

RURAL DEVELOPMENT COMMITTEE

Tuesday 18 March 2003
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

10th Meeting 2003, 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)

COMMITTEE SUBSTITUTES

Nora Radcliffe (Gordon) (LD)
Mr John McAllion (Dundee East) (Lab)
Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)
John Scott (Ayr) (Con)

*attended

WITNESSES

Brian Endicott (Scottish Executive Environment and Rural Affairs Department)
Bill Hepburn (Scottish Executive Environment and Rural Affairs Department)
John Hood (Scottish Executive Environment and Rural Affairs Department)
Jim Wildgoose (Scottish Executive Environment and Rural Affairs Department)

CLERK TO THE COMMITTEE

Tracey Hawe

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Catherine Johnstone

LOCATION

Committee Room 1

Scottish Parliament

Rural Development Committee

Tuesday 18 March 2003

(Afternoon)

[THE CONVENER *opened the meeting at 14:02*]

The Convener (Alex Fergusson): Good afternoon, ladies and gentlemen, and welcome to this meeting of the Rural Development Committee. We have apologies from Richard Lochhead, Irene Oldfather, Elaine Smith and Jamie McGrigor. I understand that other members will be along shortly—at least I hope so. I issue my usual reminder that all mobile phones should be switched off.

Item in Private

The Convener: Item 1 on the agenda is to consider whether item 6 should be taken in private, as it relates to witnesses' claims for expenses from the Parliament's witness expense scheme. We have usually agreed without rancour to consider such items in private. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

Less Favoured Area Support Scheme (Scotland) Regulations 2003 (SSI 2003/129)

The Convener: Item 2 is to consider two statutory instruments under the negative procedure: the Less Favoured Area Support Scheme (Scotland) Regulations 2003, and the Rural Stewardship Scheme (Scotland) Amendment Regulations 2003. To assist us in our deliberations, I am pleased to welcome officials from the Scottish Executive environment and rural affairs department, who have agreed to answer members' questions on both schemes.

The Rural Stewardship Scheme (Scotland) Amendment Regulations 2003 came before the Subordinate Legislation Committee only today, and it has not yet had time to report on its findings, so we must defer our formal decision on the instrument until our next meeting. However, we welcome the opportunity to take evidence on the instrument in advance of our formal deliberations next week. I point out that we are obliged to decide the terms of our report on the Less Favoured Area Support Scheme (Scotland) Regulations 2003 today.

I welcome Jim Wildgoose, Brian Endicott, John Hood and Bill Hepburn from SEERAD, and invite Mr Wildgoose to make an opening statement.

Jim Wildgoose (Scottish Executive Environment and Rural Affairs Department): My opening remarks refer to some points in the Executive note. The changes were subject to detailed discussions early last year in an industry group comprising the three main bodies affected by the changes: the National Farmers Union of Scotland, the Scottish Landowners Federation and what was then the Scottish Crofters Union and is now the Scottish Crofting Foundation.

Agreement was reached on the main changes in about May of last year and a consultation exercise was carried out between June and July. Agreement to the final scheme was reached late in July and the scheme was submitted to Brussels for clearance early in September, immediately following the Brussels summer break. The Commission cleared the scheme at the STAR committee—the committee on agricultural structures and rural development—on 18 November 2002. That led to the instrument today, which essentially implements the agreed scheme.

I will stop there and invite comments.

The Convener: Thank you. You mentioned the consultation that took place with the industry. When the details were announced, the industry generally welcomed the changes, in that they minimised the number of winners and losers that had previously been apparent.

By coincidence, I was visited in my surgery last week by a farmer—not a large farmer—from the south of Scotland, who has received LFA support since the scheme was introduced. In 2001, he received just over £11,000 and, in 2002, following the alterations that took place, he received just over £12,000. However, this year, because the figures are based on 2001, and because he entered an environmentally sensitive area scheme, his support will be reduced to £6,500. The fact that he entered an ESA in the base year that has been chosen involves a 150-head reduction in his stock of ewes.

The chap obviously has extenuating circumstances, so why is only one year used as the base year? Is there a way round that and what right of appeal does he have, given the rather late notification of the figures on which he could work out his LFA support—the letter only arrived at the beginning of March?

Jim Wildgoose: The individual circumstances of the case would need to be considered. Specifically, if he makes an application, there is a mechanism for considering whether the base year is atypical, although I cannot say, hand on heart, that a change would necessarily be made.

The Convener: Has that mechanism been made widely known to farmers in explanatory notes?

Jim Wildgoose: Yes.

Rhoda Grant (Highlands and Islands) (Lab): A concern about the scheme is the minimum stocking density levels, which do not take account of the souming on the land—the legal stocking density levels. On some hill farms, the legal stocking density level is a lot lower than the minimum stocking density level in the scheme. In a way, people are stuck between a rock and a hard place, as they cannot take action that would attract more finance because that would be illegal. Has any consideration been given to changing the scheme so that it uses the legal stocking density level as a minimum rather than prescribing a minimum that might not fit in with everybody?

Jim Wildgoose: The minimum was introduced essentially to avoid over-compensation for large estates and problems that existed with over-compensation in the earlier schemes. People who are below the minimum do not lose subsidies as such. Their area is proportioned down so that their effective stocking density becomes the minimum. That involves a reduction. The system was agreed by the group when the arrangements were set up and that is the scheme that we have.

If the souming level is felt to be incorrect because it does not reflect the stock carried on the land, there is a procedure to review and change that. However, there is a minimum stocking

density. Producers who are below that would have their area adjusted so that they reached that level.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I certainly welcomed the alteration to the original proposal, which means that there are now three categories. I think that the alteration was welcomed in mainland areas, particularly by marginal hill farms. The alteration followed much lobbying, not just from people such as me but from the National Farmers Union of Scotland. It will help to prevent there being massive losers, certainly in the area that I represent—for example, in Strathspey.

Under the LFA scheme, the lowest rate is £36.50. Who will be the most likely losers under the new scheme, taking into account that and all the other regulations, and the 50 per cent reduction?

Bill Hepburn (Scottish Executive Environment and Rural Affairs Department): Before I answer that question, I stress that the issue is what we compare losers with.

Fergus Ewing: That is obvious. It is clear that a loser is someone who gets less income than they did before. That is not very complicated.

Bill Hepburn: But compared with which year? Are we talking about 2000 or 2002? That is an important issue, because the schemes in those years were different from each other.

Fergus Ewing: Yes, I know that, but perhaps you could describe both categories of losers.

Bill Hepburn: So you want to know who is losing compared with 2000 and who is losing compared with 2002.

The schemes that were introduced in 2001 and 2002 had a flaw—perhaps that is not the right word. We were trying to accommodate the fact that moving to a hectarage scheme meant that good producers were losing out compared with their 2000 income.

The 2003 scheme tries to rectify the difficulties that we faced in 2001 and 2002 by ensuring that people who gained in 2001 and 2002 because they had large hectarage and relatively low stocking densities will lose in 2003. However, productive farmers are gaining compared with the past two years and their income will be more or less on a par with their position in 2000.

Fergus Ewing: My understanding of the scheme is that it is better than the previous ones that were negotiated, particularly the first one, at the beginning of the Parliament. That scheme caused widespread concern, particularly in areas such as the Western Isles. The new scheme is to be welcomed. However, I am not clear about the answer to a simple question. Who do you expect

to lose out under the new scheme? The question is not complicated. Which types of farming activity and land and which parts of Scotland will lose out?

