



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 2 February 2011

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2011

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:  
[licensing@ogps.gov.uk](mailto:licensing@ogps.gov.uk).

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by  
RR Donnelley.

---

**Wednesday 2 February 2011**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>3783</b>
<b>AGRICULTURAL SUPPORT .....</b>	<b>3784</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>3821</b>
Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2011 (Draft).....	3821
Scottish Government Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes ..	3822
Eggs and Chicks (Scotland) Amendment Regulations 2010 (SSI 2010/450) .....	3825

---

**RURAL AFFAIRS AND ENVIRONMENT COMMITTEE**  
**3<sup>rd</sup> Meeting 2011, Session 3**

**CONVENER**

\*Maureen Watt (North East Scotland) (SNP)

**DEPUTY CONVENER**

\*John Scott (Ayr) (Con)

**COMMITTEE MEMBERS**

\*Karen Gillon (Clydesdale) (Lab)  
\*Liam McArthur (Orkney) (LD)  
\*Elaine Murray (Dumfries) (Lab)  
\*Peter Peacock (Highlands and Islands) (Lab)  
\*Stewart Stevenson (Banff and Buchan) (SNP)  
\*Bill Wilson (West of Scotland) (SNP)

**COMMITTEE SUBSTITUTES**

Rhona Brankin (Midlothian) (Lab)  
Jim Hume (South of Scotland) (LD)  
Jamie McGrigor (Highlands and Islands) (Con)  
Sandra White (Glasgow) (SNP)

\*attended

**THE FOLLOWING GAVE EVIDENCE:**

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment))  
George Lyon (Member of the European Parliament)  
Brian Pack  
Ian Strachan (Scottish Government Rural and Environment Directorate)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

Committee Room 1



## Scottish Parliament

### Rural Affairs and Environment Committee

*Wednesday 2 February 2011*

[The Convener opened the meeting at 10:00]

### Decision on Taking Business in Private

**The Convener (Maureen Watt):** Good morning and welcome to the committee's third meeting in 2011. I remind everyone to turn off their mobile phones and brambles, as they impact on the broadcasting system.

Under agenda item 1, do members agree to take in private item 8, which is consideration of the evidence that we will hear today on the future of agricultural support?

**Members indicated agreement.**

## Agricultural Support

10:00

**The Convener:** The next item of business is on the future of agricultural support in Scotland. The first evidence session will be held by videoconference. I welcome to the committee George Lyon MEP. When using the videoconference system, I ask members please to remember about the time delay.

Good morning, George. Can you hear me?

**George Lyon (Member of the European Parliament):** I can hear you no problem, Maureen. Good morning to you, and I hope that it is a nicer day in Scotland than it is here.

**The Convener:** It is a bit wet outside, but it is not too bad—it is not as cold as it has been.

I ask John Scott to start the questioning.

**John Scott (Ayr) (Con):** Good morning, George.

**George Lyon:** Good morning, John.

**John Scott:** Your report, "Report on the future of the Common Agricultural Policy after 2013", which I very much welcome, identifies several problems:

"food security and the need for the EU to contribute to world food supplies; rising energy prices which will increase costs of production; the need to continue to reduce greenhouse gas emissions from agriculture; the need to use water efficiently and protect soils and biodiversity; the risk of land abandonment; and the effects of the economic crisis on agriculture."

What analysis was done to arrive at those conclusions? How will farming and agriculture mitigate those problems?

**George Lyon:** The first thing to deal with is the economic crisis and its impact on public finances in all member states. Most member states are facing huge cuts in their public finances. Many of them, including Ireland and Greece, are close to bankruptcy and default. The pressure on contributions to the common agricultural policy, with the financial difficulties that stem from that pressure, is the first issue that we must deal with.

The second issue, which is linked to that of the budget, is that of fairness among all member states. There is great pressure from the new member states to get a more equitable share of the budget.

The third issue, global food security, is highlighted in our report, as you said. There is a rising population, which is predicted to grow to 9 billion by 2050 from more than 6 billion currently. Allied to that is rising demand from developing

countries as they become wealthier. Their dietary habits are changing from vegetable-based or rice diets to meat-based diets, which gives rise to exponentially rising demand.

How can we design a new production system that can meet that extra demand? In the past, when land and water were plentiful, the answer has been to develop new crop varieties and throw lots of energy at the land in the form of fertilisers, pesticides and so on. However, that model is not sustainable. All the evidence that we have taken so far suggests that land shortages will be a problem. There are no huge tracts of extra land to come into production, unless the rain forests are cut down—and for climate change reasons, that is not a credible option.

Water scarcity is becoming a big issue not just in Europe but in the rest of the world, and 70 per cent of the world's water is currently used for agricultural production.

The final key issue is the scarcity and price of energy, which make it difficult to envisage greater use of energy in our food production system in future. Currently, about 1 per cent of the world's energy is used in food production. In future, because of the need to address climate change, we will have to reduce the use of energy and fossil fuels in our production systems. That is why in our report we have argued that sustainability of the agricultural production system should be at the heart of the new CAP, allied with the fairness issues. Obviously, the new member states want a fairer share of the budget. The other fairness issue is about ensuring that farmers can extract a better return from the marketplace, where they are at a disadvantage when they deal with major retailers. We need to recognise that all developed countries in the world still support their agricultural sector and that there is therefore a need to ensure that European farming is not at a disadvantage.

The key issue is developing a more sustainable food system. The CAP should be reformed to reflect that challenge.

**John Scott:** So you think that it is entirely possible to devise a system that targets payments to meet those challenges, and that is the aim of the exercise.

**George Lyon:** Yes. I believe that that is the position that we are moving to. Now that payments are decoupled—at least in most member states—and based on historical production, it is important that we start to discuss exactly what payments will be for in future. I believe that the way forward is about sustainability; ensuring that we target payments at those who most need them; and ensuring that there are public goods attached to direct payments.

One big issue that I have not touched on is about ensuring that we still have local food production for communities throughout Europe. If we leave it completely to the marketplace to decide where food will be produced, no food production will take place whatever in huge swathes of Europe. In the United Kingdom, Scotland, Wales and Northern Ireland are probably most exposed to that threat because of the natural disadvantages of poorer land and lower output.

The recent paper that was produced for the Department for Environment, Food and Rural Affairs entitled “Farm viability in the European Union: Assessment of the impact of changes in farm payments” highlights that threat. I recommend that paper to members. Fundamentally, I believe that the new CAP should start to target payments to tackle the issues on which we want the biggest impact, which are sustainability and ensuring that we still have local food production for local communities in the areas with most natural disadvantage.

**John Scott:** Can I take it from what you have said that you would be in favour of the suggestion in Brian Pack's report that recoupling support might be a good idea, particularly in the less favoured areas?

**George Lyon:** That is an idea that Brian Pack has produced. Currently, each member state is allowed to recouple up to the limit of 3.5 per cent of its total single farm payments. That is the World Trade Organization limit that we have signed up to. We cannot go any higher than that without breaking the WTO rules relating to trade distorting measures.

Scotland has a disadvantage in that 3.5 per cent of our current single farm payment is a small amount. To achieve what Brian Pack is arguing for, we would need a special exemption for Scotland, but that will be difficult given that, as I understand it, no other country in Europe has regionalised the way in which the CAP operates or uses a regional approach to calculating what the 3.5 per cent will be. If we took 3.5 per cent of the total UK SFP, we would have a decent sum of money that would allow some of the recoupling that Brian Pack suggests. Unless we can argue for a special deal for Scotland, which I think is unlikely, the ambitions that he sets out in his report perhaps cannot be delivered under the current rules.

**The Convener:** But is it not the case that although all the devolved Administrations might have signed up to that, Caroline Spelman made it clear at the Oxford Farming Conference that she wants the market to determine agriculture in the UK? The devolved Administrations and the UK

Government are already disagreeing about the way forward.

**George Lyon:** I was the second speaker after Caroline Spelman at the conference. She made it clear in her speech that the UK Government wanted direct payments to be phased out; however, in questioning, she clarified the timescale for that, reckoning that it would not happen until 2030, which is 20 years away. She suggested that, because of certain emerging pressures and the expectation of rising food prices, such support might not be needed as much in future anyway. Indeed, she said that the UK would continue to argue that a direct support system was still necessary in the medium term. In any case, until the UK Government makes its final position clear, it is difficult to know whether it will take on board the needs of the different regions.

I am not quite clear about the Scottish Government's position. I know that it is in favour of direct payments, but I am not aware that it has come out and categorically stated that it has adopted as its policy position Brian Pack's recommendations, including the greening of direct payments, the targeting at producers in less favoured areas and proposals on headage payments. It would be interesting to get some clarity in that respect.

**The Convener:** We do not have a Government minister here this morning, Mr Lyon.

**Liam McArthur (Orkney) (LD):** Good morning, George. Have you had any indication of when the detail of the Scottish Government's response to the Pack report is likely to emerge? I know that you touched on that in your previous response; indeed, I guess that I can direct the question at Brian Pack himself, who will give evidence after you.

My second question is probably more directly focused on your own efforts. What official or ministerial engagement has there been with you as rapporteur on the "Report on the future of the Common Agricultural Policy after 2013" in developing the position within the European Parliament, whose role in these negotiations obviously exceeds that played by previous incarnations?

**George Lyon:** I have no idea when the Scottish Government will confirm its policy position. Brian Pack will give evidence on what I think is a very good report that addresses the fundamental issue of how direct payments should be targeted in future and, of course, it will up to ministers to determine whether they accept all the ideas in it. I point out, however, that in some ways the report helps to prepare us for possible budget reductions, which, given the crisis in public finances in all the member states, will be very difficult to avoid. It

would be useful to know the Scottish Government's position on the greening of direct payments, the targeting at LFA producers and the use of coupled payments.

The sum total of my engagement with the Government has been a meeting that I had about a year ago with the cabinet secretary Richard Lochhead before work on the report began and one other quite useful meeting with David Barnes. Apart from general press reports indicating that it is still in favour of direct payments, I have had no paper briefings on the Scottish Government's view. As I have said, as far as hard policy positions are concerned, I am not exactly sure where the Government in Scotland stands on the greening of direct payments, the targeting that will be introduced and the type of payments that have been suggested for different categories of animals and how they might be used to enhance our ability to top-slice the single farm payment and turn it into coupled payments. Of course, such a move would break World Trade Organization rules at a member state level.

