



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 23 November 2011



---

**Wednesday 23 November 2011**

**CONTENTS**

	<b>Col.</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>393</b>
Climate Change (Limit on Carbon Units) (Scotland) Order 2011 [Draft] .....	393
<b>COMMON AGRICULTURAL POLICY.....</b>	<b>398</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>428</b>
Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011 (SSI 2011/368).....	428
Pigs (Records, Identification and Movement) (Scotland) Order 2011 (SSI 2011/327) .....	428
Pigs (Records, Identification and Movement) (Scotland) Amendment Order 2011 (SSI 2011/351) .....	428

---

**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**12<sup>th</sup> Meeting 2011, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Annabelle Ewing (Mid Scotland and Fife) (SNP)

**COMMITTEE MEMBERS**

\*Graeme Dey (Angus South) (SNP)  
Jim Hume (South Scotland) (LD)  
John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)  
\*Richard Lyle (Central Scotland) (SNP)  
\*Jenny Marra (North East Scotland) (Lab)  
\*Aileen McLeod (South Scotland) (SNP)  
\*Elaine Murray (Dumfriesshire) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Alan Boulton (Scottish Tenant Farmers Association)  
Stuart Goodall (Confor)  
Andrew Hannah (Dumfries and Galloway District Association of Young Farmers Clubs)  
William Houstoun (Angus Growers Ltd)  
Graham Kerr (Scottish Agricultural College)  
Patrick Krause (Scottish Crofting Federation)  
Isobel McCallum (Highlands and Islands Agricultural Group)  
Andrew Midgeley (Scottish Land and Estates Ltd)  
Jim Simmons (New Entrants Group)  
Stewart Stevenson (Minister for Environment and Climate Change)  
Vicki Swales (Scottish Environment LINK)  
Jean Urquhart (Highlands and Islands) (SNP)  
Scott Walker (National Farmers Union Scotland)

**CLERK TO THE COMMITTEE**

Lynn Tullis  
Simon Watkins

**LOCATION**

Committee Room 1



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

*Wednesday 23 November 2011*

[The Convener opened the meeting at 10:00]

### Subordinate Legislation

#### Climate Change (Limit on Carbon Units) (Scotland) Order 2011 [Draft]

**The Convener (Rob Gibson):** Welcome to the 12th meeting in 2011 of the Rural Affairs, Climate Change and Environment Committee. Members and the public should turn off mobile phones and BlackBerrys, as leaving them in flight mode or on silent will affect the broadcasting system. I have received apologies from Jim Hume and John Lamont.

Agenda item 1 is subordinate legislation. Members will take evidence from the Minister for Environment and Climate Change on the draft order. As the order has been laid under the affirmative procedure, the Parliament must approve it before the provisions may come into force. Following the evidence session, the committee will be invited to consider the motion to recommend approval of the order under agenda item 2.

I welcome the minister, Stewart Stevenson, and his officials, whom he will introduce. I invite him to introduce the order, too.

**The Minister for Environment and Climate Change (Stewart Stevenson):** Thank you very much. I am accompanied by Liam Kelly and Jim Gilmour, in case Richard Lyle has another episode of diving down to the techie bowels of the issue.

The draft order allows for the use of carbon units for the period 2013 to 2017. The Scottish Government's preference remains to aim to meet all our annual targets through domestic emissions reductions rather than to offset emissions through the use of carbon units, and we believe that the outcome of the spending review maintains momentum towards achieving our targets.

However, in an uncertain world, it was only prudent for us to accept the advice that the independent United Kingdom Committee on Climate Change provided to us that we should allow for the flexibility to use carbon units for the period 2013 to 2017, up to the 20 per cent limit, which means 20 per cent of our emissions. For clarity, if our target in a year was 3 per cent, we could use carbon units in relation to around 0.5

per cent. The 20 per cent limit was prescribed by the Climate Change (Scotland) Act 2009.

Liam Kelly and Jim Gilmour both work in the Scottish Government's energy and climate change directorate. I would be happy to take any questions that the committee may have.

**Richard Lyle (Central Scotland) (SNP):** Good morning, minister. Thank you for your opening remarks and for what you said about my techie questions.

I refer you to the explanatory note on the order. I understand that the information in question was not provided by the Scottish ministers, as the note states:

"The UKCCC provided advice dated 1st July 2011 which is available at <http://www.ukccc.org.uk>—"

I will not read out the whole link, because it goes on and on. The techies might be able to handle that, but for the benefit of the ordinary Mr and Mrs Climate Change Worrier, can we ask for the link to be reduced to a more acceptable form, because it is a bit long?

**Stewart Stevenson:** Yes, I could certainly do that. That is quite an interesting point. Perhaps we could use one of the shortening services, such as Bitly, to get it down to around 12 or 14 characters. We will certainly look at that for the future.

The way in which the link is expressed is slightly complicated. Every time "%20" appears in it, that is just a space expressed in ASCII code.

**Richard Lyle:** I thought that every time you put in "%20", it reduced your carbon emissions.

**The Convener:** Now that we have resolved that techie point, we will hear from Graeme Dey.

**Graeme Dey (Angus South) (SNP):** You mentioned a 0.5 per cent limit on what you might purchase. What would that involve cost-wise? Can you reassure us that there is no intention to exercise the option?

**Stewart Stevenson:** For clarity, the 0.5 per cent was an example. The limit would be half a percentage point in a year in which our target was 3 per cent—strictly, the limit would be 0.6 per cent—but it will vary depending on the target for the year.

The cost is somewhat unpredictable. The schedule to the order has a table that shows the maximum number of units that we could purchase in each year. There is little demand for carbon units in the market because of the diminution in economic activity, so worldwide demand is lessening, particularly in the annex I countries—the developed world. The cost of carbon has gone down because economic activity has gone down and it is hovering down around £3 to £5 per tonne.

A more realistic figure when one might consider exercising our rights is more likely to be in the range of £10 to £16 per tonne—we hope that it will be higher.

If we were to exercise our rights for all the years to the maximum extent possible and at the level of £16 per tonne—bearing in mind that the cost is currently £3 to £5 per tonne—the absolute top figure would be just under £30 million. In the present environment, the figure would be a substantial way away from that—it would be less than £10 million at current prices and possibly as little as £6 million. That is good news if you are purchasing units, but it is bad news in that the pricing of units is part of market mechanisms to make people step up to the climate change agenda. We expect and hope to see the price of carbon rise as part of market mechanisms to persuade countries to take the agenda seriously, as we do.

In the current spending review period, we have made no financial provision for the matter. In fairness, that relates to the previous order that we made, which does not allow us to buy any units anyway. We certainly do not wish to spend the money. We will continue to direct our efforts at reducing our CO<sub>2</sub> emissions.

**Annabelle Ewing (Mid Scotland and Fife) (SNP):** Good morning, minister. I note that the primary legislation facilitated a cap of 20 per cent. Was any thought given to setting a lower percentage, between zero and 19.999?

**Stewart Stevenson:** Yes. The order before us is covered by section 21(2)(b) of the 2009 act and there are various subsections for periods right up to 2046. Section 22 gives ministers the power by order—it is therefore subject to parliamentary scrutiny—to change the dates and the figures; really, to change all these things. At this stage we are not minded to act on that and in any event, we would want the UK Committee on Climate Change's advice if we were to do such things. There are constraints under section 22 on how and when we can do that. They boil down to saying that there must be a material change in circumstance before we can change any of the parameters that the orders permitted under section 22 allow for.

**Annabelle Ewing:** Thank you. That is most helpful.

**Elaine Murray (Dumfriesshire) (Lab):** My concern is very similar to Annabelle Ewing's. I was not quite sure, and I am still a bit confused, about why we have an order that says the same thing as the 2009 act and why we have not given a signal about the undesirability of using carbon units by setting a lower limit. From your response to Annabelle, I am a bit confused about why we need

an order at all if we have no flexibility to do anything.

**Stewart Stevenson:** We require an order. Section 21(2)(b) of the 2009 act requires that an order be approved by the Parliament by 31 December 2011. The act does not require the numbers in such an order, but it requires that the order be approved. There are saving provisions—if we do not approve the order by that date, that must be done as soon as is reasonably practical thereafter—but we aim to make the order by the end of this calendar year.

The period in which the effects of the order would apply covers 2013 to 2017. The reporting on years runs in the order of two years in arrears, so we will not know the outcome for 2017 until 2019. Therefore, the order is permissive and allows us to exercise in 2019 the rights to use carbon units that could be exercised if the 2017 figures are not in alignment with the targets. The advice that the UK Committee on Climate Change gave us is that we should have that option available to us. However, given that that costs real money—actual cash out of the Government's coffers—we are directing our efforts and our spending towards ensuring that we meet the targets in the previous orders, the most recent of which was laid in October and relates to the period up to 2027. Our efforts are focused on not having to spend that money.

**The Convener:** Lynne Ross, representing Scotland's 2020 climate group, said to us that the Government and the Parliament should recognise that

“ambitious, long-term and unambiguous signals are necessary to underpin and further build confidence in the low-carbon transition on which we are embarked.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 21 September 2011; c 152.]

Do you think that approving the order in any way undermines that ambition?