Jim Wildgoose: The question is slightly more complicated than is implied, because the 2003 scheme has different elements from earlier ones. For example, there is a significant uplift effect because of the enterprise mix calculation where people have a higher proportion of cattle in their livestock than sheep. Producers get a 35 per cent increase if more than 10 per cent of their livestock units are cattle. If more than 50 per cent of their livestock are cattle, the increase is 70 per cent. I cannot give a categorical answer to the question, but when the 2003 figures are compared with previous years, I expect them to show that the categories of people who will tend to gain will be those who have cattle in or above those proportions.

Other issues are involved. In 2002, a cap was imposed on payments. Indeed, one of the reasons why we had to make changes was because it was not seen as desirable for the cap to continue—the Commission was against that. Eliminating the cap and making the changes, depending on the enterprise mix of the holding, means that a holding will lose or gain compared with 2002. Quite a complex range of issues is involved in calculating who gains and who loses as a result of the changes that we have introduced.

14:15

Fergus Ewing: I appreciate that the matter is complex. When one begins to examine the various formulae that are contained in the statutory instrument, one could say that it resembles more an advanced mathematics paper than a statutory instrument that farmers are supposed to be able to understand. That is why I asked a fairly simple question.

As I said, I appreciate that the matter is complex. I also appreciate that the rule on cattle density means that the greater the proportion of cattle, the better off a person is. I am still not sure that we have got an answer to what was a simple question—having tried twice, perhaps I should just move on.

The Convener: Could I press a small issue, which is part of that line of questioning?

Fergus Ewing: Of course.

The Convener: Many of the crofter organisations have voiced considerable displeasure about the financial effect that the scheme will have on some of their members. I address my question to Mr Hepburn. In general, will crofters be better off under the LFASS 2003 than they were under the previous hill livestock compensatory allowance in 2000?

Bill Hepburn: There are two answers to the question. The first is that the introduction of the minimum payment of £350, which goes to all producers, has resulted in a large number of crofters being better off than they were under the old scheme. Many crofters—I am thinking of small-scale crofters with low levels of production—received payment below the HLCA level.

However, when other areas are taken into consideration, our broad calculations show that the position of crofters—and indeed of the whole industry—is roughly the same as it was in 2000 in respect of the proportion of money that is spent on the different categories. In broad terms, one would expect the position of crofters to be roughly the same as it was in 2000.

The Convener: So what you are saying is that, although crofters might be worse off than they were in 2002, they should be about the same or slightly better off compared with the previous scheme.

Bill Hepburn: Yes. That is correct.

Fergus Ewing: Will you clarify what you meant by the removal of the cap?

Jim Wildgoose: In the 2002 scheme, a limit of £2,500 was placed on the increase in the amount of money that a recipient could receive compared with the base period. Where a freely calculated amount of money under the scheme was more than £2,500 above the amount in the base period, the amount of money that could be paid was capped at an increase of £2,500.

Fergus Ewing: You said that there was pressure from the Commission to remove the cap.

Jim Wildgoose: Yes. The cap and the safety net beneath it were transitional measures that were agreed with the Commission; they were not part of the rural development plan as such. The Commission was looking for free-standing rates that would achieve the effect that it wanted to achieve under the rural development regulation.

Fergus Ewing: It was the Executive's decision to remove the cap. The Executive was not required to do that to satisfy European Union rules.

Jim Wildgoose: Essentially, the answer to that question is yes. Given that we needed to make changes, the issue was how we could establish a free-standing scheme that would achieve the requirements under the rural development regulation. Decisions were taken with that in mind. It was recognised that a cap would be difficult to negotiate again. That was the position that the industry group faced. We decided that we would advance with a free-standing scheme.

Bill Hepburn: It is important to bear in mind the other side of the cap, the safety net, which in the first year was 90 per cent and in the second year—2002—was 80 per cent. In the forthcoming year, the rather complicated formula, which amounted to 50 per cent and a bit, was going to be removed. The Commission insisted on the removal of the safety net. Had the scheme been left untouched, even with a cap, it would have meant a huge shift in payments and there would have been quite a number of losers, particularly among productive farms. Given that the safety net was coming to an end, we had to change the scheme anyway. In changing the scheme, the cap was lost as a matter of course.

Fergus Ewing: I have two further questions, which are rather different. Looking to the future, how do you feel that the less favoured area support scheme will be affected by common agricultural policy reform—in particular, by decoupling? If decoupling goes ahead, I presume that an extremely complicated LFAS scheme such as that proposed in SSI 2003/129 would be redundant. How do you see the situation developing? Have you had any initial response from the Commission on what the future holds for farmers who rely on LFAS funding at present?

Jim Wildgoose: Formally, the CAP reform proposals will have no direct effect on the LFAS scheme. The scheme is funded out of the rural development, or pillar 2, end of funding. The reforms are much more directed at the pillar 1 funding—the sectoral scheme funding. In a formal sense, there is no direct link.

However, in some ways, the arrangements for the LFAS scheme are quite similar to a decoupled arrangement, in that there is a base period on which sums of money are based. It is true that the enterprise mix element, in relation to which a higher payment is received for a bigger proportion of cattle in livestock units, is not decoupled, but the basic payment is. Therefore, the thinking is similar to that behind the proposals that have been made under the decoupling reforms.

How those arrangements will fit together in the totality of support that goes into the LFAS scheme will depend on what comes out of the reform proposals. The firm intention is to retain the LFAS arrangements, subject to a review of how they progress and how they work in practice. There will be something similar to those arrangements from now on. I would not expect the reform proposals to make a big difference to the arrangements.

Fergus Ewing: I appreciate that it is a complicated area and that we can only speculate. If decoupling had an adverse impact on the Scottish beef sector, for example, would not it have an indirect impact on the LFAS scheme, because we might lose critical mass in the beef sector?

Jim Wildgoose: Yes, there could be an effect there. The top-up calculations on the enterprise mix could be affected if the proportion of farmers' livestock units in cattle fell below 10 per cent or 50 per cent. I would not expect there to be a huge effect, although that would depend on the reduction in beef production that might come from decoupling. The underlying basic rates of payment would not be affected. There would be an issue about whether changes should be made to the payment rates to make up the budget. If money was not paid out under the enterprise mix calculation, it might be paid out in other ways.

Fergus Ewing: I have one further question, although I do not want to hog the floor.

The Convener: You were not doing that.

Fergus Ewing: Obviously, the regulations are extremely complicated. The formulae are incomprehensible—except perhaps to the draftsman, who I hope understands them. However, the regulations place a number of onerous obligations on farmers. For example, part II of schedule 2, entitled “Verifiable standards”, contains eight specific, detailed rules. You are aware that farmers and crofters argue—quite rightly—that they are subject to a huge range of regulation.

Some of the rules are quite vague. Paragraph 7 states:

“Unsuitable supplementary feeding methods shall be avoided.”

Paragraph 8 states:

“Undergrazing shall be avoided.”

A vague definition of undergrazing is provided.

Farmers want to meet appropriate standards, to follow correct practices and to exercise good stewardship. However, do these regulations not go too far? If not, what happens if there is an infraction of any rule? Will that lead to withdrawal of LFAS money, or a proportion of it?

Brian Endicott (Scottish Executive Environment and Rural Affairs Department): Good farming practice guidelines are common to a number of the schemes that we use. When undergrazing or overgrazing is first noted, we will seek to reach an agreement with the farmer on the management steps that are necessary to return the land to good agricultural condition. Once that agreement has been made, it will be monitored. Only if the farmer fails to uphold the agreement will his payment be affected. The effect may be limited to that part of the payment that refers to the area of land that is being overgrazed or undergrazed.

Fergus Ewing: That procedure is not set out in the statutory instrument.

Brian Endicott: It is set out in the explanatory notes that we have issued to all producers, which indicate how issues relating to good farming practice will be handled.