10:15

**Elaine Murray (Dumfries) (Lab):** Your report recognises the need to reduce greenhouse gas emissions from the agricultural sector. In Scotland, that will be necessary in order to meet our carbon reduction targets. Do you have any idea what type of measures farmers would have to adopt? What would make them eligible for climate change top-up funding?

**George Lyon:** It is important that we use the carrot rather than the stick to try to deliver some of these objectives. Farmers who are currently subject to cross-compliance for some of the basic higher health, welfare and environmental standards do not value them, because the stick rather than the carrot is being used. The approach that I have taken in the European Parliament, which has been supported by a huge majority, is to try to incentivise the delivery of those social and public benefits.

You could increase production—the output in relation to the carbon emissions that are given off—in a number of ways. A lot of it is to do with production efficiency, which is how we have managed to deliver quite a significant reduction in carbon emissions over the past 17 or 18 years since the 1990 baseline.

We are looking at minimum-tillage, or min-till, techniques for arable land. We are looking at nutrient plans, to ensure that the inputs are utilised more efficiently. We are looking at longer grassland rotations instead of ploughing up every four to five years, because a huge amount of carbon is released when someone starts to plough

regularly. Precision-farming techniques are well-recognised ways of trying to minimise the inputs. We are also looking at soil mapping, whereby the nutrients are used on a field-by-field basis.

The other issue is how to reduce the amount of energy used per acre for arable crops or throughout the year on the farm. There are ways of introducing more efficient machinery and of using energy more efficiently on farms. There are a range of measures that you could incentivise, which would deliver real benefits and would help us to achieve some of the really challenging climate change objectives.

An alternative is to incentivise, through the so-called top-up, the planting of crops that sequester even greater amounts of carbon. Very little work has been done on that so far, but over time it will become apparent which crops sequester the most carbon, which would influence what farmers will plant in the future.

**Elaine Murray:** I imagine that that might work better for some of the larger farms. Would farms in less favoured areas, where some of those techniques are not so easy to achieve, be further disadvantaged?

**George Lyon:** I would not have thought so. I would have thought that the LFAs have a huge role to play in carbon sequestration. They are extensive grassland areas and are real carbon sinks, so they should have some recognition.

**Elaine Murray:** Do you envisage some sort of joint funding structures for agriculture plus forestry planting?

**George Lyon:** Forestry might be one of the options, but in driving forward a more efficient and competitive agricultural sector, some of the measures that I have outlined, such as nutrient plans, best use of nutrients and more precision-farming techniques, are the ways that people will take real steps forward. Production efficiency—increasing yields in food production per unit of carbon emitted—is one way of reducing carbon emissions, too.

The Irish Government has done a lot of work on this in relation to its Climate Change Bill and has come up with some interesting and simple techniques whereby agriculture can make a significant contribution to that agenda.

**Peter Peacock (Highlands and Islands) (Lab):** You have indicated that the United Kingdom Government has not arrived at a final position yet, but that its rhetorical position involves a need for reform and deregulation and is concerned with the distorting effect of intervention in the market and so on. If the UK position were to firm up around that, how isolated would it be, or how many allies

would it have in negotiations around those broad principles?

**George Lyon:** In reality, the so-called distortion in the marketplace as a result of certain measures is a thing of the past. In the mid-1980s, the CAP accounted for nearly 85 or 90 per cent of the total European Union budget, and the whole lot was spent on export subsidies and intervention storage. Those days are long gone, thank goodness. This year, the total spend on export subsidies in relation to third-world markets is below 1 per cent, and the total spend on any form of intervention is now way below 10 per cent, and is declining yearly. The old CAP and its distortions are long gone. The decoupling of support has meant that the payments no longer distort production, because farmers respond to the marketplace, which is the principle behind that move. That has taken the CAP into a much more liberalised position.

From what Caroline Spelman said at the Oxford Farming Conference, I understand that the UK Government's position is that, although it wants the payments to be phased out in the longer term—she mentioned 2030 in the press conference that followed her speech—direct support will be needed from here on in. The question is whether the UK Government wants more support to be delivered through the rural development measures or whether there will be a targeting of the introduction of the greening of the direct payments. I think that that question is what the debate will revolve around.

The previous Government wanted to abolish the payments completely and put all the money into rural development. That would leave us quite isolated—we would be allied only with Sweden and possibly the Netherlands.

Until the UK Government's position firms up, it is difficult to tell what will happen. I expect that, in common with most of the net contributors to the budget, it will want the CAP to share some of the pain that all other areas and Government departments—apart from health, perhaps—are experiencing. All areas are under strain from reductions in support due to the huge deficit and debt that the country has incurred. The five countries that are the net funders of the European budget—Germany, France, the UK, Denmark and Finland—will all want greater control of public expenditure, if not a reduction in public expenditure, and I do not think that the CAP can avoid that kind of scrutiny.

**Peter Peacock:** Are people speculating about the range within which any reductions in the overall budget might be made? Are we talking about marginal reductions of 1 or 2 per cent, or are we talking about more significant reductions? What would be the direct effect of reductions, in



terms of what is deliverable on the ground and in relation to the objectives that you set out earlier?

**George Lyon:** All sorts of figures are being bandied about. The Commissioner for Financial Programming and Budget suggested a 30 per cent cut in the CAP, but others think that the current downward trajectory of the CAP budget, which is predicted to fall from around 47 per cent of the total EU budget—that was the figure in 2005—to below 39 per cent in 2013, will continue and that, by 2020, there might be another 9 or 10 per cent drop. The reality is that, until the negotiations take place, their outcome is difficult to predict. Although there are five countries that are net contributors to the budget, there are another 22 that are net beneficiaries, and they will argue for the budget to stay the same or to increase.

**Peter Peacock:** If there were a reduction in the outer range of figures that have been suggested—around 10 per cent, rather than 1 per cent—what would be the impact on the aspirations that you set out in your report, for which there is a lot of support?

**George Lyon:** I suggest that the model that we have set out in our report, where we start to target the direct payments, can cope with the reductions in the budget. Commissioner Ciolos has lifted our model, to an extent, and used it as one of the preferred options in his report. That indicates that he also believes that, if there is a reduction in the budget, we need to think about how we can target the payments. His suggestion involves putting LFAs in the direct payments category; ours implicitly puts LFAs in that category, although it does not explicitly do so. That is the move that has to take place.

Clearly, any argument about reductions must focus on who needs the payments most as well as on what public good can be delivered. LFAs deliver on those two points, in terms of the natural landscape, local food production and so on, and I believe that they are also able to deliver on the sustainability agenda.

The model that is beginning to be developed will cope with a reduced budget. That is the right way forward.

**Liam McArthur:** I am interested in your comments about the difference in the approaches of the net contributors and the net beneficiaries. From the briefings that we have had, the suggestion is that the French are arguing for a modest increase in the budget, and certainly not for a reduction. We are all aware that there are few lessons that the French need learn from any of the other member states on how to secure their objectives and red lines through negotiations. I am interested in hearing your take on what bearing that will have on the negotiations.

You referred to the overwhelming support that your report got, not only in the European Parliament's Agriculture and Rural Development Committee but in the plenary session. We are aware that the socialist group and the European People's Party have also produced reports on the negotiations. What are your views on how the situation will develop in the coming months? Will people divide along political lines or will there be a north-south—or more likely an east-west—fracture? What will be the effect of such developments on the Parliament's negotiating position in relation to the Council and the Commission?

**George Lyon:** On your first point, you will be aware of the letter that was signed by Prime Minister Cameron, Chancellor Merkel, President Sarkozy and the Finnish and Dutch Prime Ministers that stated that they want the total EU budget to be capped for the next seven-year period. The question that all the member states are currently discussing is what the next multi-annual financial framework will be and how much each of the policy areas will get. Although France might want there to be a slight increase in the CAP budget, it is certainly interested in capping the total EU budget. However, I argue that France cannot have it both ways.

On your second question, the two biggest issues are focused around the budget and how it is distributed. The majority of new member states wish their share of the budget to increase. They will point to a graph—I take it that the committee has a copy—that shows direct payments per hectare. Latvia and Romania are at €60 per hectare and Greece is away at €600 per hectare, and there are various figures in between. The new member states argue that they should be at a more comparable level, although not an equal level. That issue will be divisive. The figure for the original 15 member states is greater than that for the EU 27 when we use that calculation, and it will be a difficult political ask for them if they are faced with a reduction in the overall budget and then a second reduction because they have to give up some money to increase direct payments to the new member states, and there will be resistance to that.

10:30

The other big issue is the debate about further liberalisation of the policy. There are those who argue for a return to more market intervention. That is clearly going to mean a north-south split. It is interesting that the EPP, the centre right and the socialists are together on that. They want greater market regulation and more intervention, because they do not like volatility in the marketplace. That is another major argument.

There will be a lesser argument about transferring more money from the direct payments into rural development. The majority of member states are net beneficiaries, so they are unlikely to support that. They also see it as renationalisation of one of the few communautaire policy areas. Any move from European-funded direct payments to rural development is always seen as an attempt to renationalise and will therefore be resisted by the majority of member states.

There are many different views. One other major area in which there is going to be some serious dispute is the greening of the direct payments. We and the commissioner have suggested the greening of those payments. There will be clashes over what exactly we mean by "greening" and what member states will have to do. Will it make European agriculture uncompetitive by putting a lot of impediments in the road rather than improving European agriculture's competitiveness and efficiency? That must be avoided. There is a whole area of dispute around whether the payments should be greened and what exactly that means.

Those are the big contentious areas. President Sarkozy's election is not until April 2012, and I do not think that any of the issues will be solved before then.

**Liam McArthur:** Your report on the budget refers to future distribution methods. There is a general acceptance that, with the passage of time, the historical basis for payment is going to be increasingly difficult to sustain. Obviously, there will be a wide range of views about how a more area-based approach might work. There certainly appear to be real concerns about having a single flat-rate payment per hectare, which you and the Commission picked up on. If that is not the way forward, how do you envisage a differentiated per-hectare payment working? What will be the criteria between pillars 1 and 2, for example, assuming that they survive? What will be the impact at the UK and Scottish levels?