**Stewart Stevenson:** When I took the Climate Change (Scotland) Bill through Parliament in 2009, I said that we, as politicians, should not second-guess the science. At every stage in the process—first, with primary legislation and, subsequently, with the orders that flow from that—we have taken the advice of the UK Committee on Climate Change, which is our adviser on the matter. For that, we pay 8.4 per cent of its costs, which in the most recent year was £294,000. We have advisers who are looking at the picture and who are simultaneously telling us that we are on course to meet our targets and that, as I said to Dr Murray, there are sufficient uncertainties looking to 2019 that we should allow an order to be there to be exploited later. If the Government were to spend the money, there would need to be a budgetary provision for that, requiring a debate

and Parliament's approval that the money be spent in that way. So, this is not necessarily the end of the story; this relates merely to section 21(2)(b) of the 2009 act, which requires that the order—whatever its contents—be approved by the end of the current calendar year.

**The Convener:** Thank you, minister. There are no further questions from committee members.

Agenda item 2 is consideration of motion S4M-01313, calling for the committee to recommend approval of the affirmative instrument. The motion will be moved and there will be an opportunity for a formal debate. The debate can last up to 90 minutes but, in practice, most of the issues will have been covered in the evidence session with the minister, so the debate should not last as long as that. It should be noted that Scottish Government officials cannot take part in the formal debate. I invite the minister to speak to and move the motion.

**Stewart Stevenson:** I suspect that our previous debate has covered the substantive issues.

I move,

That the Rural Affairs, Climate Change and Environment Committee recommends that the Climate Change (Limits on Carbon Units) (Scotland) Order 2011 [draft] be approved.

*Motion agreed to.*

**The Convener:** I thank the minister and his officials for being with us.

**Stewart Stevenson:** Thank you, convener.

**The Convener:** I suspend the meeting until our next witnesses are seated.

10:15

*Meeting suspended.*

10:20

*On resuming—*

## **Common Agricultural Policy**

**The Convener:** Good morning, everybody. We move to agenda item 3. Would those who have just joined us please switch off BlackBerrys and mobile phones, because leaving them on in-flight mode can interrupt the sound system. When you are seated, make sure that your microphone is pointed towards you.

I welcome our witnesses to this round-table discussion of the revised common agricultural policy, which was released in October this year. Following this meeting, we will meet the United Kingdom minister and the Cabinet Secretary for Rural Affairs and the Environment, at which time we can feed in what is discussed today. Several meetings will take place beyond today and as the CAP develops.

I welcome the witnesses to the meeting. We have Scott Walker, who is the chief executive of the National Farmers Union Scotland; Alan Boulton of the Scottish Tenant Farmers Association; Patrick Krause, who is the chief executive of the Scottish Crofting Federation; Vicki Swales of Scottish Environment LINK; Graham Kerr, who is group manager for environmental services at the Scottish Agricultural College; Stuart Goodall, who is the chief executive of Confor; and Jim Simmons from the northern region of Scotland new entrants group. Andrew Hannah has not arrived yet, but we hope that he is going to be here. We also have Isobel McCallum, who is from the Highlands and Islands agricultural group; Dr Andrew Moxey, who is a director at Pareto Consulting; Andrew Midgeley, who is a senior policy officer of Scottish Land and Estates Ltd; and William Houstoun, who is general manager of Angus Growers Ltd. I welcome Andrew Hannah, who has just arrived.

I thank the witnesses who provided us with written evidence in advance of the meeting. I invite members to start the discussion as agreed. If members wish to speak, they should indicate that, and I will bring them in. This is to be a free-flowing debate, but the shorter the questions and answers, the more free-flowing it will be. We have limited time and we want to bring in as many of you as possible, although not necessarily for each question. It will be useful to bear those things in mind.

**Annabelle Ewing:** Good morning and thank you all for coming. It will be useful to kick off the discussion—we hope that it will be such an exchange of views—on issues surrounding pillars 1 and 2 funding and the basic payment scheme to replace the single farm payment, and the various

provisions concerning that. Perhaps Scott Walker would like to take up the challenge.

**Scott Walker (National Farmers Union Scotland):** I will try to keep it brief, convener. I will talk first about pillar 2, the key issue in which is the UK's funding allocation from the European Union. Historically, the UK's share has been very poor—among the poorest in the EU. I understand that the EU is looking again at the distribution key, which is how the money is divided up between the member states. All the discussions in which I have been involved appeared to indicate that the UK and Scotland would be winners from reallocation of the distribution key. We must maintain pressure on the EU to ensure that pillar 2 redistribution rewards Scotland by providing fairer distribution of the funding.

Pillar 1 is a critical component for us in supporting agricultural activity in Scotland. It is therefore essential that Scotland get a fair share of the UK funding and that the UK get a fair share of the European funding. Critical to that will be the overarching EU budget, about which there might be some uncertainty because of the turmoil around the European currency. Everyone is working on the assumption that the funding will stay the same overall and that there will be redistribution among the old member states and the new ones. If that happens, the indications are that the UK will neither win nor lose but will stay the same. The big problem will arise if there is a cut in the EU budget and a subsequent cut in the UK allocation. How will that impact on Scotland?

**Vicki Swales (Scottish Environment LINK):** We have been on a path of CAP reform that has created pillar 2 and has shifted money progressively from pillar 1 into pillar 2. Scottish Environment LINK is extremely concerned about what will be a significant shortfall in funding to deliver against a range of environmental objectives and to help agriculture to restructure and diversify. As Scott Walker said, the overall budget looks as if it means that CAP will be frozen, but that means a real-terms cut of 8 per cent. There are no proposals on the table to shift more money from pillar 1 to pillar 2. There is an option for voluntary modulation, which Scotland and the UK have used to move 10 per cent of the money from pillar 1 into pillar 2. We support that and we would like it to be used. It will be essential in the future.

Of course, it is right that Scotland and the UK have an improved share of whatever EU funds are in the pot for rural development. We support that and will help to make the case for it.

Given the constraints on pillar 2, and the greater demands that we are making of it—a range of new priorities and measures have been added to it—the more we are stretching the budget very thin,

so we have to look at pillar 1 and how it can deliver more environmental benefit. The redistribution of support and moving to the regional model of payment will be absolutely critical to whether there is a shift from the more productive, intensively farmed areas to the less intensively farmed but environmentally important areas in the north and west of Scotland, with their extensive livestock systems and their domination by what we call high-nature-value farming systems.

**The Convener:** We will come to that matter. Does anyone else want to say anything about funding? We welcome Scott Walker's remarks. It would be interesting to hear whether anyone else has any thoughts on that: it seems not, so far. I think that Graeme Dey has a question on pillar 2.

**Graeme Dey:** I was going to ask about greening.

**The Convener:** That will follow on from the pillar 2 discussion.

**Annabelle Ewing:** We will come back to funding during the morning.

Specifically on direct payments, my understanding is that there is quite a bit of confusion among livestock and arable farmers about the permanent-pasture and crop-rotation issues. Do those of you who have particular interests in those have comments on either of or both those issues? I understand that the drafting of the provisions is causing quite a lot of concern to farmers in various sectors in Scotland.

**William Houstoun (Angus Growers Ltd):** the question is not strictly to do with my fruit interests, but several growers also have livestock farms and, on the permanent-pasture issue, they have asked me to open the discussion about how long it must be before pasture becomes permanent. Many Scottish hill farmers run something like a 10-year rotation on pasture. They plough it up every 10 years or so for a crop of rape or something else, and then put it back to grassland. That does not appear to fit very well with the current guidelines, so the farmers are asking that pasture be allowed to be permanent for longer.

10:30

**Jim Simmons (New Entrants Group):** I back that up. We all work about an eight or 10-year rotation on our grass because rotation is expensive. Stipulating a five-year rotation would surely increase the number of times that the ground is ploughed, which releases all that carbon into the atmosphere. That goes against everything that Europe is trying to do and seems totally pointless to me.



**Vicki Swales:** As a whole, we support greening and doing things through pillar 1, but there are particular problems with the current drafting. The proposals on crop rotation and diversification of cropping are clearly trying to prevent the type of broad-scale monoculture that we see in some parts of Europe. However, that raises issues for Scotland—in particular, for mixed farming. For example, it would be problematic to force farmers who have some spring barley to feed their livestock to have three crops in rotation.

The permanent-pasture measure is broadly and crudely written and creates problems. The aim is to protect the extent of permanent pasture for biodiversity and for carbon and climate reasons, but it will not protect the important grasslands that have high biodiversity and nature value, because it is a blanket approach. We favour flexibility in the regulations. The greening measures must be written broadly to allow a degree of what is called subsidiarity for member states to come up with conditions that are appropriate to their situations.

We have views on the ecological focus areas, but perhaps we will come on to that later, as that is the other part of greening.

**Scott Walker:** I agree with much of what Vicki Swales said. We believe that those two greening measures—on permanent pasture and crop rotation—are appropriate, and we do not have a problem with the general direction that the European Union is taking, but the detail is hugely important. On permanent pasture, there has been talk in the European Union about taking into account the rotations that occur in member states, rather than moving to a straight five-year cut-off period for permanent pasture. It is critical to win that type of concession for Scotland. We need 12 or 17-year rotations to be allowed for permanent pasture.

One big issue for livestock farmers is that improving their grassland has a huge potential effect on productivity. The European Union must take the details of that into account, because it is one of the most significant ways in which we can increase the productivity of livestock farms in Scotland.

