



OFFICIAL REPORT
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Rural Affairs and Islands Committee

Wednesday 29 November 2023

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE

31st Meeting 2023, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Andrew Crawley (Scottish Government)

John Kerr (Scottish Government)

James Muldoon (Scottish Government)

Ewen Scott (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 29 November 2023

[The Convener opened the meeting at 09:00]

Agriculture and Rural Communities (Scotland) Bill: Stage 1

The Convener (Finlay Carson): Good morning and welcome to the 31st meeting of the Rural Affairs and Islands Committee in 2023. Before we begin, I remind all those using electronic devices to switch them to silent.

We have scheduled approximately two hours for today's evidence session with the Scottish Government's bill team. I welcome Andrew Crawley, the rural affairs lead; John Kerr, head of agriculture policy; James Muldoon, head of the agriculture support policy development unit; and Ewen Scott, the bill team leader.

I will kick off with a straightforward question. What is the rationale for producing a framework bill?

Ewen Scott (Scottish Government): The rationale for the bill is to provide the maximum adaptivity and flexibility to adapt to challenges and opportunities that might occur in future. That is especially relevant if we note the economic, geopolitical, climate and other unforeseen incidents that have occurred in recent times. There is a desire to ensure that future powers will be flexible to be duly deployed, as and when required, to help mitigate some of those challenges and to adapt to opportunities, in order to support rural communities and producers accordingly.

The Convener: The committee put out a call for views and we are in the process of going through and summarising the responses. There is general support for a framework bill, but some are suggesting that there is insufficient detail to ensure that the bill is fit for purpose and can be delivered in the future. There are polarised views on that, with both sides of the argument suggesting that the bill will deliver for them. Should there be more detail in the bill?

Ewen Scott: There is significant flexibility in the powers to enable both elements to be realised. At this stage, in keeping with the transition period, the bill needs to provide a series of powers that can be used in accordance with the timescales that

ministers have set out for the transition period. That said, there will be an opportunity later, during secondary legislation, when that level of detail will come.

The Convener: Committee members want to scrutinise the bill as much as possible, but we are limited because most of the detail will come in secondary legislation. What are the timescales for that secondary legislation? What role should the Parliament have in scrutinising it?

James Muldoon (Scottish Government): The intention is for secondary legislation to come forward in 2025, which fits the published route map of having, and phasing in, a usable new support model from 2026 onwards. Given the circumstances of the bill, we anticipate that the first use of the powers will be affirmative. We will ensure that the committee has full sight of the draft Scottish statutory instruments and can offer input on those.

It is noted in the bill that we will look to truly co-develop the powers with the industry and with those who will be affected by them, to ensure that the conditions and set-ups that we want to put into secondary legislation will work to deliver that vision.

The Convener: Some people would suggest that those instruments are coming a bit late and that a lot of people are still waiting. There is still a lot of uncertainty. There will be a long wait until 2025 to get clarity on the future direction of travel.

John Kerr (Scottish Government): In parallel with the legislative process that will create and empower the future support mechanisms, we have also worked up the detail with the industry. I presume that you have spoken to or will speak to members of the industry who will confirm or otherwise that approach, but we are working hard to work up the detail. Part of the reason for having a framework bill is to provide us with the time to get that right. The implementation mechanisms need to work for our producers, so we are giving ourselves the time to do that, and the time to work through the detail with the sector.

The Parliament will have the opportunity to scrutinise that once we have worked up the detail. By that time, we should—I hope, if we have got it right—be bringing forward powers that will deliver the objectives in such a way that they work with the industry.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Much of the debate around the bill will focus on what constitutes sustainable and regenerative agriculture. What is your definition of sustainable and regenerative agriculture as it applies to the bill?

James Muldoon: It is important to note that that term takes what is called its ordinary meaning from the context of the bill as it is drafted. More generally, a definition of sustainable and regenerative agriculture was published as part of the route map in June this year, before the Royal Highland Show. It talks about sustainable and regenerative agriculture being a basket of measures and practices that focus on the renewal, health and productivity of the soil. We published that definition but, in the context of the bill, it is the ordinary meaning that is relevant. No exact definition is used in the bill in order to allow for flexibility as views and scientific input change over time.

Alasdair Allan: That is comprehensive. Does anyone else want to come in?

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): You say that you published a plan in June of what that looks like, but there is no requirement for it to be in the bill. Is that what you meant?

James Muldoon: We gave a definition in the route map that covered what regenerative practices are and what regenerative agriculture means. In the context of primary legislation, we are allowing it to carry its ordinary meaning and not giving an exact definition, so that there is not a specific meaning of it in primary legislation, because scientific advice might change in the years ahead and require amendments to the bill unnecessarily.

Jim Fairlie: I presume that that goes back to the convener's question about the flexibility of the bill, and that therefore, as circumstances change, you could adapt the bill to allow certain things to fit in, such as Brexit, the war in Ukraine and so on.

James Muldoon: Indeed.

Ariane Burgess (Highlands and Islands) (Green): You say that there is a definition in the route map, but it will be the ordinary meaning that is relevant to the bill, so what is the ordinary meaning of regenerative?

John Kerr: We produced a glossary of terms in the route map. Farmers are asking the same questions about the detail that you are asking this morning and that we are being asked throughout the process. We have sought to be as clear as possible with industry and the Parliament about what we intend to do in future. We produced in the glossary of terms a broad definition of regenerative farming. The specific details of that differ, depending on who you ask, but there is a broad view on what regenerative farming means. Some people limit it to the physical agricultural practices on the ground and others extend it to include the social element of farming.

A complex discussion is happening in the literature about what regenerative farming means, so, as James Muldoon says, we have elected not to put a definition in the bill, because that would constrain us and could be significantly wrong in the fullness of time, as society settles on what it means by regenerative farming. The key thing is that it includes practices that build soil carbon, for example, and renew the growing environment rather than depleting it. That is the principle, although how you achieve that is open to debate.

The other key element is that it will mean different things to different sectors of Scottish agriculture. What is done in an arable context will be quite different from what is done in an upland context, so having a definition in the bill that is too narrowly drawn would potentially be quite unhelpful. That is why James Muldoon said that it is the natural meaning of the phrase that is important. That allows us to bring forward guidance and potentially scheme rules about what we mean at a particular time in order to achieve a set of goals that are relevant at that moment—and that may change.

That is the approach that we have taken, but we have sought to be as clear as we can be with the industry at this point.

Beatrice Wishart (Shetland Islands) (LD): Good morning, panel. What does the Scottish Government consider to be "high-quality food"? Is there a legal definition for that phrase?

James Muldoon: I will take that one, as the answer is very similar to what I said in relation to sustainable and regenerative agriculture. In the context of the bill, it is the ordinary meaning of high-quality food production. We can say in a general sense that unadulterated produce that comes out the ground and that is produced under the basic standards and expectations of Scottish agriculture—the general rules—could be considered, in the ordinary sense, to be high-quality food. I think that many of us would consider that to be high-quality food. In the context of the bill, "high-quality food" refers to the ordinary meaning of that phrase. Again, we can work on the basis of the general understanding that food that is produced to the rules in Scotland is high quality.

Beatrice Wishart: How does that relate to the on-going work on the good food nation?

John Kerr: In the bill, we take cognisance of the other work that is going on across Government and we will seek to align the outcomes that we have in the bill with that other work. The key objective in this instance is high-quality food, which is how we refer to it. The good food nation measures go beyond the powers that we take in the bill, which are primarily—although not

exclusively—to do with supporting farmers and crofters.

In the context of high-quality food production, the main things that are in play are our rigorous standards that are in place through cross-compliance and statutory management requirements. Our intention is to continue conditions with the equivalent effect—we have the powers to do that in the bill—and to build on them. We have said that we will add things such as a whole-farm plan, which will include things such as soil testing, which will underpin high-quality production. That will then give consumers of Scottish food the reassurance that our farmers and crofters are supported to ensure that the way in which they produce food means that it is of high standard, and that that is seen through our regulations.

It is also important to note that the industry takes the matter seriously. Most farmers are part of some form of assurance scheme that goes beyond what we consider to be the statutory requirements for producing high-quality food. In that sense, the natural meaning of the term is what we intend here. However, in relation to the powers in the bill, we will continue to have the underpinning requirements relating to the quality of production practices.

Rhoda Grant (Highlands and Islands) (Lab): I will push you a little further on the “high-quality food” definition. What is produced as part of our agriculture that would fall foul of the definition? I do not understand why you have not just referred to the “production of food”. Why is it

“the production of high-quality food”?

What would be omitted from that definition? What is the purpose?

John Kerr: I am not sure that I fully understand the thrust of your question. Are you asking what we would not support?

Rhoda Grant: Yes. You are defining the food production that you would support as being high quality.

John Kerr: Yes.

Rhoda Grant: I am wondering what would fall foul of the definition of “high-quality food”. Why does the bill not just say “the production of food”, full stop? The inclusion of the term “high-quality” must be there for a purpose and I want to understand what would fall foul of that definition.

09:15

John Kerr: We listen closely to what the industry and other stakeholders tell us about what is important for them in terms of Scottish agriculture. Being a home of quality production,

and being seen as such, is important to the industry. Part of the reason why we have that outcome as one of our four key outcomes is that it reflects back to the industry how it views itself—and rightly so. We have high production standards through the statutory requirements that we have and, as I said, through quality assurance schemes on top of that, although the lack of such an assurance would not necessarily exclude a product, to come back to the specifics of your point.

Who would be excluded from that definition in terms of the application of the powers? At the moment, somebody who was in breach of cross-compliance regulations—for example, if they did something to a hedge or a watercourse that was outside of the rules—would not be eligible for the support, because they would be in breach, or they would suffer a penalty. That is how we would give effect to drawing a line around what is not considered high quality in terms of production and therefore not eligible for support.