You are right to say that we have all viewed the graph that you mentioned—Brian Pack helpfully put it on page 33 of his report—of the differential in single farm payments. Along with Latvia and Romania, Scotland is right down the list. Northern Ireland's rate seems to be three times greater. Maintaining unity between the devolved Administrations on where we go next might be increasingly difficult.

**George Lyon:** There are two separate issues, and we must be careful about them.

The first issue is about the new member states arguing that they want a more even share of the direct payments. That is linked to the fact that the old member states' current allocation of direct

payments was a result of the claims that were made by their farmers in 1999 and 2000. When payments were coupled in 2003, that was locked in as the envelope of money that continued to be handed out to the old member states. The new member states do not have that; they were simply given so much per hectare and told to get on with it with the promise that, over time, their payments would increase each year up to a level comparable with the payments to old member states. Whether that can be delivered under the current budgets or with a constrained budget is a serious question. I do not think that it can.

There is an argument that we need to move away from the historical envelope of money that each of the old member states gets. How do we do that? Do we base it on the number of hectares that a state has, linked to the cost of production, or do we just go back to a targeted direct payment system with the distribution of money across Europe based on the number of claims against it? The question is then, how do we get from where we are to where we want to be?

The second issue is that, at an on-farm level, 13 of the 15 old member states still use a form of the historical model whereby what the individual farmer produced in 1999, 2000 and 2001 is the basis for the payment. That is not sustainable in the longer term. The question is how we move from that historical model, which is used by all the old member states apart from England and Germany—which have both moved to an area-based payments system—while ensuring that each country can still address its own priorities.

We need only look at what happened in England and Germany to see that there are solutions. There are different payment rates in the different Länder in Germany, whereby each Land is allowed to target the area payment that it gets. There was also some redistribution of money between the Länder when they moved from historical payments to area-based payments. In England, there is a stratified system with three different payment rates for lowland, upland and moorland areas to ensure that the support goes where it is most needed. There are no simple answers, as Brian Pack found out. If you ask him, he will tell you that, during all his public meetings, thousands of people claimed that they were losers and only three people said that they were winners under any redistribution. I guess that that gives the political flavour of the discussion that will take place when you start to introduce it in Scotland.

What is coming through loud and clear in all the discussions—it is also mentioned in our report—is the fact that the move away from the historical payments system to the area-based payments system, whereby Europe moves to a single system for payments, albeit that there will be

different payment rates in the different member states to reflect their own priorities, will take some time. The date in our report is 2020—the end of the next round of the budget settlement, which will run from 2013 to 2020—but it was difficult to get agreement on that. The Spanish and the Irish suggested that it should not take place until about 2090 or something like that—they do not want to do it at all. There are going to be big battles over the timescale for that transformation. Certainly, no one was of the view that it could be done in one or two years, as is suggested in Brian Pack's report—I do not think that that will happen. The rules at European level will probably set 2020 as the end date for every member state to move from historical payments to area-based payments.

**Liam McArthur:** That is very helpful. Brian Pack is listening intently to your answers. I think that he would agree that he was handed a poisoned chalice in trying to fashion a way through this.

You point to the experience of the transition in Germany and England. A staggered approach has been taken in England, from 10 per cent of payments being area based in 2005 to an expected 100 per cent of payments being area based by next year. However, there have been widely reported problems with the way in which payments are issued. Clearly, there are lessons to be learned. From your observations, what are those lessons? How can we avoid repeating some of the problems as we transition through?

**George Lyon:** If you want to learn how not to do it, you should look at England. The English have been beset by problems from day 1, as the scheme was too complicated. They started in 2005 and are converting from historical to area payments at a rate of 10 per cent each year. I understand that the calculations that are involved in working out what each farmer should get each year, allied with many changes to what is an eligible acre down south and in various other member states, have meant that in many cases a lot of the data have been lost and payments are almost impossible to calculate. England has been fined on a number of occasions for late payments, because the fact that the amount changes every year means that the system is unable to calculate exactly what each farmer is due to get each year. If member states that embark on this road want to learn what not to do, they should avoid the route that England has taken.

The system in Germany seems to be a lot simpler. Back in 2005, the Germans converted approximately a third of the payments into area payments, with the rest remaining historical. They then calculated what the final outcome for each farmer would be when full conversion to the area-based payment system was achieved. They are implementing the changeover on a financial basis

in the three years from 2009 to 2012. In each year, 25 per cent of the payment is converted across. The system involves a simple financial calculation, rather than one based on acres and on working from historical to area payments every year. The lesson is that the German model seems to be much more efficient. When 2012 comes, we will find out whether it worked really well and whether there were any major problems with it.

There are huge political problems because of redistribution, which is not an easy situation to resolve. Whoever the agriculture minister is will have a difficult time when implementing the changes.

**Liam McArthur:** I will touch briefly on one other issue before colleagues come back in. Initially, the historical basis for payments was linked to some form of activity. However, as we have seen, over time there has not been an incentive or requirement to maintain that activity. As we move to an area-based scheme, the issue of how we determine or incentivise activity will have to be grasped. What are your thoughts on how activity can be safeguarded, along with whatever other public goods we want to see secured through a reformed CAP?

**George Lyon:** Defining who is an active farmer is a difficult and thorny issue. Is a crofter who works full time off the farm most of the time an active farmer? That is a real question. If you design a system that tries to exclude those who do very little, you might exclude crofters. They are a classic example of people who may be caught by the rules even though you do not want to exclude them. The Scottish Government tried to implement some rules on activity, which I understand fell foul of the EU auditors—I do not know the details—when it was found that they were likely to be open to challenge by someone who fell outwith the system. That shows how difficult the issue is.

In my view, the starting point, at the very least, should be to look at the health check rules. Regulation 28 of the health check regulations gives some basis for disqualifying those who have no agricultural business activity. At the very least, applying that regulation would start to eliminate people who had sold up but were still claiming the single farm payment for a naked acre somewhere in Scotland—claiming the payment without doing any agricultural business whatsoever. That would be a starting point, although there are lots of problems when you get into the definitions.

10:45

The issue of so-called slipper farmers and naked acres is peculiar to Scotland in many ways. From my discussions with representatives from other member states, I have learned that other

states do not have huge tracts of land that is virtually valueless in the rental market. If you speak to people from Ireland, for example, about the idea that somebody might sell up, keep his single farm payment and then rent ground to make a claim on, they will look at you incredulously and say, "If you are paid €250 a hectare for the land, why on earth would you want to do that? There would be no return—it would all go on the rental." Scotland is unique in having a lot of land that has no claim on it and is very cheap to rent, which exacerbates the problem here.

Of course, there is still a debate about active farmers in other countries and about ensuring that payments do not go to landlords rather than tenants. In creating the new area entitlements, it is essential that it is the tenant—the guy who actually does the farming—who gets the entitlement when it is first registered.

**John Scott:** I have to declare an interest as a person who is in receipt of a single farm payment. I should have declared that interest before.

What are your views on capping single farm payments at certain levels? The proposal has been considered before by the European Commission.

**George Lyon:** I, too, should declare an interest: I am in receipt of no agricultural subsidies and I have no farm, so I have no vested interest in this.

The capping issue is difficult. In Europe, the cap discriminates against countries with the biggest farming units. The UK comes into that category, and so does Germany and one or two of the new member states. The French, too, are not far away. On that basis, the cap can be seen as an attempt to give an unfair competitive advantage to other countries.

The question that arises if you introduce a cap is the level at which you should introduce it. What is too big a payment? I will give committee members an example of why the issue is difficult in Europe. I was in Lithuania recently and the agriculture minister was explaining the country's industry. The dairy industry is the country's main agricultural activity and its main export industry. He told me proudly that Lithuania was modernising its industry. He said, "Now, only 65 per cent of our producers deliver 25kg of milk each day in cans to the end of the road, and we need 1,000 trucks to pick that up. The rest of the producers are modernised and produce between 200,000 and 300,000 litres. They are the future for Lithuania." Now, someone who produces between 200,000 and 300,000 litres in our country—and in many other old member states—would be regarded as a very small producer, so where does the cap fit in?

When capping ideas have been tried in the past, creative accountants and lawyers have

usually found a way of splitting businesses. Separate businesses arise and the impact is therefore reduced. A number of practical issues arise—and we also have to consider whether the UK is disadvantaged, and Scotland in particular, because we have big farms. I would therefore be cautious about going down that road.

Of course, there currently is a cap—increased modulation kicks in above €300,000. It may well be that that is ratcheted up a little further. That would be another way of freeing up some funding.

**John Scott:** My view is also that the most efficient, large-scale farmers could be penalised or disincentivised.

**George Lyon:** I think so. That takes us back to what direct payments are for. We need to go down the road of targeting payments on those who need them most and linking them to public goods. I argue that big farms have the most to contribute to sustainability, so they should be encouraged to go down the sustainability route. Part of the encouragement should be the incentive to receive some of the direct payment in return.

**John Scott:** How can volatility and price spikes be dealt with in a world where volatility in commodity trading is likely to become more frequent? As you said, we do not have intervention stores.

**George Lyon:** I and our group have always taken the view that a minimum safety net should be available as an emergency measure to make intervention purchases, as happened in the milk crisis in 2008. The quid pro quo is that the product must go back on to the market in Europe in the future and must not be dumped on world markets through export restitutions. That is one mechanism that needs to be retained for major crises in which the commodity price goes through the floor.

Insurance schemes could be considered, to encourage farmers to take out insurance against such events. Better developing the use of futures markets could be considered. Fundamentally, our major levers are the ability to use intervention and private storage aid. Those two measures will probably still be worth while in the future.

If we cannot find sustainable solutions to meet rising global demand for food that use less energy, we will have to confront more volatility and rising food prices. We desperately need new solutions to deliver extra food production while reducing inputs dramatically. Finding them will not be easy—no easy answers are around.