Fergus Ewing: Courts will examine the statutory instrument and any decision must be made on the basis of it. Does the instrument contain a specific reference to the informal procedure that you have described? I did not notice one on first reading, but perhaps I missed it.

Brian Endicott: The member is correct to say that the procedure is not set out in the SSI.

Fergus Ewing: Where is it set out?

Brian Endicott: The arrangements that I have described are set out in the explanatory notes that we provide. Those indicate how we put good farming practice guidelines into practice.

Fergus Ewing: As you know, I have made detailed representations on behalf of crofters and farmers in my constituency who have broken the rules unintentionally, usually by failing to fill in their integrated administration and control system forms properly. As a result of a clerical error, some of them have lost a whole year's income. If I robbed a bank, mugged someone or shot someone, I might not get such a large fine.

I raised this issue in the Parliament and received an assurance from Ross Finnie that he would take the matter to Europe and would get Europe to agree to introduce a better system. I know that there is an appeals structure, but that is not relevant because it does not change the rules at all—it means only that someone else interprets them. What progress has Mr Finnie made on winning a fairer system that would not treat farmers and crofters like criminals?

Jim Wildgoose: Unfortunately, the person who deals with this area of work is not here today. However, because I was responsible for it until eight or nine months ago, I can tell the member that on several occasions we have asked the Commission to address simplification. As part of the mid-term review, the Commission is considering proposals to simplify arrangements, particularly under the rural development regulation.

It has been singularly difficult to convince the Commission of the need to simplify the system. There is a feeling that the rules must be obeyed to the letter and it has been extremely difficult even to engage the Commission in the kind of discussion that you mention. The Commission does not recognise the category of obvious error or unintentional error. It recognises a category where someone has perhaps summed up a row of figures incorrectly, but not another error that might look like an obvious error. It has been extremely

difficult to move the Commission away from that position. I am not up to date with the very latest up to date position, but that is certainly the ethos that existed in the time that I was responsible for that.

14:30

Fergus Ewing: I take it that you are saying that the Scottish Executive view is that there should be a fairer system that would allow errors that could be demonstrated to be innocent rather than fraudulent to be treated in a mild and appropriate way through a written warning rather than financial loss. Does the Executive share my view that that should be the approach?

Jim Wildgoose: Yes. That is the position. In the past, we suggested a yellow card, red card procedure for those kinds of errors, but to no avail.

The Convener: I have had occasion to write on this many times in the South of Scotland, which I represent, as has Fergus Ewing in his area. It has become apparent to me, as I am sure it has to all committee members, that the lack of flexibility allowed in the European regulations has forced us to a position where we are penalised every bit as severely for a genuine and honest mistake as we would have been if we had filled in a form fraudulently. In any true justice system, that seems to me to be beyond the pale. Although everybody's desire is for further flexibility, will you assure us that such cases are prosecuted with every bit as much inflexibility in other European states as they are in the United Kingdom?

Jim Wildgoose: We have not carried out a specific study of exactly how penalties are imposed in other member states. I know that the Commission makes draconian audit visits to member states, including visits to Scotland. It imposes disallowance on member states that do not abide by the rules. I cannot say whether the same stringency is used in other member states, but the Commission penalises heavily those that do not abide by the regulations, particularly in relation to errors in forms. It takes samples of forms and follows the audit trail of what has happened when figures are changed. A draconian procedure is used for audit trail purposes.

The Convener: Can you give us a time scale for when a yellow card, red card procedure might be looked at?

Jim Wildgoose: The simple answer is that I cannot. If the reforms proceed in the way that is proposed, the arrangements will be different. We will not be counting animals or areas and there will be a different system. We are keen to see a much simpler system with the new arrangements—that was one of our key negotiating points. One of the issues that could be difficult is good farming practice, to which Fergus Ewing referred. The

measures in schedule 2 are the kind of thing that will be required for receipt of the decoupled payment. There is a question about how that will be controlled and how draconian or detailed the controls will have to be. Those issues will be addressed within the discussions on CAP reform.

The Convener: You mentioned continuing monitoring of LFASS as it will apply from 2003. What procedures are in place to review it, and in what time scale might that happen?

Jim Wildgoose: We will look specifically at the payment arrangements and outturn for LFASS 2003; we will check certain features and see how things are working. Though a date has not yet been set, the industry group will meet again in the middle of the year for review, and to decide whether changes need to be made: to rates, for example. That programme of work is on-going. It is hoped that the scheme will not require fundamental change until the end of 2006, when the plan ends. However, from there we will certainly review how things are working every year.

The Convener: Might that review include retrospective payments to farmers who have genuinely been caught out in an anomalous situation by the introduction of LFASS 2003? If not, would you expect that to be addressed by the appeals procedure?

Jim Wildgoose: I expect that to be addressed through the appeals procedure. Any concerns or anomalies relating to the scheme in question would be covered by it. If slightly different provisions apply in the following year, those would then cover applicants under that scheme. In other words, jurisdiction is kept within the scheme year.

Rhoda Grant: As regards undergrazing, I am concerned about how the scheme sits with environmental protection. The way in which the scheme is written encourages maximum stocking, so that the maximum acreage is taken into account. Discouragement of undergrazing is also written into the scheme. How does that sit alongside policies of reduced stocking levels to protect the environment?

Bill Hepburn: The minimum stocking density is designed to reach a balance between avoiding overgrazing and avoiding undergrazing. I sense that you want to avoid undergrazing. In fact, overgrazing is more of an issue if there is more stock on the land.

Rhoda Grant: Overgrazing is obviously a huge environmental issue, but I cannot understand why the scheme discourages undergrazing, which would allow more habitats to be left intact. The scheme seems to push farmers and crofters up to the maximum grazing available from their land. It does not seem to be aligned with other

environmental schemes, which require lower stocking for environmental benefit.

Bill Hepburn: The stocking density of 0.12 is relatively low, and is the minimum level that we would pay on. Clearly, good farming practice in the terms that we just discussed will stop the occurrence of undergrazing. Research has shown that if there are too few animals on land, it will revert to bracken and shrub and result in a monoculture. For that reason, a balance between over and undergrazing is necessary. Therefore, while it introduces a minimum stocking density, the scheme will ensure that there is stock. Too few animals also represent an environmental impact.

Rhoda Grant: It has been explained that for those farms with a souming level below the minimum stocking density, the area of land is reduced until the minimum is reached. Surely that encourages farmer-crofters to reach their maximum stocking density, even up to the maximum that the land can bear? There is no encouragement to reduce stocking levels for environmental benefit.

Bill Hepburn: There are separate schemes to deal with environmental issues. This scheme is designed to support agriculture, so one would expect producers to have a reasonable number of stock on their land and that is what the scheme is designed to encourage. If there is overgrazing, the good farming practice provisions would kick in so that that would be stopped. Equally, if producers have too little stock on their land, the undergrazing provisions would kick in.

Jim Wildgoose: Let me add to that. It is true that one could argue that a farm or croft with a stocking density of 0.08, which is below the minimum stocking density of 0.12, has an incentive under the scheme to increase the stock level such that it comes up to the 0.12 level. However, in point of fact, if the 0.08 level is the level that is sustainable and consistent with the souming, that 0.08 level would be seen as the level that was consistent with good farming practice, which would mean that it abides by another element of the scheme. Strictly speaking, therefore, a producer in that situation should not extend the stocking density to go beyond what is required by the good farming practice provisions under the scheme.

Rhoda Grant: To get the maximum benefit from the scheme, producers would be not only encouraged, but required to maintain that 0.08 stocking density level, if that is the maximum that they can have. However, if 0.08 is the maximum level that the land can sustain, might not that cause environmental problems? Surely it would be better to allow the producer to maintain a level slightly below that for environmental benefit.

