



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 9 October 2024

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 9 October 2024

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RURAL AFFAIRS AND ISLANDS COMMITTEE

25th Meeting 2024, Session 6

CONVENER

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

DEPUTY CONVENER

Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

- *Colin Beattie (Midlothian North and Musselburgh) (SNP)
- *Ariane Burgess (Highlands and Islands) (Green)
- Rhoda Grant (Highlands and Islands) (Lab)
- *Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
- *Emma Harper (South Scotland) (SNP)
- *Emma Roddick (Highlands and Islands) (SNP)
- *Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Jim Fairlie (Minister for Agriculture and Connectivity)
- Lewis Kerr (Scottish Government)
- James Muldoon (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 9 October 2024

[The Convener opened the meeting at 10:32]

Subordinate Legislation

Rural Development (Continuation of Operation) (Miscellaneous Amendment) (Scotland) Regulations 2024 [Draft]

The Convener (Finlay Carson): Good morning, and welcome to the 25th meeting in 2024 of the Rural Affairs and Islands Committee. I ask everyone present to ensure that their electronic devices are switched to silent. We have received apologies from Beatrice Wishart and Rhoda Grant, and Elena Whitham and Colin Beattie are joining us remotely.

This morning's business is consideration of an affirmative Scottish statutory instrument, the Rural Development (Continuation of Operation) (Miscellaneous Amendment) (Scotland) Regulations 2024. I note that the Scottish Government has issued a correction slip to the explanatory note accompanying the regulations.

I welcome to the meeting Jim Fairlie, Minister for Agriculture and Connectivity, and his Scottish Government officials James Muldoon, head of the agriculture support policy and development unit, and Lewis Kerr, who is a lawyer.

The committee considered the SSI at an earlier meeting but agreed to defer further consideration until today. Since we last heard from the minister, the committee has held a short call for views on the instrument, to which we received 19 responses from stakeholders. The minister also wrote to us about the instrument on 27 September.

I invite the minister to make a short opening statement.

The Minister for Agriculture and Connectivity (Jim Fairlie): Good morning, convener, and thank you.

We all know why I am back here. I hope that we can make some progress today with passing these crucial regulations. I note the issues that were raised last time at committee and in the recent committee call for views. Although I appreciate the interest shown, there are some issues that need to be addressed to avoid any further unnecessary confusion.

I make it clear to the committee, stakeholders and customers that, in extending the current system of payments to 2030, the regulations neither cut across nor replace the published agricultural reform route map. The route map makes it clear that there will be no cliff edges in support and that there will be a phased transition from legacy support into the new four-tier framework. It also states that Scottish rural development programme—or SRDP—schemes will continue with no change until at least 2026. Further engagement is required on how the support will be delivered from 2027.

The regulations are simple and straightforward by design. They are not about making changes to policy, outcomes or payments. That was never their intent, nor is that what was publicly committed to. All that the regulations do is extend the legal basis for continued SRDP support, at programme level—and by “support”, I mean all support, not only less favoured area support, but support for crofting, agri-environment, forestry and community-led local development, to name but a few. If the regulations are not approved, there will be no support and no phased transition, only a cliff edge.

I make it clear—and reiterate—that the extension to 2030 does not mean no change. It does not mean that every scheme will run, as is, in every year up to 2030. It means that, instead of constant cliff edges and annual visits to Parliament to extend schemes, we will instead come back here when there is a change to make or when we bring forward replacement support. The route map sets out that phased transition.

The regulations offer a pragmatic approach that provides continued assurance and a backstop. They enable us to focus our collective time and resource on the co-development of new support within the four-tier framework, using the powers in the Agriculture and Rural Communities (Scotland) Act 2024.

Questions have been raised about the lack of payment rate change and about why we have not rebased the less favoured area support scheme. The cabinet secretary made it clear when she said:

“However, to rebase the scheme now would be a costly and resource-intensive exercise that would deliver little in terms of benefit, and would detract from work on a future replacement. It is right that we focus collective efforts on ensuring that support for constrained areas is the most effective it can be in the new support framework.”

That situation has not changed. When I spoke to Peter Kennedy of the NFU Scotland LFA committee yesterday, he reiterated the position that neither the LFA committee, nor NFU Scotland, is calling for rebasing to take place at this point. That has been made abundantly clear in the call

for views response, which also states NFUS's complete support of the regulations.

The same reasoning applies to other legacy SRDP support, too. We can continue to attempt short-term fixes to complex legacy support or, instead, focus on the co-development of future support. We cannot do both. The route map is clear that LFASS will continue unchanged until at least 2026.

I am sure that we will discuss the call for views later, but I want to highlight two quotations that provide a good summary of the situation. NFU Scotland said:

"Issues concerning the current operation of LFASS, such as possible rebasing, are completely separate to this SSI and must not be conflated."

Also, the Western Isles Council said that it was

"supportive of the continuation of the schemes until other suitable schemes and programmes were implemented."