Does that answer your question?

Rhoda Grant: It does not make a huge amount of sense to me, if I am being frank. My region includes areas of the country where food production is really tough. Quite often, for instance, sheep go elsewhere for finishing. If you are comparing the quality of a sheep coming off the hill and going elsewhere for finishing with one that is being reared on good-quality land, does that create a problem? I am concerned that the interpretation of what is “high-quality” in the future could cause huge problems for some areas.

John Kerr: Thank you for elaborating on the question. It is important for us that we are clear that we want to support farming in rural areas that are fragile and constrained. Producing store animals for finishing elsewhere is consistent with high-quality food, because they are destined to be high-quality food at the end of their production journey. The care that is taken of them, and the care that is taken of the environment in producing those animals, can be of high quality, even though, as you say, the farming there is tough.

There is no intention to exclude that type of production system through this outcome—quite the reverse, in fact. We see that there is real strength in our uplands and marginal areas, with farmers and crofters being a key part of looking after the countryside and producing food, albeit that, as you say, livestock production might be finished elsewhere. However, it is still of high quality; we can be confident about that.

Perhaps I have not fully answered the point, however, because I detect that you still have reservations.

Rhoda Grant: I have some reservations, but I appreciate your clarification.

Jim Fairlie: My understanding of high-quality food is that it does not matter which part of the stage of production it is; the end product is going to have that Scotch assurance or red tractor assurance or whatever assurance it is, because it has gone from there to there. It may have been bred on a very high hill place that is harsh and it may look to all intents and purposes as though things are rough, but that will go through a life cycle—I am talking specifically about livestock—that will still produce high-quality food. However, if somebody then injected lambs with something that we would not necessarily accept, I presume that that is the kind of area that you would look at and say, “Well, that does not qualify.” Does that make sense?

John Kerr: We have to be careful. The bill is limited in scope in that sense, so it does not deal with those sorts of supply chain issues. I want to be a little bit careful about giving the impression that our scope is wider than it is.

The Convener: You say that the bill does not touch on supply chain issues, but one of the things that farmers want is a future agricultural policy that will allow them to produce high-quality food, but also to get the true value of it. The supply chain is therefore vitally important. Why is it not included in the bill?

John Kerr: I was thinking specifically of issues to do with food production at the processing stage, so that is not really what we were talking about.

The Convener: I know what you are saying, but in some countries—France, for example—if you produce 50 acres of carrots, whoever buys that 50 acres also has to take responsibility for the 20 per cent of the crop that might be considered not to be high quality. However, there is nothing in the bill that would address that.

You are talking about high-quality produce. One of the issues in the supply chain is that when a farmer has, for example, 50 acres of carrots of which only 60 per cent can be considered to be high quality, supermarkets and retailers will take only the high-quality product. There is nothing in the bill that would help to level that out. In other countries, there are regulations about responsibility for production—not just production of the high-quality food. That situation is often a barrier to farmers getting the right price—a sustainable and reliable price—but nothing in the bill would address that.

James Muldoon: We will have to take that issue away and come back to you with an answer, because I do not want to speak too assuredly on it; we might be on the verge of encroaching on

reserved market powers in that respect. Allow us to take the issue away and write back to you on it.

The Convener: I will revert back to questions on the objectives. What are your aspirations for on-farm nature restoration, climate mitigation and adaptation?

Ewen Scott: The aim of our policy is to support the sector to be a world leader in sustainability and regenerative agriculture. Specifically, the policy should seek to support the sector to play its part in reduction of greenhouse gas emissions in order to meet the targets that have been set. However, we recognise that agriculture, as part of a biological process, will always produce some forms of emissions.

The other element that we should highlight is that our policy seeks to support the sector to achieve nature restoration targets. Our division is working closely with colleagues in other divisions across the Scottish Government and with delivery colleagues to understand and establish the various habitat types that underpin the biodiversity strategy—farmlands and uplands, in particular.

The Convener: How do you expect the bill to deal with the varying levels of biodiversity on farms? For example, we visited Galloway to look at dairy farms, where we saw, within three or four miles of each other, very different approaches—one that one would suggest was intensive sustainable agriculture and one that was extensive. How will you set targets or policies to ensure that some of our most productive farms, which might not have the greatest levels of biodiversity, start on a level playing field? How do you support intensive practices that can deliver climate change benefits, as opposed to those that are extensive? How will the bill deal with the difference in farming practices?

Ewen Scott: The range of powers and the framework that we have enable the necessary flexibility. That ties into the tiered structure, where more nuance can come through in specific levers and schemes that we can adopt to generate an outcomes-based approach.

I will hand over to James Muldoon to elaborate more, if needed, on that tier.

James Muldoon: The powers in the bill are not in isolation, but exist in the context of the policy memorandum and the public policy statements from the cabinet secretary to date. The cabinet secretary has spoken clearly, and we have talked, about how the enhanced structure will go ahead. It is about rewarding farmers for practices that benefit biodiversity.

That ties in with the earlier conversation on regenerative practices and acknowledgement that that might mean that there is not the same bundle

of measures for every farm and croft. We have spoken about how farmers and crofters know their land better than we in Edinburgh do. It is important that, in developing the enhanced structure, we develop an appropriate bundle of measures to ensure that farmers and crofters can play their parts in dealing with the biodiversity crisis and the climate crisis in ways that ensure that their bottom line, as businesses, is maintained and that they contribute to thriving rural communities.

The Convener: Will secondary legislation set out the national targets or aspirations, or is it likely that that will be done on an individual farm basis—or, indeed, a landscape basis—to pick up the packages that you have talked about? One size does not fit all, but how granular does this get? Does it go down to individual enterprises?

James Muldoon: The powers in the bill are about setting the ability to create the structures, and I do not want to prejudge the co-development work that is taking place more broadly through the agri-reform programme. As John Kerr mentioned, we are working very closely with the industry and rural partners more widely to ensure that the right models, schemes and measures come out the other side.

I make it clear that we are not putting specific targets in the bill. Instead, it is about ensuring that, having taken cognisance of the Climate Change (Scotland) Act 2009 and our legal obligations in that respect, we show how the industry can be enabled to contribute.

The Convener: Thank you.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I know that all the questions that we will ask this morning are important, but I happen to think that this one is the most important, because it is about the role of agriculture in supporting rural communities. If agriculture as a livelihood becomes unsustainable, so will life in rural communities. When I met a group of farmers in Laggan, of all places, they were talking about the challenges that they are facing in agriculture, and they made the point that the only kids in the local primary school are the children of farmers, farm workers and so on. What role will agriculture play in enabling rural communities to thrive, and what emphasis does the bill place on it?

James Muldoon: “Crucial” would be an easy word to use in response to that question. I note that, of the four overarching objectives that are set out at the start of the bill, a core one is

“enabling rural communities to thrive”.

That has been put in this bill on agriculture and rural communities because we view agriculture as an absolutely essential industry in rural areas,

given the upstream and downstream activities that stem from it. We need to say that at the outset.

It is worth adding—this relates to my previous answer, in which I mentioned the bottom line for businesses—that unless we have businesses that are able to sustain and maintain things, we will not be able to contribute to our biodiversity and climate targets.

Our approach with the tier 1 support is very much about recognising the context of not taking the powers in isolation from public policy to date. We recognise that, in a high-income and high-cost nation, it is right to support our producers. We expect them to meet standards, of course, but it is right that we support them. I hope that that shows our commitment to ensuring that this crucial and essential role is, for all the purposes that I have just wrapped into one, very central to our thinking.

Kate Forbes: Might there ever be conflict between any of the four objectives in the bill?

James Muldoon: The cabinet secretary has always made it very plain that there need be no contradiction between producing high-quality food and doing so in ways that benefit biodiversity gain and action towards climate adaptation and mitigation. In the bill, we talk about the development of a rural support plan: that context matters, because in that plan we will seek to describe how our support works towards meeting the bill’s overarching objectives.

I do not think that it is right to say that there is contradiction or conflict between objectives. I will go back to the point that Ewen Scott made about the need for flexibility. There might be a case, depending on the need to react to externalities—we have spoken about the Ukraine war and so on—for certain aspects, initially, to be advanced more than others. Nonetheless, the overarching objectives are not hierarchical in respect of their outcomes; it is for us, through the rural support plan, to show how we are working towards delivering all four.

09:30

Kate Forbes: As you say, the policy will put some flesh on the bones and identify whether there is conflict.

Ultimately, we view agriculture either as an inconvenience, as it were, that is fuelling climate change challenges, or as a solution to those challenges. How we lumber farmers and so on with various requirements will make or break agriculture as a sustainable livelihood. That is perhaps more of a comment than a question, but please feel free to respond. That is certainly the perception that has come through in my conversations.

John Kerr: I will pick that up. It is important to note that the powers in the bill will allow us to bring forward the four-tier approach, which is our stated intent, and that that should give farmers some agency around the decisions that they take. For example, they can decide how they work their land to produce food or other agricultural products—it is not just about food, but it is predominantly so—and the extent to which they wish to engage with higher-tier elements of support for delivering other benefits, such as biodiversity gains and climate mitigation.

Some of that will be required of everybody as a base level of standards, but in other respects, farmers and crofters will have agency around the extent to which they engage.

There will be some tensions between the outcomes, as you alluded to in your question, but the Government does not necessarily have to be prescriptive about that, because there is room for different approaches. In that way, we can still achieve our targets. The powers in the bill are to allow us to take that approach, so we intend to bring forward, certainly in the first instance, a framework that provides that flexibility.

The Convener: I call Ariane Burgess.

Ariane Burgess: We have been asking questions about the four objectives of agricultural policy. I come back to the word “regenerative”, and the tensions that my colleague Kate Forbes brought up.