Jim Wildgoose: If the sustainable level of stocking is 0.08, that is the level that is consistent with good farming practice. Having half as much stock again—which is what would be required to get from 0.08 to 0.12—would not be consistent with good farming practice. In that instance, there would be a question mark over whether the scheme's provisions were being complied with.

Rhoda Grant: Do you understand where I am coming from? The scheme seems to run against other Executive support schemes and there seems to be no policy that runs through all the schemes. One can see why farmers might get a little confused, when one scheme asks them to do this and another scheme asks them to do that. Sometimes the schemes seem to contradict one another.

The Convener: That rather takes me back to where I began. As the farmer to whom I referred had entered an environmentally sensitive area, his stocking density had dropped to a lower category, which in effect halved the amount of subsidy that he could receive. I think that we are coming from the same angle.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I was under the impression that the appeals process was to help farmers who had made innocent errors in the completion of their paperwork, such as failing to fill in forms correctly. However, the answer given to Fergus Ewing's question seemed to indicate that that was not the case. What is the appeals process for?

Jim Wildgoose: I must distinguish between two kinds of appeals.

Under the standard IACS appeals arrangements, which were set up about two or three years ago, the essential question that is asked is whether the rules have been applied properly. Clearly, there is some discretion in the application of rules and in the decisions that department officials might need to take in particular cases. The producer might say that the decision on a particular application was unfair or unreasonable or whatever. That appeals mechanism is designed to check whether the rules have been applied properly.

For cases in which an error has been made on a form, the Commission has set down detailed rules and procedures as to whether a change can be made to correct the error. For example, if someone has put down 10 as opposed to 100, there are rules that need to be applied for that kind of error. As I said earlier, a number of those rules are particularly difficult and are not subject to the appeals mechanism as such. We have tried to seek change on that from the Commission, but we have not been successful. That is the ordinary appeals mechanism, which concerns the

application of the rules as they exist within the legislation.

The other element of appeal, which is specifically referred to in the case that you mention, concerns the atypical base period that might be used for this scheme. If 2001 is atypical because a family problem, for example, has led to a reduction in production or whatever, a mechanism would allow that to be looked at to see whether the grazing category that has been allocated is incorrect and should be changed. Therefore there are two elements to the appeals process.

14:45

Mr Rumbles: Say, for example, that I am a farmer. I understand the rules, and I fill in my forms and send them off to you. However, when I have sent them off I think, "Crikey, I have made a mistake." If I did not quite understand the rules, or I thought that you were misapplying them, I could appeal. However, because I have made a mistake there is no appeals mechanism for me. You will just make the decision and say that the form is wrong, and I do not get what I am applying for.

Jim Wildgoose: It is perhaps not as black and white as that. However, the rules are fairly strict and are in the legislation—indeed, even in the EU legislation. The Commission considers those issues when it conducts an audit. Therefore we must take them seriously. We have looked at trying to make changes, such as the yellow card, red card arrangements that I talked about earlier. However, we have not made headway with the Commission, which has been pretty clear about its views.

Mr Rumbles: I would like to make sure that I have this right. A farmer can use the appeals mechanism if he feels that you are misapplying the rules, but he cannot use it if he thinks that you are applying the rules, whether or not there has been an error. In other words, even if he admits that there is an error and you agree, there is no third party to whom he can say, "The Executive is being too heavy handed because it knows that I have made a mistake, and I know that I have made a mistake, but there is no leeway." Are you saying that there is no other appeals mechanism? If not, do you not think that there should be?

Jim Wildgoose: Usually those kinds of problems will appear through the ordinary appeals mechanism. It is not usually quite as straightforward as is being outlined.

If the error is one that falls within the legislation as being unacceptable, the appeals route will decide what view will be taken and will say that that will be the decision. If it is something further than that, such as a problem with how the rules

have been applied, the appeal then moves through. There have been cases in which appellants have been successful.

Brian Endicott: We accept that the penalties can be very severe, and to that extent, over the autumn and winter, we issued a booklet that explains the penalties in detail, giving examples of how they are calculated. The booklet also gives handy hints about how penalties can be avoided.

Taking Mr Rumbles's example, part of that booklet also explains that if a farmer completes and submits his form, then realises that he has made an error, a facility that was introduced under the latest IACS regulations allows him to withdraw that claim without penalty and put himself back into the position that he would have been in had that claim never existed. He can avoid penalties in that way.

Mr Rumbles: Are we perhaps dancing on the head of a pin here? Is it a problem or not? As far as you are aware, are people being penalised because they make errors in their applications?

Brian Endicott: They are being penalised. For example, part of my job is to sit on the appeals panel at stage 1. We come across cases of people forgetting to put in a form. The form arrives—there is no debate about that—it gets put on one side, other things intervene and the scheme closure date comes and goes. In such cases, the panel tries to seek out information that might identify whether the applicant has suffered what the regulations call “force majeure”—an unexpected event that has prevented them from filling out the form. If we can find evidence of such a situation, the appeal might be accepted. If we cannot, the regulations say that late claims will not be admissible. It is as stark as that. We do not have any discretion in such a situation.

Mr Rumbles: In effect, you are saying that the lateness of a claim is the issue. If a claim that is wrong comes in, it can be sent back and the applicant can resubmit it. The fact that time has run out is what matters.

Brian Endicott: That would be one example. Another might be someone who forgets to enter a certain number of animals on a particular claim or who overdeclares or underdeclares the amount of land that they have. People suffer a penalty for many reasons.

Mr Rumbles: I understand the time limit issue. Your hands are tied in such cases. Putting that to one side, you are saying that if someone makes an error in an application, the appeals people will look at it and will say that it can be withdrawn and a proper application submitted. Apart from the time issue, are there any other reasons why farmers should be penalised if they have inadvertently put forward the wrong information?

Brian Endicott: There might be situations in which farmers had failed to maintain adequate flock or herd records or in which there had been a failure in the tagging of particular animals, for example.

The Convener: I am glad that the officials acknowledge the severity of the situation. They seem to accept that the penalties are very severe. I could answer Mike Rumbles by saying that my experience over the past three and a half years is that if someone has made a mistake, even if it is an honest and genuine mistake, there is an appeals procedure, but an appeal is very unlikely to be successful. The rules are incredibly tight. I can only hope that efforts to find some flexibility or a warning-card system will be pursued with the utmost vigour. Fairness dictates that that should be the case. An honest mistake should not be penalised in the same way as a fraudulent claim. That is what happens at the moment.

Stewart Stevenson (Banff and Buchan) (SNP): We are not finished with the subject yet. The penalties on farmers for errors that are essentially administrative are draconian. The Executive has applied to Europe to introduce something more sensible. We are not getting what we need. Whose desk is the issue sitting on? Is it sitting on Franz Fischler's desk or on someone else's?

Jim Wildgoose: The issue has certainly been raised at working-group level and at higher level. I could not say that it sits on Franz Fischler's desk at the moment, although he is the commissioner responsible for such issues.

Stewart Stevenson: I am asking whether we should be encouraging the eight Scottish members of the European Parliament to start raising the issue on a political level in Europe. I do not think that there would be any political division on that suggestion. Would that lubricate the decision-making processes? I recognise that, as officials, you do not necessarily have to comment on that. However, it might be useful to ask whether, in your experience, the application of the rules in other countries is as rigorous and as onerous as it is here.

The Convener: I just asked that.

Stewart Stevenson: Did you? In that case, we do not need to pursue it. I must have nodded off.

Jim Wildgoose: Should I answer that?

