

RURAL DEVELOPMENT COMMITTEE

Tuesday 5 February 2002
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

† 5th Meeting 2002, Session 1

CONVENER

Alex Fergusson (South of Scotland) (Con)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Rhoda Grant (Highlands and Islands) (Lab)

*Richard Lochhead (North-East Scotland) (SNP)

*Mr Jamie McGrigor (Highlands and Islands) (Con)

Mr Alasdair Morrison (Western Isles) (Lab)

*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Irene Oldfather (Cunninghame South) (Lab)

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

*Stewart Stevenson (Banff and Buchan) (SNP)

*attended

WITNESSES

David Dickson (Scottish Executive Environment and Rural Affairs Department)

Ross Finnie (Minister for Environment and Rural Development)

Leslie Gardner (Scottish Executive Environment and Rural Affairs Department)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Jake Thomas

LOCATION

The Chamber

† 4th Meeting 2002, Session 1—held in private.

Scottish Parliament

Rural Development Committee

Tuesday 5 February 2002

(Afternoon)

[THE DEPUTY CONVENER *opened the meeting at 14:00*]

The Deputy Convener (Fergus Ewing): Good afternoon, ladies and gentlemen. I have received apologies from Alex Fergusson and Alasdair Morrison. Are committee members aware of any other apologies?

Members indicated disagreement.

Item in Private

The Deputy Convener: Item 1 is to consider whether item 5 on the agenda should be taken in private. That is in line with our usual practice and, given that the item relates to an expenses claim from a named individual, it seems inappropriate to discuss that in public. I hope that members will agree to take the item in private. Is that acceptable?

Members indicated agreement.

Foot-and-mouth Disease

The Deputy Convener: Item 2 concerns foot-and-mouth disease. The committee will take evidence from Ross Finnie, the Minister for Environment and Rural Development, regarding the control of animal movement. I am pleased to welcome the minister to the meeting.

Members will recall that, on 11 December, we heard from Scottish Executive officials on the control of animal movements in connection with foot-and-mouth disease. At that time, the minister said that round about the end of January further thought would be given to the controls. The committee noted that it wished to be involved in that process.

We understand that the situation has been developing constantly and I therefore invite the minister to give an opening statement to outline the situation. Minister, will you clarify in your statement the position regarding the statutory instrument, which, I gather, has been signed off, if not formally laid before Parliament? Will you also clarify how, if that is the case, the instrument compares to the draft that was circulated? Perhaps you could canvass those matters in your opening statement.

The Minister for Environment and Rural Development (Ross Finnie): I will ask David Dickson to clarify whether the instrument is identical to the draft, as that would be helpful to you.

David Dickson (Scottish Executive Environment and Rural Affairs Department): It is very similar to the draft.

Ross Finnie: Are the changes material, or a matter of detail? The convener is almost bound to ask me that.

David Dickson: The changes are a matter of drafting detail, rather than of content.

Ross Finnie: The instrument was laid on 1 February.

The Deputy Convener: No doubt members may wish, if so advised, to mention any differences during questioning. I invite the minister to make an opening statement.

Ross Finnie: The committee is, no doubt, aware of the huge strides that have been made in trying to control and eradicate foot-and-mouth disease. We are all pleased that the last new case was confirmed on 30 May last year. Further progress has been made throughout the United Kingdom. We are pleased that the OIE agreed in January that the UK could recommence international trade. We expect that the Standing Veterinary Committee will remove the last vestiges

of restrictions on exports to Europe today or tomorrow. At the moment, exports of live sheep are still banned.

The issue that I have had to confront as minister, and that we have had to address with the industry, is how to balance evidence of control over the disease with the potential risks and threats to our industry. There is no way that we can turn the clock back and say that we can simply go back to where we were, now that we believe that we are more or less free of the disease.

Although we should recognise the needs and imperatives of the industry, I have had to weigh that consideration against the strong body of evidence that our chief veterinary officer and the state veterinary service have presented to me. Indeed, Leslie Gardner is with me this afternoon. That clear advice highlights the risks and threats presented not just by the resurgence of foot-and-mouth disease, but by all exotic diseases. I have had to balance the farmer's freedom to conduct his or her business with the strong veterinary advice that this is not the time to believe or to pretend that we are risk free. That is the big issue for me.

We have been engaged in long and extensive discussions with farmers, people in the meat wholesale trade, representatives of national sheep associations and the marts—indeed, with the whole industry—on the subject of how we balance the risks and threats. We have generally agreed that four elements must be woven into policy. First, with the rest of the UK, we need to strengthen controls over imported meat and meat products that might bring in disease. Much is being done in the UK to assess the elements of risk and to work towards proposals on how to act on that.

Secondly, the rapid movement, especially of traded animals, must stop, and the order contains measures to prevent that. Thirdly, in the longer run, a higher degree of on-farm biosecurity must be applied to livestock enterprises in general, and we will work with the industry to produce a minimum code of practice. Finally, taking into account all the veterinary advice that I have received, the industry and I have agreed that some form of standstill—in this case, a 20-day standstill—should remain in place, although it will be subject to a large number of conditions. All four elements will be pursued. Furthermore, we will be informed by the outcomes of the foot-and-mouth disease inquiries.

The order is the result of our agreement with the industry on how to balance the two considerations that I have mentioned. It contains important exemptions that give real freedom and is radically different to legislation in other parts of the UK. At

the very least, the order will allow us to slow the spread of the disease if—heaven forbid—there should be any recurrence. Although I do not want to go through the whole order, I draw the committee's attention to the wide range of exemptions that the majority of the industry has agreed. I should point out that there has been some reluctance; some do not believe that such exemptions are necessary. However, the exemptions in the order represent a reasonable compromise and balance in relation to imposing authority and having a check on those movements.

That is the purpose of the instrument, and I have outlined the process that led me to introduce it. It is difficult to justify the emergency measures under which we were operating as a legal basis for proceeding, but we need to retain the controls, so we needed to make an order under the Animal Health Act 1981 that would give us a sound legal basis for enforcing such measures, where necessary, if we could not get the industry to comply by consensus and agreement.

I would be very happy to take more detailed questions.

The Deputy Convener: In paragraph 5 of his explanatory letter of 22 January, Mr Dickson describes the disease threat under three headings: first, "Unrecognised infection in sheep"; secondly, "Contamination of the environment"; and thirdly, "Import of a fresh intake of FMD".

I want to ask about an apparent contradiction. I understand that the international body, the Office International des Epizooties—if my pronunciation is right—has declared Britain, including Scotland, to be disease free. I presume that that declaration was made after input from Mr Gardner and on his advice. On the one hand, Scotland is internationally disease free but, on the other hand, the statutory instrument and its restrictions have been framed to cater against the disease being latent and, therefore, possibly still present. Can you shed some light on that apparent contradiction?