One thing in particular struck me when I was looking at the four objectives. Taking a broad-brush definition of “regenerative”, my understanding of why producers have moved away from talking about sustainable practice is that, given that nature has degraded so much and we are facing such massive issues around meeting our climate emissions targets, simply sustaining our practices is no longer possible, so we need to be doing regenerative agriculture. My understanding of that is that it means practising a form of agriculture that supports the natural environment to regenerate, while meeting human needs.

It is interesting to me that that is set out as a separate thing. I would have thought that regenerative agriculture policy practices would give us high-quality food and lead to nature restoration and climate mitigation and adaptation—you spoke to that a little bit—and would support enabling rural communities to thrive.

I would like to hear a bit about your thinking around regenerative agriculture. I know that you want to keep the objectives broad for possible changes, depending on circumstances in the future, but I want to understand how you see that

objective connecting to all the policies that underpin it.

My colleague Kate Forbes referred to sustainable agriculture in a way that implied economic sustainability. We really need to be talking about sustainable and regenerative agriculture in terms of what we are doing for nature restoration and for climate adaptation and mitigation.

John Kerr: We have sought to be clear that we want the four broad objectives in place, and the intent is that the bill will provide for support for all those things. They are the sorts of things that any agricultural policy should have in it.

I think that those who practice regenerative agriculture would certainly agree with you that they deliver all the other elements as well, and that that is implicit in the broader definition. The community needs of the farmers and producers must be met in order that we have regenerative agriculture in its broadest sense.

Others who are perhaps less close to the regenerative agriculture movement would not necessarily see it that way. The more intensive producers that were mentioned earlier might view it differently, too. However, they also want reassurance that we are providing support for food production, and providing underpinning support that will enable us to keep economically sustainable agricultural businesses, while bearing in mind that the market does not always provide the required reward for more marginal businesses or even for mainstream and larger agricultural businesses.

That is why we have set out the four objectives, which are not necessarily in tension with one another. As James Muldoon mentioned, the Cabinet Secretary for Rural Affairs, Land Reform and Islands often says that there is no contradiction between regenerative practice and high-quality food production, and that the two things go hand in hand. However, I still think that setting out the powers as we have makes it really clear that those are our objectives.

Jim Fairlie: Can I clarify that the four objectives are not in order of priority, are they?

John Kerr: No.

Jim Fairlie: However, they are interlinked.

John Kerr: Yes.

Jim Fairlie: Kate Forbes’s point relates to something that concerned me in the course of our pre-legislative scrutiny work. An awful lot of weight seems to have been put on the bill to do an awful lot of stuff, but other bills that are going through Parliament will cross over with it. I presume that the bill team will work in conjunction with those

other bills' teams to ensure that the bill does what it is setting out to do, which is to maintain primary food production in this country.

John Kerr: Yes. The bill sets out to do more than just maintain primary food production in this country, although it clearly does that. The bill team, and my teams more generally, work with colleagues across the Government on implementing legislation that we are introducing, and there is our existing work on the biodiversity strategy and the Climate Change (Scotland) Act 2009. We work closely with our colleagues to ensure that all the elements align and that each component does its job, which I think answers the thrust of your question.

The Convener: Before we move on to the next theme, I will make a point about the framework bill that we have been discussing. From your responses to questions on the four objectives, it appears that the bill has boundless scope—there are no limits to it—which I suggest would lead to complete lack of certainty about what it could deliver.

The Scottish Government has known since 2016 that we would have to have a replacement for the common agricultural policy. The transition period finished in 2020. The framework bill could therefore have been in place three years ago, but you say that we are introducing it only now so that you have time to develop secondary legislation to deliver on the policies. From what the committee understands, the industry finds that to be completely unacceptable. Why do we have a bill that will not put any meat on the bones until 2025, when that could have been done earlier? Is there any limit to the scope of the bill?

John Kerr: I will pick up on one of your later points rather than the first one about the bill's scope, which I will come back to.

In 2016, things were not as certain as we now understand them to have turned out. In 2020, we introduced to Parliament a bill to allow us to continue to provide some stability for the industry, which is what the industry was primarily asking for at the time. It was the right thing to do. At that point we committed to introducing further legislation in this parliamentary session to set out a Scottish policy, and a Scottish set of powers, to support agriculture, which is what we have subsequently done. Throughout that period we have worked hard with the industry to ensure that it has been sighted on that. Also throughout that time, farmers and crofters have had the certainty of underpinning payments, which is not enjoyed by all other farmers across the United Kingdom.

It is true that people are asking for the detail of the future policy, but it is unfair to say that they are

critical of the approach that we have taken, because they have welcomed the stable support.

The bill has a clear scope of supporting agriculture and rural communities, but some things are not covered—we have talked about what happens to food further down the supply chain—because they are not necessarily in scope. We are clear about what the bill covers, which we have set out in the bill and in the supporting documents. Other parts of the Government are doing other things that are relevant to land use and to the people who farm our land, but the scope is clearly set.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): What was the thinking behind the Scottish Government choosing a five-year duration for the rural support plan?

James Muldoon: I am happy to answer that. The general approach was to have a period that allowed for further stability and which tied into parliamentary terms. When we did the consultation events around Scotland, it was clearly represented to us that people welcome having the ability to flex and not having to fit in with rigid seven-year cycles. I apologise if this all sounds slightly contradictory but, within the ability to flex, the industry also had a desire to see some certainty offered.

The concept of a rural support plan was not consulted on, but a strong desire for such a vehicle was represented at the consultation events. That is the rationale and is the reason why a five-year period was seen as sensible.

Rachael Hamilton: I accept your comments about the engagement activity but, in the 70 submissions to the committee, the response to the five-year period has been lukewarm. The explanatory notes say that the period

“will broadly coincide with ... parliamentary terms”,

so I wonder whether it was chosen for convenience. The responses say that farmers do not make plans over five years but make them over 10 years. It is important for the Government to reflect on those responses. Would you like to comment on the practical planning that farmers do?

John Kerr: It is absolutely fair comment that farming is a long-term business and farmers make long-term plans. The breeding of animals and the rotation of crops have longer cycles. At other times, farmers also make relatively short-term decisions about cropping and responding to the market. We see that in how they respond to market signals on animal finishing times, for example.

It is unfair to characterise farming as a slow-moving industry, as that is not necessarily the

case. If we are to make realistic plans and see them achieved, the five-year timescale is a sensible compromise between long-term planning need and the realities of responding to things that happen in the world and the market.

Rachael Hamilton: I accept your comment about people making decisions more quickly than or differently from how they predicted, but that is only because of supply and demand in the market or the price fluctuation that we see when the price of store cattle rises, for example.

You mentioned livestock, but I want to move on to when the rural support plan will be laid before Parliament. The route map suggests that the plan will be produced before the transition commences. Will you give us a bit more detail on that?

09:45

James Muldoon: The route map relates to the on-going transition and the changes that are being made under the powers in the 2020 legislation. As I suggested earlier, the rural support plan will be the summation of how the support tiers operate towards the four overarching objectives. In the first instance—with the first laying of the plan—we would look at it alongside the SSIs under the bill, and we would look for the plan to be laid alongside those instruments in 2025.

Rachael Hamilton: So, we will see that detail before the transition. That is what you are saying. Can you give us a rough date?

James Muldoon: Without prejudging how the agricultural reform programme and the co-development work on that go, we need the SSIs containing the regulations and measures to be in place before 2026. The plan would therefore come to the Parliament alongside those SSIs in 2025 as the summation of the planned measures.

Rachael Hamilton: When speaking to people who have an interest in the bill—as you will also do—whether they are farmers or other people, we find that they are expressing a critical and urgent need for detail within the rural support plan, because it will underpin some of their future decisions.

I want to ask you another question. Who decides the strategic priorities, and how do you come to that point? I do not think I am popping into the next question, am I? Would you mind answering that? Who decides the strategic priorities? For farmers who are tuning in right now and wondering how their future is going to be decided, who is deciding the strategic priorities? Do we have any influence in ensuring that they are widened, perhaps? If we do not agree with them or farmers do not agree with them, how do they influence that?

James Muldoon: Very much within the context of co-development, which we have spoken about before. Ultimately, decisions on Scottish Government policy are for the Scottish Government ministers to make in determining what our priorities are.

Rachael Hamilton: I go back to the consultation. One of the responses said that the issue is largely about climate change. It refers to

“the climate change plan related to agriculture, forestry and rural land use”.

Unless I am missing this, however, there does not seem to be any reference to food production or supply chains. Supply chains were mentioned earlier, specifically in relation to narrowing supply chains, creating a more local approach, changing the culture of food consumption and so on, and perhaps relating that to the Good Food Nation (Scotland) Act 2022, which has been mentioned. Is there scope to expand those strategic priorities, and how does that happen?

John Kerr: Returning to the point that you made about who decides the future of farmers who may be tuning in, it is of course they who decide their future. We are setting out what we will do to try to support them. The strategic priorities lie in the purpose that the bill is working towards. We have set that out in longer terms in our vision for agriculture. The Government intends to support sustainable and regenerative agriculture. In fact, we want to be a world leader in that. That is our stated aim, and that, in broad terms, is our vision. That covers a range of things, all of which you have mentioned, including quality food production, communities, climate and biodiversity. All those things are set out as part of the purpose of the bill. We have set that out, and we have been pretty clear about that, as we have been since we set out our vision a couple of years ago now.

Rachael Hamilton: Let us be clear about the parliamentary role in the scrutiny of the aspect of the rural support plan that we are talking about right now. What opportunity do we get?

John Kerr: As James Muldoon said, the rural support plan will be produced to support the secondary legislation that we will draft. As for engagement with the industry, we have already set out our plans in advance of the rural support plan powers, so we have already engaged through our route map, which indicates when we intend to change different things. We are engaging with the sector at each point in that process. We have also set out how we will engage with the sector, and with the committee, in the legislative process. We have been clear about our intention to be transparent with the industry.