On crop rotation, as Vicki Swales said, the European Union's intention is to prevent broad-scale monoculture, but that is not an issue that we have in Scotland. In the first instance, we should press for the European Union to recognise that. Secondly, we should move from the three-crop rotation that the European Union is talking about to something that is more akin to what happens in northern climates such as Scotland has. That could perhaps be a two-crop rotation, with significant exemptions for individuals who have a large proportion of grassland in their mixture of crops.

**Andrew Midgeley (Scottish Land and Estates Ltd):** There is a lot of agreement. The key issue is flexibility. The EU is trying to impose an EU-wide measure, but there is such variety across the EU that, when we consider how the proposed measures are applicable in each area, we find that they create problems. As far as we can see, the key thing is to advocate a degree of flexibility so that any crop diversification measures are appropriate to Scotland and the systems that we have here. We need agreement about that principle, after which we can get down to designing the measures properly for us.

**Isobel McCallum (Highlands and Islands Agricultural Group):** I am thinking about our vulnerable areas. The greening measure under which a business would have to grow three crops would be extremely difficult in areas where there are poor soils and extreme climates. The text says that the measure would apply only to farms of 3 hectares or more. We need more clarity as to what the measure would mean and what we would have to do on the ground. In some areas, what the EU wishes to happen might not be possible.

We also require more clarity on permanent pasture. Until we have more information on that, we will not be able to take a view on it.

**The Convener:** Of course, we are at an early stage in these matters.

**Alan Boulton (Scottish Tenant Farmers Association):** I echo the concerns about the greening measures, and will look at the wider context of greening. I think that we all approve of the fact that the measures are intended to green the CAP and make it more acceptable to the European taxpayer. In order to do that, the measures need to be regionally appropriate, and to deliver some green environmental benefits; the CAP could again fall into disrepute if it does not deliver its environmental objectives.

**Annabelle Ewing:** On the proposed basic payments scheme, I understand that there might be differing views on what the trigger should be. At the moment, it involves at least one entitlement being activated in 2011, which is the base year. I have read some of the evidence that has been supplied to the committee, and I wonder what you wish the trigger to be?

**Alan Boulton:** I want to say something about the concerns of the tenanted sector, because the matter is particularly relevant to it. We welcome the link to 2011; in fact, we think that it could, and should, be stronger. The link to a single activated entitlement does not appear to be the link to agricultural activity in 2011 that it could, and should, be.

In order to avoid the destabilising effect that any manoeuvring between now and 2014 could cause,

we would like the activation of the entitlement to be linked to the unit that is being applied for in 2014. That would obviously have consequences, and they are likely to affect the provision for new entrants. Perhaps we will come to this later, but that provision would remove a lot of the unintended consequences of the 2011 link. We would very much like the 2011 link to stay, and the consequences for new entrants to be addressed.

**Jim Simmons:** Following what Alan Boulton has said, the 2011 trigger of having activated one hectare of payment is our biggest concern about the whole CAP reform: it concerns me deeply. We have a lot of members, and I represent everyone who has come into agriculture from 2004. Many members of our group have no single farm payment whatever, and have been unable to purchase entitlement due to the high prices. I can see the reasons for having the 2011 trigger, but most of our members will have submitted an integrated administration and control system form. It would sort out a lot of the problems if we could change the wording so that, instead of someone being required to have claimed a unit of single farm payment, they were required to have submitted an IACS in 2011. Without that, there will be huge anomalies and we will end up exactly where we started. As I have said, it is our biggest concern that members who have not been claiming the single farm payment will again be left out in the cold and needing to go to an overstretched national reserve.

**Graham Kerr (Scottish Agricultural College):** My point was in relation to the earlier discussion on the greening of the CAP, so I will come back to it later to avoid disrupting the current discussion—*[Interruption.]*

**The Convener:** Who has their phone switched on?

We will go back to Graham Kerr's point—

**Annabelle Ewing:** Mr Kerr has indicated that he has a point on greening.

**The Convener:** I am sorry. We will come back to that. Andrew Midgeley is next.

**Andrew Midgeley:** Scottish Land and Estates opposes the link to 2011, and we have suggested that it is unnecessary. It was introduced partly because there is a degree of concern that people will speculate on land and that landowners will try to take land back in hand.

We suggest that that concern is overblown. England has already moved to an area payment system, and all those concerns were raised when that happened. However, I have contacted my English colleagues, and it seems that those concerns did not turn out to be such a great consideration. The biggest issue in moving to the

system in England was the introduction of large numbers of small areas of land into the system; it was not to do with any disruption or changes in land tenure.

The concern is unnecessary if one considers the proportion of land to which the system applies. Angus McCall's own figures—which we keep being faced with—show that 30 per cent of Scotland is tenanted, and that 80 per cent of that is unsecured tenancies. When we take the figures together we end up with a figure of more than 90 per cent of Scotland to which the system does not apply. We are talking about the introduction of a provision to deal with a very small potential issue.

I am not saying that there will not be change; there will be. People are naturally thinking, "There is a new system coming in, and we will take account of that when we are thinking about our business planning," but that change is inevitable. The question is whether the 2011 link imposes something that will create more problems than it is worth, given the small number of cases to which it might apply. It might create significant problems for people who might have planned to take land back in hand but did not make a claim this year, or for new entrants. It creates its own anomalies, which will need to be solved by something else. At present the national reserve, which is the mechanism that is used, does not look as if it will necessarily cover all the cases that will have been created. There is a range of issues around whether it is the right thing to do, and we suggest that it is not. It is unnecessary.

**The Convener:** Those are arguments that I suspect that we will continue to have.

**Scott Walker:** We have to look first and foremost at why the European Commission suggested the rule. The reason why it did so is very much along the lines that Andrew Midgeley suggested. The Commission is concerned that if we set a future date for the allocation of entitlements, there will be encouragement for owners of the land to take that land back in hand when they previously would usually have rented that land out, either on an annual basis or grass lets or on a longer-term basis. We believe that there is a strong—and perfectly understandable—incentive for owners of the land to try to protect their position and ensure that they can get the entitlements that will be allocated to them in the future.

For that reason, we believe that the European Commission's suggestion is a very good principle. We like the idea of the double gateway to take account of who was farming in 2011 and what they will be doing in 2014. However, the rule as it currently stands is far too weak. It needs to be significantly strengthened and tightened, and there must be a stronger link between the amount of

land that someone had in 2011 and the amount of entitlements that they can claim in 2014.

The problem with creating that link is the problem that Jim Simmons mentioned with regard to new entrants. To overcome that, we need an effective national reserve from the moment when the system is put in place so that individuals who have entered farming can get the entitlements that they justly deserve.

10:45

**Alan Boulton:** I agree with Scott Walker. Our position is that the link should remain and, indeed, be made stronger. However, it will have consequences for new-entrant provision. Jim Simmons represents a significant group of new entrants who began farming after the allocation of the previous entitlements—some of those guys have been farming since 2003—and it is simply confusing to consider them as new applicants. Although they are farming, they will be disadvantaged under this proposal because they will not be able to apply for entitlements in 2011. In that regard, I echo Jim Simmons's comment that eligibility should be triggered by genuine agricultural activity in 2011 as much as by the activation of entitlements in 2011. As Jim suggests, a link with the 2011 IACS would partly solve a problem for that sector, which has been farming since the allocation of the previous entitlements. For 2011 onwards, we should consider proper provision for genuine new entrants.

**The Convener:** Why do tenant farmers distinguish between new entrants under and over the age of 40?

**Alan Boulton:** Why?

**The Convener:** Yes. After all, one would expect there to be some new entrants who were over 40.

**Alan Boulton:** I agree. The young-farmer provision and new-entrant provision are completely separate issues and there might be an issue about the cut-off of 40 years old.

**The Convener:** I asked about that because it appeared in your submission. We will now move on to the greening aspects.

**Graeme Dey:** I am partly reassured by what I have heard so far. However, I mean no disrespect when I say that, as I read through the written submissions ahead of this meeting, I saw a parallel between some of them and certain letters that, as an MSP, I get from constituents who are opposed to wind farms. Those letters invariably begin with, "I have nothing against wind farms as such. However"—.

I want to get to the root of this. Does the agriculture sector feel that it plays its part in tackling emissions and climate change? What in the proposed measures could be detrimental to farming practices in Scotland?

**Graham Kerr:** Returning to the earlier discussion about crop diversification, I point out that SAC is responsible for supporting the implementation of the farming for a better climate programme, which is a key strand of the Scottish Government's actions to limit agricultural emissions. We are very much focusing on win-wins and on productivity to ensure that a kilo of output is produced in both an emission efficient and a financially efficient way. As a result, I am a little concerned about the proposals' crop diversification element, which could lead to farmers altering their practices to introduce new crops that, because of resources and climatic conditions, they will not be in a position to produce efficiently. The Government's farming for a better climate policy strand is an attempt to look at how land managers can continue to be productive while being efficient and limiting agricultural emissions.

**Stuart Goodall (Confor):** We can have a chat about some of the broader issues to do with integrating forestry into farming but, as a representative of the forestry sector, I think that the greening opportunity is obvious. Planting trees sequesters carbon, produces low-carbon products and provides renewable energy opportunities. We are interested in talking with the farming community about how we can integrate forestry into farming more generally. However, this seems like an obvious win-win, as there is a desire to reduce the greenhouse gas impact of the farming sector and to do something specific that is obviously beneficial with regard to the carbon balance.