Ross Finnie: A distinction must be drawn between being disease free and being risk free. One must be conscious of the trade, particularly in sheep, that takes place north and south of the border. Previous experience and veterinary advice show that we cannot ignore that distinction. We have done a huge amount of serological testing in Scotland. We have done that on a statistical basis, which allowed us to come to conclusions about our own disease status, but we could not extend that to the whole of the United Kingdom. We are approaching the lambing season, the stress of which is known to provide the conditions in which any latent disease in sheep might express itself. I shall ask Leslie Gardner to explain that further.

There are clearly elements of risk associated with that simple example alone.

I do not think that there is a contradiction between claiming that we are disease free, in the sense of the disease exhibiting itself, and that the risk of disease still exists. It would be appropriate for me to hand over to Leslie Gardner so that he can describe in simple terms what that risk involves.

The Deputy Convener: Perhaps Mr Gardner could also quantify that risk. Aberdeen and Northern Marts recently opined that the fact that no positive bloods were found in any of the sheep tested makes it difficult to accept the claim that there is a real risk in Scotland of dormant foot-and-mouth disease. I would therefore be grateful if Mr Gardner could quantify the risk of dormant foot-and-mouth disease using the risk assessment that, as I understand it, looked into those matters in gruesome statistical detail.

Leslie Gardner (Scottish Executive Environment and Rural Affairs Department): We must recognise that the OIE has a mechanistic set of criteria for declaring a country free from FMD infection. The basis for that is a period of three months since the last case—for the OIE's purposes, that means the last case in the United Kingdom—together with supporting evidence of an extensive serological programme. Once those criteria are met the country effectively, in OIE terms, becomes disease free.

The word "unprecedented" has been used often to describe this outbreak. It has been unprecedented in its scale, intensity and in the fact that there has been a large element of unapparent disease and difficulties with diagnosis in sheep. Against that background, we must consider the risks. Assessment of the risks is a matter of veterinary judgment, based on our extensive experience of this outbreak. We are also using supportive evidence from a theoretical risk assessment that has been carried out by the Veterinary Laboratories Agency.

14:15

We know that sheep can be carriers of disease for significant periods of time—months, anyway. We believe that the carrier status does not pose a huge risk of recrudescence. However, we know from our experience at the height of the epidemic that the stress of lambing brought out the clinical disease, where it existed, in many of the cases that we had to deal with. There is therefore a question of risk assessment. In the medium term, there is a risk that the stress of lambing might express the disease. It is true that, in Scotland, we have had no positives as a result of our extensive serological campaign. In the UK, more than

2,500,000 samples have been taken. That process has revealed a number of positive samples. In the north of England, there has been relatively recent infection within the time frame of six or seven months—that is how long the animals keep their carrier status. Within the epidemiological unit of Great Britain, we cannot absolutely guarantee that the disease will not recur or spread. I think that the risk is very low, but we cannot say that it is nil.

Apart from sheep, another factor is that of recrudescence. That relates to the virus being present in contaminated faecal material on buildings, if those buildings have not been completely cleansed and disinfected. As you know, the cleansing and disinfecting in Scotland was completed in October. However, there remain a few buildings that, for one reason or another—perhaps they were listed buildings or were fragile—were not comprehensively disinfected to a standard that we would feel was absolutely secure. In the north of England, the cleansing and disinfecting process is not as advanced as that. There is a possibility that a virus that exists in those buildings could escape. However, that risk is low.

That is the medium-term risk. The longer-term risk relates to imports. Would you like me to say anything about that?

The Deputy Convener: Members might want to ask about that, but I would like first to return to my initial question. I understand that the risk-assessment paper has expressed the risk in terms of various figures that are very close to zero. From your remarks, Mr Gardner, and those of the minister, it seems that the only risks of which account must be taken relate to dormant disease and recrudescence from buildings south of the border, rather than in Scotland. Is that so?

Leslie Gardner: As I have pointed out, Great Britain is an epidemiological unit and it is difficult to distinguish between the situations north and south of the border. We cannot guarantee that any recrudescence that occurred in one part of the epidemiological unit would not affect another part. For the sake of argument, let us say that a recrudescence of infection occurred in Northumberland. Because of Northumberland's proximity to Scottish flocks, that would clearly pose a risk.

The Deputy Convener: Can you quantify the risk of recrudescence?

Leslie Gardner: No, nobody can accurately and reliably quantify the risk. It is low—the VLA risk assessment put a very low figure on it. You will have seen the document.

The Deputy Convener: Will you remind us what the figure was?

Leslie Gardner: I cannot quote it off the top of my head. Although the figure was very low, the risk is not nil.

The Deputy Convener: It is pretty close to zero.

Leslie Gardner: No, I would not accept that it is close to zero. In any case, two elements come into assessing the risk of recrudescence: the VLA assessment and our considerable veterinary experience throughout the outbreak. There is also a third element—the unprecedented weight of infection that existed during the outbreak.

The Deputy Convener: Thank you. I was informed that you are able to share your time with us until about 3.30, minister. Is that correct?

Ross Finnie: Yes, that is right.

The Deputy Convener: That gives us plenty of time. Richard Lochhead was the first to indicate that he wishes to ask a question. Other members should catch my eye.

Richard Lochhead (North-East Scotland) (SNP): Although most of the industry welcomes the relaxation in the livestock movement controls, there is widespread opinion that the draft order does not go far enough, given that there has not been a case of foot-and-mouth disease in Scotland for about eight months.

The international authorities have deemed the whole of the UK, not just Scotland, to be free of foot-and-mouth disease. In your opinion, where does the greatest risk come from? Does it come from existing carriers of the disease in Scotland or in England, or does it come from imports? If you had to rank those three sources, what would the order of risk be?

Ross Finnie: That is very difficult. You used the phrase “there is widespread opinion”. Although I cannot claim to have a majority of support, when I framed the order that I have laid before the Parliament, I consulted not just with the farming bodies, but with the Scottish Association of Meat Wholesalers, the National Sheep Association and the Convention of Scottish Local Authorities—all the bodies that have an interest in controlling the disease. The order has been arrived at by consensus among the bodies to which I referred.

Please remember that under the Pigs (Records, Identification and Movement) Order 1995 (SI 1995/11), we already have standstill arrangements in the pig industry to control the spread of the disease. Therefore, the order is not unprecedented. It is wrong for the livestock industry—or anyone in it—to give the impression that movement controls are not part and parcel of modern practice. I want to put that on the record. I hear Richard Lochhead’s comment about “widespread opinion”, but I have endeavoured to achieve consensus. Although I respect the point

that ANM made, I am not aware—from my consultations with others—of a wide body of opinion.

I must bow to the veterinary advice on where the greatest risk lies. As minister, I am bound to take into account the view of the chief vet in Scotland—which is supported by the state veterinary service—that the element of risk remains. The risk applies not only to the disease itself, but to what happens if it breaks out. Only 12 animals started the last outbreak, which did not start in Scotland, but in Longtown. I do not know how Leslie Gardner would rank the risk factors of imported meat and existing carriers.