Jim Fairlie: I go back to the point that Rachael Hamilton raised about long-term planning for

farming. As somebody who was in farming, I know that you definitely think longer term—the mantra is, “Live as though you’re going to die tomorrow and farm as if you’re going to live for ever.” However, how can farmers have any clarity when the Scottish Government has no clarity about long-term funding for the Scottish system beyond 2025?

James Muldoon: We have been quite public about the fact that, from 2025 onwards, we do not have a commitment from the UK Government about the level—or rather, the share—of agricultural funding that comes to Scotland. We are currently working on a political commitment from the UK Government that we receive the circa 17 per cent share of overall UK agriculture funding, which was the European Union level, but we do not yet have it for after 2025.

I know that the Deputy First Minister raised that with the Chief Secretary to the Treasury in the summer, at the finance interministerial standing committee. The Cabinet Secretary for Rural Affairs, Land Reform and Islands has also recently written to the new Secretary of State for Environment, Food and Rural Affairs, as part of her welcoming letter.

It is obvious that not knowing the level of funding ahead makes longer-term planning more difficult.

Jim Fairlie: We have had various responses—I was trawling through them in the early hours of this morning. A number of organisations across the industry are saying that we need a guarantee of multiyear funding for at least five years.

Other than the Deputy First Minister speaking to the Treasury at the tail end of last year, is there on-going engagement with the UK Government to make sure that we can give our farming community that certainty for at least five years? It used to be seven years when we were in the EU—we are now looking at five.

A farmer can make quick decisions—I accept that; I have done it myself—but they also need to know where they will be in the longer term. What engagement is there with the Treasury right now?

James Muldoon: Officials speak to civil service colleagues and those matters have been raised. As I said, ministers have frequently and repeatedly raised the issue with the UK Government, but we need to have a two-way conversation on the subject.

Jim Fairlie: I have one further point. We had Jonnie Hall before the committee, who talked about what would happen if the UK Treasury runs down the value of agricultural support in England. Even if we keep 17 per cent of a much smaller budget, it will still reduce the budget that the

Scottish Government will then have to support agriculture here, unless there is a specific guarantee from Westminster that the overall quantum stays the same, or is greater, given the demands of the industry. Is that correct?

James Muldoon: Theoretically, yes—that is true. I am sure that NFU Scotland has also made representations to the committee, as it has to us, about how it is also requesting additional sums for the overall UK agriculture budget to ensure that inflationary pressures are dealt with in the context of the desire for a longer-term commitment.

Jim Fairlie: So the aspiration for long-term funding does not sit here—it sits at Westminster.

James Muldoon: Yes.

The Convener: I bring in Rachael Hamilton.

Rachael Hamilton: On Jim Fairlie’s point, what is the total pot? What do you want 17 per cent of in order to achieve your vision for agriculture? What is your goal?

John Kerr: We would like to see at least the current level of funding being maintained in real terms. That was what we asked for as a guarantee when we were taken out of the EU, as being in the EU would have meant—as Mr Fairlie said—that we would have long-term certainty over the budget through the CAP cycles.

That guarantee was given for the lifetime of the Parliament by the UK Government—

The Convener: You say that there was a guarantee of multiyear funding for the Parliament’s lifespan.

John Kerr: Yes.

The Convener: When was that commitment given?

John Kerr: It was made when we were discussing leaving the EU.

The Convener: So who gave the commitment for multiyear funding?

John Kerr: There was a commitment to maintaining the agricultural budget as it was; there was no commitment to multiyear funding, which is a point that we have repeatedly been pressing.

The Convener: I thought that you talked about “the life of the Parliament”. Would that not be multiyear funding?

John Kerr: If I misspoke, I apologise. What I meant to say was that there was a commitment to maintaining funding at pre-Brexit levels—

The Convener: —for the lifetime of the Parliament.

John Kerr: For the lifetime of the UK Parliament, yes.

The Convener: So that would be multiyear funding.

John Kerr: Yes. Well—it was a guarantee to maintain the funding for the lifetime of the Parliament.

The Convener: So there was some certainty about that.

John Kerr: There was no commitment to multiyear funding in those terms, but that is perhaps a semantic point that we can leave.

The Convener: Possibly.

John Kerr: The key point is that we do not know what the funding position will be beyond 2025. That is a point on which we have sought to engage with the UK Government, but we have not had the dialogue that we anticipated. One of the recommendations of Lord Bew’s agricultural funding review, in which we engaged, was that the four nations should discuss future funding allocations. To date, that conversation has not happened.

The Convener: You mentioned the Bew review. That money was not ring fenced, was it? Currently, we have a ring-fenced budget that the Scottish Government spends, and the money from Bew was over and above that.

John Kerr: The Bew money was given over and above the funding that we previously had, yes.

The Convener: And that money was subsequently taken out of the agriculture budget.

John Kerr: No, it has been deferred forward.

The Convener: So last year it was removed—

John Kerr: Yes.

The Convener: —and the cabinet secretary has confirmed that it will be removed this year, too.

John Kerr: Yes and, as the cabinet secretary has said here and in other places, the Deputy First Minister has committed to returning the money to the portfolio at a time when we can use it best.

The Convener: Okay.

Just to stick on this topic, I note that the financial framework includes a table entitled “CAP funding/Future Support Framework”, but it is unclear where that goes after 2027-28. That is not multiyear, so am I right in saying that there is still uncertainty over pillar 1 and pillar 2 payments after 2027-28?

John Kerr: I missed the reference to the document.

The Convener: I am sorry—it is the financial memorandum. There is a table that sets out the projected expenditure, but it gives certainty only to 2027-28.

James Muldoon: The figures in the financial memo cover the Scottish Government spending review period. Those were the figures that we were able to put in.

The Convener: Okay. So there is currently no commitment from the Scottish Government to multiyear funding beyond 2027.

John Kerr: What we have projected is what we either know or are forecasting, but the figures for beyond 2025 are caveated by the uncertainty over the funding that will be received from the Treasury.

The Convener: Okay—thank you. I call Ariane Burgess.

Ariane Burgess: It says in our papers:

“Ministers may amend the plan if strategic priorities change or the plan becomes inaccurate or incomplete”.

We have already discussed the need for flexibility in the face of the climate and nature emergency, but I just wanted to hear how you have thought that need through. What kinds of things would trigger the review of a plan? I just want to understand your thinking in that respect.

James Muldoon: I do not think that we have a set criterion for meeting a particular threshold. It would be easy to make a summation, however. If the cost crisis that resulted from the invasion of Ukraine was to happen again, those circumstances might make it rational for us to revisit a plan in the immediate term. That is just by way of an example, but I make it clear that there is no set criterion that is intended to suggest a threshold. We are simply allowing the flexibility to respond to external happenings that are out of our control.

Ariane Burgess: So it is about being able to react in the moment to something that occurs.

I note that matters to be considered in the plan include

“the proposals and policies contained in the climate change plan which relate to agriculture, forestry and rural land-use”.

What about transport? Given that we are talking about rural communities, do we need to be thinking about the transport aspect, too?

10:00

James Muldoon: In relation to thriving rural communities? I think that is moving away from the scope of the bill. I do not know if I can give an absolute answer on that.

Ariane Burgess: The bill says that the “matters to be considered” under the rural support plan include

“the proposals and policies contained in the climate change plan which relate to agriculture, forestry and rural land-use”.

Travel is a big issue for rural workers, and it is a big issue in terms of climate.

John Kerr: That is certainly true but, from my perspective, officials working in transport are better placed to assist rural communities with transport policy, rather than doing that through the policy that we are dealing with here.

Ariane Burgess: I think we need to start having that long wished-for joined-up approach.

John Kerr: On the point about officials being joined up in their work, I contribute to the climate change process for the interests of the agriculture policy division, and transport colleagues join that discussion. We do hold such discussions jointly, although we have to be careful to allow those parts of Government that have the expertise to deal with issues as the principal mover. I think that some of those wider issues would be better dealt with in transport policy rather than agriculture policy—notwithstanding the importance of transport to our farmers and crofters and the people who work for them.

Ariane Burgess: I am glad that it is being considered somewhere.

The Convener: That is an issue about scope. If the rural communities aspects of the bill seek to address rural depopulation issues, then transport, broadband and housing are all within scope. It is not quite clear exactly where the boundaries of the potential legislation lie regarding rural communities or where that aspect of the bill starts and finishes.

John Kerr: Is there a question there?

The Convener: I suppose that I am asking whether issues such as housing, rural depopulation and broadband are within the scope of the rural communities aspects of this framework bill.

John Kerr: We want to be able to support rural communities to an extent through the powers in the bill, as the rural development plans of the EU did. However, the scope of the bill is not so extensive as to bring in those aspects.

The Convener: Okay—thank you.

Rachael Hamilton: I want to get some clarity about Jim Fairlie’s points and those that you were responding to about the reallocation of funding in the budget. What is the total? An article published at the weekend said that there was a lot of confusion in the farming community about whether £45 million will be cut from the rural budget. It

seems that the figure will be £60 million over two years. Can you confirm how much that is, and whether it is a saving or a reallocation? Will that money come back to the budget, or is it just the Bew funding that you were talking about, which is ring fenced—so to speak—that will come back to the budget? Can you give us some clarity around the money that the Cabinet Secretary for Finance talked about?

James Muldoon: On the sums that you refer to, in the past financial year, £33 million of budget was deferred for future spend. The Deputy First Minister recently announced that £28 million has been deferred from this financial year. To make it clear, that is in the context of budget being passed into future years by being returned to portfolio to be spent on ensuring that agricultural and rural priorities are delivered.

Rachael Hamilton: What is the additional amount, which is an extra £45 million?