The regulations are about continuing SRDP support, removing a cliff edge, and underpinning the route map's phased transition—that is it. Discussions about future changes and the introduction of replacement support are not for these regulations, but for the agricultural reform programme, and those discussions will continue in line with the published route map.

To be blunt, I have to say that you cannot make changes or improvements to, rebase or transition from something that does not exist. That is the fundamental issue at stake. Without these regulations, there will be no SRDP support. I hope that we can provide some assurance to our farmers, crofters and land managers today, and I hope that we pass the regulations.

I am happy to take questions.

The Convener: There are certainly plenty of quotations to choose from out of the 19 responses that we received. We need to make it clear that—and I think that I speak for the committee—we do not believe that there is any desire to reach this cliff edge. That is not what the committee wants, nor is it something that we would consider happening.

However, real concerns have been expressed about a lack of proper and broad industry consultation up until now. After all, it has been quite some time since we left Europe. Although NFU Scotland says that LFASS going on until 2030 will allow for "thorough consideration", frustration and impatience are building across the agricultural industry at the fact that there appears to be no pace when it comes to replacements for LFASS and the schemes.

We are concerned—I certainly am—about the 2030 date. As the minister knows, throughout the

passage of the Agriculture and Rural Communities (Scotland) Bill, there was a focus on Parliament's role in scrutinising the secondary legislation. The idea that this committee would be put out by having to look at legislation to extend schemes is ill placed; in fact, the committee would welcome that and would not see it as a waste of time.

One of the committee's main issues is with the 2030 deadline. Why is the Government not being more ambitious and accelerating the development of plans so that 2030 does not have to be mentioned? We could be looking at a three-year extension to the 2024 deadline.

Jim Fairlie: I will try to be as plain as possible.

There is absolutely no desire to hoodwink, play the industry off against itself or create any division; we simply need to get the regulations in place. You have mentioned LFASS again in the context of these regulations, but that is only one part—the regulations are about the entire SRDP. They allow us to put in place legislation that gives us a backstop until 2030. There will be numerous SSIs and therefore numerous opportunities for us to come back here. We will disagree on some points—I have absolutely no doubt about that—but this SSI purely allows us the time and space to go away and do the work that is required in conjunction with other stakeholders.

I picked up in some of the responses to your call for views that some people feel that they are not being listened to. I give an absolute commitment that, as we develop the schemes, I will engage with as many people as I possibly can to ensure that we get them right. That is the most important thing about these regulations—we need a box that we can put the other regulations into. We will, as much as we can, co-design and fully discuss those regulations with the industry as we move forward, but getting this SSI done now puts that matter to bed, because we will know that we have a backstop until 2030. Everything else will come in behind that.

As we develop and grow these schemes, I would much rather spend time looking at and discussing those matters with the industry than have to keep coming back and repeatedly making these regulations. There is no point in doing that; it is not necessary and it is just a waste of time. I would rather that we focused on the things that will be changed, and I would really like to get these regulations done so that we can move on to the next stage.

The Convener: I absolutely refute the idea that this is a waste of time, because it is giving Parliament the opportunity to scrutinise what the Government is doing. Having an earlier deadline than 2030 allows the committee to get you and your officials in front of us to carry out proper

scrutiny, whereas, if we pass these regulations, there will be no opportunity, legally, to bring you back—

Jim Fairlie: But convener—

The Convener: —to scrutinise them.

Jim Fairlie: I am sorry for interrupting you.

The Convener: Please continue.

Jim Fairlie: We will come back with every single piece of legislation that we develop as we go along so that the committee can scrutinise it. I have made an open commitment that we will come back to talk to the committee and to stakeholders.

The entire point of passing these regulations is to get this bit done, because they merely provide the mechanism to allow us to make payments. They are not about what the payments look like or their size or shape, and they have nothing to do with what the payments are; they are entirely about the machine. They allow us to say, “We will have an SRDP payment for a calf scheme or a Scottish upland sheep support scheme”, or whatever it might be, and we can then put that into a piece of legislation and start to make payments as a result. These regulations are just give us the backstop so that we can get on and do the other stuff.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Can I have a supplementary, convener?

The Convener: As long as it is short. I want to bring in Emma Harper.

Rachael Hamilton: It is a short supplementary.

The rural support scheme needs to be delivered from 1 January. There is absolutely no cliff edge here; we have an opportunity to scrutinise these regulations properly. Eighteen people have come to the committee with their views on this. There is no cliff edge, minister—you are making it up.

Jim Fairlie: Pardon?

Rachael Hamilton: You are making up the term “cliff edge”—

Jim Fairlie: Oh, no, no—

Rachael Hamilton: There is no cliff edge. There is an opportunity for a redrafted SSI to be brought to the committee in November that would address the concerns of the stakeholders who have written to the committee over the past week in response to our call for views.