Leslie Gardner: In all honesty, no one can give a genuine ranking of risk. I perceive that there is a medium or short-term risk of the re-emergence of disease within the sheep flock. That is a theoretical threat. I think that that risk is extremely low in Scotland. It is slightly higher in the Great Britain context, although even there it is still low. However, until we pass this year’s lambing season, with all the stress that that causes, we cannot say that the risk is nil.

In the longer term, there is a risk that infection may be reintroduced from abroad. That risk is difficult to quantify—no one can honestly put a figure on it. However, from our experience we know that the risk is greater than it was. There has been an increase in the number of people and products being moved into the European Union. We know that, once disease gets into the country, there is a risk that infection may be disseminated—because of the pattern of the livestock industry, the large number of stock movements and the mobility of the sheep population. That risk will remain with us.

Richard Lochhead: I think that I heard the minister say that he did not think that the source of the risk was particularly relevant. The farmers’ view is that they are being hit by all the regulations, even if they have not had a case of foot-and-mouth and even though, according to international authorities, they have no cases at the moment. Surely the emphasis should be placed on imports. The source of the risk is a relevant issue.

Ross Finnie: I did not mean to imply that I do not care where the risk comes from.

Richard Lochhead: You did not say that you did not care about that, but you said that it was not particularly relevant.

Ross Finnie: If there is a risk, I must respond to that by asking myself what measures I should put in place to stop the disease spreading in the way in which it spread last time.

In my introductory remarks, I made it absolutely clear that there are four elements to this issue. At

UK level, I have been pressing hard on risk assessment. I have not encountered any resistance—indeed, the veterinary labs are now carrying out additional risk assessment. We accept that there must be a far more rigorous import regime. I share absolutely Richard Lochhead's view that it makes no sense to try to control the spread of the disease simply by imposing conditions on farmers when it is more likely to be imported. That is why I have been pressing on that at UK level. An assessment is being made of the nature of imports and of the risks that they pose. We are also seeking to identify what kinds of imports might come into contact with livestock. Measures have already been taken to improve powers of inspection at import centres. All non-EU meat—meat from third world countries—is inspected. The European Commission is now aware of the need for it to inspect meat much more critically at the borders of the EU. Under our trading arrangements, we have no power to stop meat that has already entered the EU coming into this country.

I do not disagree at all with the point that Richard Lochhead makes. Risk assessment of imported meat is a major piece of work, and it is being carried out with some urgency.

Richard Lochhead: I am glad that you have clarified that point.

The committee has heard views from the industry on the measures that you propose to take to relax the current controls. We have been asked why there cannot be a 14-day standstill for cattle, as opposed to the 20-day standstill that you propose. What risk assessment is attached to a 14-day standstill?

Points have also been made to us concerning your proposed time scale for relaxing the controls on cattle and sheep—18 March for cattle and 18 May for sheep. The industry appears to be perplexed about why we have to wait so long for those controls to be relaxed.

Ross Finnie: Richard Lochhead refers to the industry, but as I pointed out to the committee, I have communicated with a large section of the industry. Are we talking about the same bodies? Is there a clear dichotomy between the Scottish Association of Meat Wholesalers, the National Sheep Association, the National Farmers Union and other bodies? Who are we talking about?

Richard Lochhead: The Scottish Beef Council has contacted us, as have some of the marts and individual farmers, who have expressed the views of their respective meetings. Is it not the case that at stakeholder meetings proposals were made to you for a 14-day standstill for cattle, as opposed to a 20-day standstill, and for controls to be relaxed sooner?

14:30

Ross Finnie: All sorts of proposals have been put to me, the range of which would take up the whole meeting. It has been proposed that there should be no controls, that it is all a waste of time and that we are under no threat. The bodies we consulted represent the groups to which Richard Lochhead referred. We reached agreement with them that the Executive's approach is pragmatic and sensible. The Scottish Association of Meat Wholesalers—which is perhaps at the other end of the scale with regard to controls—is petrified of the possibility of a further outbreak. Proposals include seven days, 14 days and 20 days.

Leslie Gardner: On the import question, before it slips my mind, we were talking about risk assessment and the difficulty of getting something that is absolutely certain. With risk assessment, nothing in life is certain. However, work has been done at an international level on assessing the threat to Europe. The threat comes at the border of Europe. In theory, the European Union should have a ring of protection around it. Any meat that enters the EU commercially should enter via a border inspection post that, as the minister rightly pointed out, undergoes veterinary inspection.

A report that was sponsored by the Food and Agriculture Organisation of the United Nations within the past two years quantified the number of outbreaks to which Europe might be expected to succumb within the next five years. As one might expect, the report indicated that the biggest threat would come from the Balkans and eastern Europe because of their proximity to parts of the world where the disease is prevalent. We are trying to update that risk assessment. The Government intends to commission a specific assessment of the risk that is posed to this country from the importation of foot-and-mouth disease.

On a 14-day rule, as opposed to a 21-day rule or six-day rule—which is what some people have suggested—we must consider why we are doing this. We must bear in mind the precautionary approach that is necessary and the huge outbreak that has occurred. The particular problem that we have had with identifying inapparent disease in that outbreak has been a real bugbear. We must have a system in place that slows down the movements of animals for long enough to allow the virus to be identified in a clinical form, not only in the individual animal—it can be missed in the individual animal—but in the flock or herd.

Twenty-one days allows three cycles of the disease—or more, depending on the incubation and strain of the disease—to circulate throughout the herd and maximises the chances of detection of the disease; the first stage of control is detection. Twenty-one days also slows down the spread of the disease, through the rate and

number of movements. That is its purpose. The exact time is a matter of judgment. The veterinary judgment is that 21 days provides a good balance and a high level of probability that disease will be detected before it can do wider damage. The period is not infallible—no period is infallible—but it is a matter of veterinary judgment, which is based on the cycles of disease and the opportunity for the disease to become established in a herd or flock. Fourteen days provides a lower level of reassurance and six days would not give us much assurance at all.

Mr Jamie McGrigor (Highlands and Islands)

(Con): My first question is for the minister. On 9 August last year, Paul Tyler MP, who is a front-bench Liberal Democrat spokesman in the House of Commons, said that the failure to hold a full public inquiry into the handling of the foot-and-mouth outbreak was “outrageous”. He went on to say that anything other than a full public inquiry would satisfy nobody and would merely make farmers and taxpayers more suspicious that ministers have something to hide. Mr Tyler concluded by saying that, unless a public inquiry was established,

“MPs of all parties will rightly conclude that ministers are afraid of the truth.”

Does the minister plan to continue with his outrageous opposition to a public inquiry? If he does, farmers and taxpayers will come to the conclusion that he has something to hide and that he is afraid of the truth. If he does not, will he agree finally to lobby the UK Government to hold a full public inquiry that will examine its handling of foot-and-mouth north and south of the border?