The Convener: Please do. I am hurt that a member could nod off while I was speaking.

Jim Wildgoose: I would like to add that, from time to time, we have sought to get the Commission to agree to recognise the term, “genuine error”. It does not recognise that term. It recognises the term, “obvious error”. Such an error

would be numbers on a form being summed up to something different from the subtotal. It is extremely difficult to move beyond that.

Stewart Stevenson: In my tax return two years ago—when I was leaving my previous employment and taking up employment here—I had share options to deal with. They came under four different headings, because they were part of four different schemes. The bank failed to draw to my attention in a letter the fact that one option differed from the other three in its terms of approval, and all the options went in under one heading in my tax return. A year later, it transpired that one of the options had to be treated differently in tax terms and that more tax was due. The penalty that fell upon me was the interest on the sum that I had not paid in tax, which was £685. That was a perfectly fair penalty. Do you think that the type of penalty that is imposed on farmers when they have made an obvious mistake—the withdrawal of all their income—would be deemed under international law to be cruel and unusual punishment?

Jim Wildgoose: I feel that the penalties are draconian in some areas. It does not seem reasonable for someone to lose all their income for what seems a fairly trivial error. There have been test cases against such penalties, but nothing has been upheld. On the late penalties, the legislation says that for every day after the day by which the form has to be in, there will be a 1 per cent reduction in the money, and after 25 days there will be no money at all.

Stewart Stevenson: Given that, in other countries, there appears to be flair and imagination in the way that things are implemented, would it be possible for farmers to deliver their forms to an intermediate body that would check them for correctness and obvious errors and return them to the farmer, before they reached SEERAD? Such a body could take a bond or negotiate insurance to cover any liabilities that it might end up with if such checking proved to be incomplete. When the forms reached SEERAD, they would be correct, because they would have been verified by an independent public body or by a body established by the industry. Would that proffer a possible way forward to reduce the impact on farmers?

Jim Wildgoose: Yes indeed, and I think that such a method is used to some extent now, as private advisers check forms. We are developing electronic means of submitting forms, which would offer major advantages. When applicants input their information electronically, it can be checked at that point, because the machine will not accept certain errors. A range of things could be done. Unfortunately, it is difficult to get a high uptake of electronic form submission, but we are progressing with that as quickly as we can.

Stewart Stevenson: I suspect that if farmers became aware that draconian penalties would cease to fall upon them if they used electronic form submission, the uptake might rise sharply. If SEERAD requires additional resources to improve the quality of such systems, we would like to know, to ensure that the resources are made available.

The Convener: Much as I welcome increased use of electronic methods of applying for various schemes, I hope that it is not too much of a generalisation to suggest that experience dictates that the farmers who find themselves in difficulties because of a genuine mistake are probably the least likely to join electronic schemes.

Stewart Stevenson: Sure.

The Convener: I also have slight difficulty in understanding why an official who will determine what is under or over-stocking, or indeed what is good or bad agricultural practice, cannot also be allowed to determine what is a genuine and honest mistake. In my farming days, the officials knew one's farming practices and probably had a fair idea whether they were good or bad. I find that a difficult equation to get to grips with. I hope that it might be addressed in the future if a more reasonable method comes to light.

You say that negotiations are taking place and that discussions are being held—with whom?

15:00

Jim Wildgoose: On the simplification of forms—

The Convener: And flexibility in the determination of errors.

Jim Wildgoose: I would not like to mislead the committee and say that a working group is considering that as we speak, but at various points we have raised the issue of simplification. Indeed, I think that there is a committee considering it now. The issue is to the fore at working level in Brussels and it is raised from time to time at more senior level. Much attention at present in Brussels is on the common agricultural policy reforms, which will change the nature of the provisions and rules, and the kind of penalties that might apply.

The Convener: Is any working committee that is dealing with this to be found in Brussels?

Jim Wildgoose: Yes.

The Convener: If you are lucky enough to find it.

Fergus Ewing: Can we be told, by note from officials, who sits on the committee and which senior official has blocked this and been so intransigent? If there is more than one official, can we have their names? You have levelled quite

serious charges, with which we would agree, at these people. We need to know who they are, if any progress is to be made. Can we have that information please?

Jim Wildgoose: Yes, we can look at producing something.

The Convener: If that could be sent to the clerks, that would be very useful. Thank you.

Rural Stewardship Scheme (Scotland) Amendment Regulations 2003 (SSI 2003/177)

The Convener: We move to the rural stewardship scheme. I understand that Mr Hood would like to make an introductory comment on the scheme.

John Hood (Scottish Executive Environment and Rural Affairs Department): In common with the regulations for the LFASS, the regulations that members have in front of them are the result of a process that began almost exactly a year ago, with the issue by the Executive of a consultation paper on a number of measures designed to improve the operation of agri-environment schemes. The regulations contain two main changes. First, there are arrangements that will involve payments for capital items included in the scheme—such as fencing, dyking and pond creation—being made annually by instalments rather than, as previously, on a one-off basis on completion of the work. Secondly, there are proposals for two new management measures: management of ancient wood pasture and a measure to introduce spring cropping on farms.

The proposal on payment by instalments was contained in the consultation paper that Mr Finnie sent to the committee a year ago under cover of his letter of 18 March 2002. The proposals were included, along with the LFASS proposals and the amendments to the Scottish rural development plan, which were approved by the European Commission in November last year. The proposals for the new management measures came to the Executive from Scottish Natural Heritage as a consequence of the consultation process. SNH suggested that they were two measures that would be helpful to the scheme in broadening its ability to fund conservation management.

That is all I want to say by way of background.

The Convener: Thank you.

Quite a few representations have been made to me, particularly by the advisers who tend to help farmers fill in the fairly complex and not inexpensive application forms for the scheme. This year, they have made a plea for me to pursue the receipt of an assurance that the terms of the scheme under which they make their applications

will be the same as the terms on which their applications will be determined. In the past, goalposts have been moved in quite a big way. Is it possible to give such an assurance?

John Hood: The consultation paper that was issued in March 2002 indicated that the changes that were proposed in that paper would be introduced progressively during 2002 and 2003. The three main changes that were set out in that consultation paper, which involved the organic aid scheme and the ranking arrangements for the rural stewardship scheme, have been introduced administratively since the consultation period ended last May. The changes that we are making to the rural stewardship scheme in relation to the annualisation arrangements for capital payments need regulatory approval. That is why the regulations are before the committee. Those changes will apply to applications that are being submitted at the moment, which the Executive will consider over the next six months.

We have issued guidance to our local area offices, which will go out to farmers and their advisers. The guidance will explain how the revised arrangements for paying for capital items will operate. Farmers are being given the opportunity to review their proposals in the light of that information.

We have set up the arrangements for payment by instalments in such a way that farmers will not have to change documentation that they have already submitted. It will be possible to consider plans that are already with us on the basis on which they have been submitted.

The Convener: Right. You can be forthright in saying that, subject to review, there will be no further changes in relation to applications that are submitted under the criteria that have been laid out, whereby the number of applications would concentrate the available funding too tightly. That would mean that the funding would have to be spread out, as happened in the first year of the rural stewardship scheme.

John Hood: The change in the way in which we pay for capital items that we have included in the regulations is designed specifically to deal with the issue that arose after the first year of RSS applications, when there was insufficient funding in the rural development plan to meet the cost of all the capital items that had been included in plans. That sum amounted to more than £11.5 million. It was in order to fund the maximum number of conservation plans that the minister took the decision not to fund all capital items. The purpose of the change is to enable the Executive to fund more applications in full.