James Muldoon: I am not aware of the article that you are referring to.

Rachael Hamilton: It is not from an article. Shona Robison announced a cut of £45 million to the rural budget. Is that on top of the £28 million?

James Muldoon: I am not sighted on that. The announcement was for £28 million to be deferred from this financial year’s portfolio budget.

Alasdair Allan: Ministers will have to have regard to—I know that that is a loaded and specifically intended phrase—the climate change plan and other duties in law, and they must align their actions to the forthcoming climate change plan and the biodiversity plan. Can you tell me what “have regard to” means in this context, or what you understand ministers will have to do to comply with those areas of policy?

Ewen Scott: The bill absolutely has to have regard to the climate change plan as a legally standing piece. The rural support plan will have to take account of that legislative requirement, as detailed in the climate change plan, alongside any other legislative requirements relating to the bill, when it has been drafted accordingly.

Andy Crawley would say that the bill cannot be in conflict with anything that is already on the statute book. That is a point worth noting. John Kerr has highlighted the work that we are doing at a policy level to ensure that there is compliance and dovetailing with the climate change plan and the biodiversity strategy.

John Kerr: Convener, would it be possible for Andy Crawley to make a clarification to an answer that was given a moment ago?

The Convener: Yes.

Andrew Crawley (Scottish Government): I should say that I am from the legal directorate, which is why I have been relatively silent so far. On the question about the scope of the purposes of the bill in relation to rural communities, that is set out in part 4 of the schedule. Our view is that that gives a good overview of what we can and cannot do in terms of support.

A question was asked about the internet and other similar types of supporting infrastructure. The bill gives ministers the power to provide support for those types of purposes. The support that is provided will depend on the decisions that are made in response to circumstances and the budget that is available to provide that kind of support, but, in principle, it can be done.

Questions have been asked about housing. That issue is not clearly within scope. I do not think that the bill would enable ministers to pay for the construction of rural housing. It would be for housing colleagues and for other legislation to provide for that.

The Convener: Thank you. That is helpful.

Alasdair Allan: Yes, it is. Ewen Scott, you mentioned that areas of policy in the bill could not be in conflict with anything on the statute book. Can you elaborate on what you had in mind that you were trying to avoid doing?

Ewen Scott: As a general standing rule, new legislation cannot be deemed to be in conflict with existing legislation. By virtue of the fact that we have to take account of the climate change plan, the bill will have to do so.

Ariane Burgess: I have a question on the same area. The bill says that ministers have to have regard to developments in law and policy in the European Union. Will that facilitate alignment with the EU CAP? Specifically, will the tier 1 minimum production standards to protect the environment, animal welfare and fair work, as referred to in the policy memorandum, align with EU conditions on base-level support?

John Kerr: The powers in the bill allow us to align with the EU, and it is for ministers to decide on the extent to which they do so. We are currently working towards alignment where that is in the interests of Scotland.

As for the specifics on the base tier remaining in alignment, we will be aligned in principle. In particular, we have taken steps to introduce a new GAEC, or good agricultural and environmental condition. It is a new rule for wetlands that aligns with the EU's approach to that aspect of the base payment—that is, “base payment” in our new terms and “basic payment” in the EU's terms.

We will try to remain aligned. We have every intention of maintaining the rules, as they currently

protect the environment while supporting farmers and crofters, and we will bring in new ones as appropriate for Scotland—for example, to support the restoration of peatland or to maintain it in good condition.

Ariane Burgess: Thank you.

Beatrice Wishart: We know that the bill confers a large number of broad powers on the Scottish ministers and that there will be secondary legislation in 2025, but how will the Parliament be able to scrutinise the overall impact of the new policy that will come through the bill and the various pieces of secondary legislation?

John Kerr: As the route map that we have set out shows, we will make the changes incrementally. The reasons for taking that approach are, I guess, twofold. First, we want to have a smooth transition and to bring the sector with us, and that will mean co-developing the specific implementation mechanisms, as teams are doing right now. We have sequenced that work. After all, we do not have an infinite number of people on our side to do it and, indeed, there is a limit to the extent to which the industry would want to engage with us if we were to do it all in one go. We are therefore bringing forward the changes in portions, which means that the full picture will emerge over time instead of there being a single snapshot.

There are many aspects to agriculture, crofting and the use of rural land, and things are constantly changing. As a result, you can always take a single snapshot, but the policy will continue to evolve. We are trying to be clear about each step. Instead of presenting this as a single unified piece—which, in any case, would be out of date the next day—we have sought to be as clear as possible in taking a step-wise approach over a transition period.

Beatrice Wishart: If you were to look at this in the longer term—say, in five or 10 years—what kind of assessment might be made?

John Kerr: In terms of?

Beatrice Wishart: In terms of how it has developed.

John Kerr: That is important, and we are thinking about the matter and discussing how we will monitor and evaluate the outcomes of the policy as it progresses. Colleagues are looking specifically at how we can best do that.

I know that the committee has discussed baselining with the farmer-led groups—indeed, I remember that discussion quite well—and we have put in place tools to allow farmers to measure their baselines. We are developing those things, and the approach should provide us with a platform for monitoring how successful the policy

has been at any given point. That, in turn, will inform each of the next steps.

Beatrice Wishart: Thank you.

The Convener: Before we move on from part 1, I want to go back to James Muldoon's commitment to give the committee sight of the draft SSIs. I note that, in order to bring forward policies, we will need a plan first. In part 1, there is an obligation on the Government to prepare and lay before the Parliament a plan published by the Scottish ministers, but there is nothing in the legislation about scrutiny of that. Would you consider, perhaps through lodging an amendment, laying a draft plan to enable the committee to scrutinise it, given that the plan will be the basis for all the future policies that will be delivered?

James Muldoon: Ultimately, that will be a decision for the Scottish ministers, but I note, again, that the plan's purpose is to be the summation of the measures that we are looking to bring on board. Ultimately, though, your question would be for ministers.

The Convener: It would be quite helpful for us to have early sight of the long-term plan. We know that farmers are responsive, but we would prefer it if they did not have to be too reactive. Sight of a draft plan, prior to its being laid, would be helpful as part of the Parliament's scrutiny of the plan.

10:15

Andrew Crawley: I want to clarify a point, and I can take any questions that you might have following the clarification.

With regard to secondary legislation in the form of draft Scottish statutory instruments, it would be for my team to draft those, and significant resource is required to deliver that type of legislation. We do not envisage that we would share drafts of any secondary legislation with the committee during the passage of the bill. Perhaps the point relates more to affirmative instruments that come forward during the implementation phase. Those would appear in draft form for the committee to consider in the usual way.

As I said, I just want to clarify that point, which is driven—as is often the case—by resource considerations.

The Convener: Thank you. To be clear, can you confirm that there are no plans for any consultation on the plan that is set out in section 2?

James Muldoon: The plan is representative of what we will be pulling together. Co-development is at the heart of that, so industry and rural partners at large will be at the heart of how we get that plan.

The Convener: Thank you.

Alasdair Allan: As you will be aware, one of the tensions that exist around all legislation is that people want to know about the accompanying guidance before there is legislation to enable such guidance to exist; you cannot produce such guidance until the legislation is produced.

Nonetheless, there is a lot of legitimate interest in what the guidance might look like. Can you say any more about what you will be doing to try to give stakeholders a flavour of what shape the guidance is likely to take as the bill progresses, and how that will be managed?

James Muldoon: We are getting to the heart of the agriculture reform programme and some of the co-development work. Without going into too much detail on that, I note that there exists in the programme an entity called the design authority. It is there to ensure that we work with partners to understand the impact on the ground—quite literally in the field—so that the guidance that is developed is built on customer-focused methodology, as it is called, to ensure that it is relatable, is understandable and, most importantly, makes sense. That is at the heart of how we will develop the guidance and how we will work with industry and rural partners more broadly.

If we do not take that approach, not only will we not meet the Scottish Government requirements in our digital standards, but we will not get the best policy and the best outcomes.

Alasdair Allan: Is there a timescale in your minds for producing the code of practice on sustainable and regenerative agriculture?

James Muldoon: I think that it is fair to say that we would anticipate it being public before the new support model in the route map comes into play in 2026. That in itself is a great example of where we say specifically in the bill that we will work with those who will be affected through the co-design approach that I highlighted.

Rhoda Grant: There are powers in the bill to cap, refuse or recover support payments when those would not be in the public interest. On what type of occasion would you envisage using those powers?

John Kerr: As it stands, we already have a mechanism for capping, which kicks in at £535,000. The reason for the ambiguity in the figures—they are not very round—is that they are still expressed in euros, so I have converted them into pounds. That is an overall cap—nobody is actually subject to it, as no current farmer receives a support payment that is larger than that amount. A reduction payment of 5 per cent applies to payments over £134,000. That is how it stands. It is fair to say that capping and degressivity, as it is

called, are applied already. We anticipate that there might be a reason to continue to use those powers in order to ensure that we get best value for public money in supporting those who most need the support.

That is particularly tied to how we operate in the future. We have committed to a review of the regions. A number of different models exist for how we could set payment rates across the country. The more rates we set, the more complex things are. The more complex things are, the less money goes to farmers, because we would be spending more money on the administration of the scheme and the supporting information technology. We might try to do something quite simple, and we would therefore need a redistributive mechanism to make sure that the money flowed in a more appropriate way. We would have to take those decisions based on modelling work, and we have plans to undertake that work as we approach the region review.

That is why we need those powers. Whether ministers choose to use them will be a matter for them, once we have produced the modelling and the advice to go with that. That relates to the capping and moderation of payments above a certain threshold, which we have the powers for in the bill.