Ross Finnie: No. On Friday of this week, I will go to Dumfries to give evidence to one of the three inquiries that are in place. I believe that Mr Ian Anderson is a gentleman of some integrity and probity. The job that he has been given is to get to the bottom of how the disease was handled, how the operation came into place and what its effects were. Unless Jamie McGrigor has reason to doubt Mr Anderson’s integrity and probity, I can think of no reason that he will fail to do that job.

I will go to the inquiry prepared to answer any question that Mr Anderson wishes to put to me. I have nothing to hide, nor do I intend to hide anything. I hope that Mr Anderson will report in a full and frank way before the end of this year. If other lessons have to be learned, in particular in relation to the need for us to impose further movement restrictions or to take a contrary view, I hope to know that before the end of 2002.

Mr Anderson will address the issues that concern the outbreak in Dumfries and Galloway and what the Executive did or did not do. The frustration for colleagues in England, for whom the

disease lasted much longer, is a different matter and is not a matter for me.

Mr McGrigor: My next two questions concern the Scottish Executive’s interim animal movement regime. The first question relates to page 5, section v on away-wintered animals, which says:

“The 20 day standstill will not prevent the movement of sheep home to their original holding”.

It is common practice to away-winter cattle, but the paragraph does not mention cattle. Will the minister confirm whether it will be all right to bring back cattle, as well as sheep, from winter holdings?

Ross Finnie: Where is that in section 5?

Mr McGrigor: Page 5, section v—the section number is in Roman numerals.

Ross Finnie: Is that page 5 of the order?

Mr McGrigor: I am talking about the interim animal movement regime.

The Deputy Convener: I think that we are talking about Mr Dickson’s explanatory letter of 22 January.

Ross Finnie: I thought that Jamie McGrigor was talking about a section of the order—

The Deputy Convener: So did I.

Mr McGrigor: The question may be for the minister’s officials.

Ross Finnie: Yes. It is for David Dickson.

David Dickson: Jamie McGrigor is right to spot the difference. The provision as set out in the consultation letter and the provision in the order extend only to sheep. As Jamie McGrigor is aware, away-wintered cattle are carried to a lesser degree than are sheep. When the exemption for cattle that are to be held separately on a farm comes into effect on 18 March, anybody with away-wintered cattle can keep them apart from other stock for three weeks. That will overcome that particular difficulty. At this stage, the order does not extend to cattle.

Mr McGrigor: My second question relates to the same document and concerns movements to slaughter. Section ix on page 6 says:

“Movements direct to an abattoir or to a slaughter market are not subject to the 20 day standstill. Animals which are unsold at a slaughter market may be returned to the farm of origin but will trigger the 20 day standstill.”

When animals are sent to store markets, it is common practice for farmers to pass their animals if they consider that the price is not enough and to take them home. If the animals are brought home from a store market rather than from an abattoir, will they still be subject to the 20-day rule?

David Dickson: If an animal is taken home from a store market, that animal can be resubmitted to a slaughterhouse within the 20 days. If it is taken home because it could not be sold at a store market, it cannot be resubmitted to a market within 20 days. We have told the stakeholders group that we will keep that situation under review, especially as the autumn approaches, when that may become an issue in certain parts of the country—notably the Highlands—if there is a lack of buyers.

Mr McGrigor: Do I have time for one more question?

The Deputy Convener: I think so.

Richard Lochhead: As long as it is not a press statement.

Mr McGrigor: The lambing season is being regarded as a stressful period. However, I do not understand why the end of the 20-day rule is set at 18 May for sheep. For a great many hill farms in the Highlands and Islands, that date would fall in the middle of the lambing season rather than at the end of it. I do not see the point in using the stressful period of lambing as a reason for the 20-day rule, especially as, between now and lambing time, the sheep will have been gathered and put under a great deal more stress several times.

Ross Finnie: As Leslie Gardner said, although there is perhaps a risk of the disease in Scotland, there is a higher risk in England. We are, therefore, properly concerned that we should not offer a relaxation of the rule until the higher risk that exists in the English lambing season rather than our own lambing season is past. That is why that date was chosen after a lot of discussion with the industry. It is not a scientific date, but we believed that it would give us the level of protection that Leslie Gardner says that we need.

Mr McGrigor: I still do not understand why the date for cattle is 18 March if the date for sheep is 18 May. Those dates seem to have been just pulled out of a hat. Why cannot the date be, for example, 18 February?

Ross Finnie: I am not suggesting that there is any great science about the dates. However, even the English lambing season is not finished by 18 February, as you will be aware. Those dates were arrived at as pragmatic and practical choices, partly on veterinary advice and partly on our understanding of how the respective cattle and lambing trades operate. We wanted to try to give a degree of additional protection and to work out the mechanics of bringing the two different elements into play. The essential issue was the need to give additional protection in the event of a risk being posed that had arisen out of the lambing season in England.

The Deputy Convener: As we continue to hear

your evidence, it seems, increasingly, that much of the rationale behind the measures relates to risks from England rather than risks in Scotland. Would that be a fair conclusion?

Ross Finnie: I say to Fergus Ewing directly that the foot-and-mouth disease outbreak came to Scotland from Longtown. I cannot ignore that fact. Even if you got independence, Fergus, you could not stop disease crossing national boundaries. You may be more powerful than I think, but even you, with all due respect, could not deal with such an exotic disease without recognising that it does not pay any heed to a national boundary. I do not think that you could ignore that.

14:45

The Deputy Convener: Well, I—

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Convener, many of us want to ask questions. You have had a shot a few times. Could you spread the load a little?

The Deputy Convener: I certainly will, Mike, although we have quite a lot of time and the minister seems to be responding gamely to any questions that are put to him.

The last case of foot-and-mouth disease in Scotland occurred about four months before the last case in England.

Ross Finnie: That is a superb position to be in, but the Scottish Association of Meat Wholesalers is terrified about the impact on the meat industry if we were to have another catastrophe. That is the balanced view that we have to take.

I have just spotted from looking at my notes something that I omitted to say when I was talking about animal movements. The European Union has not published any drafts on this, but its preliminary view on controls on foot-and-mouth—much influenced by what happens in the pig sector—indicated clearly that movement restrictions are more likely than not to be part of the regime. We cannot ignore the pig regime, which covers movement restrictions. If we consider the outbreaks of classical swine fever, which Leslie Gardner could speak about, the ability not necessarily to stop the outbreak, but to control the spread of the disease, is very much in the scope of the PRIMO regulations.

The Deputy Convener: Let us make progress. I call John Farquhar Munro.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Good afternoon, gentlemen. It is fair to suggest that the Scottish Executive environment and rural affairs department has had to take many difficult decisions over the past year or so. Given the rigid

and strict controls that were put in place, we are fortunate to have reached the stage at which we can have this debate about the proposed relaxations. We should be quite pleased about that. The controls seem to have been effective. Not only has the spread of the disease within Scotland been controlled, but—as far as we are aware—it has been eradicated.

My concern is about the suggested 20-day standstill period. What is the scientific justification for making that period 20 days, as opposed to 14 days or seven days?