**John Scott:** I have touched on the Pack report's proposals on headage payments. What are your views on the suggestion that 15 per cent of Scotland's budget for single farm payments

should be used for the beef calf scheme and a new lamb scheme?

**George Lyon:** In practice, the proposal might arrest the decline in numbers on the hills and uplands, but it would reintroduce distortions into the market. Farmers would start farming for the subsidy, if it was of significant value, and I am not sure whether that would be good.

I return to the practical problem. I am not sure whether Scotland can win the argument that, because the UK has regionalised the common agricultural policy—there are now four areas for calculating the 3.5 per cent of the SFP that is to be used for coupled payments—Scotland is at a severe disadvantage. You may want to support the beef and sheep industry through that mechanism, but we have a very small arable acreage, which is where the top-slicing takes place to create the coupled payment or where the big amount of money is. If that happened in Scotland, all that you would do is top-slice the beef and sheep guys, recouple it and hand it back again.

Unless the argument for increasing the allowable amount from 3.5 to 15 per cent is won, I am not sure how the aim can be delivered in practical terms. It is difficult for a region to win that argument. If it did, it would create a precedent, and every other region would want the same derogation. I am not sure whether that would run as an idea in the bigger picture. The goal might be worth while, but I am not sure that it is achievable.

**Elaine Murray:** Brian Pack's report suggests that a portion of the current less favoured area support scheme be transferred into pillar 1 and directed towards LFA farms, and that the remainder remain within pillar 2 and be directed towards those areas that are at greatest risk of land abandonment. What is your view of that proposal?

**George Lyon:** It is a good idea that LFAs should be part of the direct payment system. I might go a little further and say that LFAs should be one of the target areas of the direct payment system and that they should retain the ability to top up through the rural development measures. I argue that for LFA producers—especially in a period when we might see reductions in direct payment support levels—we should start to introduce the idea that payments should be targeted at those who most need them.

The DEFRA report "Farm Viability in the European Union" explains exactly who is viable without direct support and who needs it to survive. LFAs are most at risk of loss of production and land abandonment if support is withdrawn. In anticipation of reductions in support, we need to move to a more targeted approach. Brian Pack's

idea is therefore very good and should be supported.

**Elaine Murray:** Do you know whether the Commission's review of LFASS is to be taken forward as part of its review of the common agricultural policy, or is it separate?

**George Lyon:** They will run in parallel. The legislation will come in separately but at around the same time, provided that agreement can be reached on the maps. It is interesting to note that the commissioner has suggested that LFAs should be part of the direct payment system, so you can see the thinking in his report.

On defining the LFAs, I understand that the Scottish Government and all the member states have submitted trial maps that are based on the biophysical criteria that the Commission laid down. However, there seems to be a lot of problems in defining the appropriate areas. We have been told that it is hoped that they will be agreed and that the legislation will come before the European Parliament at the same time as the legislation on the new common agricultural policy. However, I do not know whether that is achievable.

**John Scott:** I want to ask you a bit more about land abandonment from your perspective in Europe. Do you see land abandonment as a continuing and growing problem, even though returns from the marketplace are, we hope, going to improve, given the age profile of many farms, particularly those in Scotland that I know about? Is there a similar European age profile in France, for example in the Massif Central, or elsewhere? Will land abandonment continue or will it stop?

**George Lyon:** The threat is that, without support, land abandonment will continue. A lot of the work that has been done on that suggests that somewhere between 30 and 40 per cent of the land would not be viable under market conditions. It might be that they would adjust over time and that one or two large ranches would appear in areas, if indeed they were fit for that type of agriculture.

There is a view in the Commission—and it has support across the European Parliament from all member states—that local food production for local communities should continue. If people give up because the economic returns are so poor and there is no support to keep them there, we will see huge areas just given up to wilderness. That would have socioeconomic impacts on the viability of some rural communities. In terms of the tourism industry, the management of the landscape would be abandoned and the land would just return to the wild. I am not sure that that would be a good thing. Certainly, for social and public benefit reasons, we need to keep that type of farming active and ensure that it is economically viable

through the support system. That is one of the key priorities for the future, especially if budgets are tight.

**The Convener:** I have a final question about the control mechanisms. You will be aware that the imposition of flat-rate percentage corrections on EU receipts is a crude and punitive mechanism that is highly bureaucratic and unlikely to be cost effective. Has any work been done on reviewing and changing that?

11:00

**George Lyon:** A number of reports have been published in the European Parliament calling on the Commission to simplify the common agricultural policy by stripping out some of the regulation and bureaucracy and, most important, by bringing in a proportionate system of penalties and fines. If we are to make progress rather than just talk about it, we must ensure that when we draw up the regulations for the next common agricultural policy, the auditors and the audit department are involved in that process and that we get feedback from them about what they can inspect, what makes it easier for them to inspect and what levels of penalty are needed.

Clearly, given the scale of public money that is spent on the common agricultural policy, it is vital that we ensure that the money is well spent and goes to those who should receive it. You cannot escape from audit, so the question is, is the penalty system proportionate in penalising those who are at it versus those who have made a mistake? That is where differentiation is required. At the moment, too many people who have made a genuine mistake seem to get caught by the system. We therefore need to look at ways to improve the situation. We need to bring the auditors into the discussions early before the new common agricultural policy rules are laid down.

**The Convener:** George, thank you very much for agreeing to participate by videoconference. It has gone quite well today. We have had no hiccups and I am glad that we have been able to reduce the carbon footprint of this committee by using videoconferencing. If there is anything else that you think the committee should know, I ask you to provide it to the clerks as soon as possible.

I suspend the meeting to allow the videoconference equipment to be cleared and to have a brief comfort break.

11:02

*Meeting suspended.*

11:10

*On resuming—*

**The Convener:** We will now hear from our second witness. I am glad to say that, although the videoconferencing was good, we return to the more traditional method of hearing evidence.

I welcome Brian Pack OBE, who is chairman of the inquiry into future support for agriculture in Scotland. Committee members would like to record our appreciation for the report that he and his team have produced. We read it with considerable interest.

We shall go straight to questions.

**John Scott:** I welcome Brian Pack and again declare an interest.

Brian Pack's report is different from George Lyon's report. It identifies five key challenges: food security, climate change, water supply, energy use and biodiversity. What analysis did you conduct of the current position of agriculture in Scotland in meeting those challenges? Would you talk a little bit about self-sufficiency in food production, particularly at United Kingdom level? It is an issue that is dear to my heart.

**Brian Pack:** Thank you.

The evidence was gathered by a literature review. Some of that is mentioned in the report. That was the key. We did not conduct specific research—which would clearly have been outwith our capability—but relied on previously gathered evidence.

On the perceived wisdom on where we are, there have been various predictions from, for example, the Food and Agriculture Organisation of the United Nations. Members are well aware that it is particularly difficult to predict where the world population will go, but it appears to be accepted that there will be 9.2 billion people by 2050. That prediction is, of course, based on various assumptions that might or might not happen. I think that the FAO's position is the most reliable for all of us. That is where the information came from.

The issue of food security is climbing in importance all the time. The work that was done a few years ago was more in the wilderness, because folk were not so attuned to the subject, but we have seen some real price spikes since then as a result of shortages and we have seen countries banning exports. That brings it home to folk in countries such as the United Kingdom that are very dependent on imports to feed the nation

that food security is an important issue. We must accept that having good food security does not mean that we need to be 100 per cent self-sufficient, but we need to have sufficient self-sufficiency. I guess that I am behaving like a politician by not saying what that is, but it is what folk feel is sufficient. The level should certainly not fall below where it is now. That would be a major error for the UK. It is about having mixed sources of products so that we are not totally dependent on one country for imports. There has been a major financial disaster, but if we had ended up in a situation in which food was scarce, we would never have seen anything like it. We can see such situations in various parts of the world. I think that five riots across the world have been ascribed to food scarcity and big rises in food prices. Price is the other issue. It is complacent to say that prices will take care of the situation. That is an irresponsible view.

**John Scott:** So, you would agree that having gone from 80 per cent food self-sufficiency 10 years ago to perhaps around 60 per cent now makes the country strategically vulnerable.

11:15

**Brian Pack:** That is what we must concentrate on. There have been various arguments about direct payments for agriculture—which I am sure we will come on to—but I have no doubt that, in Scotland's case, without those direct payments our production capacity would be devastated. The situation is the same across much of Europe, as the Commissioner for Agriculture and Rural Development said at the Oxford conference when he mentioned the Pack report. What really bothers me is that if we lose sight of what we are paying for, we will lose our production capacity, which will mean the loss of an enormous chunk of activity in Scotland.

**John Scott:** Do you share George Lyon's fears about land abandonment becoming an issue?

**Brian Pack:** That is a very real issue right across Europe. If Europe were to insist on driving through an area-based system across the continent willy-nilly, the outcome would be severe land abandonment. The good news, however, is that Europe is weakening on that.

George Lyon mentioned the situation in Germany, which is moving to area payments. Each Länder will have its own area payment. One Länder—my geography will not allow me to identify which it is, but it is one where agriculture takes place in a massively mountainous area—intends to pay about €260 a hectare on what is particularly non-productive land. In my view, the only outcome of that will be land abandonment,

unless activity can be ensured. That is our big difficulty.

You asked George Lyon how we could ensure that we have active agricultural activity in return for payments, but he ducked the issue quite nicely. It is just wrong to send masses of money up a glen in which there is no human intervention. That is indefensible and wrong for Scotland.

**John Scott:** Does that have a bearing on the fact that your report advocates continuing to deliver the majority of support through pillar 1 rather than allocating it through pillar 2?

**Brian Pack:** Yes. It is well known that Scottish agriculture is heavily dependent on direct payments—single farm payments. The position shifted slightly in 2010, in that the total farm income was slightly more than the total subsidy, but in 2009, which is the one that is dealt with in the report, it was the other way round. If we took out farm support altogether, Scottish agriculture would have been in a negative position overall.

Some farm types in Scotland are doing very badly. For example, the subsidy for a less favoured area beef farm is 214 per cent of its farm income. We face a really difficult situation. If Scottish agriculture is to be sustained in a shape that we would want, direct payments are necessary.