On withholding payments from people, it is important that we spend money judiciously. There might be occasions when people cannot be trusted to use the money for the purpose for which it is intended. Ministers might come to the view that a person is in that category and choose to withhold money from them. For example, repeated breaches of scheme rules over a certain amount of time might give ministers cause to doubt someone's ability to keep to the rules the next time. That is the reason for having those powers.

Rhoda Grant: If someone breached scheme rules, would the money be recovered?

John Kerr: Yes. We would have the power to recover moneys if conditions were not met.

Rhoda Grant: In this instance, the public interest means abiding by the rules or the best use of public money.

John Kerr: In the example that I have given, yes.

Rhoda Grant: In what other ways could the public interest be determined?

John Kerr: Perhaps I will draw on Andy Crawley for that.

Rhoda Grant: We knew that we needed a lawyer.

Andrew Crawley: We can loosely use the example of a fit and proper person—that is not

what the bill says, but it is shorthand for what we are driving at. Another example might be if someone is convicted of fraud or some kind of financial offence, which might indicate that they are not to be trusted with public money that is to be used for specific purposes. Ministers might take the view that such a person should not be eligible to receive support.

The issue around recovery is more to do with people who were eligible to receive money but did not use it for the purpose, or in the manner, that the rules require. They should repay the money, because it has not been used for the purpose for which it has been provided.

Rhoda Grant: That raises a huge number of other questions. Who will decide whether someone is a proper person or whether they have used the money as intended? That seems very broad.

Andrew Crawley: Ministers will make the decision, but if we were to go down that route, regulations would be required. Those regulations would come to the Parliament to be scrutinised in the usual way, and this committee or its successor would take a view on the merits of what was intended.

John Kerr: We need to separate the issue of withholding money because someone is not a fit and proper person—to use Andy Crawley's shorthand articulation—from the issue of recovering moneys when a penalty has been applied. If a rule was breached, an inspector would normally be able to make a judgment about whether an infringement had occurred and apply a penalty. That would be an administrative process rather than a ministerial decision. The two things are quite different in that regard.

At the moment, if there was a clear cross-compliance breach, a penalty would apply. Therefore, the money would be recovered; that is the penalty that would apply to the applicant. The money would be drawn back.

Rhoda Grant: That would all be covered under a public interest test, would it?

John Kerr: No. We have separate powers for recoveries. That was the purpose of my clarification, in fact.

Rhoda Grant: Okay. Thank you.

Ariane Burgess: I will follow on from Rhoda Grant's questions on the public interest. Is that in writing anywhere? Is there a set of criteria for what is in the public interest?

Andrew Crawley: No, not yet, but the cabinet secretary, by introducing the bill, is taking the opportunity to address such issues more effectively than is currently the case under CAP

rules. Criteria will be developed if a need is identified. That comes back to the general point that the bill is a framework bill, and we are seeking powers to do things when a judgment is made that it is appropriate.

Ariane Burgess: Could you imagine a situation in which somebody applied to a scheme because they wanted to install animal production infrastructure that was polluting, but their land was close to a river and there were run-off problems? One purpose of the bill is to encourage nature restoration, climate mitigation and so on through regenerative agricultural practices. Could you envisage a scenario in which that would not be in the public interest and support payment was refused?

John Kerr: The construction of farm buildings, or any buildings, would have to go through the appropriate planning processes. If watercourse pollution was an issue, the Scottish Environment Protection Agency, as a statutory consultee, would prevent such construction. That situation should never arise in relation to a support payment.

Ariane Burgess: It would not get there. Perhaps that was not the best example, but what I am trying to get at is that the direction of travel that we need to go in involves regenerative practices and supporting nature and climate mitigation and adaptation, so if somebody were to apply to a support scheme, I imagine that a criterion under the scheme would be to ensure that people were not continuing with practices in the opposite direction to what was sought to be achieved through the objectives.

John Kerr: From my perspective, the bill sets out powers to make payments under conditions. In our route map, we have set out that we will have a four-tier structure with enhanced base payments and so on, with criteria for those payments. In order to access that support, farmers and crofters, and potentially land managers, will have to meet the requirements that are set out in the rules. That should be sufficient to allow us to encourage sustainable and regenerative farming without recourse to the power that we are discussing here.

Ariane Burgess: In your response to Rhoda Grant, you mentioned a commitment to a “review of the regions”. I imagine that you were referring to the payment regions. Is that what you were referring to? That is an important issue, which was raised on our recent visit to the Scotland’s Rural College farms at Crianlarich, where it was pointed out that it is possible to have two identical land holdings right next to each other, but one can receive higher payments than the other if it had a higher headage when the payment regions were established. Will you be sorting out those kinds of discrepancies in the review?

John Kerr: Sorting out such discrepancies is a high bar, but our intention is to revisit that and establish the most appropriate way to support the different types of land in Scotland today, noting that the regions were set some time ago now. As you said, they are currently viewed as being flawed, as practice has moved on from what it was when the regions were set, and stocking rates were involved in setting out the calculations for the payment regions at the time.

Ariane Burgess: It seems to me that we will need to get that sorted out, if it is the basis on which people will get payments. As you have said, practices have changed.

John Kerr: Yes.

10:30

The Convener: Rhoda Grant has a brief supplementary question on the back of that.

Rhoda Grant: We heard that some land that probably required more financial assistance was receiving the lowest level of support. Do you see that changing following your review?

John Kerr: Region 3 land receives the lowest amount of support, but I point out that the Scottish upland sheep support—SUSS—scheme has a top-up for region 3 payments for those who carry sheep. The very low rate applied to that land compared with other parts of agriculture is a point that has been raised with us, as it has obviously been with you, too, so we will want to look at that.

The Convener: I call Jim Fairlie.

Jim Fairlie: My question has been kind of answered already. I was not going to hold you to this, but when you talked about simplification, I remembered how, when the regions were changed from two to three, it massively complicated things. I was going to ask you—and, again, I am not holding you to anything—to give me an example of what that simplification might look like. Have you put some thought into that?

Secondly, with regard to recovery of public funds, if somebody has taken public funds to restore peatland, for example, but they do not get to it—and never do—will you look to recover those funds? I presume that there would be a follow-up to those kinds of schemes—that is, where public funds are received for the restoration of peatland, but the work does not happen to the extent to which it was first planned. Is that where you are going with this?

John Kerr: I will take the question on recoveries first. We have a duty to ensure that public money is used for the purpose for which it was given, and if that is not the case, our duty would be to recover it. I do not want to speak specifically about

peatland restoration projects, as they are dealt with separately under the peatland programme.

Jim Fairlie: That is why I specifically asked about peat. It does not come under the bill.

John Kerr: Peatland restoration as an activity could be supported under the bill, and the protection of peatland and its being kept in good condition are certainly intended to be supported through the base payment. Indeed, I spoke earlier about the new GAEC for wetlands protection.

As I am sure that you are all aware, there is significant overlap between the approach to agricultural support and other parts of the Government's targets, notably peatland restoration and afforestation, both of which rely on farmers to be part of the solution. I do not want to be drawn specifically on the peatland issue, because I just do not know how we would measure the success or otherwise of a restoration project.

Jim Fairlie: I did say at the start of my question that I found this to be a curiosity and that I was not going to hold you to anything.

John Kerr: As for simplifications, my colleagues on the delivery side are much better placed to deal with that issue. James Muldoon talked earlier about the design authority that we have set up as part of the agricultural reform programme, which is specifically responsible for ensuring that what we bring forward is as simple as it can be. We should, after all, bear in mind that we ask quite a lot of agricultural policy. There are four key objectives, and, as Ms Forbes alluded to earlier, there might be some tension between the outcomes. Therefore, we are, as I have said, asking for quite a lot of the policy, and that is why it is important to make it as simple as possible, where we can, while also trying to meet our objectives.

The Convener: Rachael Hamilton has some questions.

Rachael Hamilton: I wonder whether you will indulge me, convener, as I want to go back to the code of practice on sustainable and regenerative farming. When will that be published? Did you give a date?

John Kerr: James Muldoon spoke about that.

James Muldoon: Yes, I did. The intention would be to publish it before the new framework is in use, so ideally before 2026.

Rachael Hamilton: Before 2026. Would it be before the bill becomes an act?

James Muldoon: We would hope that the bill becomes an act next year.

Rachael Hamilton: It is just that I spoke recently to a group of people from the Scottish

Tenant Farmers Association who were very keen that the code of practice should be published.

Does the delay in the timings for the climate change plan and the biodiversity strategy have any bearing on the possible delay in the publication of the code of practice?

James Muldoon: I do not think that any delay has been mentioned in relation to the publication of the code. As we say in the bill, the code will work with the industry to pull together practices—examples of what regenerative agriculture means in that sort of permissive sense. Just to be clear, nobody has suggested any delay—

Rachael Hamilton: I did not suggest that either. I asked whether the delay in the climate change plan would have an effect.

James Muldoon: No, because the code is about regenerative practices. It is about working with the industry to make sure that we get something, in a permissive sense, to say, "This is regenerative agriculture." It is a tool. It is a product or a support.

Rachael Hamilton: You mentioned that you might adopt a redistribution scheme. Does that mean that the Scottish Government is keen on introducing capping?

John Kerr: As I said earlier, we already have capping in place—that is a current mechanism, albeit one that does not affect many businesses. It will be a decision for the Scottish ministers whether they implement something that goes beyond the current practice, which, as I said, is very much dependent on how we set rates. A committee member—possibly Mr Fairlie—raised the point about low rates for region 3 land. If we were to up the rate for that land overnight, some large holdings would have a windfall gain of significant sums of money, which would not necessarily help with outcomes. We just need to have mechanisms in place to be able to mitigate the unintended consequences of a simplification or a rate change.

Rachael Hamilton: In a previous evidence session, we were told that the economic modelling from the SRUC would be published before Christmas. Does that still stand?