Ross Finnie: I think that Leslie Gardner covered that in replying to Jamie McGrigor but, for the avoidance of doubt, I invite him to repeat the reasons. We will check later whether he gives the same answer.

The Deputy Convener: Perhaps the answer could be paraphrased from the previous one.

Leslie Gardner: The principle is to allow a period of time for the infection to become established not just in individual animals, but in the herd or flock, so that it may be detected. If one animal is infected, and if the incubation period is four or five days, detection of the infection in that animal might be missed. We all know that, in sheep, the symptoms have been very mild.

Once the infection has been disseminated once or twice among the other animals in the flock, we have a much higher probability of detecting it. We want to detect the infection and put controls in place before the animals are sold through the marketing network. We saw what happened in the most recent outbreak: the infection was disseminated all over the country through a single market. In short, the purpose is to allow an opportunity for the disease to be detected.

The trouble is that the disease is variable. There are seven major strains and many sub-strains of foot-and-mouth disease. Each has variable periods of incubation and a variable intensity of symptoms. We are not necessarily applying the 20-day rule to the case in question, but to the generality of all foot-and-mouth disease incidents to which we may be exposed. It is a safety measure to allow time to detect the disease and to prevent the movement of affected animals.

John Farquhar Munro: In some parts of the west Highlands, segregating stock to the extent required might be difficult. Some smaller holdings might not have the capacity or facilities to isolate stock for 20 days—or, for that matter, for any number of days. The order gives some consideration to that problem. Page 5 of the explanatory letter refers to common land; it states that stock that is drawn back from wintering on to the common land will not be subject to the 20-day standstill. Will you justify why, even though the

stock is allowed to roam freely on the common grazing, that risk does not merit a standstill?

Leslie Gardner: The aim is risk reduction, not risk prevention. The only way of preventing risk is to stop movements altogether. We are talking about risk reduction. The relative risk must be balanced against the practicality of continuing with crofting, of which common grazing can sometimes be an integral part.

In practice, for the purposes of disease control, the common grazing is regarded as a single entity. That means that the common grazing is regarded as a single premises for the purposes of applying the 20-day rule. That is a pragmatic decision. In terms of disease control, our position lies somewhere between the ideal, which is that there should be no movements, and the other end of the scale, which is that there should be absolute freedom of movement. We have taken a commonsense decision that is based on the reality of the crofting situation.

John Farquhar Munro: Do you accept that the regulations allow the stock to roam freely? Once the animals come off the fold from wintering, they go on to the common grazing, where they become mixed up with the other stock. That does not seem to cause a difficulty. If the risk applies in that instance, should imposing the standstill on the other holdings be considered?

Leslie Gardner: We have developed our decision in conjunction with the industry and after considering the practical problems. The problems for the common grazing practice that is used in crofting are reflected in the concession—if you like, the instrument is a 21-day rule with a number of concessions. The concession for common grazing has been weighed in the round. It has been concluded that the risk, when balanced against the practicality of allowing crofting to continue, is relatively acceptable.

Rhoda Grant (Highlands and Islands) (Lab): I welcome the important concession to crofting. Despite our questioning, every committee member is keen that we should not have another foot-and-mouth outbreak. Our role is to ensure that the steps that are taken to prevent that are relevant.

I want to ask about the way in which the regulations apply to islands. Although I understand why the movement of sheep on to islands will be subject to a 20-day standstill, I cannot understand why sheep movements between farms on the same island should be subject to those rules, given that the islands did not have foot-and-mouth. Islands have a natural geographical barrier.

David Dickson: We did not believe that foot-and-mouth would spread to the islands, so right from the start a general licence was applied to the islands. We have been advised that the islands

will be able to function with the exemptions and that tups and bulls can be brought on to the islands. We were faced with the choice of simply abandoning all other controls within the islands or of retaining the principle of the 20-day standstill alongside the exemptions. The balance of judgment was that it was sensible to insist that islanders should keep their stock separately, where possible, if only for good husbandry practice, with the obvious exception of the common grazings. In that way, if infection were to get into the islands, there would be a barrier.

Rhoda Grant: I understand what you are saying and I totally accept that incoming animals should be kept separate. However, it would be difficult to explain to people why the 20-day rule applies to movements on islands. You say that it is to do with good husbandry, but obviously the risk is minimal, if it is there at all.

David Dickson: I hear what you say. The situation that comes to mind is the flock and herd that we had to cull in Sutherland, miles and miles away from the nearest Scottish outbreak, because a gentleman from Sutherland had visited an area where there was disease. We thought that there would be no risk of the disease getting that far north, but the reality is that people move and stock move. Despite the apparent immunity of the islands, they are not wholly immune, just as Sutherland was not immune. As the minister has explained, we are taking a protective and pragmatic approach to the whole exercise, so it is appropriate to maintain the 20-day rule for the islands as well.

Rhoda Grant: Would you be willing to reconsider that in future?

Ross Finnie: I hope that the committee will accept that, from the moment that the disease started to tail off, I have been true to what I promised Parliament. I said that I would continually review the situation and adjust the restrictions in the light of the prevailing circumstances and evidence. That remains my position. I hope that we can get through another year, by which time we will be informed by the recommendations of the inquiries and by the European Union's views on disease control. Throughout that period, we will consider the risk, as assessed by the vet, and the practical and pragmatic reasons for continuing with any form of restrictions.

Rhoda Grant: Farmers have told us that the risk of the stress of lambing is pretty much equivalent to the risk of the stress of winter hardship periods, bad snow and the like. Could you comment on the differences in risk of stress?

Leslie Gardner: The Scottish flock has been exposed to a whole variety of management and

environmental stresses and to the stress of winter weather. However, we know from experience that, throughout the outbreak, many cases of inapparent disease in sheep became clinical, and very obviously so, at the time of lambing. There was also evidence of quite high mortality in the lambs. No one can say whether stress of lambing ranks higher than the stress of winter hardship, but we know that lambing causes stress and can produce clinical disease in sheep that were formerly not showing evidence of it.

Ross Finnie: Even if we do not arrive at a judgment on whether lambing or winter weather causes more stress, Rhoda Grant should still bear in mind the timing of the relaxation. We are substantially relaxing the current regulations. That relaxation will come into effect after any winter hardship is past. That is the timing for the implementation of the next substantial relaxation over the period that has been described.

Mr Rumbles: You will remember, minister, that when last you and your officials came before the committee to discuss foot-and-mouth disease, I was particularly concerned about the legal basis of the emergency regulations. I thought that the case for continuing to use them without a new order was pretty thin, so I am delighted to see the new legislative proposals, which are a proper basis for proceeding. That is only right, and I thank the Executive for bringing them forward.

Jamie McGrigor asked about a full public inquiry. I do not know what your thoughts are but, given that the disease invaded Scotland from England, I would find it strange if there were a powerful public inquiry in Scotland alone.