Jim Fairlie: I refute that. I am more than happy to continue the conversations with the people who have responded to the call for views. I have a very good working relationship with the vast majority of them, and I have offered to meet most of them.

What you have described is not the position that we are in. We want to get this done to give us a backstop so that we can get on with making the regulations that are required for the industry. That is what the industry is looking for.

Rachael Hamilton: Can I please have confirmation that you have 40 days before the deadline of 1 January to get this done? If so, that does not mean that the committee needs to pass the regulations today.

Jim Fairlie: Is it 40 days?

Lewis Kerr (Scottish Government): The rule is 40 days for laying it.

Jim Fairlie: The rule is 40 days for laying it, so, yes, that is a fact. However, these regulations get this done, and allow us—

Rachael Hamilton: So you will take back your refuting what I just said.

Jim Fairlie: No—I was refuting your comment that I am making it up.

Rachael Hamilton: You are making up the term “cliff edge”. It is not a cliff edge.

Jim Fairlie: I am not going to get into semantics with the member. I am asking the committee to pass the SSI so that we can get on with the serious work of getting in place the support systems that the farming community wants.

10:45

Emma Harper (South Scotland) (SNP): Good morning, minister and officials—thank you for being here.

You say that 2030 is the backstop, but that does not mean that 2030 is when people will start doing the work and making the changes that are needed for all the different schemes, including those that you have discussed. It is not just about LFASS; there are other issues around suckler calves and so on. A lot of schemes need to be developed, and my understanding is that resources are already driving those changes forward.

In the past fortnight, the committee has received a lot of evidence from different people that shows that there is a level of concern. One response says that you

“gave assurances that this does not necessarily mean that schemes ... will go to 2030”.

Can you reassure the committee that, should we approve the SSI today, although 2030 will be the backstop date, that does not mean that nothing else will happen before then?

Jim Fairlie: It is purely a backstop date, and I can guarantee that things will change before then.

I absolutely do not minimise the issues that were raised in response to your call for views. However, there has been a general misunderstanding of what the SSI will do. As I keep reiterating, it will not change anything, other than to give us the mechanism to be able to make payments as the schemes change as we go along.

Convener, I get that you do not agree with me—

The Convener: I do not think that there is a misunderstanding about what the SSI will do. There is absolutely no misunderstanding among committee members, nor in the responses that we got. We understand exactly what the SSI will do. It is a payment mechanism—that is all.

The concern is about how the 2030 date fits in with the route map, because there is no ambition with a 2030 deadline. I know that you are saying that the date allows for flexibility, but it does not fit in with your route map, because 2030 is well beyond when you need to deliver.

There are real concerns about the pace at which cross-industry discussions will take place regarding retargeting and rebasing. The SSI raises a range of concerns, but I make it absolutely clear that there is no misunderstanding about what the instrument itself will do.

Jim Fairlie: Okay. On your point about consultation with industry, that is on-going as we speak. Those conversations are happening with farmers across the country through the agriculture reform implementation oversight board, NFUS Scotland and the National Sheep Association. They are happening regularly to allow officials to bring forward the advice and the conversations that are then put to ministers. That is how the process works.

The Convener: You mentioned ARIOB, as you did a number of times at the previous meeting. ARIOB should not be the platform for this type of consultation, because—

Jim Fairlie: It is not the only one.

The Convener: No, but we hear that all the time in the correspondence that we get. We got the message from the Institute of Auctioneers and Appraisers in Scotland, Scottish Land & Estates, the Scottish Tenant Farmers Association, the National Sheep Association, the Scottish Beef Association and the National Beef Association that they are all in the dark about the consultation in relation to retargeting and rebasing specifically. They feel that they are not being consulted, and they have concerns that, in effect, ARIOB's terms of reference and its role in all this need to be reviewed.

In addition, you have often referred to the NFUS, but that is only one membership organisation, so there is concern that the

consultations and the co-development are not happening at this stage.

Jim Fairlie: I have read through all the responses to the call for views, and everybody agrees that the SSI should be passed. Everybody is asking for more consultation—I absolutely accept that. I have read the response from Scottish Land & Estates, and I invite its representatives to speak to me so that we can have a conversation about the issues. All the other people who have written in accept that the SSI needs to be passed to allow us to have those conversations. I give an absolute commitment here and now that I will speak to every relevant organisation that wants to speak to me, and we will have those conversations.

There is nothing that I am trying to hide or delay. I cannot give you more of a commitment than that, convener.

The Convener: Okay.

Rachael Hamilton: Who determines the membership of ARIOB, and what criteria are used to decide that membership?

Jim Fairlie: I do not know. I was not part of that process.

Rachael Hamilton: Do ARIOB members represent themselves as individuals, or do they represent their organisations?

Jim Fairlie: My understanding is that they represent themselves as individuals.

Rachael Hamilton: Okay, so when you say that, for example, the NFUS agrees with the SSI and then refer to ARIOB, do you mean that Martin Kennedy agrees?