However, given the pressure on public funding, agriculture must look to deliver more for society. That is why I think that we can have a win-win situation if we are ambitious enough with what we do with pillar 1 payments. Sticking to the conventional view of pillar 1—whereby money goes out for no outcome—is indefensible. The alternative is that we shift support into pillar 2 and tie it up in complex agri-environment schemes, whereby people get money in return for delivering certain outcomes. I do not think that that approach will deliver for us because if farmers do not have confidence in what their income will be, we will get the wrong outcomes. We can be much more ambitious in how we target pillar 1 support, which should have outcomes linked to it. It is interesting that the European Commission believes, as George Lyon's report identified, that we could expect outcomes from pillar 1. The challenge is in how we do that.

**John Scott:** Would those be broader-based outcomes that would be linked to the additionality of a receipt of a single farm payment?

**Brian Pack:** Yes. For me, the overriding thing is the need for Scottish agriculture to become more sustainable. Given that a more sustainable agriculture will meet the global challenges that you discussed with George Lyon, the outcome from a pillar 1 payment should be a commitment to being more sustainable. I see it as incentivising folk. We

need to change our agricultural industry's mindset and try to make it think differently. The way to achieve that is through incentives.

However, I fear that the Commission will go down the route of greening direct payments—although we do not quite know what that means. In view of my comments about having more sustainable and greener agriculture, I might say that we are in total agreement in that respect, but I fear that what it means is a strengthening of the good agricultural and environmental condition—or GAEC—requirement and of cross-compliance. In other words, a minimum standard will have to be reached, but that will not, in my view, lead to the change in mindset that we need. We need farmers to think about doing what they do more sustainably. If they do that, they will deliver what we all need, which is a future for Scottish agriculture.

**Peter Peacock:** I will pursue that line of thinking. I understand where you are coming from and your clear reasons for preferring the majority of funding to come from pillar 1. However, was pillar 2 not about changing the mindset? Was it not in part saying, “We’re no longer going to give you money for agricultural production. We’re going to have to distinguish things clearly in order to change your activity”? You seem to be moving back from that, but I have to say that I am not totally clear about the point of principle.

Secondly, how would you ensure that sustainability was delivered without replicating, in the new pillar 1, a part of pillar 2?

**Brian Pack:** Although pillar 2 has achieved some shift in mindset, it is driven by individual schemes and the complexity of qualifying for funding. I am enthusiastic about some of what it can achieve—it has had some successes and part of it needs to continue—but any big shift to a more sustainable industry should be achieved through applying pillar 1 in a different way.

Of course, it is important that pillar 1 does not conflict with pillar 2, but if pillar 1 had built into it a sustainability outcome that included carbon reduction, it would be freed up to do more of its agri-environment work. The budget is certainly scarce but, given that Scotland is at the bottom of the list for pillar 2 and the UK's own position is poor, one would like to think that as a member state we could make a strong case for getting a bigger share of money for both pillar 1 and pillar 2. However, it is difficult to say how likely that is. If we can make pillar 1 the vehicle to shift thinking, our efforts will be much more effective.

**Liam McArthur:** You have said that pillar 1 would be more outcome based than it has been to date and obviously the decision was taken in the last reform to make payments on an historical

basis. The tables in your report, which have been much commented on and make for fairly stark reading, show quite considerable discrepancies between different parts of the UK. Scotland's average single farm payment per hectare is about half of that in Wales and about a third of that in Northern Ireland. How would the outcome-driven pillar 1 need to be structured to achieve a redistribution within the UK? I presume that it would not map out entirely equally, but do you have a notion of how that more equal distribution might take effect?

**Brian Pack:** That will very much be driven by what Europe decides is an equitable manner of dishing out the budget between the member states and what the UK position is in that debate. The Commission started off speaking about “equality”, but that has disappeared and has been replaced with “equity”, which is realistic. That acknowledges that €200 a hectare—or €70, as it might end up—in Britain is different from €200 or €70 a hectare in Romania. There will be other considerations. If that applies right across Europe, the argument must be that it is right to have a similar structure within the UK to cope with the current differences in the regions. Achieving that is a challenge, but the UK has a strong case for increased rural development funding in pillar 2, as we have a really bad deal on that because of where we came from. We did not spend much in the UK on rural development, so because the budget was historically based, we got a really bad allocation. Moving forward, we have a strong case to get more equity into that budget.

In Scotland's case, we can be reasonably bouncy about what happens in the budget, and that gives me some comfort. That could also be a bargaining tool in relation to the UK ceiling for coupled payments that George Lyon spoke about. The bargaining tool is that we want to use a ceiling, not more money, and we have a specific need in Scotland. We have a strong argument that we should go to the ceiling for coupled payments that is suggested in the report of 15 per cent, which of course is miles within the 3.5 per cent UK ceiling. There is interest in the other regions, particularly Northern Ireland, in coupled payments, because those regions see a similar situation coming for them in maintaining numbers. In total, because there is no great argument for coupling payments in England, there should be scope within the UK ceiling to accommodate the regions.

**Liam McArthur:** I will come on to pillar 2 in a second, but I am interested in your perspective on why the average single farm payment in Scotland is so far down the table. Why is there an apparently significant discrepancy between our situation and that of the Welsh and Northern Irish? Politically, from what you have set out, how realistic is it to expect a degree of equalisation or



greater equity within the UK, let alone between ourselves and other member states?

**Brian Pack:** The reason is the historic payments. When the single farm payment started, it was based on what was paid in the base years. That applied to individual businesses, but it was the same for regions within member states, and for member states. So whatever subsidies the member state received historically were fixed as their baseline for the current period. We must now start to question that. Some member states have massive figures, because they had products that entitled them to high support levels, such as olives and tobacco. Therefore, the levels are distorted. Achieving some sort of equity in Europe is a big challenge.

11:30

Europe recognises that Scotland has 6 million hectares of utilisable agricultural land, but we received entitlements for 4.36 million hectares because the land that we had in production that got subsidies in the base years was 4.36 million hectares. We were undertaking a number of activities that were not supported, such as growing fruit and vegetables, deer farming and—maybe the biggest one—potato farming. Therefore, 200,000 to 300,000 hectares did not get included because the activity was not supported in the base years.

There was also the issue of some of our hillsides not having been in production for 20 years and some never having been in production. For the report, we set a minimum stocking rate at which land would qualify because, given the current budget, spreading the money over the entire area would just dilute the payments. That brought the area that would receive support up to about 4.6 million hectares, which is in keeping with one's feeling about where the base came from. Using that figure, our support goes up to about €145 per hectare, which is still well short. It is not just an area issue.

**Liam McArthur:** It is interesting to hear you talk about the unsupported sector in the higher hills, where there was not a great deal of activity—if any—as being the root cause of that difference in payment. That still does not explain why there is such a huge discrepancy in support between Scotland and Wales, and it does not entirely explain the difference in support between Scotland and Northern Ireland.

**Brian Pack:** The reality is that that has to explain the situation. That is what the system was—the subsidies that a member state got decided what its payment was. Nobody divided up the pot. As you will realise, Northern Ireland is an incredibly intensive livestock area; therefore,

under a similar subsidy regime, the Northern Irish received more money because they kept more livestock that qualified for the payments. That has to explain it.

**Liam McArthur:** Let me take you on to pillar 2 support, where the comparison between the UK figure and the figures for the rest of the EU is even more stark. How can Scotland make the best case for receiving payments on the basis of need as opposed to on an historical basis? From the conversations that you have had at Scotland, UK and EU levels, do you think that it is realistic to expect to get some traction with those arguments?

**Brian Pack:** I am sure that that will be a very difficult road to go down. It is important that we highlight the discrepancy and try to manipulate it in order to get more into our budget or, at the very least, to get less of a reduction. The key for our share of the money is the fact that the budget is expected to go down and we have a strong argument for not receiving our share of any reduction because we already get a pretty poor deal. Everybody expects the budget to be reduced—you discussed that with George Lyon—although how much it will be reduced by is a big question. If the UK's allocation is less, that should not be applied pro rata across the regions.

**Liam McArthur:** Does that argument, in terms of the likelihood of the UK being able to sustain it with EU partners, have the potential for some success?

**Brian Pack:** The UK's position on pillar 1 is just about average among the 27 states, so there is no scope for it to get more money. The UK will take the cut along with any other member states.

The real unknown in discussing the budget is how much reallocation there will be between member states. Will the new member states get a bigger share of the budget? If they do, the UK will have even less money. The UK will take the cut, so our argument is an internal one within the UK. Europe will not be interested, as its view is, "You can do what you like with your regions—we are only interested in the member state". For practical reasons, Europe cannot go below member-state level because there are 75 regions in Europe. Trying to manage 27 states is bad, so managing 75 would be difficult.

Our argument for the future is very much that Scotland should not have a reduction, and that we should be more preferred within the UK for what we need and what is right for Scotland. It is important to consider how we allocate the money within Scotland.

**Liam McArthur:** A tremendous amount of work has gone into your report, and nobody underestimates the difficulties and challenges that you faced in pulling it together. There has been no

shortage of people who have expressed concerns and criticisms with regard to the potential impacts, but I presume that in your view the report hangs together as a whole.

Have Scottish ministers or officials given you any indication of what their take is on the report as a whole, as opposed to the specific elements that will clearly be of concern to different groups in Scotland?

**Brian Pack:** I have not been told what the view is beyond what members have heard. The Cabinet Secretary for Rural Affairs and the Environment welcomed the report and thinks that it contains a lot of good ideas and challenges, and he was interested in stakeholder opinions. That is where I am at present.

**Liam McArthur:** You have not been given any indication as to whether you will get a formal response to the specific recommendations that you made. Would you expect that?

**Brian Pack:** No. A stakeholder consultation process is taking place at the moment; I was involved in it yesterday with the CAP stakeholder group and we had a good discussion about the report. A conference is scheduled to discuss the issues as a whole. It is very much a consultative process, which is right. It would not be helpful at this stage to say what recommendations are right and wrong in the report.

I find it amazing that the whole attitude of the stakeholders has shifted over the year. When the interim report was published, there was almost denial that all the change was going to happen, but there is now much more active engagement in what the changes will be. That is quite a shift from where we were, and it is right that consultative discussions are still taking place.