We did a fairly rough and ready exercise on RSS 2002 applications, which was based on our proposals for annualisation. We reckoned that, if

we had had annualisation last year, we would have been able to approve about twice the number of applications that were offered funding. The purpose of the change is to avoid what happened before.

The Convener: To an extent, the committee will be relieved to hear that, given that in the first year of operation there was probably the nearest the committee has ever come to uproar—not that we would ever get to that stage.

Fergus Ewing: Regulation 2(6) adds a new qualifying capital activity, namely the

“Marking of a deer fence to reduce bird collision.”

I gather that that is to protect the capercaillie. The Executive note says:

“This option will complement other existing measures and will benefit the Black Grouse and Capercaillie. Where retention of deer fences is necessary to protect habitats of conservation value, marking of existing fences will reduce the risk of collision by birds.”

Will you describe what that risk is?

John Hood: In empirical terms, I cannot. RSPB Scotland and others tell us that, because of the nature of their flight, those types of birds do not see fences and therefore collide with them. That causes a fair bit of damage to those rare birds. The measure is intended to avoid the occurrence of such incidents.

The measure was included in the original proposals for the RSS but, because of an administrative error in the original Commission decision approving the RSS, it was omitted. That is why we had to go back and have it put in.

The scheme has other measures that are designed to help the situation. We will also pay for the removal of deer fences where they are no longer required. We are trying to tackle the problem of bird strikes from two sides. We allow deer fencing only where it is absolutely necessary and in those areas we expect the fences to be marked. The scheme will also fund the removal of fences that were put up in the past but are no longer needed.

Fergus Ewing: I can see the point of marking fences so that they are visible. That is fairly widely accepted. However, I struggle to understand why it is necessary to hand out grants under the SFGS farmland premium scheme for the removal of fences when it is much cheaper to mark fences and when marking fences reduces the risk. Why are we handing out money for the removal of fences? The fences were probably constructed with a grant and are now being removed with a grant. For decades, deer fencing was regarded as a perfectly adequate and acceptable way of protecting forestry from deer. Why is the Executive suddenly pursuing the approach that it is

necessary to give hand-outs to remove fences as well as mark fences? Surely it should be one or t'other.

John Hood: Let me preface my response by saying that I hope we have learned from the experience of operating the schemes. We receive advice regularly from a wide range of conservation organisations. We listen to that advice and, where it seems sensible, we act on it. We are providing two options. Obviously, where there are risks of collision, the best way of avoiding that is to remove the fence.

Fergus Ewing: What is the risk of collision? Do you know?

John Hood: I do not know the figures.

Fergus Ewing: What is the cumulative total for the amount of money that will be handed out for the marking and removal of fences in Scotland to protect the capercaillie?

John Hood: We are talking about 50p a metre for marking a fence.

Fergus Ewing: Are we not talking about millions of pounds? The EU wishes to encourage the preservation of capercaillie, which is an aim that I agree with, but I raise a question about the means that are being used. How much money will be handed out for fence removal and marking in the hope that it may help benefit those species of bird?

John Hood: I can provide that information to the committee, but I do not have it at my fingertips.

Fergus Ewing: My reason for asking the question is that I understand that we are talking about millions of pounds. From the information that I have received from people who should know, it seems to me that the scheme may not succeed. Capercaillie are at threat from all sorts of other predators, but they tend not to fly into fences. They are birds, not lemmings. The evidence that fences kill capercaillies is limited. Two weeks ago, I asked some of your colleagues what evidence there was. We were assured that we would receive that evidence, but we are still waiting for it. However, I gather that the brief is in the post, as they say, so perhaps there is hope.

John Hood: I am sorry; I was not aware of that request. The scheme tries to encourage management practices to help a number of rare and endangered species.

Fergus Ewing: We all agree about the aim, but the question is whether the method will succeed. It has been put to me by experts in land management that the method chosen will not succeed and that the only thing that it will succeed in doing is handing out a lot of money that will be wasted. I hope that you will provide us with a note

of how much money will be handed out for the removal and marking of deer fences. Is it possible that we could be given an indication of how much money the Executive proposes to plough into the scheme?

John Hood: Certainly. It is not a question of us proposing to plough money into the scheme. In the light of individual applications to join the scheme, we will decide whether proposals for marking or removal of fences are appropriate and whether they are likely to deliver conservation benefits. That assessment takes place on every application.

Fergus Ewing: I understand that. Before I let other members ask their questions, perhaps I can just conclude by saying that I think that Ronnie Rose, who has been a land manager for several decades in all parts of Scotland, has said that the capercaillie may face extinction in under a decade. He does not have confidence that the methods that are being pursued by the Executive on the advice of various bodies will be effective. That, gentlemen, is why I have raised these issues.

The Convener: I presume that you cannot say how much specific funding will be allocated to the removal or marking of deer fences until you have seen the number of applications that include that type of activity. Is that correct?

15:15

John Hood: That is correct. We will not know how much marking of deer fences is proposed until next year's application round as the measure is not yet available. The measure for the removal of deer fences has been in the scheme from the outset and I can certainly provide the committee with information about the length of deer fencing that has been included in approved plans and how much funding that will entail.

The Convener: I should know this, but could you tell me the final date for applications for this year's scheme?

John Hood: It is 31 March.

Mr Rumbles: Leaving aside the question whether deer fencing is successful, is the funding for its removal or marking a conservation measure that is designed to save species such as the capercaillie?

John Hood: Yes.

Mr Rumbles: One of the first public petitions to be presented to the Scottish Parliament was from one of my constituents, Jimmy Oswald, on the issue of deer fencing. Has the Scottish Executive come to a definitive conclusion on whether it is more cost-effective to save the capercaillie by removing the fences or by marking them? Is the failure to reach a conclusion the reason for both

conservation measures being funded? The proposal seems to be to have deer fences in place and marked in areas where it would be dangerous not to have them, such as by roads. Is that the case?

John Hood: For a deer fence to be funded through the scheme, we would have to be satisfied that the fence would protect an area of habitat that was being managed. In specified areas, we would pay for the marking of that fence if the advice from the conservation adviser was that there was a risk that capercaillie would collide with the fence.

Mr Rumbles: They are both conservation measures, though?

John Hood: Yes. The scheme will, of course, be subject to monitoring and evaluation. All the measures will be examined to see whether they are delivering the desired effects and the scheme will be reviewed in the light of that process.

The Convener: Thank you for answering our questions this afternoon.

I remind members that we do not consider the rural stewardship scheme until next week, by which time the Subordinate Legislation Committee will have deliberated on the subject. However, we have to decide on the Less Favoured Area Support Scheme (Scotland) Regulations 2003 (SSI 2003/129) today. Is the committee content with the instrument and happy to make no recommendation to the Parliament?

Members indicated agreement.

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff)s) (Scotland) (Amendment) Regulations 2003 (SSI 2003/118)

Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Amendment Order 2003 (SSI 2003/100)

The Convener: We turn now to instruments concerning pesticides and sea fish. The Subordinate Legislation Committee had no comment to make on the instruments and I am not aware that any members have either.

Mr Rumbles: Nor have the general public.

The Convener: Quite so.

Stewart Stevenson: I have an observation to make. The explanatory notes that accompany the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff)s) (Scotland) (Amendment) Regulations 2003 (SSI 2003/118) detail a long list of pesticides that are to be inserted into legislation, from Abamectin to Tria-something.

I am not clear whether those are new pesticides or whether they are simply new limits for

pesticides. The notes do not seem to explain that. Furthermore, when I look at the corresponding *Official Journal of the European Communities*, I see that at annexe 1 it has the same list, and in almost all cases the maximum levels are, according to the note at the bottom, simply the

“lower limit of analytical determination.”