On the legal basis of the order, I would like some clarity on how the pig industry will be affected. How will the order pertain to the 1995 PRIMO regulations? I am finding it a bit difficult to work out how the new measures will affect the regulations that are already in place for the pig industry.

15:00

Ross Finnie: The position for pigs is that article 4 of the order goes back to PRIMO. Pigs have their own order—the Pigs (Records, Identification and Movement) Order 1995. The new order contains certain exemptions on pigs. David Dickson will amplify that point.

Although I respect your view on the legal basis of the emergency regulations, I point out that the regulations were challenged in five court actions and were not found to be flawed. I say that for the record, because it is important.

On public inquiries, I take the position that animal disease does not recognise national

borders. I am more concerned about how we go forward and what steps we can take to reduce risk. I am interested in the Royal Society's inquiry and whether it can point us in a direction that leads to the production of different and better forms of vaccination that might offer us a new armoury and that might avoid once and for all the need to resort to culling. I am far more interested in the situation across the whole of the UK in that sense.

David Dickson: The reference to PRIMO in the order is sensible, as the PRIMO rules in effect have a 20-day standstill built into them, which is consistent with the principle that the minister has outlined. As pigs are the most susceptible species to imported disease, they are the model for the other sectors. The order contains specific provisions relating to pigs. I will not go into those provisions, but the principle is that the pig sector has been subject, and will continue to be subject, to a 20-day standstill as part of the in-built rules that apply and have applied for some time.

Mr Rumbles: So if we wanted to change the measures, especially those relating to the pig industry, we would refer to the order.

Ross Finnie: No, we would still be looking at the 1995 PRIMO regulations.

The Deputy Convener: I wish to pursue the point that the PRIMO regulations are the model to work on. I may be missing something, but I seem to recall reading a veterinary textbook that suggested that, as vectors of infectivity, pigs are about 2,000 times more effective than sheep or cattle—that is, pigs are 2,000 times more liable to pass on the virus. Am I wrong? If I am right, are we using the wrong model?

Ross Finnie: I will pass you to the only other person in the room who I know reads veterinary textbooks. That is Leslie Gardner.

Leslie Gardner: The picture of infectivity is rather different in the three major species about which we are talking. Pigs are quite susceptible to oral infection. Generally speaking and depending on the strain of virus, however, they produce vastly greater amounts of aerosol infection. Cattle and sheep are not especially susceptible to oral infection, but they are highly susceptible to aerosol infection. Therefore, if a pig herd is infected, that is a high-risk situation, in that the herd will generate a large plume of aerosol infection, which will then disseminate according to the meteorological conditions in a footprint downwind of the premises. Cattle and sheep are sitting targets for that infection.

The principle of the 20-day rule applies equally to pigs, sheep or cattle. Once sheep become infected, they become great disseminators of disease—as was demonstrated in the outbreak—

particularly through their movements. You are right to point out that our concern has historically been with pigs. The PRIMO regulations were introduced in, I think, 1972 because of swine vesicular disease and the risk of pigs creating an aerosol infection. The 20-day rule has been successful in containing disease in the pig industry, as the events of the past two years have demonstrated—classical swine fever has been confined to 16 outbreaks.

Stewart Stevenson (Banff and Buchan) (SNP): I have listened with considerable interest to much of what has been said and a number of points have emerged on which I would like to focus.

We have heard on a number of occasions that the reservoir of risk is substantially higher south of the border than north of the border for a series of reasons. We might return to some of those reasons in a minute. David Dickson spoke about the exemplary treatment that was handed out to a farmer in Sutherland who had the audacity to move to a centre of infection in Northumberland—or perhaps it was in the Borders—at the height of the outbreak. The minister has properly said—I paraphrase him—that the virus does not read the Scotland and England border posts.

In the light of all that and given that we can determine rules that will operate in Scotland, is it appropriate for us to consider stiffer regulations for movements from England—which, as you acknowledge, is the greater reservoir of risk—to Scotland?

Ross Finnie: One concern relates to the degree of control that we must put in place to deal with the element of risk. As I made clear in my opening remarks, I tried to balance the risk and the clear advice from our vet—particularly from Leslie Gardner, whose opening stance, I must confess, was somewhat stricter than the current position but who left himself room for negotiation—with trying to deal with an industry. That industry is not just a breeding industry, but a livestock industry. I tried to achieve a balance in which I did not ignore the veterinary advice, but took account as far as possible of the pragmatic issue of allowing a meat and livestock industry to continue.

To enforce the rules that you suggest introducing would require some kind of border control. It is extremely difficult to contemplate how we would implement that. As there are objections within the industry to the continuation of the kind of controls that I have in mind, serious controls of movements north and south of the border—there will be some controls anyway, because different movement restrictions will be imposed south of the border—would be extremely difficult to contemplate.

Stewart Stevenson: Given that the enforcement regime will be complex in any event, would not it be a price worth paying to insulate ourselves from the reservoir of increased risk south of the border and—as a consequence of a tighter regime to isolate ourselves from that source of risk—to deliver a less-than-20-day movement restriction?

Ross Finnie: First, the veterinary advice is either to have a 20-day restriction or not to have a restriction at all. The vet was clear that lesser time restrictions have no real effect. Secondly, the border with England does not represent the only border risk. In answer to one of Richard Lochhead's questions, I made it clear that imports of meat from other external sources remain a matter of concern. Your suggestion would not necessarily address that. I am not sure about the best method of controlling that aspect.

Leslie Gardner: First, it would be difficult practically to enforce an administrative Hadrian's wall while maintaining a viable industry. Secondly, our evidence has shown two strands of risk. There is a short-term risk until the end of the lambing period. We can argue that the position in Scotland is much better than in England, if only because we have been clear of disease for longer—eight months as opposed to four months. That risk will diminish with time and will become an insignificant factor in another two or three months. The continuing risk from imports applies north and south of the border. The controls that we have introduced have been designed to tackle both strands of risk equally.

Stewart Stevenson: You said that in a couple of months the short-term risk will be an insignificant factor. The regime will change on 18 May. Does that suggest that it would be appropriate to review the 20-day rule and other restrictions within a couple of months because there will be a reduction in risk?

Ross Finnie: No, because the way in which we have constructed the order means that there will be no change until 18 May. In other words, we believe that the present rules must remain in force until that time. In constructing the order, we have taken account of all that Leslie Gardner and others have said to us. You also referred to the area of higher risk. In England and Wales, there are no relaxations or exemptions equivalent to the kinds that we propose beyond March and May.

Stewart Stevenson: I want to make an observation on the basis on which risk is assessed. Risk has two vectors—probability and impact. In much of the debate, we have perhaps crossed the line and have not been clear what we were discussing. I wonder whether much of the statistical information with which we have been provided is not essentially a red herring—

considerable doubts have been expressed about the underlying assumptions that have driven the statistical analysis. Although I do not think it unreasonable, essentially we are relying on a Delphic analysis. In other words, we ask for the best opinions that are available to us. We rely on those opinions as much as we rely on statistics that have a quasi-scientific feel to them. If that is the case, and opinions change over succeeding months, will you consider relaxing the regime sooner rather than later?