Jim Fairlie: No. I mean that the NFUS, as an organisation, has come to me and told me that. I have spoken directly to the convener of the LFASS committee, and he said that there has been a misrepresentation of the NFUS's position on the acceptance of the SSI. It is not just Martin Kennedy; it is people in the organisation who talk to the Government on a regular basis.

Rachael Hamilton: You are saying that this is all to do with co-development and that you are happy to speak to groups and organisations, including the 18 or so that responded to the call for views on the SSI. In that case, will the co-design process be improved, and will the membership of ARIOB be widened to reflect people's concerns?

Jim Fairlie: I do not chair ARIOB. That would be a question for the cabinet secretary.

As for your question about improving the co-design process, we already have a very well co-designed organisation. You are right that I have mentioned ARIOB on a number of occasions, and

I have referred to the NFUS, too, so let me broaden that out. Our officials are in regular dialogue with farmers right across the country. I am going to Argyll and Bute very shortly—I do not know what the dates are—and I was on the islands over the summer to meet farmers and crofters. I will be travelling to the islands again later this year or early next year to speak to crofters.

That on-going dialogue might not be seen or visible—we might not be taking photographs of it—but it is happening on a regular basis. All that I can give you is the assurance that nobody is more determined to make sure that this works than I am, and I will do my damndest to ensure that we get a system about which the farming community will say, “Yep, we can buy into that. That works for us.”

Rachael Hamilton: The committee has written to the cabinet secretary to ask whether it can have an observer on ARIOB. Our frustration is that we are in the dark and cannot understand what feedback you are getting from ARIOB. A lot of the criticism about the SSI is about the way in which it has been laid without a new consultation, as well as this 2009 payment. Things have culminated in committee members becoming frustrated, too. It would be helpful if we understood what feedback the cabinet secretary was getting.

You have been charged with coming before us today to deliver this. You have been arguing that ARIOB is part of the co-development and engagement process, but you are not responsible for anything to do with it, so you can see our frustration.

Jim Fairlie: I sit on ARIOB—

Rachael Hamilton: Oh.

Jim Fairlie: —but the cabinet secretary co-chairs it with Martin Kennedy. I was asked about the make-up of ARIOB, but I do not know how it was created, because I was not there. It was set up three—or two and a half—years ago.

As for the letter that you are talking about, I have not heard about it or seen it, and I have no idea whether it has been delivered to officials.

Rachael Hamilton: I have other questions, convener, but perhaps other members want to come in.

The Convener: Ariane Burgess indicated that she wants to come in.

Ariane Burgess (Highlands and Islands) (Green): Without rehashing anything that has already been brought up, my understanding is that the SSI is required to continue the SRDP payments, but it has also flagged up and brought to light the issue of the rebasing of LFASS. It has,

in fact, provided a great opportunity, because we now see that people are concerned about LFASS.

I understand from reading the policy note that, in relation to the SRDP, you have not provided for reporting to 2030 because the rural support plan is coming in. The policy note says that the reporting requirement

“has not been extended until 2030, as reporting of legacy CAP schemes”—

which are all the things that we are talking about, such as LFASS, the agri-environment climate scheme and the forestry grant scheme—

“is a requirement of Rural Support Plan reporting in the ARC Act.”

Therefore, there is no need to report under the SRDP because the reporting will fit in under the rural support plan. Is the SRDP on a parallel with the rural support plan, or will it get tucked inside it, with reporting continuing in that way?

Jim Fairlie: Okay—that is a technical question.

Ariane Burgess: I know, but that is part of what is going on. There is a feeling that, because of the extension to 2030, we will not have any reporting, but the policy note says that the rural support plan will require that legacy schemes are reported on.

Jim Fairlie: I will let James Muldoon answer that.

James Muldoon (Scottish Government): The first rural support plan will note the transition from the legacy schemes to the future four-tier support model. The legacy schemes will exist through that reporting period, so they will still be reported on, but that is where the route map matters.

Ariane Burgess: This flowchart that I have is the route map.

James Muldoon: Yes, it is. It has LFASS continuing to at least 2026. That will feature in the first rural support plan until it is replaced, as ministers have committed, by a complete replacement scheme for LFA or area of natural constraint support, which will be in tier 2 of the future support model.

Ariane Burgess: Okay, that is helpful. There will be reporting and you just have to do something technical to allow the reform to move forward. I feel like we need some diagrams. Perhaps that would be helpful.

When will we see the first rural support plan?

James Muldoon: The intention is for that to be laid before the Parliament in 2025.

Ariane Burgess: Are you able to say what kind of reporting package will come with it?

James Muldoon: No, but I can refer back to the skeleton document that the cabinet secretary shared with the committee for stage 3 of the Agriculture and Rural Communities (Scotland) Bill, which gives an overview of the monitoring and evaluation. It shows the outcome level related to the bill outcomes and then goes down through the sub-output levels.