**The Convener:** However, there is the question of the impact on soils and the attempts to measure climate output as a result of the Durban conference. Do you feel that planting trees is always the best solution?

**Stuart Goodall:** No, I think that that is a simplistic approach. What we have is robust evidence about where planting trees in certain soils will clearly lead to a carbon-positive outcome. However, in some circumstances, if you are planting in deep peat, for example, that might not have a positive carbon output. I think that we have robust enough information to say where we can plant trees to deliver the outcome.

**Vicki Swales:** On whether planting trees is always the best option, it is clearly one option, but there are others, such as peatland restoration, as our peatlands store a huge amount of soil carbon. We have degraded them in the past in various

ways—including by planting trees on some of them. However, we are now addressing that problem. Restoring more peatland and getting it into good heart would go a long way towards helping us address climate change.

On the question of the extent of agriculture's contribution to greening and how greening might affect farming practice, it is clear that there are some big environmental challenges facing not just Scotland but Europe as a whole, such as the loss of biodiversity. We have a target for 2020 to halt that loss, and we missed the last target. We have issues of water pollution from nitrates and pesticides, and we have a big climate change problem in terms of the need to mitigate the change and adapt to the change that we know is going to happen. If we are to deal with that, it is essential that we green the CAP.

In our view, the best way to do that is through pillar 2. We have a raft of well-designed measures that can be targeted at delivering the right outcomes. Unfortunately, that is not the proposal that we have on the table. As I said earlier, we are going to have a limited pot of money. For example, we currently spend about £40 million on agri-environment schemes. One estimate, which was done a couple of years ago, suggested that we need to be spending £244 million in order to meet our environmental objectives, so there is a massive shortfall. That means that we have to use pillar 1 and the greening measures.

As we have said, there are some problems with the proposals that are on the table at the moment. We need to get those right. We need to make pillar 1 work hard and deliver for the environment in ways that are compatible with running a farming business.

There is one option that we have not touched on, which is the ecological focus areas, which involve a requirement to have 7 per cent of land under certain habitats, such as hedgerows, field margins, field corners, bits of scrub and, to some extent, woodland. Some have disingenuously talked about that as equating to set-aside land and taking land out of production. I do not think that that is right. I think that it is about finding a way to protect existing wildlife habitat on farms and to give farmers a payment for that. Currently, it applies only to arable areas. There is a logic to having it apply across the board—to livestock and arable farming. I think that the majority of farmers in Scotland would be able to meet those requirements easily with the habitats and features that are already on their farm.

The problem at the moment is that, under the current rules for the single farm payment, farmers are being told to take that land out of their eligible area. We know of cases of farmers going out and removing gorse and scrub and burning up that

habitat in order to be able to claim the single farm payment. That is illogical. We need to ensure that pillar 1 provides payments for the good things that farmers can do and are doing.

**Andrew Midgeley:** On the specific point about people agreeing with greening in principle but not with greening as it is proposed, I think that we are in that position. That brings us back to the issue of flexibility. We think that the CAP needs to be reformed and that its greening adds to the justification for the continuation of the CAP. If we can achieve that, that will be a good thing for everyone in the long run. The question is how we can make it work and make it achievable. If we introduce greening that achieves nothing, the CAP will be under even greater pressure the next time around. We must ensure that what we introduce is practical and achievable. People must sign up to it and see a point in it, and it must really work on the ground. That brings us back to the point about flexibility. If we can achieve that, we might get something better out of it.

**The Convener:** That leads us into the issue of areas of natural constraint and coupled support under pillar 1. Are there better ways of targeting payments than less favoured area support and the Scottish beef calf scheme? Some of our witnesses may have an issue with that just now.

**Scott Walker:** It is clear to us that, in designing the new support structure for Scottish agriculture, the simplest system would be a flat-rate area payment across the whole of Scotland. That would be the simplest system to administer and for people to understand, but it would be absolutely the wrong system for Scottish agriculture if it is to deliver on productivity and the environment.

We believe that we will have to use all the tools that are available to us, through the framework that comes out of Europe, and probably regionalise Scotland in different ways. There will be mechanisms and measures that it is appropriate to use in the north-east, but others that it is appropriate to use in the north-west. We see justification, in certain areas of Scotland, for the payment of a very low area-based payment alongside encouragement and rewards for people who are active on that ground—so, a high headage payment would be paid in areas such as the hills of Scotland, where it is vital that we keep the stock. Over time, we have seen a reduction in stock.

NFUS is going through an extensive process of discussing with our members what needs to be done in Scotland, but we must watch out for what I would call CAP fatigue setting in. I suspect that we will be having these discussions for a couple of years to come before the implementation takes place on the ground. Anyone who is running a business wants certainty about what will happen.

We need to step away from looking at the detail of what we do in Scotland, which is further down the line, and concentrate just now on the European Union rules and which parts of them we need to change because we think that they are wrong. Those might include the double-gateway entry system that we talked about before, with 2011 being a trigger point for entitlements; the national reserves that we will need; and the flexibility of the Scottish beef calf scheme. We can identify the types of measures that we want and ensure that the European rules allow us to use them, but exactly how we use them in Scotland is probably a decision to be made 18 months to two years down the line.

**Isobel McCallum:** We commissioned a report to define the vulnerable areas—the areas of natural constraint—following the dramatic reduction in stock between 2005 and 2010. Having stock on the hills is important to us because it keeps people in rural areas and ensures biodiversity—it is good for the landscape and the environment. One of the most important things in the Highland region is tourism. A tourist in the Highlands and Islands spends three times as much as a tourist in the rest of Scotland does, so our environment, with its iconic views, is extremely important.

Stock on the hills is a solution to many of the problems in the Highlands and Islands. It will be important to discuss redistribution to the areas that are in desperate need. Now we have to restock, which is a very difficult problem once stock has gone off the hills. There are ways to achieve that. The discussions will be interesting and I look forward to them.

11:00

**The Convener:** Brian Pack has suggested that the abandonment might continue, but surely the high prices for sheep and cattle at the moment, and even the prices for arable products, are countering some of that. Indeed, they are a result of there being less stock available for sale.

**Isobel McCallum:** There is something in what you say, but it has come too late. The situation of scarcity that you see is only going to deteriorate. We are also looking ahead. We have to consider food security. Perhaps the 7 per cent greening is too much. In the Highlands and Islands, it is about what benefit derives from having stock on our hills. If you keep people in rural areas, you keep services in rural areas. It is about how you do that. Keeping stock there is possibly the best way to do it.

**Vicki Swales:** Scottish Environment LINK shares many of the concerns about vulnerable farming areas and the decline in farming activity.

As Isobel McCallum said, those areas are extremely important in environmental terms. There has been recent work to map high-nature-value farming systems, which coincide with what we think of as vulnerable farming areas, where farming is economically marginal and the conditions are difficult.

The Commission has long recognised the problem that there are areas of Europe where it is difficult to farm, but which we might want to continue to farm, not necessarily for their productive output but because of all the other public goods and services that they provide and their importance in a social and environmental context, which contributes to tourism.

Unfortunately, how we have implemented past policies has left us with a system that is very imbalanced. The vast majority of agricultural support through single farm payments, the less favoured areas support scheme or agri-environment schemes goes to the east and south of the country, which are the more productive areas and are closer to market and have more competitive advantage. We give the least money to the north and west—the areas that are vulnerable but environmentally important.

We need to find a way to redress that imbalance when we implement the reforms. We need to shift money up the hill and to those farming systems to help them to survive, to prevent abandonment and to ensure that agricultural activity continues. The regionalisation of payments is one way to do that. In very broad terms, that should shift money up the hill, but it depends how we do it. We need to use LFASS to target money to those places. We need to use other measures in the Scotland rural development programme, particularly agri-environment measures, to target support at those areas. We are looking at a package of support that gives a real lifeline and a real future to those areas. That is not to say that we take all the support away from the other areas. Clearly, farmers in Aberdeenshire, the Lothians and other areas will still get some basic payment and will still qualify for agri-environment schemes, but on the basis of what they are delivering in environmental terms. We are not saying, “Take all the money from there and move it north and west.” It is about redressing the balance.

**The Convener:** I will bring in Graeme Dey before I bring in Patrick Krause.

**Graeme Dey:** I entirely get the fairness argument. I also accept that there are winners and losers in any reform process. As someone who represents an area that could suffer significantly in terms of financial support, I have concerns about what is proposed. Has any work been done to consider the potential detrimental impact on farming in areas such as Angus if these proposals

go ahead and if there is much reduced support? I recognise that the area that I represent wins with the derogation for soft-fruit farmers.

**Elaine Murray:** I understand the argument. In my constituency, some farmers will do better and some farmers will do worse because it is a very mixed area. The proposal is for a cap, with a progressive reduction in support over time. The counter-argument is that that disincentivises efficient farming. If we are concerned about food security, we do not want to put people off restructuring to become more efficient. Will you respond to that?

**Vicki Swales:** We must look at the economic logic behind the proposals and why we need to provide public support to some sectors. Numerous studies have looked at what would happen if agricultural support was completely withdrawn. A bit of a presumption is that, if the support was taken away, farmers would no longer farm or produce food. That is absolute nonsense. As long as there is a market and a growing demand for food, farmers will produce it.