John Kerr: I cannot remember where we are with that exact issue, to be honest.

Rachael Hamilton: An update to the committee would be really appreciated.

John Kerr: I thought that we had published some of that information, but we can take that away, come back and be clear about that.

Rachael Hamilton: Yes, please, because it sounds as though you are going to be using that

economic modelling as the basis for making decisions on future payments. Is that correct?

John Kerr: We have undertaken some modelling and discussed that with some stakeholders, so that could be published. I am not certain where we are with that.

What I was referring to was the modelling work that we will need to support a region review. That is a more significant chunk of work, and we have not yet done that. There is no data sitting somewhere—well, there is data, but no modelling work is available that is not being published. We have not done that work yet.

Rachael Hamilton: Do you think that Scotland's future support system will be significantly different from that of the rest of the UK? If so, what implications might that have, such as disruption to UK competition?

John Kerr: I think that the four Administrations have agreed that that is a devolved area. We talk regularly with our colleagues in the other Administrations, and we are all really clear that we are developing policies that are appropriate for our territories. In England, they have committed to removing the basic payment scheme in favour of more bespoke types of support. We have been really clear about maintaining a base payment similar to the current BPS.

It is already clear that there will be some level of divergence. However, our approach is much closer to those of some of the other UK Administrations, so the exact extent to which we will diverge is uncertain. There will be different levels of divergence among the four territories, but all the territories accept that that is a consequence of devolved policy. So far, we are respecting one another's entitlement to do things that way. At some point, there might be consequences of taking such an approach, but at the moment those are not foreseen.

Rachael Hamilton: It is really important to play out those potential consequences. How do you do that, as Government officials?

John Kerr: We are introducing the powers that, in our eyes, will best support Scottish farmers and crofters. That is our principal motivation. The situation with devolved Government means that that is what we should do.

Rachael Hamilton: I completely understand that. In a business situation, though, one would consider doing a SWOT analysis—examining the strengths, weaknesses, opportunities and threats. For clarity, could you foresee potential consequences by taking a different approach to a payments system? I entirely agree with having such a system, because it is about responding to the local needs of Scotland's farmers, which is

within devolved competence. However, if I were to take a sensible approach, because of competition I would examine not only the potential consequences but the advantages of one system over another. Obviously, that is not something that we want to see; instead, we want a seamless supply chain that will allow farmers to be competitive. Do you see where I am coming from?

John Kerr: Our approach is to best support Scottish farmers and crofters to achieve the outcomes that we have set out in the bill and in our agricultural vision, and to do so in the context of the constraints and conditions that they face. That is what we are doing, and our approach is that that is the principal goal. The support payments are there not to influence the market but to support farmers in achieving those objectives. The point about competition should not arise, because we are supporting Scottish farmers against Scottish conditions.

The Convener: We have heard a lot about the United Kingdom Internal Market Act 2020 and subsidy control. I believe that subsidy control is an intervention that is currently worth more than £500,000. Is it correct that subsidy control legislation would kick in at that level? Do you expect any agricultural businesses in Scotland to receive more than £500,000? Is it likely that such a situation would be triggered?

James Muldoon: I was going to say, in the context of John Kerr's answer on capping, that I do not believe that any businesses presently get that level. We can certainly double-check the figures, though. That would go into our present capping thresholds, and in the future it would be for ministers to decide what the capping thresholds on that would be.

The Convener: So you do not currently foresee any issues with the UK subsidy control rules.

James Muldoon: We are always aware of those rules, and they will always form part of the considerations and advice that ministers receive.

The Convener: Grand. Thank you; that is helpful.

10:45

Alasdair Allan: I want to come at the final couple of questions from a different angle. Are you, in the SWOT analysis and the preparations that you are making as officials, scenario planning the threats that might be associated with divergence being frustrated in any way by the legislation that we are referring to? For instance, Jonnie Hall of the NFUS has told the Parliament:

“with the Subsidy Control Bill coming into place as well as the internal market act, I am convinced that it will not be long before certain agricultural producers in England who

are more aligned to the type of agriculture that we have in Scotland—people in Northumberland and Cumbria, down the Pennines and in the west country ... —will see the support payment and the way in which Scottish Government is underpinning and deriving new outcomes from Scottish agriculture as being more advantageous than what they are being given from DEFRA.” —[*Official Report, Constitution, Europe, External Affairs and Culture Committee*, 16 December 2021; c 10.]

Do you have to plan around the possibility that these pieces of legislation might be used to frustrate the Scottish Government’s intentions in these areas?

John Kerr: Our discussions with other officials have not given rise to concern that Government south of the border, or in other territories, has the intention of using the legislation in that way. In other words, a respectful approach is being taken to devolved policy in this area.

The Scottish Government resisted the legislation in question and, in particular, sought that agriculture be treated in the way that agriculture is treated in all other territories instead of being included under subsidy control in the way that it has been. That was our position, and it will continue to be so. There is a tension in that respect that we do not feel is needed, but we do not envisage the legislation being used as a vehicle to frustrate devolved policy.

Do we have to take cognisance of that? Yes, I suppose that we do, but our approach is to respect the subsidy control rules as set out, particularly in the World Trade Organization agreement on agriculture, which we are all looking to honour and which the powers in the bill are certainly in line with.

Alasdair Allan: But you recognise that voices in the sector have raised concerns about such scenarios.

John Kerr: Yes, certainly. We have discussed with the NFUS what it, in the form of Jonnie Hall, told the committee. There is clearly an opportunity for that sort of frustration to happen, but we do not anticipate any Governments or Administrations in the UK doing that at this time.

Jim Fairlie: Just to follow up on Alasdair Allan’s question, I wonder whether the Scottish Government’s support through base payments—and we are talking about 80 per cent of the tier 1 and tier 2 payments here—crosses over into the internal market act. As Jonnie Hall alluded to, Scottish producers could, in theory, be given a market advantage with regard to the price that they could look for in the marketplace.

Andrew Crawley: I can only echo what John Kerr has said. In relation to the internal market act, we have not identified any issues of the kind that you have described. Of course, that does not

mean that someone might not come forward in the future and claim that there is an issue, but that is no different from any other area of Government activity. Ministers intend to abide by the law, and that includes relevant UK legislation.

In relation to subsidy control, which is a different thing, we have not identified any issues that are causing us concern. That might change in the future in the same way that anything else might change, but, as matters stand, we think that what is proposed can be delivered within the law, including applicable UK laws post-Brexit such as the subsidy control and UK internal market legislation.

Jim Fairlie: Good. Thank you.

The Convener: That was very reassuring. I call Karen Adam.

Karen Adam (Banffshire and Buchan Coast) (SNP): Thank you, convener, and good morning to the panel. I want to thank you for your contributions thus far—they have been very helpful.

Why has the sunset clause in the Agriculture (Retained EU Law and Data) (Scotland) Act 2020 act not been included in the bill? Why is it not appropriate?

John Kerr: I will start and then hand over to someone else.

When that legislation was going through the Parliament, there was a concern that we would just stop there and continue with retained EU law indefinitely. That was how the concern was articulated at the time, so the approach that we arrived at was to put a sunset clause in that act to encourage the Scottish Government to bring forward legislation that we had committed to introducing in this Parliament, and which we have now introduced. In that regard, the clause in that legislation has largely done its job, because we now have the bill before Parliament.

That said, the clause has consequences for on-going schemes that are not helpful in managing our transition, and that is why we have proposed to repeal it. Our view, then, is that the clause has done its job, because it has ensured that we have brought forward a new approach to supporting Scottish agriculture and crofting through this bill. We have done what we said that we would do, and we now need to repeal the clause to get rid of some of the more difficult implications that it will have for us, and which I am sure Andrew Crawley can expand on.

Karen Adam: I was going to ask about those difficult implications. Can you give us some examples?

Andrew Crawley: I have two comments on this question, which we have obviously anticipated.

First, sunset clauses are unusual. As the committee will know, having scrutinised a great deal of legislation, sunset clauses are not common. There is a good reason for that: they create cliff edges, which sometimes means that we have to come back and use up parliamentary time dealing with their consequences. That, though, is a general point: we do not normally include sunset clauses in legislation.

As for your second question, on how it might create an issue, that follows from our proposal to transition from current CAP-based schemes to future rural support, our intention to manage that transition over an appropriate period and our having the ability to be flexible about that period in response to changing demands and circumstances. To the extent that we will continue to run CAP-based schemes, we consider it appropriate—indeed, essential—that we are able to modify those schemes to reflect current circumstances. Not being able to do so would be to neglect our duties in relation to good governance.

We expect some CAP-based schemes to continue to run after 2026, which is when the sunset clause is to kick in. If the clause is not repealed, we will not be able to simplify or improve those schemes, and that, in our view, would be unwise, because it would mean that the schemes were not fit for purpose and would not be delivering what farmers and land managers expect of us in terms of a good transition and good administration.

Therefore, generally speaking, we avoid sunset clauses, because they create problems, and the specific problem that this particular sunset clause has created is our not being able to simplify and improve legacy schemes after 2026, when it might well be very advantageous to do so.

Karen Adam: That was helpful. Thank you.

Alasdair Allan: The policy memorandum sets out the workings of assimilated rules and sunset clauses, but can you say something about whether the retained CAP rules will, at some point, need to be replaced with new regulations? How will that be achieved, and how will things be maintained into the future?

Andrew Crawley: I am happy to answer the technical question. On how we would deal with CAP schemes whose purpose is spent, we are, essentially, taking powers through the bill to turn them off. We would make regulations that would revoke them, and they would, of course, come to Parliament to be scrutinised in the usual way.

John Kerr: The general, non-technical answer is that, through the bill, we are taking powers to replace all the CAP schemes. We anticipate having done so at the end of the transition journey with new enabling legislation that sets out the new schemes.