We are still a good bit away from hearing more from Europe. Part of the driver behind the report, and my big interest, was to try to influence how Europe sees things, and we have had some success in that respect. Europe has taken note of the Scottish position.

There is a seminar in Brussels today in which folk are making a presentation to the European Commission on the modelling behind the report, because Europe is particularly interested in that. Again, that puts Scotland high up on the agenda. We have achieved the important objective of getting Europe to engage with Scotland. The next stage is to engage with the stakeholders and, following that, to firm up some views. As you rightly say, there are some contentious issues in the report.

We also need to concentrate on the principles. A difficulty, or perhaps it is a reality, is that farmers like to go to the numbers and to do their numbers.

We had quite a debate over whether we would produce numbers or only general concepts, but I felt that unless there were numbers to give a context to the general direction, we would get lost. Probably rightly, the producers are putting quite a lot of energy into doing the sums and some are saying that they do not like their share. You will be much more aware than I am, because this is a new experience for me, that winners are very quiet and losers are vociferous. I was not aware of that phenomenon.

**Liam McArthur:** We will reprimand the cabinet secretary for not making that clear when he handed over the poisoned chalice.

**The Convener:** Brian Pack will have heard from our discussions with George Lyon that the European Commission and the European Parliament are interested in playing a very long game in the transition to a new system. We also heard from George Lyon that how they have gone about the transition in England was certainly how not to do it. Can you comment on that and tell us why you advocate that we move to a new system in one step?

**Brian Pack:** The position that I have recommended has two aspects. First, the policy principle behind it is that the current system of paying subsidies on the base years 2000 to 2002 means that in 2012 or 2014 we would be paying subsidies on the basis of what the industry looked like 12 years previously. That is indefensible and bad for everybody. It is bad for the taxpayer and it is particularly bad for the industry, because we have a dynamic, progressive industry, yet we want to fix its support on a weird historical base. That is wrong and it would be a travesty if we drag that out for another five years, which seems to be the proposal from Europe. Okay, the scheme will change over the five years but, in effect, the proposal means that it would continue for another two and a half years, if we take the average—in fact, I think that the period was seven years, so that is likely to mean that we would continue with a flawed system for another three years.

We should move quickly to correct anomalies. The one that rightly gets the most emphasis is new entrants, but the position for new entrants only identifies a general situation in which, if you change your business and you are much more productive, you do not get any more support for that, whereas if you reduce your business and do not do much of anything, you still get the same support. That is not defensible or sensible.

We need to solve the new entrants problem. It is important for an industry that new folk come in, because they have drive and are an amazingly ambitious group. They are good to listen to and we need to encourage them. They are currently farming without direct payments and are surviving

through incredible hard work and by dint of all sorts. We need to balance the situation up quickly, which is one reason why we should get out of what we have got and into something new. If what we are moving to is much better for Scotland and Scottish agriculture, the sooner we adopt it the better.

11:45

The other aspect is the changeover issue. How do we change? In England, they have demonstrated how not to do it, as George Lyon said. We all love standing back and saying, "Look what they did," but England set off on something that seemed fairly simple but in practice was a nightmare—there was a gradual shift from an historical basis to an area basis. They said, "In the first year, we'll have 90 per cent historical and 10 per cent area." That seemed simple, but the difficulty was that they had to do the historical calculation for all the folk who were entitled to their money before they could start doing the area bit, because they did not know what money they would have. They had to process all the claims on the historical basis and then say, "This is the budget that we'll allocate." It was a nightmare, and then it got worse. Nobody knew what the area payment would be until they had finished their sums. Farmers just did not know what money they were getting—there was no certainty. I know that the banks in England found it particularly difficult, because it was not known what the farmers would receive.

Germany has been much cleverer. There, they have done the changeover on a straight financial basis. They worked out what people get. A farmer starts at €400 a hectare and is going to get €350 at the end of three years, so €50 divided by three is the change per year. It is simple.

Even simpler and more desirable would be to give the industry notice of what the change is. That would likely mean that we would delay for a year after the agreement. It is difficult to believe that they will agree much before midnight on the day that it is needed. If that is the situation, we need to give folk a year's notice. They have fair notice now that the world is changing. Those who are receiving high payments in particular will know that they are going to get less, but it is fair that they should know what the amounts are.

A year's notice would also allow the back-office stuff to get sorted. That is key; we just cannot end up in a mess with how we do the payments. It is fair that people get at least a year's notice.

As you know, there were strong recommendations that the Scottish Government invest in new information technology systems now.

I draw that to your attention. That is key wherever we go; we need new platforms that are operating.

**John Scott:** George Lyon suggested that other member states, particularly Spain, wanted to phase this in in 2090. Therefore, your preferred scenario of it happening in 2014 might not happen. If Europe does not take on your advice in its entirety, what would be your suggestion for a plan B for new entrants?

**Brian Pack:** As we identified in the report, whatever the new regulation looks like, it is very important that there is an ability to top-slice for new entrants. Europe, being Europe, will likely leave it to member states and, I hope, regions to decide the speed of change. I guess that the big challenge will be whether the ruling parties, whoever they are, have the confidence to just go for a change.

We need to cater for new entrants. We have talked about the fact that we might not be allowed a one-year changeover and it might all be phased. A decision to redistribute the money across Europe could colour the phasing, which could itself end up being phased. That might be the driver.

**John Scott:** We will be phasing the phased money.

**Brian Pack:** Absolutely. If Germany is to receive €50 per hectare less, you can imagine that that will mean a seven-year changeover. The budget could end up being phased. The challenge will then be to see whether we can change within that.

**John Scott:** If it was not complicated before, it is going to be complicated in future.

**Brian Pack:** Yes.

**Liam McArthur:** You have clearly indicated the pros and cons of a big bang and a transitional scheme. I was struck by your comments about the extent of the reliance on subsidy, even among some of the most efficiently run businesses of any scale in Scotland. You also made a point about IT platforms; IT problems were inherent in many of the difficulties that have been faced south of the border. That suggests to me that giving a degree of notice beyond a year in a phased introduction over two to three years would be a more sensible approach. If it all goes pear-shaped, at least a significant part of the single farm payment will be going out on some kind of basis that allows a degree of confidence for those who are so heavily reliant on it.

**Brian Pack:** It is vital that the Scottish Government is able to pay the money for whatever the scheme is. We could not shift if we thought that there was some doubt about our ability to pay the money timeously.

I have struggled with the thorny issue of whether the way in which the payments change will destabilise some Scottish industry. We want to avoid that. That is why the agreed mechanism is so important. If we are confident that what we change to—and we have no idea of that at the moment—will be a lot better for Scotland and Scottish agriculture, we should get on with it. If we have no confidence that it will be better—if we are going to end up in a situation that we think is worse for Scotland—the longer we take to achieve it, the better.

**Liam McArthur:** However, there is an argument that transitional release schemes, for example, do not detract from the benefit that ultimately arrives. They allow those who are likely to lose out—and as you said, we are more likely to hear from them than from those who benefit—an opportunity to readjust.

**Brian Pack:** I am sure that the committee is well aware of it, but the one caution that I would give is that there is an inherent flaw in thinking at the moment, which is that the current payments are right. The debate is all about what we are moving from and what we are moving to, but many of the current payments could not be justified today.

If we tried to apply the same historical criteria to what is being done in some places today, the recipients would not get the same amount of money. Some of what is received, particularly the big payments, were almost anomalous. Folk got much larger subsidies because of the way the scheme worked and those subsidies have now been built in. Although I accept that there might be some hardship cases, we will have to be really clear about what they look like, and that is why we have said in the report that more modelling is required, particularly case study-type modelling. If a farm system is going to get 30 per cent less support, will it still be a viable business? That is where we want to go.

We will need some comfort before we get there and before we have to make a decision about the speed of change. How likely is the new regime to destabilise Scottish agriculture? We cannot go there, but that is an issue for much nearer the time.

**John Scott:** I will turn to a different subject. In your interim report, you proposed using the land capability classification for the delivery of single farm payments. In your final report, you move over to using a model based on LFAs. Why have you done that? What are the advantages of that change?

**Brian Pack:** It was a disappointment, but it was clear from the examination, consultation and evidence that we got back following the interim

report that the land capability classification would not work for agriculture.

A particular difficulty lies in the mapping of Scotland. The better areas of Scotland on the east coast, which form only a small bit of the total, are mapped at a scale of 1:50,000, whereas the rest of Scotland is mapped at 1:250,000, so small areas of good land are not recognised. We might take the approach that that does not matter but, when we went out and held meetings, it was clear that mapping was a key issue for individuals. For instance, some guy in Shetland has half an acre of good land in front of his house and feels that payment should be made at the high rate for that one bit, whereas the whole of Shetland is classified at level 6 or 7. That land could be worth £200. We might ask whether that is important, but it is very important to that person.

If we are to recommend the system as being objective, we need to identify the quality of the land that folk farm. That could mean spending a lot of money mapping the whole of Scotland at 1:50,000. It is about land capability, and that is valid, but the industry was much more interested in what the land actually did than in what it was theoretically capable of doing. That is another cross against the classification approach.

We are then left with the question how to divide up Scotland. The views on area payments were fairly clear. Area payments work well on good land, which offers choice. The guy who owns the land is left totally in command. He can decide what he wants to do, he will run a profitable business, and he should not be constrained into certain things. On poorer land, particularly rough grazing, which is two thirds of Scotland, the variability is enormous, and area payments just do not work. It can be guaranteed that the money will be sent to the wrong areas altogether. That drove us to the conclusions that we came to.

We can agree with the Commission that we will have area payments, but in Scotland they are only right for better land. That should be the principle across Europe: such payments are right for good land, where there is choice and there is no chance of land abandonment. Our good land is not going to get abandoned, and that is the case across Europe. When it comes to rough grazing, however, there is no choice. We have to use ruminants, and there is no other way to produce food from two thirds of Scotland. Traditionally, ruminants, particularly suckler cows, have been unprofitable and the only way that we can secure their use in those places is through direct, coupled payments. That is where my strong argument lies for coupled payments for LFA land.