Farmers who are in more productive areas, are on better land, are closer to market and have a competitive advantage are setting themselves up to be efficient and competitive businesses that depend less on subsidy as income support and that can farm for the market. As demand increases, prices will be more buoyant and opportunities will arise.

Are we really saying that we need to give such farmers the most money? By pumping in subsidy just as income support, we hamper some of those businesses' restructuring and viability. There might be a case for specific support to help businesses to become more competitive, to adapt to new situations and to find new markets for produce, but saying that we should give the money to the farmers that I described does not stack up. We need to consider and support the areas that face a competitive disadvantage, for all the reasons that I outlined.

**Patrick Krause (Scottish Crofting Federation):** I was going to speak in support of what Isobel McCallum said about vulnerable areas, but Vicki Swales said most of what I was going to say and said it much better than me. However, the issue is so important that I will still make a small contribution on it.

It is worth going back to the first principles of what the reform is about. It started quite a few years back with the United Nations and World Trade Organization report that was released on global agriculture—the International Assessment of Agricultural Knowledge, Science and Technology for Development report. The point came over strongly that our approach is not

working or sustainable and that we need a paradigm shift.

At the start of the CAP discussions, the European Commission very much echoed the IAASTD report but, unfortunately, it seems to have watered down quite a lot and to have left loopholes or areas for discretion. If we do not deal with the matter carefully, the result will again be misuse of public funding—that is what we call it, but I am sure that others would disagree.

The SAC recently produced a report on alternative support for those who provide public goods—I do not remember the report's full title. The foreword contains the interesting comment that a change needs to be made from the income forgone model to support for providing public goods. That says in a nutshell where we should go. We should move away from the situation in which the less favoured area support scheme, through a cunning trick in the use of formula, has somehow resulted in better favoured areas receiving the majority of the money. It is clear that that cannot continue.

**The Convener:** I might come back to you in a minute.

**Alan Boulton:** I will take the discussion back to the simple principle of redistribution. We fully understand the vulnerability of farming areas in the north and the west. I have watched 50 per cent of the agricultural capability of Lochaber disappear under a decoupled system in the past few years and I fully understand that support is required. However, the principle of redistributing cash is far too simplistic a way to address that.

All our members tell us that, in the areas where single farm payment levels or basic payment levels will reduce, activity levels will also reduce, but there is no guarantee that simply shifting cash to other areas will stimulate or maintain activity. I echo everybody's comments that there needs to be a package of targeted and focused measures that will deliver. Simply moving the cash has no guarantees of any success.

As a broad principle, we would seek to minimise redistribution and seek targeted measures that specifically address the issues on the ground.

**Stuart Goodall:** We have picked up the issue with the National Sheep Association, which is exercised by abandonment and getting sheep back on land. We have been considering whether forestry might be part of the solution to that and exploring whether planting forestry on part of the land, which brings fencing opportunities with it, would enable a farmer to increase the productive value of the sheep that they have on the holding. There are other advantages, too. Because the forestry support that is being provided is outwith the existing measures, it provides an opportunity

to target forestry support that does not involve redistribution.

We are keen to examine whether we can find novel packages and opportunities to tackle problems that have been narrowly focused around direct payments and LFASS. There are things that we can do on that.

**Jim Simmons:** I am a simple sort of chap, so I will say this briefly and simply. Linking activity to payments is essential for the subsidy to reach the correct recipients. That is it in a nutshell, as far as the new entrants group is concerned.

**The Convener:** We will come back to new entrants a bit later on.

**Scott Walker:** I return to the question about the reform impact on different areas. We have spent a lot of time speaking to farmers throughout the country, and I do not think that there is a single farmer who does not realise that there will be redistribution. They may not like it, but they accept that it will happen. A definite, big mind shift on that has taken place in the farming community.

It is far too early to tell what the financial impact of that change will be. Until we decide what model we wish to use in Scotland, we do not know what it will be. Once we have worked out the European rules to the extent that we can have some certainty about the mechanism that we will use in Scotland, it is vital that we consider a number of different models, run a number of different scenarios and evaluate not only the impacts that they will have on individual businesses and the regions of Scotland, but the knock-on effects in other sectors.

One hugely important point is what the CAP reform will mean for the food and drink industry. We have a thriving and hugely successful food and drink industry that has the potential to grow strongly and to be a good exporter and job creator, but anyone in that industry to whom I speak tells me that the reason that they are in Scotland in the first place is primary production. If we do not have that primary production, there is no reason for them to be based here. When they make their investment decisions, they could choose to invest somewhere else in the UK or Europe.

One critical point for me, which touches on the point that Jim Simmons made about activity, is that however we choose to implement the reforms, we must bear in mind what the impact will be on activity not only in the agricultural sector, about which I will always speak passionately, but in the food and drink industry in Scotland.

11:15

**William Houstoun:** To fight the cause of the more intensive areas, we as fruit growers lost our

funding over the past three years. That impacted on the farmers considerably, but it has had a greater impact on the wider community.

We are going to need more food, but the arable areas of Scotland have the ability to become more intensive at the same time as becoming more environmentally beneficial—we are learning how to do that. By producing food for a growing population with growing demands in those areas in a more environmentally sensitive way, we can free up the push for production from the most sensitive areas and allow them to be protected while production is maintained. We must be careful to target aid where it is best suited to meet the varying demands.

**The Convener:** Fruit and berries have taken off in a big way in countries such as Finland, which has altered people's diets. Presumably, there must be an ability for us to grow many of those things in many more areas.

**William Houstoun:** There is. We have growers on the coast in Carnoustie on grade 1 land growing strawberries, but we also have a grower up near Huntly growing them on what was traditionally a stock farm. Innovation will always come in the best areas, and we can then spread that knowledge to other areas—the hydroponic farms on the west coast are an example.

**Andrew Hannah (Dumfries and Galloway District Association of Young Farmers Clubs):** Dumfries and Galloway and Wigtownshire overall is a high-production area that has already been severely hit by the LFA, particularly in Stranraer, where I am based. Having a high stock density, our fear is that the new payment, if it is area based, will hit just as hard.

**Andrew Midgeley:** This conversation started with coupled support. Many people have suggested that what we need is a package of targeted support. As I understand it, the coupled budget would be limited to 5 per cent because we fall underneath the threshold. If the current stage is about the negotiation of the regulations, there is a question over whether it would be possible to get some change that would enable Scotland, if it wanted to, to increase the coupled support. There is a question over how big the coupled budget could be, because at the moment it falls beneath the 5 per cent threshold.

There will be redistribution, because the move from the historic system to the area system will lead to that. However, if we want a system that is more defensible in the long run, we need to start to think about the objectives and what we are trying to achieve. That comes down to the package that we want to put together. We should ask what we are trying to achieve, then design the package, rather than start from the principle of

"Let's try to stop change." Let us try to make the thing more defensible.

**The Convener:** If that is the case, should a cap of €300,000 a year be placed on support for an individual farm?

**Andrew Midgeley:** We oppose capping, primarily because it is a disincentive to needed restructuring, as has been said. It goes against the direction of travel. People have been encouraged to become more efficient, and increase in size is a consequence of that. However, the response or reward would then be for them to be hit by the cap. Capping is also arbitrary.

The principal point is that once the door has been opened to capping, a certain number of people might be affected the first time round, but the next time round the cap could be ratcheted down and suddenly a whole lot more people could be affected, and so on.

**The Convener:** But are we not talking about the need to find money, within a small envelope, to redistribute to other areas? If the direct payments were affected by capping, there might be an opportunity to redistribute money.

**Andrew Midgeley:** It would be a very small opportunity.

**The Convener:** How small?

**Andrew Midgeley:** I do not have the exact figures on how much would be redistributed, but given that the way in which the proposal is written means that, if it were introduced, it would affect only a certain number of people, I suspect that the amount of money that could be redistributed to pillar 2 and specific measures would not be huge.

**The Convener:** It would be very useful to get some estimate of that figure, from Mr Midgeley or anyone here.

**Andrew Midgeley:** I will look into it.

**The Convener:** That would be useful to us.

**Alan Boulton:** In the round of meetings and consultations that we have had with our members, capping has not come up as an issue. It is a bit of a non-issue. When the 30 per cent greening is taken off and allowances are made for salaries, the level of capping is quite high.

The only issue about capping that we would like to raise is that we would want to be absolutely sure that any funds that were gathered through capping came back to us. Such funds would go into pillar 2, but the issue is where in pillar 2 they would go. I believe that, currently, they are targeted at research and development. It would probably sit better with us if we knew that they might reappear in agri-environment measures, for instance. We are not bothered about capping as

an issue, but we are concerned about whether the funds that are gathered through it will be available and useful.

**William Houstoun:** Our concern about capping is that, rather than being based on a salary level or an expenditure on labour, it is done more on a labour-unit basis, to allow contract farming-type agreements. In other words, it is based on people rather than salaries.

**Isobel McCallum:** My understanding of the capping proposal is that it would not amount to a huge sum of money, and that that sum of money would go back to Europe and we would not get the benefit of it. Perhaps someone can clarify that.

I totally agree that if there is to be recoupling, that recoupling must be dependent on agricultural activity.