The Convener: I have a legal question that follows on from that. Section 19 gives the Scottish ministers a power to restate CAP legislation. That mirrors the provision in the Retained EU Law (Revocation and Reform) Act 2023. Why have you chosen to replicate those powers rather than use that act? Why are they not time limited, as they are in that act?

Andrew Crawley: I have some hesitation in respect of speaking for the UK Government. It, of course, knows why it decided to time limit the powers in UK legislation. I go back to what I said earlier about sunset clauses being unusual. Obviously, the UK Government has a very different view on the merits and disadvantages of Brexit, and its views are not shared by the cabinet secretary or the Scottish Government in general. As a point of principle, we do not see a need to time limit such powers. That is why we are not seeking to do so.

On the specific question on restating, we see the advantage of the approach that the UK Government has taken in relation to modifying retained EU law. We think that it is sensible to be able to restate, and the bill sets out some of the ways in which restatement can be progressed, including in responding to technological changes. We might want to take advantage of that. I am speaking hypothetically but, as part of the transition, ministers might take the view that they want to make a single set of regulations that include CAP rules and new rules. We would be able to do that, because we would have the restatement power. That kind of issue used to come up when we were a member of the EU. The powers in section 2 of the European Communities Act 1972, which are very wide, enabled us to do such things.

We want to be judicious in our approach. We are not looking for sweeping powers to do anything that we want to do. We are trying to focus on the things that we think would ensure that the schemes that we develop are clear, understandable and helpful to farmers and land managers. That is why we are seeking such powers, but we see no need to time limit them, because we have our own views on the transition. Obviously, the cabinet secretary will defend those when she gives evidence.

The Convener: Thank you. That is helpful.

Ariane Burgess: My question is about continuing professional development—we have

skipped forward. I would be interested in understanding how the Scottish Government anticipates using the powers relating to CPD. With the move to regenerative agriculture, nature restoration and climate mitigation and adaptation, farmers and crofters will need training, knowledge exchange and other support in order to meet the higher standards in tiers 2, 3 and 4. I would be interested to hear what the thinking is—this is maybe beyond the scope of the bill—on whether sufficient funds are allocated to CPD to ensure the transition to the new framework and whether it is a just transition.

11:00

John Kerr: As far as continuing professional development is concerned, it is important for me to say that farmers and crofters are already highly skilled individuals, whose skills range from an ability to work with heavy plant such as fearsomely large harvesting equipment to their role in acting as the midwives for our farmed livestock. Their range of skills and the conditions in which they have to use those skills are acknowledged by the Government. The cabinet secretary has had first-hand experience of seeing those skills in use, and some of us have had first-hand experience of using them. Our acknowledgement of that should not be underestimated.

However, as you said, the climate is changing, and we must help farmers to adapt to that. Public expectations of what farmers should deliver for the support money that they receive are also changing, so we see an advantage in supporting farmers with continuing professional development. The need to support learning for people in our rural communities is among those areas of the bill that have been most pressed by the sector, and it is also an issue that came out of the rural learning review.

Essentially, the powers in question have been proposed because the industry asked for them, and they will be deployed for exactly the purposes that you set out in your question.

Ariane Burgess: Will sufficient funding be provided for that?

John Kerr: I am sorry—I forgot about the budget part of your question.

It would be the view of the team who support that work that adequate budget should be allocated to it. Of course, budget decisions are for ministers rather than officials, but we are very alert to the argument about the need to have a well-trained and responsive sector, particularly given that we are going through a transition. As the funding for that is a relatively modest share of the budget at the moment, an increase in that funding will have rather less of an impact on the other

elements of the budget than some of the things that we have discussed today would do.

I am optimistic that we will be able to deploy a reasonable amount of money to CPD for farmers, although it could probably be said that there is never enough. We also need farmers to engage with it, of course, which they do.

Rachael Hamilton: I have a supplementary question on CPD. The explanatory notes say:

“Compliance with the relevant CPD requirements may be made a condition of certain support schemes.”

Is that the case? Will farmers get money taken off them if they do not comply?

John Kerr: We are working through whether and how we would use those powers. If we truly want to be a world leader in sustainable and regenerative farming, we need to upskill our sector to enable that to be the case. The extent to which that needs to be compulsory rather than voluntary is an issue that we are working through with the sector at the moment, but the powers are there, should we decide that an element of compulsion is required for some elements of support.

The Convener: I have a question on the back of that. The section on CPD is quite extensive. Why have such an extensive policy on continuing professional development if, ultimately, you will not use it as a stick to withhold payments in certain schemes if CPD is not undertaken? Given that, at the moment, there is no detail on how penalties might be applied, is it reasonable for the Parliament to pass powers that might mean that, in the future, people might have to have a green card-style qualification in order to farm and draw down payments?

John Kerr: It is already the case that some farming activities require a particular qualification—for example, that is the case with the application of plant protection products—so requiring people to have a particular qualification in order to do a particular thing would not be new. However, as I said in answer to the previous question, the team is working through what is appropriate in that regard. What we want to do with the policy is take the industry forward but take it with us. We do not want to use sticks if we can avoid doing so.

The Convener: Okay—thank you.

Beatrice Wishart: The Government consulted on modernising tenancies and ensuring that fair work conditions are applied to all Scottish agricultural workers. Why were those not explicitly included in the bill, and how will those changes be pursued?

James Muldoon: We announced in the programme for government that the modernisation

of agricultural holdings and tenancies at large will be placed in the land reform bill. That decision was made by ministers and echoed the previous work on that subject in 2016. The land reform bill was viewed as the most appropriate vehicle for taking that forward.

It is important to be clear that fair work is a Scottish Government policy. As ministers have said plainly, when it comes to public support, the expectation is adherence to the fair work outcomes. The cabinet secretary was clear on that when she spoke at an NFUS event last month. Put simply, it is not in the bill because it has been adjudged that the most effective way of delivering those fair work outcomes throughout the industry is the administrative solution of looking at the eligibility criteria for future support.

Ariane Burgess: Will meeting fair work standards, including paying the agricultural living wage, be a possible condition for support under the new scheme?

James Muldoon: Fair work applies to the real living wage. We are very aware of the important work of the Scottish Agricultural Wages Board, which looks at issues that are unique to agricultural employment, beyond fair work matters. There is no intention to look only at the Agricultural Wages Board in that context, but the Scottish Government's position is clear that adherence to fair work conditions is a prerequisite for public support.

Rachael Hamilton: We have not really covered the part of the bill that deals with animal health and welfare standards and requirements. We have so much to cover, and consideration of that subject always seems to be an afterthought. The British Veterinary Association's response to the consultation said that the relationship between vets and farmers is absolutely integral. Its ask of the Scottish Government is to allow the veterinary sector to play a part in shaping the bill, and it seems as though it is disappointed so far that the part that it could play has not been considered. Might you consider that?

John Kerr: I have not spoken to the BVA in person, but I am sure that colleagues in animal health and welfare will have done so. I am surprised that it is disappointed, but we will look to address that, so thank you for flagging it to us. Animal health and welfare is a key component of the powers that we are taking and the work that we are doing in the agriculture reform programme. The chief veterinary officer and other members of the industry are working together to bring forward proposals that should reflect input from vets on the ground. That is certainly our intention, so if the BVA feels that it has been overlooked, we can look to address that.

Rachael Hamilton: I have a brief follow-up comment. We have talked a lot about modelling. It is important that we are able to look at the outcomes that we are trying to achieve, then work out how we get to that point. The feedback is that the outcomes for that part of the bill are not clear—it is at the end of the bill, so perhaps we always think of the subject as one of the last ones to consider, but it should be integral, because ensuring that the right standards are met across the agriculture sector will reduce our carbon footprint and improve our performance on climate change targets. It is important that there are efficiencies in production, as you will be well aware.

Rhoda Grant: Given some of the evidence that the committee saw during our visit on Monday, is there anything in the bill that would stop people from accessing funds to buy shared equipment? We saw some great equipment during our visit, but for small-scale farming and crofting, it seems that it is only affordable if it is purchased jointly. Is there anything in the bill that would stop grazing committees or co-operatives from coming together to apply for funds for shared equipment? Would that have an impact on their ordinary agricultural funding applications?

James Muldoon: Naturally, subject to future budget considerations, the powers in the bill would enable such scenarios, should ministers wish to take them forward as you describe.

The Convener: Finally, I will ask about the scope of the bill. You will be aware that at stage 2, I have the discretion as convener to decide whether amendments are within the scope of the bill. Part 4 of the schedule, which is on rural communities and economy, clearly states that assistance can be given to people to

“live, work or operate in rural areas, (or to assist or encourage others to do so)”.

That schedule also refers to assisting a person to start a business. The criteria for that is that the business is

“relating to agriculture”

or

“otherwise, in or for a rural area or community.”

As you can see, that part is very wide, and it uses the words “to live”, which would suggest housing. There is no limit to the scope of part 4 of the schedule—it is incredibly wide. There are no parameters in the bill that would constrain amendments being lodged regarding any development—economic or social—in rural areas. What are your comments on that?

John Kerr: It is important to recognise that we did not want to diminish any of the powers that ministers have that were conferred by the previous

policies set out by the EU, which included a rural development programme. However, the amount that can be achieved by those powers is, of course, limited by any allocation of budget. The rural development programme was relatively modest in its overall share of the budget. That is my perspective on why the bill is drafted in the way that it is. In terms of the reach of that part of the schedule, Andy Crawley may want to say something specific about the technicalities.

Andrew Crawley: I will decline to be drawn into a discussion about whether any particular amendment would be within scope. Obviously, we would take a view as an Administration, which the convener may or may not agree with.

The Convener: Thank you very much. I wanted that on record.

Thank you for your participation in the session, which has been hugely helpful. That concludes business for today.

Meeting closed at 11:13.

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