Ariane Burgess: We definitely need some diagrams as we go forward with the programme.

The rebasing of LFASS was also flagged up. As you pointed out, the route map talks about LFASS continuing until 2026, and then it says that

“Engagement”

will be

“required with farmers and crofters on how this type of support will be delivered from 2027”.

Will you wait until that point to start addressing that or, because of the issue that has been raised, is it time to bring that work a bit further forward in your schedule? It seems like people are concerned about it.

James Muldoon: Naturally, the pace of change will be a question for ministers. However, I assure you that officials are aware of the issues that have been raised, not just following the call for views but in our regular, on-going discussions with multiple stakeholders on the matter. We continue to think about what the most effective form of LFA or ANC support would be.

Jim Fairlie: Those conversations are already happening.

Ariane Burgess: I come back to the commitment to co-design. We talk a lot about ARIOB, but our papers say that the Government

“refers to its commitment to co-design those new schemes and will continue to engage with stakeholders through mechanisms including the ARIOB, wider Agriculture Reform Programme and during the passage of secondary legislation”.

Will you explain to us what the agriculture reform programme is so that we can understand it a bit more? How are you engaging with people through it? Is that what you talked about?

Jim Fairlie: There are multiple stakeholders. For example, Scottish Environment LINK responded to the call for views. Everyone who has a vested interest in what we are trying to deliver is part of those conversations. If there is concern about ARIOB, I am more than happy to have conversations outwith and beyond it.

Ariane Burgess: I am just wondering about what our papers say about the “wider Agriculture Reform Programme”. Do you use that programme to engage with wider stakeholders?

Jim Fairlie: Yes.

Ariane Burgess: It would be good to understand how that works. Could you perhaps unpack that for us and tell us with whom you are engaging through that programme in writing?

11:00

Jim Fairlie: Yes, we could do that.

The Convener: Before we move to Emma Harper, I seek some clarification. What detail is there in the route map beyond 2027?

Jim Fairlie: There is none beyond 2027, I think. In the route map up to 2027, we have the launch of elective complementary schemes and the refreshing of the basic payment scheme for the base payments. Then we go up to 2030, when there are various targets for peatland restoration and so on.

The Convener: In effect, then, despite the extension to 2030, there is no detail in the route map beyond 2027.

Jim Fairlie: Not at the moment, no.

The Convener: I just needed to get that on the record.

Emma Harper: We might have strayed a wee bit from the technical aims that the SSI is supposed to be achieving. There has been a lot of discussion about rebasing, retargeting—however we want to describe it—and co-design. Part of what needs to happen is the promotion of trust and engagement, including with young farmers, new entrants and our next-generation farmers, and that is what seems to be coming out of this.

However, I want to bring our discussion back to the fact that we are supposed to be approving the statutory instrument so that payments can continue. Am I correct in understanding that this is a technical instrument?

Jim Fairlie: Yes, that is correct.

Emma Harper: Thanks.

Emma Roddick (Highlands and Islands) (SNP): Minister, can you be very specific about the impact if the SSI is not passed today?

Jim Fairlie: If it is not passed, no payments will be made from 2025 onwards.

Emma Roddick: And is it right that there is no room within the 40 days?

Jim Fairlie: There would be no legal mechanism in that respect if the SSI is not passed.

Emma Roddick: Thank you.

The Convener: But we should make it clear that it only has to be passed 40 days before 1 January. It does not have to be today.

Jim Fairlie: Yes.

The Convener: Okay.

Rachael Hamilton: I have a supplementary to Finlay Carson's question about detail beyond 2027. Stakeholders have said that, with the absence of that detail, it will be difficult to make decisions with regard to the continuation of LFASS without a clear understanding of the wider change in farm funding. It also speaks to issues that the Government might have with regard to the transition that farmers are trying to make in order to meet nature and climate goals. What is your response to that?

Jim Fairlie: Work is on-going on all aspects of the programme and what it will look like. However, I come back to my point that the SSI does not touch any of that. It allows us only to put the mechanisms in place to continue to make payments.

We have already been through all the other things that will happen. We have talked about the AECS and the beef scheme. We have talked about all the things that are coming in and which are changing, all of which have been discussed with the farming community and the wider community in order to deliver them. Those things will accelerate as we go through the process, and other things will be added. We will have further negotiations; we will disagree about stuff and we will change stuff, because that is the process that we are in. We are designing a completely new system while trying to ensure that the current one is stable.

Rachael Hamilton: Why did you not consult on the SSI, given that it reflects stocking levels in 2009?

Jim Fairlie: Again, the SSI has nothing to do with stocking levels in 2009. The SSI is entirely about creating the mechanism to allow us to continue to make payments. If people want to talk about stocking levels in 2009 or rebasing, those discussions will be had.

As for the implementation of other policy that is coming, all of that is still in the mix. I have just confirmed to Ariane Burgess that we are having conversations right now on how future LFASS support will shape up. That is being done in conjunction with the farming community and wider stakeholders.