15:15

Ross Finnie: I will deal with the last point first. I can only repeat what I said in response to a question from Rhoda Grant. As soon as incidence of the disease had peaked, I came to Parliament with a variety of measures, at regular intervals, in an attempt to unwind the regulations that I had found it necessary to put in place. My aim was to allow the industry to return to a degree of normality. I will, of course, continue to assess the situation.

I have talked to a wide range of people, both from the veterinary side and from the industry. Few serious players in the Scottish livestock industry believe for one minute that we can return to the precise position that existed immediately prior to the foot-and-mouth outbreak. As Richard Lochhead pointed out, there will need to be a much harsher regime for examining the risk posed by imports. There will also need to be minimum standards of on-farm biosecurity, which will not be easy to put in place.

Stewart Stevenson is right to say that this not a precise science. The deputy convener's reading of veterinary books about the effect of foot-and-mouth on pigs is interesting, but we need to find ways of containing a disease after it has broken out. If we fail to contain such outbreaks, they can have a devastating effect on the whole industry, because it is then necessary to impose more draconian measures, such as the absolute standstill that had to be put in place.

I am always open to hearing risk assessments and proposals from experts, particularly on the veterinary side. However, when formulating the instrument, I felt that I had to bear in mind the fact that a year ago we had a very serious outbreak of foot-and-mouth that could, by a stroke of ill fortune, have been much worse. I am not, and never will be, in a position to ignore veterinary advice.

The Deputy Convener: Before I ask Jamie McGrigor to begin round two of questions, I will follow up on Stewart Stevenson's line of questioning. At what point would it be correct to review the regulations that we are considering

today? It has been put to us very forcefully that it is essential that any rules that are introduced expire before the autumn sales, in mid-August, assuming that there is no recurrence of foot-and-mouth disease. If we make that assumption, would it not be reasonable for the measures—which are described as interim measures—to be subject to a stop date, at which they would expire and would have to be reconsidered and renewed? Given that they are interim measures, would not it be sensible to include such a date in the statutory instrument? That would address the real concern that has been raised with us about the autumn sales and the extensive movements of animals that take place around that time.

Ross Finnie: The regulations are intended to deal with the current year. Many of the exemptions in the instrument were framed with the autumn sales in mind.

I appreciate what Fergus Ewing said. I have had the argument—other people have made to me the point that Fergus just made. Clearly, there is a body of people in the industry who believe that any form of regulation, standstill or change to the status quo ante is unacceptable. I am sorry to repeat myself, but all the main organisations that have an interest in the matter—the National Sheep Association, the farmers unions and the Convention of Scottish Local Authorities—see the regulations as an acceptable compromise. The regulations will see us through to the point at which we can be informed of the outcomes of inquiries and, more particularly, to the point at which we have regulation from the European Union, which has at least discussed the question of movement restrictions.

I believe that the regulations are reasonable and, as I said, the problem is not new. I have unwound the regulations at every point. Someone always asks me, on the very day on which I announce a relaxation of regulations, “When’s the next one?” I can say only that I continue to assess the risk. It is not in my interests as a minister to strangle an industry. I am here to try to provide a statutory underpinning that will protect industry. I believe that the instrument that is before the committee is reasonable in the circumstances.

Mr McGrigor: The convener asked a question that I was going to ask, but I have another question on isolation fields that refers to the crofting industry in particular. Crofters’ fields make it difficult for livestock not to have nose-to-nose contact. What provision have you made for crofters to isolate their stock in crofting townships?

Ross Finnie: It would be better if David Dickson were to answer on that level of detail.

David Dickson: We acknowledge that drafting an instrument that covers the generality—far less

the specifics—of Scottish farming is hugely difficult. On crofting, the biggest problems that crofters had with the 20-day standstill came from brought-on animals such as tups and bulls. The fact that those animals are exempt means that crofters can move them off without having to wait for 20 days. That leaves the crofters with huge scope and means that they do not, in general, require separation of their stock. Different crofters have different arrangements on which they can fall back, as different farmers do.

The point of the instrument is to allow farmers to plan ahead. Crofters can plan ahead and make provisions for separation where they think that is appropriate. Crofters were kept in mind when we were drafting the instrument. The knowledge that rams and bulls go out to the islands was one of the key drivers in allowing them to be dealt with as exempt categories.

Mr McGrigor: I am grateful for that, but would you consider allowing a township to have an isolation field that would cover the whole township?

David Dickson: If the township were prepared to come up with a separation arrangement and to put that to SEERAD, and if that arrangement kept the stock separate from the rest of the animals, in principle there should be no reason not to allow it.

Mr McGrigor: Thank you.

Richard Lochhead: I do not think that anyone is arguing against change or new regulations in the light of the foot-and-mouth outbreak, which no one wants to be repeated. There might be some discussion of where the emphasis should be in the regulations. Many people in the industry to whom I speak are concerned that so many regulations are being imposed on the Scottish industry that it is impossible for them to operate as working farmers.

Surely the emphasis should be on tackling the source of the risk. If the source is imports into the United Kingdom, that should be the No 1 priority. If foot-and-mouth disease is imported to south of the border, we must tackle that source of risk. As Stewart Stevenson said, on many occasions many witnesses referred to the risk that exists south of the border. Given that you have alluded to the fact that there are separate regulations on foot-and-mouth disease north and south of the border, has there been an investigation into regulation of cross-border trade of livestock as opposed to simply introducing blanket proposals that will apply throughout Scotland?

Ross Finnie: First, I appreciate the fact that people get upset about regulations, but the distinctive Scottish regulation that is being proposed here is substantially less onerous than the regulations that are in place, and that will remain in place, in England and Wales. As a

result, I do not readily accept the generalisation about the imposition of so many regulations on farmers. We began with absolute standstill controls and are moving to a much less rigorous regime that nevertheless takes account of possible risks and threats.

On Richard Lochhead's second question, the people we have consulted—in particular those in the meat livestock trade—have shown no enthusiasm for separate cross-border arrangements. Because such arrangements would severely curtail the industry's operations and bring severe hardship, the idea has not found favour with the representative bodies of the industry in the rounds of discussions and negotiations that we have had.

Richard Lochhead: Have you made any changes to the order in response to the submissions that you received to the consultation that closed last Thursday?

Ross Finnie: We received no consultative representations. As always, the problem is to strike a balance between individuals and representative bodies. An individual might produce evidence or facts that might materially upset the view of—in this case—our chief veterinary officer. That said, I am not aware of a substantial body of evidence that would cause me to doubt the chief veterinary officer's advice. That is not to say that contrary views were not expressed; however, such views were expressed in the formulation of the order after a wider pre-consultation with representatives of farmers, the livestock industry, the marts and COSLA—who are all involved in the control of disease.

Richard Lochhead: So the consultation, which closed on 31 January, produced no submissions that you could take on board.