The only way to ensure that, as a nation, we turn our rough grazing into food and maintain our Scotch beef industry, which is economically very

important to Scotland, is to have coupled payments.

**Bill Wilson (West of Scotland) (SNP):** I have a question about what happens if payments are moved to become headage payments for the animals that are grazing. Perhaps 10 or 15 years back, there were concerns about overgrazing through the encouragement of excessive stocking of the land, which was because of headage payments. Given that the land that you are talking about is highly variable, as you have said, some areas will take X head, and other areas will take a quite different level of grazing. If we shift across the method of payment, how do we ensure that we do not go back to overgrazing in some areas?

12:00

**Brian Pack:** We all have nightmares about the overstocking that we ended up with and the fact that animals were kept only for the subsidy. There was no requirement to produce—that was the first great mistake. If someone kept a suckler cow or a ewe, they got their money, and they did not need to produce anything. That led to farms being vastly overstocked and holding big numbers.

Although the recommended headage rates are much higher than the rates in the current Scottish beef calf scheme, they will not lead to overstocking. The first reason is that they are paid on the offspring, so farmers have to produce. We have proved that the beef calf scheme works, and it works well. It is administratively simple, so the administration costs that are connected with it are low. That is encouraging. Secondly, the average recommended rate is about €140 a cow, and nobody is going to keep a cow to get €140. The scheme is designed to help with profitability—it takes the edge off, if you like. If someone is thinking of keeping a cow, they are encouraged to do it, rather than people being encouraged to keep a cow just for the money. I am not sure whether I am allowed to refer the question back the way, but I am sure that John Scott would agree with that. It is the same with sheep.

The big question for me—it is in the report—is whether a sheep scheme is doable, and another element is whether we need a sheep scheme. We clearly need the cow scheme. I am absolutely committed to that. The cows are really important and so are the wider public benefits that they deliver in the areas. They create activity and it is clear that they are good for biodiversity and for communities. Sheep have some of the same benefits, but we need to consider the way the payments have worked out in the recommendations. You will see in the appendix the benefits to sheep farmers under the proposed payments. They might mean that we should rethink whether we need a lamb scheme.

The report states that we should have a lamb scheme only if we know that we can have traceability. As you are all well aware, there are great debates about the traceability of sheep, but we would need to be sure. Because people will get payments only for lambs that are born and reared in the LFA, we need to be sure that the lambs for which payments are made are LFA lambs. That is going to be quite a challenge, and if we cannot have that assurance, we should not do it.

**John Scott:** What are your thoughts on active farming? You contend that active farmers will probably deliver the most public goods and that they are most likely to deliver the sustainable outcomes that we are looking for. Will you talk about and justify that view? You have already said a little on the subject, but do expand on it if you would like to.

**Brian Pack:** That bit of the report has caused some concern in some quarters, and some argument, I guess. The thing that justifies it is that, if we go back to the fact that our driver is to develop a more sustainable industry, the primary purpose is food production, but we also need to deliver against the other global challenges. That is how it is defined in the report. The active farmer produces more food, so he gets a big tick in the food security and food production box, but he has much larger challenges in working in a more sustainable way because he has the potential to produce more carbon, to need more energy from fossil fuels, and to pollute more water. Therefore, there is a much harder challenge for him to deliver against our view of what a sustainable industry looks like. As a result, he needs more reward for that. That is why the argument is made that the more active should receive the top rates. They can deliver more for us as a society, and they need to deliver biodiversity. Everything is in there. It is not a charter for naked intensification with high levels of input, because the counter is that the top-up funds require the delivery of a more sustainable industry. That is the counter to people simply burning fossil fuels and creating masses of carbon.

You spoke to George Lyon about the other side of activity. I would like to comment on what he said, particularly about article 28. I believe that for somebody to qualify for the money, there must be agricultural activity, but I include in that being in an approved environmental scheme. Environmental management should qualify people to receive the money. In my book, if a person just leaves land vacant and does nothing, they should not get money, but if they are managing land effectively for the environment—if they are making inputs and managing the hillside—they should qualify for it.

The report mentions 0.12 livestock units per hectare, which is just less than one ewe per

hectare. That is not intensive, but there will be activity. If that is not achieved, the person will not simply fall out; their land area will be scaled back. If there is stocking at only 0.06 livestock units per hectare, half of the payment will be received.

I have a concern. Activity is being spoken about in Europe as being really important, which is a big move forward. I think that people there are aghast when they look at what has happened in Scotland, with our naked acres and folk collecting large sums of money and doing nothing. It is said that that was never the intention, and it should not be. I have a fear that the active farmer clause rather than active farming will be used. That is where article 28 fits in. Basically, it says that, if the legal entity's main business is not farming, it should not qualify for the money. As George Lyon suggested, that is a very difficult situation to get into. I considered the matter for the short-term recommendations. George Lyon talked about the steer from Europe. We discussed with the European Union our problem with naked acres and so-called slipper farmers, and it said that article 28 was the key, but it certainly was not, as it would have generated a lot of business for lawyers and accountants in splitting businesses. If a person had an enormous business that generated millions of pounds and a small bit of business in agriculture, they could simply create a different legal entity for the agriculture and qualify for the money. However, it could be questioned whether a farmer who had built a successful wind generator on his farm should receive the single farm payment. Members can imagine that he would be forced to split his wind generator off from the farm.

George Lyon mentioned crofters. How do we handle the crofter? We would like to think that a crofter would make two thirds of his income outside his croft. Would that mean that he was not entitled to his payment?

Article 28 is not the godsend that it appears to be. In my short-term recommendations, I recommended against it, for those reasons. I feel strongly that article 28 does not provide a solution and I feel equally strongly that we must try to concentrate Europe on activity and not on the claimant's activity.

**John Scott:** That rebuttal of George Lyon's view is helpful. You might have looked into the issue more than he has—I do not mean that unkindly to him. You and I share the same objectives. You mentioned that environmental enhancement would qualify as an activity on small units such as crofts. I thank you for making that important point.

**Brian Pack:** Another issue that we identified with article 28 was that the legal advice in Scotland way back was that keeping a farm in good environmental condition qualified as an

activity. Of course, the argument is that, if the hillside has been left naked, it is in good environmental condition and it qualifies. Under the new regulation, it must be clear that activity must be connected to an area. People cannot just leave land barren and say, "It's wonderful—give me the money."

**The Convener:** Time is moving on and a couple of questions have still to be asked.

**Elaine Murray:** You have given us quite a bit of detail on your thinking about using top-up payments to deliver environmental benefit and about tying sustainability into farm support, as pillar 1 support would be outcome based. How would that affect the availability of agri-environment money? In the past, that has been oversubscribed and funding for agri-environment schemes has been insufficient. Would your proposal make access to funds more flexible?

**Brian Pack:** If we accept the recommendation on the top-up fund and what it is designed for, that will allow pillar 2 money to be more targeted. We will be able to target that on the outcomes that we want, because the pillar 1 money will cover sustainability, competitiveness and innovation. I recognised that money was likely to be scarce, so we needed to do more with it. If we can do more with pillar 1 money, we can be much more targeted with pillar 2 money.

**John Scott:** Will you talk about basing top-up payments in the LFA on labour requirements? Our notes say that that has no historical basis, but you and I both remember the historical basis. Is that what you base your thinking on?

**Brian Pack:** Yes. That recommendation is likely to take the most arguing to achieve, because it would be a big shift for Europe to pay on the basis of standard labour requirements. Labour is a resource like land; I do not see the difference. If payments can be made on a per hectare basis, why can they not be made on a labour unit basis? Achieving that will require an argument with Europe.

The recommendation is tied to developing a more sustainable agriculture. How do we measure a business's contribution to that? On good land, area is a good measure, because the area will decide what can be contributed. On rough grazing and marginal land, area is not a measure of what can be contributed, but labour units are. I have recommended that the standard labour units need work. They are based on work that DEFRA did in 2003. The differential with labour is an issue.

The standard unit for sheep and suckler cows is wrong, as it favours sheep too much and discriminates against suckler cows. More work should be done before we get to operate it. At the moment, we need an acceptance that the principle

is valid for Scotland. Then we need to have the argument with Europe. Scotland needs to identify the principles for which it will argue. The use of standard labour requirements is important, because that delivers the things that we seek, especially a business's ability to contribute to public benefits. I much prefer the term "public benefits" to "public good", because food production is a public benefit but economists would have us believe that it is not a public good.

12:15

**Stewart Stevenson (Banff and Buchan) (SNP):** You mentioned discussions that you have had with the Commission on article 28. Have you had discussions on other issues? Do you wish to draw to our attention any significant matters arising from those discussions?

**Brian Pack:** You will be aware that, at the moment, we can change things only under existing legislation, which is difficult. With the introduction of the undergrazing requirement, we thought that we had a mechanism that provided a solution. However, during the auditors' visit to Scotland in September and October, we discovered how they would view that approach, which made it impossible—it was just crazy.

I would like to put down a marker on this point. I recommend that Europe changes its view of its audit needs and how it will police future payments. That is important; I agree totally with what George Lyon said on the issue. If Europe sticks to its current way of handling such matters, the CAP will not move forward, because no one will be able to use it in an outcome-driven way. That is a challenge for Europe.

It will be interesting to see what point is reached in the next Commission report. Europe sees outcomes as important, but the way in which the auditors operate makes an outcomes-based approach a nightmare and rules it out. It is important that Europe should take a different view. Its view is that every member state is trying to cheat, but it needs to allocate money to member states under certain agreed principles. It should be member states' job to manage that money and to account for it. At the moment, we have a dangerous situation in which disallowances balance the European budget. There is an incredible incentive to find disallowances in member states, because that is how the budget has been balanced for the past two years.

**The Convener:** As we say in the north-east, your report has had a good ca-throu this morning. If you have forgotten to mention something that the committee needs to know, you should give it to the clerks in the next few days. Thank you for your evidence, which has been helpful.