My other point—I know that this will come out in further discussions—is that, at the moment, we use article 19 of Council regulation (EC) No 1698/2005 for our LFAs. That is the intermediate designation, which is not hugely popular in Europe. Perhaps we should look at using articles 18 and 20, which relate to mountains and islands status. We should probably explore that.

**The Convener:** Patrick Krause might have something to say on the mountains and islands issue, and on the small farmers scheme, which might help some crofters in those circumstances.

**Patrick Krause:** We have been pushing for mountains and islands status for a long time. I think that that was coming up in the final part of the final reform of the CAP, and we are certainly highly supportive of the idea that we should use it.

The small farmer issue is interesting. The scheme is quite complicated. There are a couple of issues that our working group has discussed. One is that, in Europe, the area size for small farmer classification goes down to 1 hectare. We would be quite interested in seeing that here, because in Scotland we only go down to 3 hectares.

Secondly, there is an exemption from cross-compliance and greening for small farmers. Given that we are saying that we want to see smallholdings, preferably under crofting tenure, being expanded throughout Scotland—we want to see at least another 10,000 crofts—we would be shooting ourselves in the foot to say that the exemption from cross-compliance and greening is a good thing, because lots of smallholdings make a large area of land. We think that there should be cross-compliance.

The final issue to do with small farms, which I have not really thought through, is the problem of getting new entrants into crofting and farming and the tie to 2011. We have thought a bit about



whether there could be an exemption to the 2011 rule for small farms, but we do not have a clear formula for that, because many new entrants to farming and crofting see crofting or smallholderism as a way to get into food production. That needs to be looked at.

**Scott Walker:** LFA support splits into two issues. For me, the key issue is not designation, because whichever article is used will get the area designated to be eligible for LFA support; rather, the key issue is the scheme that is put in place. The two issues must be clearly separated. Designation by itself does not necessarily do anything about the scheme and the delivery of the money.

We think that the small farmers scheme is excellent, that it must remain within the rules that come out of Europe, and that the Scottish Government should pick it up for two reasons. First, it will be simple for claimants. In essence, a small farmer will tick the box and receive the money. Secondly, it is good for the administrative authority, as it will lift out a number of individuals for whom the actual cost of administering the payments far outweighs the amount of money that they receive. There is a big win-win there.

We need to concentrate on a specific issue for Scotland and see whether we can get some flexibility within the rules. Many crofter members of NFUS who would potentially benefit from the small farmers scheme could find themselves excluded because of their common grazings. If they have a large area of common grazings, or a large share of an area of common grazings, that will lift them out of the scheme. Perhaps there are ways by which we could have a discussion with the European Commission on separating out those two areas so that the specific croft—the bit of land that is tied to the crofter and over which they have definite control—would be eligible under the small farmers scheme and the common grazings would be dealt with using different payments. I hope that we take the opportunity to take up that measure.

**Vicki Swales:** Obviously, an LFA scheme will be an important part of pillar 2. I agree to a large extent with Scott Walker that designation is not really the issue, whether we are talking about article 18, 19 or 20; what will matter is the pot of money that is allocated and how the scheme is constructed. As I said earlier, we are keen that that money should be used to target vulnerable but environmentally important areas, and the current LFASS is very much out of kilter with that aim. The European Commission does not like it, and it is out of step with the direction in which LFA policy has been heading in Europe. We need to get that right and get the scheme more environmentally focused.

We have some support for a simpler system for small farmers, which will clearly be attractive to some crofters and small farmers in Scotland. As Patrick Krause said, we are slightly concerned that it seems that, in theory, cross-compliance inspections will not apply to those farmers. I have some sympathy with the idea of a simplified system, but at the end of the day, cross-compliance is largely existing regulation, and it is important that those farmers are inspected and have to meet the standards as any other farmer has to.

The other issue that we might want to think about, which we might talk about in discussing pillar 2 support more widely, is that there are options for sub-programmes in the future SRDP. I think that I am right in saying that one of those relates to small farmers. If we wanted to do so, we may be able to construct a scheme that specifically targets and benefits crofters and small farmers. That is worth thinking about.

11:30

**Patrick Krause:** We support Scott Walker's comments about common grazings; we think that the issue needs to be investigated further. Common grazings fall into a strange no-man's-land. The Scottish Government finds it quite difficult to administer CAP and support measures on common land, and the situation is further complicated by the fact that some shareholders of common land do not have holdings. A lot more work needs to be done on our common grazings, with specific measures being formulated to support them.

**The Convener:** A shiver of expectation ran down the spines of committee members at the thought of discussing common grazings in detail.

**Graeme Dey:** I have one small question following Scott Walker's point about small farmers. Is the suggested annual payment rate of between €500 and €1,000 appropriate? Is it sufficiently high?

**Scott Walker:** It is a question of getting the balance right. I could build an argument that we should raise that ceiling, because €1,000 is not too significant a sum. Perhaps we should be thinking about €2,500 or €3,000. For me, however, this is about the principle of getting the European Union to consider a single, simple mechanism that can be applied across the whole of Europe. We therefore need a degree of equality across the EU. Should we push for a slightly higher sum? We probably should, but the key issue for me is how we actually use it.

In regard to our negotiating position with Europe, I suggest that, instead of pushing the ceiling up, we should try to gain recognition of an

issue such as common grazings, which is probably unique to Scotland. I suspect that other member states will argue for pushing up the ceiling, so—although it could be a dangerous tack—perhaps we could rely on them to do that while we concentrate on the specifically Scottish issue. It will be difficult to get other member states to understand that issue, and therefore difficult to get a specific rule on it included in the regulations.

**The Convener:** I should like to continue on the theme of rural development that we touched on earlier, and the common strategic framework, which will extend to six the broader priorities. Do other members of the panel see the rural development programme as a means of helping farmers to access those priorities? We are aware of the difficulties involved in applying for funding, so this might be a good time to discuss those issues.

**Scott Walker:** The rural development programme will be a critical component. It is about getting the correct mix of what we do through direct payments under pillar 1, and how we complement that appropriately through the rural development measure. I understand, from what is coming out of Europe now, that we shall have greater flexibility than we do now. At the moment, we are constrained in certain ways: we have to achieve a minimum spend on certain measures, for example. It looks as though that straitjacket, as I would describe it, will be removed under the future scheme, which will give us greater flexibility.

We need to consider two specific issues. The first is the need for what I would call a bridging mechanism. There is a danger that, despite what the European Commission says, the European Union rules will not be put in place in time to enable a quick and easy transition from the present rural development plan to a future one. Last time, there was a 12 to 18 month gap in which nothing could be delivered on the ground. That causes frustration for farmers and advisers and a detriment to the environment and to investment in agricultural holdings. There needs to be a huge push at the European Commission to ensure that there is a bridging mechanism so that, if there is a delay in Europe, we will be allowed to continue and to prolong the current programmes.

The second issue is how the scheme will operate in Scotland. You could argue that the current scheme has been hugely successful, because people have applied to it and it has put a lot of money out the door. Over the next couple of years, however, we are looking at caps being reduced and at a reduction in the number of rounds of applications. We have to sit back and ask what the best way is to deliver an appropriate rural development scheme and to ensure that

those who apply to that scheme feel that they have had a fair crack at the whip.

**Vicki Swales:** Scott Walker makes an important point about bridging. The latest that I have heard is that the first reading of the proposals is unlikely to be finalised in the European Parliament before the end of next year, which means that we are probably looking to 2015 for a start date for the proposals. We will, therefore, need a bridge between the end of this programme and the next programme. I have already pointed out our real concern about the lack of overall funding for pillar 2. That is a critical issue. We now have six priorities that the programme must help to address and we have added new measures into the rural development regulations, which are stretching the budget ever further. That is a real problem.

We broadly support the priorities, all of which, whether they are for helping farms to become more competitive, for diversification or the environment, must contribute to innovation, the environment and climate change mitigation and adaptation—those are cross-cutting priorities. That is absolutely right—environment and climate change are critical issues that we will have to address.

Scott Walker welcomed the removal of the requirement to allocate amounts of money to different measures within the priorities. There is, however, still a requirement to allocate 25 per cent of the budget to a number of measures, including agri-environment and LFA, and we very much welcome that. We need to get a balance within the programme across these objectives. That is particularly important here, as it is in other member states where, if it was not for that, we would see all the money going into agricultural restructuring and the business development side of things and not into the environment. Keeping that minimum spend on agri-environment is really important.

The measures in the programme are broadly as they are now, in many respects. We have the same flexibility. I suspect that many of the current schemes will go forward—rural priorities, land managers options and LFASS of some kind. We may want to make some changes—we probably should make some changes—but we have a lot of scope to design a programme and to target it to deliver the outcomes that we want. However, we will have to prioritise with a limited pot of money.

There are also one or two measures in there that we would not support; for example, crop insurance and risk management. The Commission has said that pillar 1 should help to protect farmers' incomes when there is volatility in the market, but has also added those measures into pillar 2. It strikes me that we are trying to do two things with the same bits. I do not think that there

is a need for that; given limited funds, we should focus on the critical issues and on delivering for the environment.

**Annabelle Ewing:** Business diversification and any potential climate change measure would presumably not be mutually exclusive per se. Indeed, the two things could marry quite happily.