Ross Finnie: The consultation produced no evidence of sufficient weight to disturb the order's driving force, which is the veterinary advice that I received.

The Deputy Convener: I want to raise one final point to wrap up this line of argument. The minister indicated that Mr Gardner had initially suggested a more stringent approach. Did Mr Gardner move from that position because of representations from the industry? I presume that that would not have compromised his advice on the need to protect against risks.

Ross Finnie: Mr Gardner has not changed his views in principle. He has argued clearly, cogently and consistently about the need for a 21-day rule. However, he has been prepared pragmatically to accept that the exemptions in the order do not compromise that principle and has made the changes only on that basis. As a lawyer, the deputy convener will know that in any argument

one must seek a position that incurs the minimum possible risk. We have not compromised the chief veterinary officer's principles in any way, nor do the exemptions that we have included in the order compromise the principles behind the 20-day standstill. Instead, I hope that we have addressed the pragmatic considerations that not only inform the regulation but have been with us since we imposed the total standstill. We have discussed with the industry and other bodies the issues that require being unwound. However, I regret that we must accept that we cannot return to the status quo after the foot-and-mouth outbreak; that is simply not an option.

The Deputy Convener: I thank the minister and his team of advisers for giving evidence and for submitting themselves to a rather lengthy period of questioning. I know that the issues are ultimately a matter of judgment and balance and that today we have been arguing about where the line should be drawn. Nonetheless, we all welcome the relaxation, such as it is, although some of us feel that it might have gone a bit further. Thank you, minister.

Ross Finnie: Thank you, convener.

Subordinate Legislation
Environmental Impact Assessment
(Uncultivated Land and Semi-Natural
Areas) (Scotland) Regulations 2002
(SSI 2002/6)

response when we receive it and put the item on the agenda for our meeting on 12 February. Is that agreed?

Members *indicated agreement.*

15:30

The Deputy Convener: The final item before we go into private session—and before we have a break for some coffee, which is available in the room behind us under this convenership—is agenda item 3. We have before us one Scottish statutory instrument, which is subject to the negative procedure. The clerks have no comments concerning the instrument, but the Subordinate Legislation Committee's report brought extensive comments to the attention of the committee and the Parliament. In addition, the Subordinate Legislation Committee has advised the clerks that there is a potential breach of the terms of the EU directive under which the regulation is laid. That is because schedule 3(2)(c) confers discretion on ministers to consult members of the public, whereas the directive indicates that such consultation is mandatory.

We must report to Parliament by 25 February, which gives us this meeting and the meeting on 12 February to come to conclusions. If members would like to have officials present or go back to the minister for further information, we could defer consideration of the instrument until next week. Because the item to which the Subordinate Legislation Committee has drawn attention does not relate directly to a substantive issue, but to consultation, I suggest that members agree that the matter could usefully be raised in correspondence and during a review when we have received a response from the Executive.

I understand that the Subordinate Legislation Committee is not pursuing the matter. It is up to the Rural Development Committee as lead committee to decide whether to pursue the matter and whether we should do so by letter. Alternatively, members might feel that it would be useful for us to fill our time by having officials give evidence on the instrument.

Mr Rumbles: Your suggestion that we pursue the matter in correspondence is eminently sensible.

The Deputy Convener: Fine. Are there any contrary views?

Members *indicated disagreement.*

The Deputy Convener: We will write to the Executive, asking for its comments on this apparent breach of the EU directive and a full explanation. We can review the Executive's

Foot-and-mouth Disease

Richard Lochhead: Before we go into private session, I ask that we reflect on the minister's evidence on the foot-and-mouth disease consultation, which raises several issues of concern. We might want to discuss that evidence for five or 10 minutes at our next meeting, and follow up some of the issues.

The Deputy Convener: Do members have any views on the evidence that we heard and how the issues might be pursued?

Mr Rumbles: Can we pursue the matter when the instrument comes before us? Would that be the appropriate point at which to weigh the evidence? That is what we usually do.

The Deputy Convener: That will certainly be the case. The instrument will come before the committee in the normal way, once it has been laid. When the instrument comes to us, we might want to discuss with the clerks how to set time aside to put forward any views that members arrive at after the period of reflection that Richard Lochhead recommended. We can review the matter when we have the statutory instrument before us.

The clerk advises me that the instrument might not necessarily come to the Rural Development Committee. I presume, therefore, that Mr Rumbles will be happy to put the matter on the agenda so that we can, after reflection, have a discussion on some of the issues that have been raised today.

Mr Rumbles: I will be perfectly happy, whichever way we decide to proceed. If the instrument will not come before the committee, we should put the matter on the agenda. I am surprised to hear from the clerks that the instrument will not necessarily come to this committee. Surely that is not in practice correct, although it might be technically correct.

The Deputy Convener: I speak only from a manuscript note that is hot off the press of one of the minister's entourage. I am not in a position to offer a definitive comment on the procedure. I suppose that the clerks, the convener and I will have to take the matter to avizandum. I am told that the procedure is such that the instrument will not necessarily come before the committee. That being the case, it would be sensible to put the matter on our agenda for 12 February, when we can discuss the issues that have been raised today.

Mr Rumbles: I would like the clerks to pursue that important issue. The instrument should come to the committee.

The Deputy Convener: Mr Rumbles is right. I am sure that the clerks will write to committee

members when they have obtained the definitive view on the procedural issues that he rightly raised.

Richard Lochhead: Would it be possible to ask the clerks to produce a note on the chain of events before our next meeting? We originally requested the minister's presence so that we could influence the content of the instrument, in relation to the consultation period. It appears that that has not happened. Perhaps we could investigate that further.

The Deputy Convener: Yes. If we are to have a meaningful discussion, it would be helpful for us to be informed by a paper from the clerks that succinctly sets out the general background and chronology of events.

Rhoda Grant: The instrument that was before us today was a draft. I therefore understand that we are being consulted before the final instrument is produced. Was not that what the meeting was about?

The Deputy Convener: Yes. That is true. At the outset, I raised the issue of the procedure that is being followed by the Executive. I understand that the instrument was laid on 1 February. In response to a question on whether the instrument that has been laid contains any differences from the draft, the minister initially said that it was identical. Mr Dickson then interjected to say that it was similar. No doubt, we will discover the truth from our collective proofreading of the draft and the instrument that has been laid. However, we have not yet had the chance to consider the instrument and we do not know what differences were referred to today. I did not think that members would want a reading out of certain technical differences that might exist. The discussion that we are planning for next week should be informed by a paper that will be prepared by the clerks in the normal way. The paper will provide a factual background, as with the papers that the clerks prepare usefully and efficiently week in, week out. I am sure that the issues will be covered in the clerks' paper.

I am beginning to lose my voice and am in desperate need of caffeine. If members have no other points to raise—we have already agreed that the remaining items will be discussed in private—I thank the official reporters for their steadfast attendance.

15:38

Meeting suspended until 15:51 and thereafter continued in private until 16:25.

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