Rachael Hamilton: You did not answer why it was not consulted on. The consultations that were relied on were from 2018, and those payments were based on stocking levels in 2009.

Jim Fairlie: I reiterate that the SSI has absolutely nothing to do with funding levels or the policy intention back then. It is purely to give us a mechanism to continue to make payments.

Rachael Hamilton: Okay. How has LFASS addressed declining stock numbers more widely?

Jim Fairlie: How has LFASS addressed declining stock numbers?

Rachael Hamilton: Yes.

Jim Fairlie: It has not. There have definitely been calls for changes to be made, and we are wide open to hearing them.

I come back to the point that I have just made, which is that those conversations are happening now. I would be far happier spending time talking to stakeholders and discussing how we are going to make the system work. I give the same commitment that I gave at the start of this process: nobody is more committed than I am to making sure that we have a farming system that keeps people in the countryside and our livestock sector at the sort of critical mass that will allow us to continue to have the world-beating sector that we currently have. I want to do everything that I can to protect it.

Rachael Hamilton: I agree with you on that point, but if the conversations that you have just said that you have been having about changing these payments are on-going, why have so many stakeholders expressed concern?

Jim Fairlie: I think that they are confused about what this SSI is about.

Rachael Hamilton: You are saying that the stakeholders are confused.

Jim Fairlie: Yes. They are conflating this SSI, which is a mechanism for delivery, with a method for changing the policy and the policy intent. That is not what this is. Those are two different things.

Rachael Hamilton: Assurances were previously given that replacements for the legacy schemes such as LFASS would begin from 2027. Indeed, Humza Yousaf, the former First Minister, said so at the NFUS annual general meeting. What is your opinion as to why the replacements for legacy schemes such as LFASS are now being kicked down the line to 2030?

Jim Fairlie: I dispute what you say about current legacy schemes being kicked down the road to 2030. I have just told you that we are having conversations now about what LFASS will look like as we go forward.

Rachael Hamilton: That brings me back to the absolute crux of the problem. Do you regret listening to advice that suggested that this SSI, for the reasons that you have given, should extend

the SRDP to 2030? Why did you not just say, “Look, that does not seem sensible. Let’s just take it up to 2027. Stakeholders are being expected to deliver the transition that we are asking them to make in climate change and nature goals, and we can give them certainty.” Minister, I think that this is just a mistake, is it not?

Jim Fairlie: No.

Ariane Burgess: I have a question about having to pass the SSI 40 days before 1 January if we do not pass it today. Would passing it today mean that you could just get on with things? If it were not passed, would you be prevented from doing so? I think that we have until 22 November or something. If we wanted to delay the regulations, take more evidence and get some more understanding, would that halt you? Would it create a barrier and prevent you from moving forward, or would you be able to move forward and get some more systems in place to ensure that things rolled out smoothly on 1 January?

Jim Fairlie: We would have to continue to do the work, but time is always running out. Time is the biggest enemy that I and my officials face right now, so we need to make sure that we are actually spending our time doing the things that we need to do.

If you were to look at my inbox right now, you would see that 1,000 different people want to meet me and talk to me about various different things. It is very difficult to keep saying, “We don’t have time for that, we don’t have time for that, we don’t have time for that” when I know that these things are important to the people who are writing to me. I would never easily turn down a meeting, because this matter is important, people want to talk about it and there might be something that we can do. All the time that we are doing this, we are not doing something else. Resource-wise, I would, from my point of view, rather get this done so that we can move on and get on to other stuff.

Ariane Burgess: Can you give us an indication of what other things you could be getting on with? I know that you are meeting people, but are there specific chunks of work that might be coming our way or something like that?

Jim Fairlie: No, I cannot tell you that off the top of my head. What I can tell you is that I have an inbox screaming at me that people need responses to this, this, this and this. The time that we have is very limited, even though we might be working seven days a week. There are just huge demands on everybody’s time, so if we can get this done, it will allow us to think about other things.

The Convener: In summary, then, one of the main issues—if not the main issue—is the extension of the deadline to 2030. Although it

could be argued that that gives some certainty, it is not the sort of certainty that the industry needs. In effect, it does not send a message that we want to get the job done.

Given that there is time for the instrument to be laid again and to come before the committee and be approved prior to 1 January—that is clear, because it is a 40-day process—would the minister be minded to withdraw the instrument and re-lay it with an extension to 2027? That is all the clarity that we have at the moment with regard to the route map, but it would send the right message that the Government is serious about building the new schemes and the co-design process, and that it will not, by extending the deadline to 2030, potentially kick those schemes into the long grass.

It is not a big ask, and it would not affect payments. Moreover, it would let the industry see that the Government was serious about putting in place the new schemes. It would be simple to withdraw the instrument and re-lay it with an extension to 2027 rather than 2030. Based on the consultation responses that we have had, that would make a lot of difference.