In other words, it seems to simply be saying that if any of those pesticide residues are detected by the available methods, they should not be present. Since the maximum levels are all at the lower limit of measurement, I wonder whether the pesticides should continue to be used at all, since the clear thrust appears to be that they are dangerous to health, either episodically or over a lifetime.

However, none of the notes that we have gives any insight about what is actually happening. We have just added the pesticide residues without any explanation of why they have been added. I cannot oppose or support the instrument, because I simply do not know. I understand that the European Union has considered the matter, but nothing in its considerations answers my questions, and that is not satisfactory.

The Convener: Given the time scale that is attached to the statutory instrument, would you be content that we agree to the instrument and raise your concerns with the Executive?

Stewart Stevenson: It was not my intention to oppose the instrument. I am simply raising concerns that we have to do better in proffering explanations of why we do things. The measures may be good or bad. They are probably good, but I do not know.

The Convener: If you would be happy that we pass on your concerns in letter form to the minister, I thank you for raising them.

Stewart Stevenson: I am content.

Fergus Ewing: I do not know whether I can put Stewart Stevenson out of his misery, as it were, but at the end of the Executive note, on financial effects there is a statement that

“No Regulatory Impact Assessment is necessary, implementation costs will be minimal as the compounds involved are either of no commercial interest or are new to the market.”

Perhaps we do not have a clamour of objection as the measures are not regarded as being of any practical import.

Given that Stewart Stevenson raised a logical point—if I understood it; I thought that I did a few moments ago—we could ask the minister to confirm that none of the bodies such as the National Farmers Union of Scotland or the Scottish Crofters Foundation is concerned that the measures would have undue consequences for or

an undue impact upon legitimate farming practices. Would that be in order, convener? Could we invite the minister to confirm that?

The Convener: That would be quite in order.

Stewart Stevenson: That is a perfectly fair point, which I support. However, I point out that the regulations apply to foods that are supplied for human consumption in the EU. They do not simply apply to farming practices in the EU, because they also apply to imported products. Reference is made in the European directive to consultation with the World Trade Organisation. There are lots of unanswered questions. It is one of those things: there is so much detail that we were not expected to read it. The bottom line is that that is not satisfactory.

The Convener: On that note, the points that Stewart Stevenson and Fergus Ewing made have been noted and will be passed to the Executive. We can also refer the Executive to the *Official Report* if it wishes further clarification. On that basis, are members content with the instruments?

Members indicated agreement.

Petition

Predatory Birds (PE449)

The Convener: Members will recall that petition PE449, from the Scottish Gamekeepers Association, seeks an investigation into the impact of predatory birds on wild birds, fish stocks and reared game birds. After taking evidence from the petitioners, Scottish Natural Heritage and the Deputy Minister for Environment and Rural Development on 25 February, the committee agreed to write to the minister to draw attention to potential gaps in the research on the impact of raptors on other bird stocks and to ask for further independent research to be undertaken, possibly in consultation with the moorland forum. The committee also agreed that PE449 should remain open pending receipt of the minister's response, which has been received and which members should have.

We must decide how to proceed. Should the committee feel that the issues are being addressed satisfactorily, it could agree to close consideration of the petition. Alternatively, the committee might feel that further correspondence was warranted or might refer the petition to the Public Petitions Committee with the recommendation that it be considered by the successor to the Rural Development Committee in the new session. I would be grateful for observations.

Rhoda Grant: What is the situation with petitions? Do we have to refer petitions that we are dealing with back to the Public Petitions Committee for it to re-refer to our successor committee, or can we hold them over for the next session?

The Convener: I understand that we must refer petitions back to the Public Petitions Committee, which will decide how to deal with them in the new session. We have a legacy paper, which we will discuss later.

Mr Rumbles: I thought that we agreed on that at a previous meeting.

The Convener: We decided that we wanted to keep the petition alive through that system if we were not satisfied with the minister's response. Perhaps we need to discuss whether we are satisfied with the response.

Mr Rumbles: I thought that we decided to refer the petition to the Public Petitions Committee.

The Convener: I do not think so. My reading of the situation was that we kept the option open, but we will hear what members have to say.

Stewart Stevenson: In the second last sentence of his letter, the minister says:

"I shall ask the Forum to advise me".

I would like our successor committee to have the opportunity to consider the outcome of that, because the moorland forum's remit does not cover all the ground in Scotland on which the raptors—the subject of PE449—operate. We should simply keep the matter open. It costs nothing to do so and the subject is still live—that word should be in quotation marks—so I would like our successor committee to have the opportunity to have the petition referred to it by the Public Petitions Committee's successor.

Fergus Ewing: I am sorry that I could not attend the meeting when we had the opportunity to seek answers from SNH. I understand from Geva Blackett that Mr Rumbles flummoxed one witness who, although he could give the exact number of raptors of each species, could not answer his question about how many birds raptors killed. That is a serious and fundamental gap in the research, as Bert Burnett's letter says.

In keeping the matter open for our successor committee, might we invite the Scottish Gamekeepers Association to say whether it could keep that committee advised of research that it believes should be undertaken. I presume that the SGA will request specific research in writing from the moorland forum. I would like to ensure that the SGA feels engaged in a process and that its recommendations about what should be done, acting on its knowledge, are used by the moorland forum. Perhaps all the bodies concerned could report to our successor committee, to ensure that progress is made as I hope that all members want it to be made.

The Convener: I have no difficulty with that. Rather because of the committee's prompting, the Scottish Gamekeepers Association is involved with the moorland forum, so I presume that it will pursue that end through the forum's meetings.

Fergus Ewing: My problem is that the raptors working group, which produced the major report, was controversial. Dissatisfaction was felt with the process, but I will not go into that. I do not want that dissatisfaction to be replicated. I have no reason to believe that it will be, but it would be useful for everyone to know that we take a keen interest in the matter and would like it to be developed so that something happens and we start to find out the impacts of prey species on birds.

15:30

Mr Rumbles: I am genuinely not trying to make difficulty and I am happy to discuss the issue again, but I was under the impression that we agreed two weeks ago to refer the petition to the Public Petitions Committee to keep it live and that we awaited the minister's response. I did not think

that we would keep it up only if we were dissatisfied with the minister's response. I thought that we had decided to keep it open because we looked at so many issues two weeks ago that have not been dealt with. For example, in Allan Wilson's letter there are statements that can be interpreted in two ways. He says:

"My officials have already begun discussions with Scottish Natural Heritage on those areas where the Rural Development Committee has felt more information was required."

We could take a generous view of that and believe that someone will religiously go through all the points that we have identified. I was rather hoping that the minister would come back and say that the Rural Development Committee identified issues A, B, C and D, but that is not in the letter.

There is no doubt that a huge amount of information is not available. You will recall that I wanted the committee to commission research but that that suggestion was not taken up due to the imminent closure of the Parliament. We discussed in great detail how we could keep the issue to the fore because it has not come to closure. Even though the minister's response was helpful, it certainly does not bring the issue to closure. We should be duty-bound to refer the petition back to the Public Petitions Committee to keep the issue on the table for the next Parliament.

The Convener: I do not disagree with that and I do not believe that anyone else does. We should give the Public Petitions Committee our reasons for doing so and strongly encourage it to refer the petition to our successor committee after 1 May. Are members content with that?

Members *indicated agreement.*

Legacy Paper

The Convener: Agenda item 5 is our legacy paper. We have to consider this as a paper that aims to summarise the committee's experience during the first session of the Parliament and attempts to provide some advice to its successor committee. We could consider the paper again next week, but it would be preferable to agree it this week. It has already been to the work reporters, who have made suggestions.

