimate of the likely cost of a licence? The Control of Dogs (Scotland) Act 2010, which was introduced by Christine Grahame, has been pretty unsuccessful because of a lack of publicity and a lack of capacity in councils. It is all very well giving councils the power to license, but do you have an indication of what the licence fee might be?

The Convener: That question was addressed to Andrew Voas. I will bring in the minister after Andrew has spoken.

Ben Macpherson: I will let Andrew come in to give an indication of numbers based on precedents, but I want to point out that the business and regulatory impact assessment that was laid with the draft regulations sets out a range of likely costs for different licence types, which are based on fee levels that are already in place for dog-breeding and pet-selling licences.

As has been indicated, the cost of obtaining a licence will be determined by individual local authorities and might vary from application to application, depending on how much time and work are required to process them. However, it is understood that, while the cost of processing an application, including the undertaking of any associated inspection, should be fully recovered, it must not exceed what is reasonable. Local authorities must strike a balance.

As I said, the BRIA sets out a range of numbers and potential levels; those must not exceed what is considered reasonable and that should be standard practice. It is our intention to engage with local authorities on the guidance that any fees must be reasonable and justifiable and to work with them to get that guidance right before September. Andrew, do you want to add anything further on that point?

14:30

Andrew Voas: I think that you beat me to it by referring to the business and regulatory impact assessment, which includes some detailed scenarios.

There is quite a bit of variance in the ease with which some premises may be inspected by local authorities. Our new regulations introduce the possibility of licensing for one, two or three years, which may reduce the costs of licensing. If premises are operating to a high standard or are perhaps part of a recognised, independently verified quality assurance scheme, they could possibly be licensed for a longer term and with lower costs.

In relation to the point about whether this should be part of some wider legislation, it is worth knowing that this is secondary licensing legislation and, as the minister said in his opening remarks, we see this as a first step towards rolling out a modern, flexible, risk-based licensing system to other areas of animal activity, for example performing animals, dog-walking, training or grooming services and those sorts of things. The regulations are part of a forward-looking plan to improve other areas of animal licensing.

The Convener: We have no other questions from members, so I invite the minister to move motion S5M-23808.

Motion moved,

That the Environment, Climate Change and Land Reform Committee recommends that the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [draft] be approved.—[Ben Macpherson]

The Convener: I invite members to make any comment; if you wish to do so, please type R in the chat box.

I do not see anyone wishing to make a comment.

Finlay Carson: Wait a minute.

The Convener: Your R has only just come up.

Finlay Carson: My apologies; I am trying to work on an iPhone and dealing with the chat and everything else is almost impossible.

My only comment is that although my party, the Scottish Conservatives, is very much in favour of improved animal welfare and has welcomed the latest increases in penalties, we feel that this is another example of legislation that, had the committee had time to scrutinise it properly, we may have had the opportunity to improve it. We will support it, but it is unfortunate that we have not had more time to potentially improve the legislation.

The Convener: The question is, that motion S5M-23808 in the name of Ben Macpherson be agreed to. Are we agreed?

Motion agreed to.

The Convener: I confirm that the committee will report its decision on the regulations in due course. I thank the minister and his officials for their time. I apologise for the technical difficulties, but we got there.

Crofting Community Right to Buy (Procedure, Ballots and Forms) (Scotland) Regulations 2020 (SSI 2020/451)

The Convener: Agenda item 6 is consideration of a negative instrument. Do members have any comments on the regulations?

Angus MacDonald (Falkirk East) (SNP): I am obliged to declare that I own domestic and non-domestic properties in a crofting township in the Western Isles and that they are on an estate where there is a current buy-out attempt and the likelihood of a hostile community buy-out. However, I have no income from any of the properties.

The Convener: Do you wish to make a comment in relation to the instrument as well?

Angus MacDonald: Yes—thanks for the opportunity.

I welcome the decluttering by simplifying procedures and bringing the ballot requirements in line with other rights to buy. I also welcome the provision for community bodies to claim expenses incurred in relation to the ballot. I am sure that anything that simplifies the mountain of legislation that surrounds crofting will be welcomed by every single crofting community.

The Convener: I do not see any other members wishing to comment.

I confirm that the committee does not want to make any recommendations in relation to the instrument. Thank you, colleagues.

Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (SI 2020/1557)

The Convener: Agenda item 7 is consideration of a negative instrument. Do members wish to make any comments on the order?

Mark Ruskell: The United Kingdom emissions trading scheme is a long-running saga, and another instrument has come forward to put it into place.

I have a question for the Scottish Government about what the scheme will look like in the future and its staying aligned with the European Union ETS. What stood out for me when I looked at the instrument was the UK Government's proposal—I am not sure whether it is made with the consent of the Scottish Government or the other devolved Administrations—to look at the free allocation that is given to the aviation sector, with a potential change in that coming in 2024. I am interested to know the Scottish Government's view on that, whether there are any areas in which the aviation sector could become unaligned through the EU ETS, and whether there might be any implications for carbon leakage as a result of other countries' aviation sectors coming to the UK, because of a lower regulatory regime here. Those are my concerns and it would be useful to ask the Scottish Government for its early views on what a review of the aviation sector's free allowances might look like.

The Convener: We can certainly write to the Government about that.

14:38

Meeting continued in private until 14:49.

I do not see anyone else wanting to comment on the order. Do members agree that the committee does not wish to make any recommendations on the order, with the caveat that we write to the Scottish Government about the issues that Mark Ruskell has raised about the ETS in general?

It seems that members agree with that.

The committee will meet tomorrow, when it will continue to take evidence on the updated climate change plan. That concludes the public part of our meeting.

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

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba