

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 24 October 2007

Session 3

£5.00

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

6th Meeting 2007, Session 3

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Karen Gillon (Clydesdale) (Lab)
*Jamie Hepburn (Central Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Peter Peacock (Highlands and Islands) (Lab)
*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Kidd (Glasgow) (SNP)
Nanette Milne (North East Scotland) (Con)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)
David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Jim Hume (South of Scotland) (LD)

THE FOLLOWING GAVE EVIDENCE:

Ian Grant (Crown Estate)
Rob Hastings (Crown Estate)
Alan Laidlaw (Crown Estate)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mark Roberts

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 6

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 24 October 2007

[THE CONVENER *opened the meeting at 10:03*]

Interests

The Convener (Roseanna Cunningham): I welcome everyone to this morning's meeting of the Rural Affairs and Environment Committee. Before we start, I remind everyone in the room to switch off their mobile phones and pagers—or at least to put them in flight mode or whatever—so that they do not interfere with the sound system.

We have received no apologies for the meeting, although Karen Gillon has apologised because she might be late. My guess is that the fog is causing some difficulties. We will be joined later by Jim Hume MSP, who has an interest in a later agenda item.

Agenda item 1 is to invite Des McNulty, as this is his first meeting of the committee, to declare any relevant interests in respect of the committee's remit, as required under the "Code of Conduct for Members of the Scottish Parliament".

Des McNulty (Clydebank and Milngavie) (Lab): I draw members' attention to my entry in the register of members' interests. I do not think that anything in it would clash with the committee's remit.

Crown Estate

10:04

The Convener: For agenda item 2, I welcome witnesses for the Crown Estate commissioners: Ian Grant—in the middle—is the chairman and Scottish commissioner; Rob Hastings is the director of the marine estate; and Alan Laidlaw is the head of the Scottish office of the Crown Estate.

The main purpose of our taking evidence is to enable us to comment on the report of the Crown Estate review working group and to respond to the points that are raised in it. This will also be an opportunity for the Crown Estate to put on record something about its role. I am not sure that witnesses from the Crown Estate have appeared before a committee of the Scottish Parliament before today—it is interesting that, eight years down the line, this is the first time Crown Estate commissioners have been before us.

Committee members have received a variety of papers, including a supplementary submission from the Crown Estate and a submission from the various review group partners following the committee's previous evidence session. We have also received submissions from others, including Lerwick Port Authority, the Scottish Tenant Farmers Association and Robin Callander. Most of the submissions came in recently, so we will have to wait and see how we manage to handle some of the specific issues that have been raised.

The committee will discuss the two evidence sessions at its next meeting, when we will consider what to do next. The process is on-going.

I invite Ian Grant to make a short opening statement; I think that he has been told that he may have up to five minutes. After the statement, I will invite questions from members.

Ian Grant (Crown Estate): Thank you convener, deputy convener, ladies and gentlemen. We are delighted to be here today; thank you for offering us the opportunity to come and speak to you.

I will start by giving you some background. I was appointed as the Crown Estate's Scottish commissioner in 1996. In 2002 I applied for the then vacant post of chairman of the Crown Estate, which I was delighted to accept when I was eventually approved for the post. I have subsequently been reappointed and will be chairman until the end of 2009.

As the convener said, Rob Hastings and Alan Laidlaw are with me. Rob, on my right, is the director of marine estates, and Alan, on my left, is not only the head of our Scotland office here in

Edinburgh but is head of customer management in our rural portfolio.

As the convener suggested, we have been sending out all kinds of information to MSPs to try to show how we can set up a better process of communication with the Government and wider community throughout Scotland. We certainly welcome the opportunity today to engage in discussions with the Rural Affairs and Environment Committee on the role and work of the Crown Estate in Scotland, and on how we might better communicate with you and the Scottish Government in the future.

The committee received a written submission from us on 18 October and a subsequent submission last Monday. Those submissions highlight the areas in which we believe we have worked with the Scottish Government, local authorities, agencies and companies since devolution. We have also tried to indicate in our submissions our significant levels of investment in Scotland since devolution, and we have tried to explain the commercial skills and levels of expertise that we consider the Crown Estate holds and which we consider to be vital to Scotland.

The convener also said that three late papers came in yesterday. The one from Robin Callander says that, on my reappointment as chairman, the official gazette used the words "Crown Estate Commission". We have made it perfectly plain in all our discussions and presentations that there is no such thing as the "Crown Estate Commission". However, in deference to Robin, yesterday afternoon I unearthed all the copies of the warrants that I have received, plus those to the chief executive and two of the most recently appointed board members. One paper—the warrant for my reappointment—uses the word "Commission". The Crown Estate Act 1961 does not mention the word "Commission", so there must have been a slight error in the publication of the final warrant.

If you like, convener, my colleagues could comment now on the issues that have been raised by the Lerwick Port Authority and the Scottish Tenant Farmers Association. Alternatively, we could leave those issues for the moment and perhaps deal with them in answer to members' questions.

The Convener: We will leave those issues because we are not certain how far we will get today. As I said, the committee will come back to some of them. I do not want to prejudge where the committee wants to go with the issues in the longer term.

There are a number of broad general areas on which questions will focus. First is the Crown Estate's response to the Crown Estate review

working group's report. Does any member want to come in on that?

Jamie Hepburn (Central Scotland) (SNP): What is Mr Grant's opinion on the structure of the review group? I wanted to probe the issue of the review group at the previous committee meeting, but because time was somewhat limited I was not able to. I am interested to hear your view. I note from the papers that you have provided that the rural estate has a presence outwith the Highlands and Islands: in Midlothian, in Dumfriesshire and in Stirlingshire. I also note that the urban estate, which is located in Edinburgh, is worth more to the Crown Estate in revenue and capital value than the rural or marine estates. Do you believe that the review group was somewhat limited in having focused solely on a Highlands and Islands geographical base?

Ian Grant: With respect, that is a question that Mr Hepburn would need to ask the review group's members because it deals with the structure and how the review group was set up. My understanding is that a view was expressed within the Highland Council that a Highlands-and-Islands oriented examination was needed on how the Crown Estate operates. That view was then expanded to embrace other councils in the Highlands and Islands area, and the Convention of Scottish Local Authorities and Highlands and Islands Enterprise were engaged in the formation of the CERWG. I will focus today on the broader picture of what we do throughout Scotland, although I acknowledge that important matters such as marine issues, foreshore issues and fish farming in particular will naturally be located in the Highland Council area more than in other parts of the country. The Crown Estate operating in Scotland is looking for opportunities for investment and opportunities to operate throughout Scotland.

John Scott (Ayr) (Con): Good morning. Can you tell me your view on the review group's proposals—given that it has proposed several models for change, among which the status quo does not appear as a model—and essentially justify why you are here?

Ian Grant: I will, with my colleagues, demonstrate why we believe that the Crown Estate is beneficial for Scotland. It has the opportunity—bearing it in mind that in capital terms it is a huge United Kingdom operation—to draw money specifically to benefit Scotland out of the money that is generated throughout the UK. That is a plus point. We operate in a way that is perceived as being healthy with regard to landlord-tenant relationships. I know that with his farming background, the deputy convener will be aware of the understanding that exists between us and our tenants. Accusations have been made in some papers that uncertainty exists among our tenants.

If a report such as the review group's were to suggest that we should disperse and sell off the whole of our rural estates in Scotland and I was a tenant farmer, I would be signing up for right-to-buy against that threat.

There are ways in which we operate in Scotland that are enormously strong and sensible for the country's future. We need to demonstrate more clearly how we operate and we need to communicate what we do, which is where we have perhaps fallen down in the past. We now produce an annual report and a Scottish annual report—which we have submitted—and, as we have suggested in papers that we have submitted, we are happy to come annually to submit our report for examination by the committee, if members feel that that is appropriate.

On the initial question, the gist of what is being suggested does not make sense, as far as I am concerned. I very much believe that people should not engage in reviews—or takeovers, in the case of company life—unless they feel that an organisation is not doing its job properly. I consider that our evidence to you today will demonstrate that we are a strong force, and that we are considering strengthening our investment and our work in Scotland even further. To that end, I believe that there should not be a review.

10:15

Bill Wilson (West of Scotland) (SNP): I would like clarification on part of your answer to John Scott, if you do not mind. You are saying that, because it is a UK body, more money can be sent to Scotland from the Crown Estate in the rest of the UK. Does that mean that, over the past 10 years, for example, you have been investing more money in the Scottish Crown Estate than you have earned from it in revenue?

Ian Grant: Yes—you have the figures. I refer in particular to our annual return figure from Scotland. Our turnover last year was £12.8 million and our revenue surplus was £10.3 million. Those figures are fine, but we have in the past year invested in Scotland well in excess of £200 million. There are things going on in Scotland that demonstrate that there is no link between what is being generated in Scotland and what is being returned to Scotland. As far as we are concerned, we are part of a UK big picture.

Bill Wilson: Have I missed some of those figures?

Ian Grant: No. The investment of more than £200 million to which I referred took place in April this year, just after the end of the last financial year.

The Convener: We are moving on to the general area of financial arguments. Do any other members wish to discuss the finances? We need to keep our questions grouped in order to make some sense of the matter.

John Scott: I would like to develop one of the points that Mr Grant raised, if I may, about the—

The Convener: What is it? Is it about the financial stuff or not?

John Scott: No—or yes, in a way. It concerns the tenant farmers' letter that we received, which was alluded to earlier.

The Convener: There are other matters concerning the working group that we need to go back to. Let us move on to financial aspects.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I want very much to talk about money. I notice from your evidence that the Crown Estate in Scotland represents 3.5 per cent of the UK's Crown Estate portfolio, but the revenue that you gain from Scotland is 5.1 per cent of your total.

At our previous meeting, we made the point that the Crown Estate is really a taker from the Scottish economy, rather than a giver. I will cite one example from a letter, which I am sure you have seen, from the Lerwick Port Authority. It states:

"The charges payable to the Crown Estate related to this project"—

that is, the project to dredge Lerwick harbour—

"are in excess of £600,000."

You are focused on the UK operation. Would you like to respond to that?

Ian Grant: Yes. I will also call in Rob Hastings to discuss the Lerwick harbour matter. On the analysis that you make, you must understand that you are not comparing a portfolio in Scotland with a like portfolio with England. The urban portfolio in London is enormous. There is a different set of figures there compared with the figures that would be extracted from Scotland, considering the type of portfolio that we have here. I could elaborate on that if you wish.

Mike Rumbles: My specific point is that 3.5 per cent of your assets are in Scotland and you are taking 5.1 per cent of your revenue from Scotland, according to your own figures.

Ian Grant: In total.

Mike Rumbles: Yes. So you agree with me that you are a taker from the Scottish economy, rather than a giver.

Ian Grant: No. It does not work that way, I am afraid. I ask Alan Laidlaw to explain the rural side, too.

Alan Laidlaw (Crown Estate): We have upland properties in Morayshire, in particular at Glenlivet and Fochabers. Those properties carry higher repair bills and higher capital allowances than property in Yorkshire, for example. Geographical location, the harshness of the weather and the availability of contractors mean that we pay higher repair bills for the rural estate in Scotland than for that in England.

In Scotland, a significant element of our income comes from an urban portfolio with a first-class tenant base—Bank of Scotland, Austin Reed and others. Those properties do not come with high bills for repairs and reinvestment because they are let on fully repairing and sharing leases on a commercial basis. As such a high proportion of our income in Scotland comes from an urban base without a repairing portfolio—in contrast to the rural base—the percentage figures are different in terms of yields.

Mike Rumbles: I will tell you where the discussion is taking me. We have to decide what to do in investigating the issue. The areas of the Crown Estate in Scotland are clearly devolved, but you operate on a UK basis. I would like you to answer this point: it seems strange that you are gaining revenue from a devolved Scotland but giving it back to the UK Exchequer. We get the Barnett formula consequential from the UK Exchequer, but that revenue should not be going to the UK Exchequer. It should be raised and spent in Scotland, because we are dealing with a devolved issue.

Ian Grant: Would the corollary be that only capital that was raised in Scotland should be spent in Scotland?

Mike Rumbles: It is a devolved issue. That is what I am asking you about.

Ian Grant: Alan Laidlaw has tried to explain the revenue situation. I am suggesting that we are bringing more capital into Scotland than we are raising in Scotland.

Rob Hastings (Crown Estate): If I may, I will pick up on the Lerwick Port Authority letter from Miss Laurenson. My first engagement with the issue was about a year ago, and the purpose of my meeting with the authority was to discuss co-investment in its planned expansion of the harbour in order to pick up on the decommissioning activity that was expected to come from the oil and gas industry.

That meeting was some time last year, and we have had a dialogue about the development since then. However, we discovered quite quickly that there was a problem with the dredge of the channel that the authority was going to undertake. The authority planned to use the material from the dredge for landfill in the expansion of the harbour,

but Shetland Islands Council wanted to put up a bridge linking Lerwick to Bressay and the dredge would have potentially undermined a foundation location for the bridge. The consequence was that the two organisations—the council and the LPA—ended up in litigation to resolve the situation.

We stood back from discussions while that was on-going because there was clearly no point in continuing discussions if the project did not exist to invest in. Our potential investment could have been sizeable—tens of millions of pounds or more. We are still willing to be involved in the process; unfortunately we cannot yet see a way forward to do that.

That is one good example of a number of potential investments that we are looking at across Scotland, and I can give the committee an idea of the numbers that we are considering. In renewable energy, which has been mentioned by others, we have an investment programme that is somewhere in the region of £38 million in the whole of the UK, with around £20 million or so of that in Scotland. We are pursuing those opportunities continually—that is capital that we will be bringing into Scotland. It has not been generated in Scotland, and it is capital for which I would have to wrestle with my other portfolio colleagues—for example the urban portfolio. The majority of the capital is centred in London, and I am constantly battling to draw out that capital and bring it into play when opportunities arise.

Mike Rumbles: I understand that, and it is a fair point. However, let me focus back on the Lerwick Port Authority, which obviously does not see the situation through the same prism as you see it. In the last line of its letter, it says:

“Regrettably, we are faced with spending £0.6M to the Crown Estate to better ‘their’ estate.”

It also makes the point that it would be cheaper for the authority to dump the dredged material at sea rather than be environmentally sound. The authority is saying to us that your demands on it are environmentally bad—if I can put it that way.

Rob Hastings: Factually, I am not sure how Miss Laurenson took that perspective. The reality is that the dredged material that would come from the channel would be used to reclaim land. If that material—for which we would charge about 60p per cubic metre—were not used, material from an alternative source could be used, which would typically cost £8 per cubic metre in the market. The statement that disposing of the material at sea would cost less does not square up, because if that were done, infill material would have to be bought at £8 per cubic metre—about 10 times what we would charge.

Mike Rumbles: So Lerwick Port Authority has got it wrong.

John Scott: The authority is being disingenuous.

Rob Hastings: I would like to have a conversation with the port authority. The letter was a little bit of a surprise to us, so we could have a conversation to try to understand what it is implying. The argument that has been presented does not sound sensible.

The Convener: I will follow up on the issue with which Mike Rumbles started, which is the apparent percentage gap between what is taken out of Scotland and what is put into it. I have listened carefully to the arguments about capital versus revenue. I might not be a financial genius, but I understand the difference between capital assets and revenue. However, I am less clear about what I heard from Mr Laidlaw on how the apparent gap on paper is not a real gap. I do not see how that works.

I am not sure whether we will get much further today. Could you provide us with a clear breakdown for the past five years of capital in and capital out, of revenue in and the income streams from that, as opposed to what might be called revenue expenditure, and of the capital asset and income streams from that and all the rest of it? From what has been said, I am not clear about how that works. It would be useful for us to see that breakdown, because we would all like to have an explanation of the 1.6 percentage point difference on paper. You say that that is a paper thing and not a real thing; if that is the case, we would like to see the detail on that.

John Scott: Mr Grant mentioned the letter from Angus McCall of the Scottish Tenant Farmers Association. Mr McCall acknowledges that

"the CEC were considered to be amongst the best landlords in Scotland and STFA has welcomed their use of the new style tenancies",

but he has nothing but criticisms thereafter. The association cannot have it both ways. To help the committee reach a conclusion and at least let you have your say on how you treat your tenants, I would be grateful if you explored that point.

Ian Grant: I will ask Alan Laidlaw to deal with that, as he is the man at the coalface of that subject.

Alan Laidlaw: The note that Angus McCall provided yesterday highlights the fact that the STFA is happy that we took the initiative as one of the first landowners to use the new Agricultural Holdings (Scotland) Act 2003. Many people questioned how much that act would be used. When I joined the Crown Estate, I looked at the rural portfolio as a whole and I thought that the act would be useful in moving us away from using limited partnerships, which have long been unpopular in Scotland. That is a farming interest,

which is relevant to Jim Hume. The limited partnership has never been popular, so we look to convert as many of those partnerships as we can into the new act's arrangements.

Angus McCall is not fully aware of some of our activities. He says that we have let only one farm to a new entrant, but we have let three farms on limited duration tenancies, two of which were to new entrants to the industry. As a young person in agriculture, I am delighted to see people coming in from the grass roots. One of the guys down in Dumfriesshire was a mart foreman in Peebles mart. He took grass parks then begged, borrowed and stole land, and he now has a long-term tenancy, which is fantastic.

10:30

We checked Angus McCall's figure for the number of registrations of interest in the right to buy against the Crown Estate register. There are 35 right-to-buy registrations across the whole rural estate—not a significant number. A breakdown of those registrations shows that 14 were made before the Crown Estate review working group's report was published. In the six months after publication there were 19 registrations, because our tenants had become uncertain about their position. Before the report's publication, our tenants knew that they had a long-term landlord who would invest in their property and work on a joint-venture basis, but the report has made people question the future of the Crown Estate in Scotland.

Angus McCall is correct to say that the STFA held meetings with our tenants to discuss the issues. We were not party to those discussions, but after the meetings tenants telephoned me in a panic and asked, "What on earth is in the report? What is the position?" One tenant said, "I thought my sons and grandchildren—two or three generations of my family—would stay on this farm. What's going to happen?"

Angus McCall goes on to talk about the firm of factoring agents for the Crown Estate in Scotland, Smiths Gore. We have had a long relationship with Smiths Gore, which looks after our rural interests. We ensure as best we can that Smiths Gore acts on our behalf as we want it to do. We want to work in partnership with our tenants as much as we can, and although there are always difficulties between landlords and tenants to do with rent levels or positions that we or the tenant must take, we try to be as fair, open and honest with our tenants as we can. One of our tenants, who has other landlord interests and has owned property in his own right as a farmer and owner-occupier, says that he would much rather be a tenant of the Crown Estate than a tenant of the two individual landlords that he has. There are always limited

areas of difficulty, but we try to work with our tenants as best we can.

The Convener: Does any member want to ask about the general issues? Members might want to ask about not just tenant farmers but other stakeholder interests.

Jamie Hepburn: Mr Laidlaw might be able to answer some of my questions on tenant farmers. He referred to issues that I wanted to raise. It seems clear that the Crown Estate supports getting new entrants into farming. Can you do more to encourage that than just award tenancies? If you are more involved, will you say how?

You said why you think people have registered an interest in acquiring their properties, which might or might not be the reason why people have done so. How will tenants' wishes to acquire their properties be advanced?

Angus McCall said in his submission that many tenants

"believe that there is now a lack of investment in Crown Estate tenanted farms".

Will you comment on that? How does the Crown Estate manage investment in its tenanted farms?

Alan Laidlaw: Richard Lochhead asked the tenant farming forum to launch the consultation on helping new entrants into agriculture. My previous employment was as a bank manager who financed rural businesses. I would love to see more young entrants into agriculture—I am younger than most people who are involved in agriculture in Scotland, given that the average age is creeping towards 60. I would love to consider how we can support new entrants. In the past couple of years we have tendered on the open market three LDTs—they were 15-year long-term tenancies. It is unfortunate that few true new entrants are young. The barriers to entering agriculture are not created by landlords; there is a limited supply of available farms.

We could talk about that all day and I am conscious that the convener will want to move on. The bottom line is that those new entrants to agriculture are already identified as weak cases when they say to a bank that they want to submit a tender to the Crown Estate to rent a farm. Jim Simmons, the tenant of Ruthven farm on the Glenlivet estate, got good bank support but many others who are interested in entering the agricultural market do not, so they cannot submit tenders. We have two really sharp operators who have come through that process and managed to build up capital through really hard work and toil to get them into a position to go forward.

On the other point that Angus McCall makes about amalgamations and land use, the difficulty is

that, with long-term tenancies under the Agricultural Holdings (Scotland) Act 1991, people have the right to succeed their fathers and grandfathers and keep an interest in a property. That means that farms do not often become vacant. In the past two years, we have had four farms that have truly become vacant. Some of those have been amalgamated to make more viable the businesses of tenants who have neighbouring businesses or who have other interests in the farm.

In one of the amalgamations that Angus McCall is aware of, someone will enter a new-entrant's unit next year. There are two units 15 miles apart. The tenant's father, who is in his 70s, runs one unit and the son and the grandson of the principal tenant run the other unit 15 miles away. We have amalgamated two units next door to each other, and the tenants will renounce the remote unit, which is a far better unit for a new entrant because it is closer to settlements, schools and doctors and has more opportunities.

We have amalgamated a farm, but that has had to take time because of the legislation. The farm is an organic conversion and the tenant will move to farming one core unit of about 1,200 acres, which is far more viable than his two split units. That will leave a vacant unit behind. That is an example of how we are going forward.

You mentioned registrations and how tenants want to acquire the units. Many tenants want to do that, but there are many who do not and who do not have the capital or the financial wherewithal to be able to acquire them. If they were able to buy the units, a bank such as the organisation for which I used to work might have no problem in lending the money because they would buy them at a discount. However, the bank might point out that they do not have the revenue-generated capacity to service the interest debt burden on the business. To go from a rent that may be £10,000 per annum to having an interest charge of £600,000 over a farm means that the business is no longer viable because the interest charge is several times the rent. The tenant might then have to sell the unit. Although he would make a capital profit, selling might not be in his interest because he would be removed from the farm. How would he get back on to it? He might look for another tenancy but, if we were to sell all the units out of tenanted land, that would cause a problem as well.

The Crown Estate is a long-term landowner and is committed to the tenanted sector in Scotland, so it is not selling property. Angus McCall refers to the Buccleuch estates, which are selling units to the tenants. They are doing that to allow them to invest in their core holdings to reinvest in the built heritage. That takes us back to Mr Grant's point regarding capital available for investment. We do

not have to sell the Scottish family silver—the rural estate—to invest in projects such as building investments or Drumin castle, for instance.

The final point on which I will touch briefly is lack of investment in tenants' buildings. We continue to have a programme of investment in the renewal of buildings and we encourage diversification. The difficulty is that the investments can all come at once and we have to try to balance them as best we can against our financial constraints under the 1961 act. We continue to invest and have a number of on-going projects on new buildings, diversification support and new residences for young members of tenants' families to allow them to continue in the business.

The Convener: You have a lot of anecdotal evidence of what we might call customer satisfaction but, equally, we have had a lot of anecdotal evidence about concerns. Have you conducted any more systematic survey of your customer base—for want of a better term—to establish levels of satisfaction? Is there any survey or detailed investigation into levels of satisfaction among your stakeholders that you could forward to us?

Alan Laidlaw: We have undertaken minor surveys. We have a plan to undertake different surveys throughout the UK, but we do not have a comprehensive survey at the moment.

Ian Grant: The committee should be aware that I and my fellow commissioners do annual visits to all our rural estates throughout the UK. Obviously, we cannot visit them all in one year, but in our three-year rolling programme we visit all our rural estates, so each of the three major Scottish estates is visited once every three years. That affords an opportunity for conversations between tenants, the commissioners and me. I find those extremely valuable experiences.

The Convener: I appreciate that. The difficulty is that it is difficult to translate that into an objective assessment of the levels of satisfaction.

Ian Grant: I accept that.

The Convener: We are aware of the Scottish Executive, as it was, and the Scottish Government, as it is, conducting a more systematic survey. It would be useful if you had something similar, but you do not. If you think that any of the smaller surveys that were conducted might be useful, will you pass them on?

Ian Grant: We will.

Jamie Hepburn: Convener, I have a quick question that is related to what you just said.

The Convener: Please be quick, because we need to cover other areas.

Jamie Hepburn: I will be quick. Alan Laidlaw mentioned that there is a programme of on-going investment in Crown Estate farms. It would be useful to know what that involves and how much is being invested.

Alan Laidlaw: Would you like details of examples rather than—

Jamie Hepburn: Some anecdotal examples would be useful, but it is the overall programme of investment that interests me.

The Convener: I want to move on to the relationship with the devolved Government and accountability.

There has been some discussion about the fact that the Crown Estate did not go down the road that the Forestry Commission did. I read your response on that and I understand your point of view. However, I would like to know whether there was any discussion within the Crown Estate in the run-up to devolution about what would be an appropriate way to respond to it or whether it was a given that you were not going to devolve your own structures.

Ian Grant: No. It was quite the reverse. I recall that, in the period around devolution, there was serious debate within the Crown Estate about how we would relate to the new Scottish Executive and how we would find means of communication with it. I do not have the precise detail and the precise time, but I recall that, early in the first session, we approached the Parliament and suggested that we should do what we are doing today and go and see the Rural Affairs Committee. At that time—it was probably felt that other business was more compelling—we were told, "We do not think that there is anything particularly advantageous in that, but thank you for letting us know."

Since then, we have taken every opportunity we could take to try to relate with MSPs and senior officials of the Scottish Executive, as it was, particularly those who cover rural and marine matters. We took every opportunity we could to try to carve out new ideas of communication.

One thing that we did not do was to go down the Forestry Commission route. The Government decided that it wished to divide the Forestry Commission into three different aspects. In passing, I make the point that the Forestry Commission is a completely different animal from us. We are charged that we must act responsibly, develop a profit stream, and operate in terms of commercial attitudes, stewardship and integrity—those are the three planks on which we operate. We have to make a revenue return, but the Forestry Commission does not have to do that.

It is not for me to say this, but you should look at the Forestry Commission's books, which paint a

different picture from ours. That is not a criticism. I am simply saying that the two are not comparable. One is a revenue-creating, revenue-producing operation called the Crown Estate. The Forestry Commission is a large employer but it does not have the remit to make a profit. There is a difference.

Coming up to date, we have endeavoured in the past year or two to find ways and means of getting closer interaction not just with officials in the Scottish Government but with the Parliament. That is why I said initially that I was delighted to take the opportunity to come and speak to the Rural Affairs and Environment Committee.

The Convener: Given your comments, would you welcome a more formal relationship, such as a duty to report to the Parliament annually?

Ian Grant: Yes. I would be happy with that.

The Convener: You would be open to that.

Ian Grant: Yes.

The Convener: A number of members have indicated that they have questions on accountability and relationships.

10:45

Bill Wilson: I have a couple of fairly short questions, if you do not mind. You said that the Forestry Commission is not revenue creating, but that the Crown Estate is obliged to create revenue. Why, then, did you have to move your headquarters out of Edinburgh and down to London to ensure that the Scottish section creates revenue?

Ian Grant: That is another myth that came out of the CERWG report. In 2003, we were living in a historic building in Charlotte Square in Edinburgh with all the different planning restraints that go with such a building. We decided that we would move our office to a building that, although it is still old on the outside, has a modern interior that generates efficient work practices and brings all the best in information technology and so on. Incidentally, we did exactly the same thing last year in London; we moved our London head office out of a historic building and created a new office on Regent Street, precisely to generate greater efficiencies and a better workplace for our staff.

When we made the move, we examined the operation and what was happening in the Edinburgh office. It was felt that we were not shutting down or moving away from the Edinburgh office, but maintaining a strong involvement; I subscribe to that view totally. All our rural and marine decision making for Scotland is based in the Edinburgh office, but it has a much wider remit than that; that means that the directors of marine,

rural and urban affairs work out of the Edinburgh office regularly. The staff in the Edinburgh office are part of a bigger picture. To suggest that we are closing down or containing what we are doing in Scotland is, I am afraid, very far from the truth.

Bill Wilson: Can you clarify that, to ensure that I have understood it? First, you say that you have simply moved offices within Edinburgh, and that there has been no significant loss of permanent resident employment in Edinburgh in the sense that, for example, 50 per cent of your people suddenly had to move to London and come to Edinburgh only occasionally. You have the same number of employees in Edinburgh as you had before.

Ian Grant: We had a slightly reduced number of people in the Edinburgh office after we moved, and we had a slightly reduced number of people in the London office after we moved. Efficiency benefits are created by moving into a new workplace. However, a regular flow of directors and senior staff from the London office work out of the Edinburgh office; I go into the Edinburgh office every second week or so, and I never know who I am going to bump into when I am there. Senior officials from London are there regularly to deal head-to-head with specific Scottish issues.

Bill Wilson: Those senior officials would have been based in London prior to the office move.

Ian Grant: Yes.

Bill Wilson: So you are saying that the information that we got from the review is not accurate.

Ian Grant: I believe that it was not accurate on that front. I am adamant that the moves that we have made have been to the benefit of the professionalism and efficiency of the operation in Scotland.

Bill Wilson: My final question—

The Convener: I am glad that you asked a short question, Bill.

Bill Wilson: I had a few short questions.

You have answered this in part already, but could you clarify what regular contact you had with the Scottish Parliament during the first two sessions, in other words not with the present Government? Could you also give an idea of the regular contact that the Crown Estate's London office, compared with its Scottish office, has had with the Westminster Parliament?

Ian Grant: I will deal with the London office first. It does not have regular contact with the London Parliament as such, but it has regular contact with the Treasury, the agency to which we are responsible. However, with regard to issues such as the marine bill and the build-up to that before

the last election, we were in contact with senior officials and ministers from the Department for Environment, Food and Rural Affairs, just as we were in contact with ministers here in Scotland. Rob Hastings and I met Ben Bradshaw and David Miliband, as well as Ross Finnie. In London, we are answerable to the London Parliament in exactly the same way as we are to this Parliament. We have to abide by the rules and regulations that are enacted by the Scottish Parliament.

The Convener: You are saying that the contact is with the Government in both cases, rather than with the Parliaments.

Ian Grant: Yes. We have not been to a select committee, so it is a great privilege for us to come before a committee.

The Convener: I am glad that we could afford it and I hope that you still think of it as a privilege at the end of the meeting.

Peter Peacock (Highlands and Islands) (Lab): Before I ask my question, I should make it clear that Ian Grant and I had various dealings when I wore my previous hat as the convener of Highland Council. I suspect that we served together briefly on the Cairngorms Partnership. I have to say that that does not deprive me of any critical faculties.

A few minutes ago, you referred to your organisation's values—commercialism, integrity and stewardship—and how you define your customers; your written submission also mentions those points. It could be argued that your values are no different from those of any commercial property company. Indeed, in the Highlands it would not be unusual for the Crown Estate to be referred to as a rapacious landlord—I may well have used that phrase in the past. It might be appropriate to apply those values to central London or to central Edinburgh, because those places have highly developed economies, there is a very commercial aspect to the economies and they are highly competitive. However, the communities that I represent in the Highlands and Islands are trying to turn round after years of decline and to regrow population; they are seeking a stronger future, economic growth and new population. When your values are applied to such communities, they could be seen as unsympathetic and acting against those interests.

Your values could also be seen to be at odds—slightly, if not completely—with those that tend to apply in the Scottish Parliament post devolution, such as seeking greater social justice; population growth as a whole; better economic opportunities; the repopulation of parts of our community; and the empowerment of communities in a variety of ways. Your values may also not chime with those of Highlands and Islands Enterprise, local authorities in the Highlands and Islands—

The Convener: Can you get to your question, Peter?

Peter Peacock: I am coming to it.

Even the old hydro board had social purposes. Communities Scotland, the Forestry Commission and a range of organisations have social purposes. You state that you have 2,100 customers in Scotland, but it is arguable that all of Scotland's population are your customers. My first question is: is the Crown Estate capable of applying different values in different parts of Scotland as a result of the circumstances that I have tried to describe? I assume that your answer to that question will be yes, so my second question is: would not that process be considerably assisted if there was a stronger Scottish view on how your values ought to be applied in parts of Scotland, for example by a reinvigorated Scottish advisory committee of the Crown Estate or some such mechanism?

Ian Grant: Rob Hastings will respond on this question as well, because community benefit can be generated in specific cases in the marine sector.

I will deal with the point about commercialism, stewardship and integrity. Clearly, if we cannot get the commercialism bit right and do not make money, we will not have any money to invest in stewardship, so our prime objective must be to be commercially realistic and profit making. However, having worked in several other companies in Scotland and having served on the boards of major companies in Scotland, I can say that the attitudes that are expressed in the Crown Estate in respect of the integrity and stewardship aspects are very important and that those values are at the forefront of our thinking. As you say, it is easy to judge the stewardship aspect when new buildings are being built in the middle of London—it is possible to include all the bells and whistles stuff that indicates how much of a carbon footprint you are making, how much you are recycling, heating water by the sun and so on. We have done that in our new building in London. I accept your point that in rural communities or marine communities it is more difficult to demonstrate the stewardship aspect.

I will not bring in Alan Laidlaw, because I think that aspects of the rural side clearly demonstrate what we have been doing by way of stewardship—the Glenlivet estate is a wonderful example of how to integrate agriculture, the environment, tourism and forestry and bring them all together comfortably.

Rob Hastings: If we look at the marine estate from the perspective that it is a business, the Crown Estate is essentially a landowner that can take a long-term view. That is helpful to us

because it leads to sustainability—economic, social and environmental. I have been working on a project that has recently been agreed with the board. As a business we can, for the first time, look at our investments not purely on a commercial basis, by which I mean quantifying them and getting agreement for an investment appraisal based purely on the commercial dimension; we can now get that agreement on the basis of their sustainability. The key planks of that sustainability are the economic benefit to the community; the social benefit—the number of jobs or something similar; and the environmental impact.

I have been around in the investment world for some time. In my experience, it is unusual to encounter an organisation like ours—a commercial enterprise that has the ability to go ahead and invest on a truly sustainable basis. Using our model of operation, we have been able to unlock investment opportunities in some of the more remote communities around Scotland. For example, we recently invested about £300,000 to build some pontoons in the harbour at Tobermory. That is not a huge investment, but it is important because it gives people there the ability to expand. Other commercial enterprises or investment organisations would not have made that investment.

We are considering a similar situation in Tarbert, where there is lot of latent potential. The Scottish series regatta runs out of Tarbert every year, but people were struggling to retain the regatta because they needed to invest in the harbour. Again, if they had asked a normal investment banking enterprise to help out, the answer would probably have been no. We, on the other hand, take a long-term view. We use our investment model approach and we can find ways of helping.

Another plank of our activity is stewardship. Over the past six years we have invested between £1 million and £2 million in community projects. The individual investments are relatively small—typically between £10,000 and £30,000—and the aim is to unlock an activity that the community would like to develop in order to build community infrastructure. In Scotland alone we have invested round about £1 million in such activities.

The Crown Estate is a landowner and we can take a long-term view. We have had landholdings for probably 1,000 years and I hope that we will have them for another 1,000 years.

Peter Peacock: You have made your points and I am sure that you hold your views sincerely. However, in my part of the world, people do not perceive you in the way that you would like. That is a problem for you. If you want to develop in the spirit of devolution, and if you want to be seen to be more local and to be empowering people,

would there not be merit in your rethinking your constitutional structures? I am talking not about breaking up the Crown Estate but about making changes within it. For example, if you had a much stronger Scottish presence, you could be advised better on the spirit and mood in Scotland. Huge changes are taking place in the empowerment of people, especially in my part of the world, and there are new patterns of land ownership. Can you not become involved in more partnership working and more shared ownership and shared profit? Are you open to changes of that sort?

The Convener: I will add a supplementary to that question, which will be a little more specific. In section 1(3) of the 1961 act, your general duty is clearly defined as being to maintain and enhance the value of your estate and the return obtained from it. That is the primary duty and anything else follows on from it. Bearing in mind what Peter Peacock has said, what do you feel about the suggestion that the 1961 act ought to be revisited? Perhaps the duty should not simply be about maximising the return from your estate.

Ian Grant: That is not an issue for me; it is an issue that you would have to debate with ministers at Westminster. I am not dismissing the question; I am just being practical.

In response to Peter Peacock, I would say that we are not getting the message across about many of our projects. Rob Hastings has been with us for two years and he has reshaped and remodelled what we are doing in the marine estate. We have to get better at demonstrating what we are doing.

Peter Peacock: Again, I would ask about the constitution of the Crown Estate. What gives you your insights into the new thinking that is arising in many parts of Scotland? Could your position in Scotland not be strengthened?

11:00

Ian Grant: We endeavour to engage with stakeholders—I hate that word, but you know what I mean: people who are interested in what we do, although they might not be interested in what we do in certain areas. We engage with those people regularly. You are suggesting that we should try to formalise that a bit more and think about having advisory councils, and so on. I am open to suggestions and would love to hear, in due course, how the committee feels that such objectives might best be pursued.

Mike Rumbles: Let me take up an issue that you touched on a moment ago. Any review of your work in Scotland is not up to Westminster; the review of the 1961 act is up to the Scottish Parliament. We have authority, under the Scotland Act 1998, to legislate for your devolved

responsibilities, even though you administer them on a UK basis. It is clearly our responsibility to do that.

You said that, in the early years of devolution, you approached the Scottish Parliament. I assume that you meant the Rural Affairs Committee. I have the unique privilege of being the only member of the Rural Affairs and Environment Committee who was on the original Rural Affairs Committee in the first session of the Parliament. It might be my memory, but I cannot recall an approach being made by the Crown Estate to bring anything before the Rural Affairs Committee. Would you be willing to pass to the convener any documents from your records that show that you approached us? It might be a failing of my memory, but I cannot recall it.

Ian Grant: I cannot recall it precisely, as it is going back eight years or so. I reflect on the fact that it may be that there was verbal contact between some of my senior staff and me and the senior guy in the Scottish Executive Rural Affairs Department at that time, rather than direct contact with the Rural Affairs Committee.

Mike Rumbles: So you did not approach the Scottish Parliament in the early years of devolution. Is that what you are saying?

Ian Grant: No, I am not saying that. You are trying to confuse me. I am saying that approaches were made in the initial days of the Parliament to find out whether there were ways in which we could relate to you.

The Convener: With respect, Ian, the difficulty is the distinction between Government and Parliament in this context. All your comments have related, effectively, to your relationship with Government, whether here or in the UK, not a direct relationship with Parliament. The Scottish Parliament is very different from Westminster in the way in which it wants to relate to organisations. That is perhaps the point that Mike Rumbles is making.

Ian Grant: Yes, I am with you.

Karen Gillon (Clydesdale) (Lab): Have you ever been approached by this Parliament to come to a committee of this Parliament, prior to today?

The Convener: Remember that we are talking about Parliament, not Government.

Karen Gillon: I assume that the answer is no.

Ian Grant: That is correct. This is the first occasion on which we have been asked to come.

Karen Gillon: I suppose that accountability is a two-way street.

Ian Grant: Yes. Thank you.

Karen Gillon: So the responsibility lies with us as much as with you.

The Convener: That is a fair point.

A number of references to the marine environment and the relationship with the Crown Estate have been made this morning. For the sake of completeness, do any other committee members want to ask questions about the marine environment and our relationship with the Crown Estate in respect of it?

Peter Peacock: I have a brief question.

The Convener: Can you try to keep it short? If you ask the witnesses a long question, they will give you a long answer.

Peter Peacock: The UK Government is moving towards a new marine bill, there is a commitment in Scotland to a new marine bill, and the advisory group on marine and coastal strategy recently produced a report, which you and others helped to compile. It is inevitable that change is coming in how we think about planning the interactions between land and sea. What forethought have you given to how that might impact on the Crown Estate? What part might you want to play? Equally, what changes do you foresee coming as a consequence of that, and how will they affect not only you but the issues on which we have touched?

Rob Hastings: We welcome the idea of the marine bill as it has been presented at Westminster. It is being drafted and we have been consulted, given our role as a landowner. Potentially, a lot of good things could come from such a bill. It is largely a matter of simplifying the legislation and the process, so that people can do things in the marine environment more easily, but it is also about protecting the environment. Generally, we are encouraged by all of that.

There are some complications in how matters connect and work together. Although we have been working with AGMACS and the Scottish Government—previously the Executive—to understand how the marine bill could be translated into Scottish waters terms, we do not have clarity in terms of potential draft legislation. Essentially, as the landowner, we will work with the legislation that is placed upon us to regulate our activity in our area. However, it is clearly in our interest to try to simplify the processes.

In simple terms, we support such legislation and we are happy to work with it. At the moment, we are working with DEFRA on its current draft of the marine bill. As soon as the Scottish Government comes up with a draft or a plan to introduce a marine bill, we will be happy to work on it with the Government.

Peter Peacock: Are you saying that you do not have a positive view of how you might effect change to your operations in Scotland through a Scottish marine bill? Have you thought about the issue?

Rob Hastings: Essentially, the Westminster bill is about regulation and administering the process of managing consents. We would not normally get involved in that purely regulatory function.

Ian Grant: I suspect that when a Scottish marine bill is introduced, alongside a UK marine bill, it will inevitably touch on the role of the Crown Estate. We are happy about that. My response to the Crown Estate review working group is that we should set aside the suggestion that we should dispose of our rural or urban estate, which is nonsensical. For the life of me, I cannot see how that would benefit tenants. The thrust of criticism of the Crown Estate tends to relate to marine issues. Rather than conducting a review of the whole Crown Estate, would it not make sense for all of us to recognise that a debate will inevitably take place within the confines of consideration of a marine bill, which will embrace what the Crown Estate is doing? We would be happy to have that dialogue.

The Convener: That is a useful comment, although I observe in passing that I would have expected the Crown Estate to be more proactive in the area, given that the Scottish marine bill is at an early stage. I am surprised that you are not more involved or trying to be more involved at this stage. You seem to be dealing with the issue quite passively.

Ian Grant: No. Rob Hastings has had more to do with the issue until now.

Rob Hastings: We have been busy working up the process that stands behind the Westminster marine bill.

The Convener: Can we talk about the Scottish bill? My difficulty is that your mindset appears to be entirely Westminster based. The problem for members of the committee is the extent to which you are engaging with the devolution process. Whenever we ask you questions, you revert to Westminster, although we are concerned principally with your relationship with the wider Scottish context.

Rob Hastings: I was about to say that our approach to the issue has been to look at the UK as a whole. Because we expect that the Scottish marine bill will be on similar lines to the Westminster bill, we have structured a business process that stands behind what we are doing at Westminster. We hope that that will be applicable to the Scottish marine bill.

We have also worked with the Scottish Government on the strategic environmental assessment for marine and tidal renewable energy in the western area. That is one of the first real initiatives that will form and structure the component parts and scoping of a marine bill. We try to engage as quickly as we can with measures that come out of the Scottish Government, using what we have learned from our work on the Westminster bill. It would be unfair to say that we are not engaging with the devolution process. We are trying to understand the situation, so that we can engage at the right level.

Ian Grant: Before the election, Rob Hastings and the marine team had hefty input to discussions on a Scottish marine bill. At that time, with the election looming, we were given the clear impression that a separate Scottish marine bill would probably have to be parked. We did a lot of work with the Scottish Executive and we are now saying that we are ready and willing to be engaged again. You say that we should be more proactive. Somebody has to open the door when it is knocked on, and we are ready to do that.

The Convener: You have to knock as well. John Scott indicated that he wants to come in at this point, then we will draw matters to a conclusion.

John Scott: Indeed, my comments might draw the discussion to a conclusion.

You heard the criticisms that have been levelled against you today and, given the size of the organisation, I am surprised that there have not been more. Do you acknowledge any areas of weakness in your organisation that you hope to improve, perhaps in terms of social responsibility, as Peter Peacock suggested? What improvements will you make to the organisation in the future?

Ian Grant: First, I echo something that Rob Hastings said: the Crown Estate is a long-term landlord; we are not in this business for the short term. On every occasion that I speak and people say, "Oh, you are just in it for a quick buck," I tell them that we are not.

We will ensure stewardship in the long term—which effectively means the environment and how we progress and develop a business in Scotland—alongside all the challenges that climate change and other elements bring. We are right up to speed with that and we have our own policies on all those aspects—for example, we are helping our tenants on the farming scheme.

I suggest that our problem is one of communication, to which I alluded earlier. The communication problem is with the Scottish Government and we are addressing that today. I hope that this will be only the first occasion on which we have a similar discussion. We are also lacking at times when it comes to communicating

to the wider community what we are doing and how it can access it—for example, marine stewardship funds. Suffice it to say, over the past 18 months we have upped the ante considerably with our publicity material and our message delivery. I would like to think that, in the year ahead, we can demonstrate that we have addressed the communication problem and that we will be seen as much more on the ground than we are perceived to be presently.

Bear in mind the fact that not everybody from the Crown Estate is on the ground in every part of Scotland. We have managing agents and we have to rely on them to a certain extent for the day-to-day management of what we do. Our obligation is to demonstrate the wide range of what we do throughout the country, and we will try to do that a bit better than we have done.

I hope that what the committee has heard from us today will be helpful in your deliberations in the next week or two, and that it lets you consider what I perceive to be—perhaps simplistically—the option that the CERWG report offers, which is that you decide whether you want to review us or not. There is not much of a middle road.

I have indicated how we could communicate and work with the Scottish Government, particularly through this committee, because it seems the logical place to come. However, I would like the committee to balance what the CERWG suggests against what we are doing. The suggestion is that elements of our marine responsibility would be passed over either to the Scottish Government or to local authorities. I question the fragmentation that would take place, the loss of expertise that we currently hold in all those areas, the financial input that we have into those areas and the cost that would result to local authorities or the Scottish Government in assuming our current responsibilities. Look at what is generated from the foreshore in our marine budget in Scotland—it is the rough end of £4 million. Do you honestly want to move all that responsibility to local authorities, which do not necessarily have the expertise and therefore would have to buy it in?

In a nutshell, I simply ask the committee to consider our long-term picture. Look at how we presently deliver and our future prospects. Look at our investment potential in research and development—in renewables in particular, over the next year or two—and witness a landlord that embraces everything that the Scottish Government attempts to do in land reform. We will support you in all of that. As I said, we are not here for short-term gain. I contend that we do not need a review; rather, we should explore areas where we can work together more effectively than we have done in the past.

11:15

The Convener: Thank you.

At the start of this agenda item, I indicated that the matter will be put before the committee again, at which time we will discuss where we go from here. It remains, therefore, for me to ask members whether the item should be discussed in public or private session. There is a precedent for both, given that the discussion will be on the committee's future work programme. Does any member have a strong view on the subject?

Mike Rumbles: I have a strong view. Given the tremendous amount of interest in Scotland on the issue, it is appropriate for us to debate the matter in public. Instead of waiting for a decision to emerge, people will get a steer on where we are going.

Peter Peacock: I share that view. Given that this has become a public issue, it would be wise for the committee to be seen to think the matter through in public.

The Convener: The subject will be put on the agenda for our next committee meeting. If, in the next 10 days, any committee member has a specific matter to discuss, they should advise me or the clerks, and we can allocate enough time for the discussion.

I thank the witnesses for coming to committee this morning.

Ian Grant: Can we get the items that the committee requested—in particular, the figures for Mr Rumbles—to you by the end of next week, convener?

The Convener: You can send them straight to the clerks. They will be in touch with you and you can deal with it in that way.

Ian Grant: Okay. Thank you very much.

Subordinate Legislation

Less Favoured Area Support Scheme (Scotland) Regulations 2007 (SSI 2007/439)

Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 4) Regulations 2007 (SSI 2007/460)

11:17

The Convener: We move to agenda item 3. I welcome Jim Hume to committee. He has been waiting patiently for this agenda item. There are two negative instruments for consideration, for which no motions to annul have been lodged. However, Jim Hume is here and Karen Gillon has indicated that she wishes to comment.

Jim Hume (South of Scotland) (LD): I have nothing to say at this stage, convener.

The Convener: Okay. You are simply at committee to observe our discussion.

Jim Hume: Yes.

Karen Gillon: I want to comment on the letter of 12 September from the Cabinet Secretary for Rural Affairs and the Environment that is attached to the regulations.

The Convener: Which ones?

Karen Gillon: The ones on the less favoured area support scheme. The letter sets out the Government's rather interesting reasons for yet again breaching the 21-day laying period. The regulations require to be laid annually at approximately the same time of year. In his letter, the cabinet secretary said that the regulations would be laid and that that would breach the 21-day laying period. They were not laid until 27 September, which was 15 days from the date of the letter.

The reason given relates to the Government's submission of the Scottish rural development programme for 2007 to 2013 to Brussels on 20 June 2007. The Government does not as yet have agreement to the programme. The regulations could therefore have been laid at any time between 20 June and 27 September. The effect would have been the same, but the Government would not have breached the Parliament's 21-day rule.

I have no intention of lodging a motion on the regulations, because the LFASS payments need to be made, but the regulations should have been introduced earlier, in order for payments to be made to farmers more quickly than is the case at the moment. We need to make the point to the cabinet secretary in the strongest possible terms

that the situation is simply unacceptable, just as we did to his Executive predecessors. The timescale for laying instruments is well known. We should say that we will not accept a repeat of this situation next year.

John Scott: I agree with Karen Gillon. We require an explanation at the very least. I appreciate that the situation into which the minister arrived left him with no choice. That said, I cannot see why the matter was not dealt with earlier.

The Convener: Right. I will now canvass the views of committee members on how they wish to proceed. Will we seek an explanation by way of a written request or by calling officials or the cabinet secretary before the committee?

Karen Gillon: Tempting as it is to call the cabinet secretary, or ministers, before committee and to have a good old ding-dong, I want the matter to be sorted. No member wishes to lodge a motion to annul. We need the regulations so that this year's payments can be made. Although we could have a good spectacle and a bit of fun, that would not achieve anything in the long term. We can proceed by written correspondence. Assuming that we receive a satisfactory response from the cabinet secretary, I am prepared to leave things at that. However, we should put down a clear marker that, as of next year, the committee will find such breaches of the rule to be unacceptable.

The Convener: We can ensure that that is reflected in the written request for an explanation.

Do we agree to make no recommendation on the Less Favoured Area Support Scheme (Scotland) Regulations 2007?

Members indicated agreement.

The Convener: We will add the matter to the agenda for our next committee meeting, at which point we will make our final determination.

The clerk has reminded me of the second instrument that is before us. Do we agree to make no recommendation on the Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 4) Regulations 2007?

Members indicated agreement.

The Convener: We move into private session for our final agenda item.

11:21

Meeting continued in private until 11:44.

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