Jim Fairlie: I am giving an absolute commitment to the industry that I am working as hard as I possibly can and will continue to do so to ensure that we deliver the schemes that it wants. As far as I am concerned, the 2030 date is set—that needs to be the position that we are in, and I want to have that backstop. Therefore, no, I am not minded to re-lay the SSI. I would like you to agree to the motion today to allow us to get on with the work of delivering the processes that we need to deliver.

The Convener: You have just said that there will be no delay in the work that you need to do, and there is no desire for the committee to see that cliff edge being realised. What is the practical issue with extending the deadline to 2027 rather than 2030?

Jim Fairlie: The issue is that we have set a date of 2030 in the regulations to give us a backstop. That is what I am asking the committee to do, and it is entirely up to the committee to decide whether or not to go with that. I have already given commitments to the industry that I will do all the work that I possibly can, and I have given that commitment to the committee, too. We have set a date of 2030 in the regulations. I do not intend to re-lay the instrument unless the committee decides to vote it down.

The Convener: Yes, but my question is this: what is the downside of extending the deadline to 2027 instead? What are the negative impacts? What is preventing you from extending it to 2027 rather than 2030?

Jim Fairlie: We have taken the view that we are setting the backstop so that, if unseen circumstances come along, we have some comfort and can ensure that the payments are made until 2030.

The Convener: But you could come back to the committee with—

Jim Fairlie: I could come back to the committee every week, and you could call me back to the committee every week, but I would rather get on and do the work that allows us to deliver the schemes that we want to deliver.

The Convener: Okay. Are there any other comments?

Rachael Hamilton: A number of stakeholders have made a really good point about access to the schemes. For some farmers who have changed and developed things, fixing the date sooner—and giving them confidence, as the convener talked about—would allow them to get access to the funding that they are entitled to. Currently, no impact study has been done on whether people who have changed their businesses can access SRDP schemes. That is really important.

You seem dogmatic about this, minister, but we have done this before. We did it with the Clyde cod box, when the Government twice re-laid an SSI. It is not a big deal, and it does not mean that we are criticising the Government; it just means that we are doing our job properly and that we have looked carefully at the issue and considered the stakeholders' views. We are asking you very kindly to reconsider and bring the SSI back, and not to be stuck in the mud about it. We could consider the SSI in mid-November, and it would still be approved with no impact on the delivery of payments. I am asking you very nicely, minister.

11:15

Jim Fairlie: Okay, and I will respond very nicely in kind, Ms Hamilton.

I take on board a lot of your points about people getting access to payments, and I absolutely share those concerns. They are valid concerns that I would very much like us to address.

However, we are at the point at which I would very much like to get this SSI passed to allow us to carry out the kind of work that you are talking about. I want to spend my time dealing with that instead of coming back again to deal with these regulations, and I am therefore asking the committee to pass the SSI to give us the mechanism and provide surety that, until 2030, that mechanism is in place to allow us to make the payments that we want to make.

I take on board all your points, because I absolutely agree with you. There are things that I would really like to change. However, we cannot do that until we have a mechanism in place. Therefore, I very kindly ask the committee to pass the SSI and allow us to get on with that work.

Rachael Hamilton: I appreciate that response, minister. My preference would be for stakeholders to be able to come to the committee to explain why this payment schedule must be brought forward. That is needed so that they can have confidence and look ahead.

You know about this, minister, because you yourself have looked after sheep on a hill. You know that people need certainty—they need a vision in front of them. If they are to do the things that the Government is asking of them with regard to nature restoration and climate change goals, they absolutely need that.

This is just a ridiculous date. There is no thought behind it, and it does not give the committee confidence. The committee could have confidence if you changed the date or if you paused this, and you would still have 40 days before the deadline.

Jim Fairlie: I am inclined to disagree. I am not going to pause it and I am not going to change the date. I am asking the committee to pass the SSI. All the commitments that I have given in this and the previous evidence session stand. I will work as hard as I can to ensure that the policies that we bring forward work for stakeholders and the people whom we are going to ask to implement them.

Ariane Burgess: On the basis of what I have read in the responses to the committee's call for views, our discussion with the minister, the fact that this is a technical SSI, the fact that the rural support plan will require reporting to be carried out and the fact that various schemes will be transitioning and changing, I put on record the fact that I do not have a problem with the SSI and that I would like it to be passed today.

The Convener: As there are no further comments, I conclude agenda item 1. We now move to formal consideration of the motion to approve the instrument.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Rural Development (Continuation of Operation) (Miscellaneous Amendment) (Scotland) Regulations 2024 [draft] be approved.—[*Jim Fairlie*]

The Convener: Does any member wish to speak on the motion?