12:19

*Meeting suspended.*

12:22

*On resuming—*

## Subordinate Legislation

### Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2011 (Draft)

**The Convener:** We will now take evidence on an affirmative instrument. *[Interruption.]* Unfortunately, Ms Gillon, we must go through the rigmarole. I welcome to the committee Richard Lochhead, the Cabinet Secretary for Rural Affairs and the Environment; Andrew Voas, veterinary adviser; and Ian Strachan, branch head of the animal health and welfare division of the Scottish Government. This agenda item enables members to ask questions about the content of the instrument before we move to a formal debate on it. Officials may contribute to the discussion under this item, but may not participate in the debate. I invite the minister to make a brief opening statement on the regulations.

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** Good afternoon. The first instrument that you will consider relates to an error that was made and which we wish to correct. I apologise for that.

Section 20 of the Animal Health and Welfare (Scotland) Act 2006 makes it an offence for any person to interfere with the bone structure or sensitive tissue of an animal but allows the Scottish ministers to exempt procedures by regulation for a specific purpose. Exempted procedures are listed in the schedules to the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (SSI 2010/387).

You may recall that I appeared before you in October last year, when we amended and consolidated the principal regulations. At that time, conditions that apply to exemptions and that had been imposed by other legislation were removed from the schedules to avoid duplication. Regrettably, conditions relating to the short-tail docking of sheep and antler removal from deer were removed in error.

When sheep are tail docked, it is important that sufficient tail is retained to protect the sensitive areas of the animals from flies and infection. In deer, the velvet covering growing antlers is sensitive to pain until it becomes frayed and the greater part of it is shed.

The removal of the conditions means that it is currently legal to dock too much tail from sheep, which will make them susceptible to infection, and to remove antlers from deer at a time when the procedure could cause them a considerable amount of pain. It is, therefore, vital to the welfare of the animals concerned that the conditions be reinstated. As is required under the 2006 act, we consulted stakeholders on the reinstatement of the conditions; no objections were raised.

My officials will be happy to answer any questions that committee members have on the draft amending regulations.

**Stewart Stevenson:** I take it that, notwithstanding the absence of the prohibitions that are being brought in by the regulations, there is no particular evidence that people exercising good husbandry have been acting outside those constraints.

**Richard Lochhead:** We have no evidence of that. Indeed, livestock keepers will, I hope, have a copy of the sheep welfare code, which stipulates the existing regulations. Of course, unless we rectify the error I mentioned, a couple of the regulations in the sheep welfare code could not be enforced in law.

**John Scott:** It is a matter of urgency that the regulations be reintroduced. What is the timing for that? Forgive me, as this might be in the documents and I have not found it, but will the changes happen with immediate effect?

**Richard Lochhead:** The instrument is an affirmative one, so it comes into force if the committee recommends that it goes ahead and the Parliament approves that. That depends on when it is scheduled to go before the Parliament, but it will be in the very near future.

**John Scott:** So as soon as possible.

**Richard Lochhead:** Yes.

**The Convener:** As there are no more questions, we move to the formal debate on the draft regulations.

*Motion moved,*

That the Rural Affairs and Environment Committee recommends that the draft Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2011 be approved.—[*Richard Lochhead.*]

*Motion agreed to.*

### **Scottish Government Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes**

**The Convener:** Agenda item 5 is on guidance that is subject to approval. The code of practice is not a Scottish statutory instrument but, in

accordance with section 37 of the Animal Health and Welfare (Scotland) Act 2006, it is subject to parliamentary consideration under the affirmative procedure. The same rules apply as applied under agenda items 3 and 4 and we will hear from the same cabinet secretary and officials. The Subordinate Legislation Committee made no comment on the code of practice, but members may ask questions about the content of the code before we move to the formal debate.

I invite the cabinet secretary to make a brief opening statement on the code of practice.

**Richard Lochhead:** The farm animal code for the welfare of game birds that are reared for sporting purposes has been made under section 37 of the Animal Health and Welfare (Scotland) Act 2006, which allows the Scottish ministers to make codes of practice for the purpose of providing practical guidance on animal welfare. The aim of the code is to provide guidance and advice to rearers of game birds on how to care for their birds up until the point when they are released into the wild. The code will also be a useful tool for those who are charged with investigating cases of animal welfare or cruelty, as it sets the expected standards for the care of game birds. The code contains helpful information and outlines good practice on the welfare of game birds and gives advice on how to meet the duty of care to and the welfare needs of those birds.

The code was developed with the assistance of the main game sport and game farming organisations in Scotland, which were involved during all stages of its development. A full consultation on the code was carried out and a total of 36 responses were received, including responses from the Scottish Agricultural College, the Game Farmers Association, the Game and Wildlife Conservation Trust, the Farm Animal Welfare Council and OneKind. All respondents felt that the information in the code was useful and would improve welfare.

My officials and I are happy to take any questions from the committee.

**Stewart Stevenson:** I have two fairly simple questions. First, will anything actually change in practice on the ground, or does the code merely reflect generally accepted practice? Secondly, and more specifically, paragraph 7.3 requires records to be kept for three years. Why was that period chosen rather than a longer one that might enable longitudinal studies to be done into what is going on in the industry?

**Richard Lochhead:** On the first question, we do not expect the code to change the general practices that are adhered to by the rearers of game birds. This code grew out of the code that the Scottish Gamekeepers Association adopted,



so it builds on practice to which the sector already adheres. It will be a statutory code if the motion is agreed to by the Parliament, but we hope that most of it is being adhered to already.

I will ask Ian Strachan to advise you on the three-year threshold that you mentioned.

12:30

**Ian Strachan (Scottish Government Rural and Environment Directorate):** In setting a three-year period of record we are seeking to allow a sufficient length of time for inspectors to check records. We believe that requiring a longer period would place an unnecessary administrative burden on the game bird rearers.

**Stewart Stevenson:** I accept that that is a sensible approach, but I am thinking more about policy makers and the Scottish Government in particular. Are you accumulating those records from gamekeepers so that you can look at the overall picture in the longer term, or is that achieved by other methods?

**Ian Strachan:** I am not sure whether that can be achieved by other methods, but we should remember that this is a code for the welfare of game birds rather than for the industry. There is certainly nothing preventing the industry from keeping the records for longer. We would then be able to do a longitudinal study, as you suggest, but I have my doubts about whether a welfare code would be the right place in which to set down that requirement.

**Elaine Murray:** Paragraph 9.2 of the code refers to “release pens” and to

“the need to minimise the risk of subsequent harm or injury, for example, by predators”.

We have taken a fair amount of evidence on problems around release pens and the possibility of predation by buzzards, foxes and so on. What is the practical implication of that paragraph? What would you expect to be done to ensure that release pens are not placed where buzzards would be a problem, for example?

**Ian Strachan:** To echo what the cabinet secretary said, the code builds on the current industry code, which contains similar wording. It is difficult to be more specific than that. The circumstances in which people keep release pens can vary dramatically and that is why the code is so open.

We are looking for people to give some thought to where release pens should go, rather than just putting them anywhere. They should, as you say, try to think about where the foxes and buzzards are, and about the proximity to roads if there is a risk of the birds leaving the release pens and straying on to a main highway.

**The Convener:** We move to the formal debate on the code. I invite the cabinet secretary to move the motion.

*Motion moved,*

That the Rural Affairs and Environment Committee recommends that the Scottish Government Code of Practice for the Welfare of Gamebirds Reared for Sporting Purposes be approved.—[*Richard Lochhead.*]

*Motion agreed to.*

**The Convener:** Before you leave, cabinet secretary, Liam McArthur has something to bring to your—and the committee’s—attention.

**Liam McArthur:** I am being opportunistic, but I will flag up an issue that was raised with Maureen Watt and me during our visit to Malawi last week, in the delegation that was headed by Karen Gillon. We met Prince Kapondamgaga—I apologise for probably mutilating his name—who is executive director of the Farmers Union of Malawi.

Our discussion centred on a number of the issues with which the union is wrestling, including the roll-out of the fertiliser programme that is sponsored by funds from the Department for International Development. There is clearly a lot of work to be done in the formulation of co-operatives et cetera, and in deciding what is to follow when the fertiliser programme comes to an end.

We undertook to raise those issues with NFU Scotland, the Scottish Agricultural Organisation Society, the SAC and others, but it would be very welcome if we could keep in touch with you and your officials to see what support could be facilitated under the Scotland-Malawi co-operation agreement in the coming years.

**Richard Lochhead:** I thank you for bringing that to my attention. The Government would be delighted to help in any way that we can to foster better relations between the agricultural sectors of Scotland and Malawi.

**The Convener:** Thank you. I suspend the meeting for a few moments to allow the cabinet secretary to leave.

12:34

*Meeting suspended.*

12:35

*On resuming—*

### **Eggs and Chicks (Scotland) Amendment Regulations 2010 (SSI 2010/450)**

**The Convener:** Our next item of business is consideration of one negative instrument. The Subordinate Legislation Committee has made no comments on the regulations and there have been

no motions to annul. As members have no points to make, does the committee agree to make no recommendations on the instrument?

12:35

*Meeting continued in private until 12:49.*

**Members** *indicated agreement.*

**The Convener:** That concludes the public part of today's meeting. I thank everyone for their attendance.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Members who wish to suggest corrections for the revised e-format edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

#### Scottish Parliament

**All documents are available on the Scottish Parliament website at:**

**[www.scottish.parliament.uk](http://www.scottish.parliament.uk)**

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

#### Public Information Service

The Scottish Parliament  
Edinburgh EH99 1SP

**Telephone: 0131 348 5000**

**Fòn: 0131 348 5395** (Gàidhlig)

**Textphone users** may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

**Fax: 0131 348 5601**

**E-mail: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)**

We welcome written correspondence in any language.

#### Blackwell's Scottish Parliament Documentation

**Helpline** may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

#### Telephone orders and inquiries

**0131 622 8283 or**

**0131 622 8258**

#### Fax orders

**0131 557 8149**

#### E-mail orders, subscriptions and standing orders

**[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)**

#### Blackwell's Bookshop

**53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222**

#### Blackwell's Bookshops:

243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

#### Accredited Agents

(see Yellow Pages)

and through other good booksellers

e-format first available  
ISBN 978-0-85758-495-3

Revised e-format available  
ISBN 978-0-85758-508-0

Revised e-format ISBN 978-0-85758-508-0