Mr Rumbles: I have a personal comment. I might be in a minority of one, but I think that a distinction should be made between the types of inquiries. I am trying to be constructive for our successor committee. Our substantial inquiries have been the most successful. I am never terribly impressed with short inquiries, even though they are on the major, burning issues at the time. The more productive inquiries are the ones that we give more time and consideration to rather than cramming in many witnesses to a couple of sessions. I am not trying to criticise. I am saying that, for the benefit of the future committee, the more time that it can put into a comprehensive inquiry—I will not use the word "proper", because all the inquiries are proper—the better its time will be spent. I did not feel that the committee got as much benefit from the shorter inquiries.

Stewart Stevenson: I do not find myself wholly disagreeing with Mike Rumbles, so he is not necessarily in a minority of one. However, we should recognise that from time to time there will be issues—the recent Scottish fishing industry inquiry would be an example—where events simply require that we do something in a relatively short time and ensure that our report is suitably qualified in its conclusions, or we do not do anything at all. We should not turn our faces away from short inquiries.

I agree that there is huge value in conducting more in-depth inquiries and in going out to the communities that may be affected by the subject matter of those inquiries. I do not wholly reject what Mike Rumbles is saying. However, we must be careful not to present a report that would appear to suggest to our successors that the committee should have no truck with short inquiries.

Incidentally, due to my lack of knowledge of the English language, I am uncertain whether we undertook any "inquiries", as I thought that they were "enquiries"—I see that that has got everyone confused.

The Convener: I think that the question of the use of those words is in the same category as the question of the use of inverted commas. We do not want to go too far down that route.

I am tempted to agree with Stewart Stevenson, that we should not rule out short inquiries altogether. Sometimes they suit the time scale. The two-day inquiry that we recently undertook into the white-fish industry was a good example of the way in which a short inquiry can inform the debate in the Scottish Parliament.

Mr Rumbles: I never said that we should rule out short inquiries. All that I said was that the longer ones are far more beneficial than the shorter ones. Personally, I think that we have focused too much on the shorter inquiries and not enough on the longer ones.

Fergus Ewing: It depends on the remit of the inquiry. The inquiry into the operation of the agricultural business improvement scheme had quite a specific remit, whereas the inquiries into integrated rural development and changing employment patterns were massive and perhaps too broad in scope. However, we must follow the agenda, to a certain extent. I hope that, if there was a crisis in any aspect of the rural economy, the committee would always have time to conduct an appropriate inquiry into it. The inquiries that have been conducted while I have been a member of the committee have been conducted fairly and thoroughly. We would not want to close the door to an inquiry just because it might be short. However, I do not think that that is what Mike Rumbles is suggesting.

Mr Rumbles: No. I would never question the fairness of the inquiries that we have undertaken. They have all been conducted extremely fairly. The issue is one of emphasis. I was not suggesting that we should rule out short inquiries, which can be very useful.

I disagree about the last inquiry. The inquiry into issues currently affecting the Scottish fishing industry covered a huge subject, as I said when we were deciding whether to have that inquiry. I felt that, at the end of the process, the inquiry did not do the subject justice. It was useful to hear concerns and worries about the current situation, but we had only two sessions on it and I felt that the subject deserved a far bigger and more in-depth inquiry than we were able to conduct. A future committee should seriously consider conducting more in-depth inquiries and fewer of the short, sharp ones that we have conducted.

The Convener: During the earliest meetings of the committee, we envisaged that happening. When we produced our original suggestions, which were condensed by the clerks and brought back to us, there was a focus on some of the inquiries that we would have liked to do. However, the truth is that every committee—this one in particular—has had its timetable dictated by the legislation that it has had to deal with. I do not need to mention a certain member's bill that took up an enormous amount of the committee's time.

Mr Rumbles: Do not mention that.

The Convener: I will not mention it. That is the practical reality of the matter. To an extent, the committee's time is dictated by legislative and other requirements that are placed on it. I may or may not disagree with Mike Rumbles's proposal. What we must decide is whether we want to change the wording of the report. I do not think that it is badly worded.

Mr Rumbles: I am content. I am not suggesting that we change anything in the report. I am simply taking this opportunity to have my view recorded in the *Official Report*. If any sad soul on the next Rural Development Committee wants to wade through what the members of the previous committee thought, they can read those comments.

The Convener: I shall be deeply impressed if they take their duties so seriously as to read all the *Official Reports* of the past four years.

Fergus Ewing: I appreciate the fact that the purpose of the legacy paper is to set out a factual summary of what the committee has done. However, it should perhaps also include what we have not done and what, with hindsight, we feel that we could have done.

In particular, we have carried out very little work in relation to forestry. The convener has raised that issue in a members' business debate and I am sure that other members have participated in other parliamentary work on it. I feel that that represents a gap. There are very serious problems, such as weight restrictions on roads—on the Polbae road in the south of Scotland, for example. I am seriously concerned that the forestry industry could face a crisis because wood that is ready for harvest cannot be accessed as a result of local authorities being tempted, for understandable reasons, to introduce weight restrictions. I am extremely concerned about that. I recommend forestry as a subject for a short inquiry for the next committee to undertake as a matter of urgency.

The Convener: I am sympathetic towards an inquiry on that issue. I do not know how other members feel about it. We could pop in another paragraph after paragraph 22, under the heading "Outstanding Issues after the First Session". I think that forestry was on the original wish list—it was an issue that we could have looked at. Four years later, we have not done so.

Rhoda Grant: One of the other issues that we wanted to consider in detail was reform of the common agricultural policy. Although we discussed it on an away day, we did not go any further. The new committee will need to tackle CAP reform, which will probably have more impact on that committee's work than it has had on ours.

The Convener: CAP reform is mentioned under the “European Issues” heading. It is a fair point to suggest that the next committee might wish to spend some time examining that issue. Rhoda Grant is quite right. There is no doubt that it will be a fundamental issue during the next session of the Parliament. We could ask the clerks to put together something on that. It could be e-mailed to the reporters, who could sign it off at the end of the week. Is that agreed?

Members indicated agreement.

The Convener: Other than that, I hope that members are content with the legacy paper. One of my dearest hopes is that the next committee will seek an early opportunity to debate the integrated rural development report on which we spent so much time. It contains many issues for discussion. I am sure that we all look forward to taking part in that debate, if we are lucky enough to be returned.

Mr Rumbles: What are you on the list, convener—number 1?

The Convener: We should not worry too much about that at this point in time.

Fergus Ewing: I want to raise a final point. Today’s evidence highlighted the importance of our taking evidence from EU officials, who plainly have a great deal of power and influence over what happens. There is probably a degree of unanimity among members of all parties that some farmers are not treated fairly in relation to unintentional or inadvertent errors that were not made with any fraudulent intent. That is an example of a trend that will be increasing. I gather from the paper that, in the next session, even more SIs and regulations will result from EU proposals. I suggest that the practice of taking evidence from senior EU officials, such as John Farnell, which we developed rather late in the day, is extremely useful. It might have more influence than we think in letting the Commission know that it is being scrutinised and watched and that we are part of the democratic process. Perhaps we could put that in the paper.

The Convener: That is a fair point. You may be right—we developed that procedure a little late in the day. It is nice to know that we have developed. We will include some appropriate wording and will circulate it to reporters for signing off.

Fergus Ewing: I hope that you will excuse me. I have to go and see the washing-machine repairman.

The Convener: I am glad that that will appear in the *Official Report*.

Mr Rumbles: We have to get our priorities right.

The Convener: That brings us neatly to the end of the public session. I am glad that Mr Ewing

managed to get that important sentence in before I asked for the public gallery to be cleared. I now make that request.

15:43

Meeting continued in private until 15:47.

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