Rachael Hamilton: From what I have heard, I am still not convinced that the SSI has been brought forward with consideration. I still have severe concerns about the fact that there was no

consultation and that the SSI was based on the 2018 consultation responses. Times have changed since then—we are now in 2024. As a committee, we undertook to reach out to stakeholders, which we did. In response to our call for views, we received an unprecedented number of responses in one week. What I read in those 18 responses was concerning, because the SSI does not give farmers confidence about what the Government expects of them with regard to the transition and to achieving the net zero targets.

I recommend, therefore, that we ask that the instrument be withdrawn. I know that I will probably lose the vote, but, as a responsible member of the committee, I feel that the way in which the Government has dealt with these regulations does not set a good precedent for all the other instruments that will come before the committee. It has approached the issue in an intransigent and stuck-in-the-mud way; it is not even listening to stakeholders or this committee. I do feel very regretful about this.

Emma Harper: I quickly put on record that my understanding is that this is a technical statutory instrument. I hear what Rachael Hamilton is saying about the wider issue and the number of people who submitted responses to this statutory instrument. It shows that, as the co-design of the policy moves forward, work needs to be done to promote trust and to engage with the rural and agricultural sector, new farmers, new entrants and all of that. This is a technical instrument, but it highlights and uncovers wider work that we need to be sensitive to when engaging with stakeholders.

Emma Roddick: I make it clear that I am disappointed in the approach that has been taken. I feel that we have not had clarity on the reason for the SSI lasting until 2030, which is a point that many witnesses raised with us. It would probably have been easier for committee members to consider those views and take them forward, had conversations about the SSI happened further in advance. Had the timescales in question been shorter—say, 2027—the option would always have been there for the minister to come back and discuss with us any need for the period to be extended.

That said, I do not feel that I can vote to defer this SSI again, because the minister has made it clear that payments might not be made to farmers. It is not a position that the committee should be put in, and I regret that we have not been able to discuss it more openly.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): I thank the minister for coming along this morning.

I put on record the fact that everyone on this committee is a responsible committee member. Notwithstanding that, the fact is that 80 per cent of Scotland is a less favoured area, and I would have concerns about payments not being made, given the short timeframe that we are talking about. I would therefore echo some of the sentiments that have just been expressed by my colleague Emma Roddick. As we move forward, having a longer timeframe would be beneficial so that we can delve a little bit deeper into the issue. I just wanted to put that on the record.

Ariane Burgess: In a way, I already put my views on record before we got into the debate. However, we need clarity on the current situation with the SRDP and as we move into the rural support plan. I mentioned diagrams earlier, which I think might help. There needs to be clarity in that respect, because I think that that has perhaps been part of the missing piece. By that, I mean that people have not picked up on the fact that there will be reporting and that things will be going on as part of the rural support plan. It has been flagged up to me that the sector, and the people involved in it, have not understood that fully, even though information is out there. I have to say that I had a look at the websites for it, and it is not necessarily easy to understand and pick it all up. Perhaps some more work needs to be done in that area.

The Convener: I am very disappointed that the minister will not consider withdrawing the instrument and bringing the date back from 2030 to 2027, given that the majority of the responses that we have had through the call for views suggested that that was the main issue.

One response that we got was from a former NFUS president. and I will quote from it, because it says it all. The respondent said:

“while I recognise that this flexibility is to be appreciated as the new policy is developed it also indicates that there is little confidence in concluding this soon. As a farmer, it creates many dilemmas in making business decisions not knowing what policy will be in place and at what time.”

The request to consider a date of 2027 is not unreasonable, given that we have no indication of what the route map will look like after 2027. Despite our asking the minister, previous to this session, no clear reason has been given as to why the 2027 date could not be adopted.

I am sure that, had that been the case, the instrument would have passed without debate, and it would have sent the message to the industry that there was a desire to keep the pace up and deliver the necessary change that is needed by the industry. I am disappointed, therefore, that there seems to be, as Rachael Hamilton has said, a degree of intransigence over

something that really should not cause any problems.

Minister, would you like to respond?

Jim Fairlie: I will respond by saying I have listened carefully to the points that have been made. I am happy to stick with the 2030 date, and I am also happy to recommit to on-going engagement. In response to Ariane Burgess's point, we will get some clarity on what the delivery looks like, but I urge the committee to please pass the SSI today and allow us to get on with the work of delivering the programmes.

The Convener: Are all members content to recommend approval of the instrument?

Members: No.

The Convener: We are not content, so there will be a division.

For

Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

The Convener: The result of the division is: For 5, Against 0, Abstentions 2.

Motion agreed to,

That the Rural Affairs and Islands Committee recommends that the Rural Development (Continuation of Operation) (Miscellaneous Amendment) (Scotland) Regulations 2024 be approved.

The Convener: Finally, is the committee content to delegate authority to me to sign off our report on the instrument?

Members indicated agreement.

The Convener: That completes our consideration of the instrument and of the agenda items for the meeting. I thank the minister for joining us this morning, and I wish everybody a good recess.

Meeting closed at 11:26.

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