**Vicki Swales:** They could, and we are very keen to look for those sorts of synergies. We are already funding things such as manure storage and handling, which the farmer needs to do but which are also incredibly important in dealing with environmental pollution. There can be renewable energy measures—let us look for the synergies that help the farm business to develop, but do that in an environmentally friendly and sustainable way. So, yes, we must maximise those as well.

**Stuart Goodall:** I reiterate the need for a bridging mechanism. That is crucial for both forestry interests and farmers who want to become interested in forestry through not just new planting, but their existing woodlands. The scheme is the only mechanism for them to secure funding, so if there is a problem in getting the renewable development regulation approved and a new scheme in operation on the ground, it will have a particular impact on those people. Compared with farming, there is additional flexibility in forestry to come up with a different approach. Unlike forestry, farming is part of the treaty of Rome, so there are greater restrictions. We would ask the Scottish Government and officials to look at how they can create a bridging mechanism for forestry.

On the other measures, and on business diversification and business support, many farmers and landowners who have some woodland or forestry on their holding are taking another look at it. In the past, such woodlands have tended not to be managed, but timber prices are rising and a wood fuel market is developing. Farmers and landowners can either set up an operation on site to heat their own buildings or set up wood fuel opportunities with local businesses. For me, that is a fantastic win-win opportunity. It is an example of the synergies that we have discussed. Such woodlands are not managed at present and we do not get much environmental benefit from unmanaged woodlands. If we bring them into management, we can release the environmental benefit, whether it relates to carbon or even to bird life—I am sure that the RSPB would support that. It can also bring in additional income. The RDR could therefore have a real impact by creating business opportunities.

**Graham Kerr:** I will add a little to what Vicki Swales and Stuart Goodall said. Again, I look at the issue from a climate change perspective, and I am pleased that there is a strong theme in the RDR on that.

Although the support for renewable energy under the RDR is welcome, there needs to be some consideration of how it fits with feed-in tariffs and the renewable heat incentive, because we must ensure that it does not compromise or act against support from other areas.

There is great flexibility within the regulation. We need to look at the work that is being done on the benefits of mitigation and the marginal abatement cost curve and consider how measures such as the covering of slurry stores and even land drainage—in relation to the new maximum levels that have been prepared—fit with the efforts to mitigate climate change, and whether there is scope to introduce those to the new RDR scheme.

We have talked about greening the CAP, but we must not forget that we can use the cross-compliance conditions and the farm advisory system, which is integral to the CAP reform debate, to promote mitigation and awareness of mitigation measures in the industry.

**The Convener:** Should we have demonstration farms that demonstrate those things?

**Graham Kerr:** We have a number of demonstration units. The monitor farms, which look at productive efficiency, are supported by Quality Meat Scotland and the Scottish Government. The environmental focus farms have been supported through the research programme, and we now have the climate change focus farms, which are in effect supported through the farm advisory system as they are funded through the veterinary and advisory service programme.

Those farms are showing benefits and we can see practical demonstrations of mitigation. At the farms, we are talking about not climate change per se, but productive efficiency. The work is about demonstrating or communicating knowledge exchange and knowledge transfer in a way that farmers can relate to, but it also has climate change benefits. The farms are a good way of demonstrating practice and showing economic benefits as well as climate change benefits.

**Vicki Swales:** There is scope to boost the advisory services that Graham Kerr mentioned. We have seen all sorts of problems with the current programme, but we know where good advice is available on the ground and there are people to whom farmers can go to help them to put applications together. That assistance can work well and we need to focus on it more.

There is also an emphasis on co-operation and on how we bring together groups of farmers, foresters and other folk to work together on a landscape scale to meet the objectives. That would be a good thing in areas where we can help farmers to think about what needs to be done and to develop their business plans.

11:45

**William Houstoun:** On the theme of co-operation, there is a proposal for a greater use of producer organisations for funding. We would support that, as it has certainly helped our fruit company to grow dramatically. However, I ask that—as is in the proposals—the organisations are managed by the same country that manages the rest of our programme. At the moment, we are managed by the Rural Payments Agency in Newcastle, which is not joined up with the rest of our Scottish Government funding.

**The Convener:** That is a good point. Thank you for that. Let us return to the subject of new entrants.

**Aileen McLeod (South Scotland) (SNP):** I want to return to pillar 1 support and how we can encourage new entrants into farming. The Commission's proposal is that new entrants under the age of 40 would receive a top-up of an additional 25 per cent to their basic payment for the first five years after they start farming. Member states would also be able to use up to 2 per cent of their national envelope to provide support for farmers without entitlements, and I think that that would be targeted particularly at young farmers. My question is for everyone around the table, but particularly Andrew Hannah of the Dumfries and Galloway District Association of Young Farmers Clubs. Would that additional funding be sufficient to encourage young farmers and new entrants into farming?

**Andrew Hannah:** I would focus on pump-priming money for smaller, £2,000 to £3,000 projects. Those are not a big take-on for farms, but they help in providing sheep handling facilities, pens or whatever. If the money could be put towards such projects, that would be a great help to businesses that were just starting off.

**Aileen McLeod:** Would anybody else like to comment?

**William Houstoun:** I have seen such a scheme working effectively in France. As well as providing financial help for young farmers, it accelerates the handover of responsibility. At the moment, the average age of the farmer—the person who is controlling the business—is ever increasing. The scheme that we saw working in France forced the new generation to be given some responsibility and helped the older generation to move out of the business. It kept the young blood and new ideas coming forward in a more vibrant agriculture environment in the regions in which it was used effectively.

**Scott Walker:** We need to be realistic about the measure that the European Commission is proposing. I do not believe for a minute that there is enough money associated with it to provide the

incentive and the wherewithal to get something new started in the industry. Nevertheless, it is one of a series of measures that we could put in place to get people into the industry.

I would change two things about the European Commission's proposal. First, it is inappropriate for it have an age limit. The definition of a new entrant into the industry should not be based on their age. I know plenty of individuals who have worked hard on farms for a number of years and who are now trying to set up for themselves when they are over the age of 40. They should not be excluded. Secondly, there is a technical issue with the five-year rule, as I understand the European Commission's proposal. The measure is due to start in 2014, when the new system starts—I have doubts about that, but we will work on the basis that it will start in 2014. The Commission says that someone who started farming in 2011 will have used up three years of their potential entitlements and will not get that money—they will get only two years of payments. If people are eligible for it, they should get the full five years. From the date that they are deemed eligible and get money, they should receive it for a full five-year period. They should not be excluded for a number of years because they have been doing something for three or four years.

It would be particularly galling for a lot of new entrants who have been excluded from the single farm payment for a number of years and who hope to get entitlements when the new scheme starts in 2014 to be told, "Although we did not classify you as an entrant under the old scheme, we are going to say that you did qualify, therefore we will exclude you from this payment." That would be a difficult message for anyone to give someone who is a new entrant in agriculture.

**Annabelle Ewing:** Who would get payments for five years? I have read the summary of the rules and it seems to be a catch-22 situation. In order to get the payments, you must have the 2011 trigger, which takes off three years. Who will get five years of payments?

**Scott Walker:** I cannot comment, because I am not part of the inner workings of the European Commission, but I suspect that there is a collection of ideas and that how they impact on one another has not necessarily been thought through. I suspect that a lot of comments will be made on the proposal that has come from the European Commission and that significant changes will be made to the current proposal in the final agreement that is reached somewhere down the line. On issues such as this, I suspect that there will be an open door for us to push on and point out where we think the payments could be delivered in a far better and more efficient way.

I suspect that the European Commission will be willing to listen.

**Jim Simmons:** I suppose that I had better comment. Obviously, the new entrants group welcomes any proposals that help young folk into agriculture. As Scott Walker says, the age limit is a bit worrying. I was knocking on 40 when I started and I know that a lot of the guys who are starting are over the age of 40. It takes a long while to build up your capital reserves to get a start.

We should not get too carried away with schemes for getting young folk into agriculture. The key issue is that young folk stand on a level playing field to start with. The 20 per cent uplift is plenty, but the key is that when you come in, you stand on a level playing field with your competitors.

**Isobel McCallum:** It is very good to hear about the new regulations, although they seem to be a bit complicated. We should not underestimate how much it costs to set up on a farm and the capital investment involved.

The issue of new entrants has been talked about for a number of years and the problem seems to be that there is not enough land becoming available for new entrants to take on.

**The Convener:** That opens a whole new discussion, which I am sure we will take forward in the next few months.

As I asked Andrew Midgeley to come up with some figures, can Andrew Hannah or Jim Simmons tell us about evidence from around the country or elsewhere of young people or older people wanting to get into farming? What numbers are we talking about?

**Jim Simmons:** We have no idea—that is an unknown entity. Plenty of people who are trying to get a start contact the new entrants group. Most of them keep a few sheep or the odd cow on seasonal grazing let and they want a permanent start. Obviously, land being let up is a big issue.

We are waiting for the Scottish Government to come back with figures about who has come into farming over the past five years and how much entitlement they hold. We know that there have been 5,000 new entrants since 2003, but we have no idea how much entitlement they hold. We are waiting for the Government to come back on that and we can then start to establish the scale of the problem that we have of people without payments.

**Andrew Hannah:** The young farmers association is a great thing, not just for the farming community but for any young people who want to take part. However, the number of members has been dwindling over the years. There is just not the interest and people are not going into farming. People still continue to take over their family

farms, but few people come into farming from the outside. It is really only people in the rural communities who go into farming.

**The Convener:** Andrew Midgeley wants to comment on this subject. I do not know whether you have land units available for us.

**Andrew Midgeley:** My comment is in relation to that, but it is just anecdotal evidence; I do not have the numbers. Several of our members who have tried to let units to new entrants have sometimes struggled to get people to apply, even though they have sought them out. Members have highlighted to us that there are issues with the package that goes with a new entrant regarding the support that is available and the finance that they have access to. That relates to the question of the level playing field. It is a difficult issue. It is not just about providing a small package as if that will provide the solution. If more people are to be encouraged into the sector, there must be a route for them to follow, but there are blockages in the system, retirement being one. That is another issue that we must address, but it cannot necessarily be addressed under the CAP per se, or at least under the current proposals.

**The Convener:** Are there any other points on the issue?

**Vicki Swales:** I will use this opportunity, convener, to make a general point about data and information and the evidence base to back up what is said. It is easy for us to express opinions and views and what we know from talking to people, but it is vital that we marshal evidence and information so that when we are thinking about policy options and solutions, we have the evidence to base them on. Scott Walker made a point earlier about some modelling scenarios and looking at economic, social and environmental impacts. We have time to do it, so I urge us to ask our civil servants to marshal the evidence and present it, so that our decisions about the real impacts will be based on facts and figures, rather than on the positions that we all like to hold.

**The Convener:** That may well be a very good point at which to draw these remarks to a close. There is nothing—oh, there is. Jim Simmons wants to come back in.

**Jim Simmons:** It is important that we ensure that the new entrants situation does not happen again under the new CAP. The new entrants group believes that it is important that, under the new CAP, we try to stop the trade in entitlements either by linking them to the farm that they were attributed to in the first place, or by framing it so that if an agreement cannot be set by an outgoing tenant for an ingoing tenant, and if the entitlements are unused for a couple of years, they are returned to a national reserve. The problem

with the trade in entitlements is that it uses up so much valuable working capital for the new entrant who is trying to get a start. That capital should be spent in the local economy. The situation at the moment is a massive barrier for getting new entrants into farming.

**Andrew Hannah:** I have a final statement. I compliment Mr Lochhead on what he has done so far. He has been prepared to listen to people who want to be new entrants and to provide more of an incentive for young people to get into the farming community.

**The Convener:** Thank you. We will certainly ask the UK minister and Mr Lochhead about these issues in due course. This is an appropriate point to say that we have had a very good round-table discussion. I thank the witnesses for their contributions. No doubt there will be many more as we go through the process before we reach the outcome of what the CAP will offer us. I hope that we will try to speak up for Scotland with a united voice wherever that is possible. Thank you all for being here. We will take a short interval.

11:59

*Meeting suspended.*

12:06

*On resuming—*

**The Convener:** To follow on from our round-table evidence session, on 7 December we will write to the Scottish Government and to relevant committees in Westminster, the European Parliament, and the European Commission, summarising the evidence that we have received and our conclusions.

We have agreed to seek to secure time in the chamber for a plenary debate on the CAP proposals. We may also wish to present our report to the European commissioner and consider taking evidence from members of the European Parliament following publication of the draft report on the CAP next year.

Do members agree to the principle of taking further evidence on the CAP proposals, as appropriate?

**Members indicated agreement.**

**The Convener:** Do members also agree to meet the European commissioner and/or senior officials to present the committee's report on its CAP scrutiny and discuss the issues raised?

**Members indicated agreement.**

## Subordinate Legislation

### Water Environment (Relevant Enactments and Designation of Responsible Authorities and Functions) (Scotland) Order 2011 (SSI 2011/368)

12:07

**The Convener:** We move to agenda item 3, under which the committee will consider a negative instrument.

Members should note that no motions to annul have been received in relation to the instrument. I refer members to paper RACCE/S4/11/12/4. If there are no comments, is the committee agreed that it does not wish to make any recommendations in relation to the instrument?

**Members indicated agreement.**

### Pigs (Records, Identification and Movement) (Scotland) Order 2011 (SSI 2011/327)

### Pigs (Records, Identification and Movement) (Scotland) Amendment Order 2011 (SSI 2011/351)

**The Convener:** Agenda item 4 is also on subordinate legislation. This item is to consider two pig identification instruments that are not subject to any parliamentary procedure. I refer members to paper RACCE/S4/11/12/5 and invite comments.

**Richard Lyle:** I am sorry to keep on bringing it up, but again there is an issue with subordinate legislation. I note that the orders are not subject to parliamentary procedure, but I refer the committee to extracts from the Subordinate Legislation Committee report on SSI 2011/327:

"Article 3(2) of the Order provides that, where it is necessary to prevent suffering to a pig, a notice, notification, authorisation or approval may be issued".

The next paragraph states:

"The Scottish Government ... conceded section 83(1) had been overlooked in the preparation of this provision. The Scottish Government therefore accepted that article 3(2) of the order is ultra vires in so far as it relates to notices, and is of no effect."

The next page of the Subordinate Legislation Committee report includes the Scottish Government response, which states:

"Unfortunately, section 83(1) of the 1981 Act, which requires all notices under orders made under it to be in writing, was overlooked in the preparation of this provision. It is therefore accepted that article 3(2) of the order is ultra vires in so far as it relates to notices. Legally, this means of course that it is of no effect."

The next page of the report states:

"There has been a failure to follow proper drafting practice, as section 83(2) of the Animal Health Act 1981 has not been cited as an enabling power in the preamble."

I find it astonishing that people who draft legislation day in, day out have missed those points. With the greatest respect, convener, this is the second order that I have noticed has been wrongly drafted. Can we write to the people who draft such laws and ask them to get their act—with heavy emphasis on that word—together?

**The Convener:** I thank Richard Lyle for that. Are there any other comments?

**Elaine Murray:** There have been similar problems with statutory instruments in the past, and the point has been made that they have been carelessly drafted. It is certainly regrettable that such things still seem to be happening.

The instrument does not involve any procedure, so what is the process? We know what we could do if we were not happy about the way in which a negative instrument was drafted, but I am uncertain as to what happens now. Will the Government just lay another order that has been properly drafted and tell us about it?

**Annabelle Ewing:** I hope that the clerks can provide some clarity. My understanding is that an order was laid but it was ultra vires because, although the Scottish Government had indicated that there would be a benefit in allowing notification other than in writing in emergency circumstances, there was a failure in the drafting. That order therefore did not work.

The Government then came back with an amending order, but there is a mistake in it. It states that the notification should be in writing—which apparently raises a slight drafting concern because the order is deemed to be otiose, to use the clerk's word—albeit that the point of the exercise seemed to be to cover scenarios in which writing is not required because of emergency circumstances.

I am a bit puzzled as to where we go now. Presumably, the point of the exercise was to allow notification other than in writing in emergency circumstances, which would be a good thing for a pig farmer who was caught in the circumstances that the order covers. However, I am a wee bit unclear about where we are now with regard to the efficacy of the amending order and what we do next.

**The Convener:** The Subordinate Legislation Committee has drawn ministers' attention to the order in response to the points that have been made about drafting and intention. As there is no procedure, we can note the instruments, but it is entirely possible—as Dick Lyle suggested—for us

to write and say that we are concerned that loopholes are appearing and that we cannot understand why.

**Graeme Dey:** I share Dick Lyle's sentiments entirely, although I might have used more temperate language with regard to how we might get that concern across. Following on from Annabelle Ewing's point, how many attempts does one need to get it right? It is a good idea, whatever decision we take, for us to write and attempt to get that message across.

**The Convener:** Indeed, we should enclose the *Official Report* of this meeting to underline our concerns.

**Richard Lyle:** I have no problem in letting the legislation go forward; I just wanted to tease out the issue to see what a lawyer's perspective would be. I thank Annabelle Ewing for supporting my point and saying that she finds it outrageous too, and I take on board Graeme Dey's comments.

I am happy to let the orders go, but I request that we write to whoever drafts the legislation and tell them that we are on their case and that they had better get it right in future.

**Annabelle Ewing:** Is notification other than in writing in emergency circumstances now possible, given that there have been two failed attempts? The motivation behind the orders was good, but I am not sure whether it is now possible for farmers to notify other than in writing. Where are we on the substantive issue?

**The Convener:** We should include that question, too.

I had not thought that the Pigs (Records, Identification and Movement) (Scotland) Order 2011 would lead us to such a detailed discussion, but I am glad that members have studied their papers and recognised that we need clarity. We should include the questions about procedure and substance in our letter, along with a copy of the *Official Report* of this discussion. Are members agreed?

**Members indicated agreement.**

**The Convener:** Thank you. Do members agree to note the instruments?

**Members indicated agreement.**

**The Convener:** I remind members that the next meeting will be on 30 November, the agenda for which is currently being finalised. I thank members for their attendance and for a very useful discussion.

*Meeting closed at 12:15.*





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 e-mail them to [official.report@scottish.parliament.uk](mailto:official.report@scottish.parliament.uk) or send a marked-up printout to the Official Report, Room T2.20.

---

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

All documents are available on  
the Scottish Parliament website at:

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

For details of documents available to  
order in hard copy format, please contact:  
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

e-format first available  
ISBN 978-0-85758-992-7

Revised e-format available  
ISBN 978-1-4061-7870-8