



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 22 February 2012

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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	615
LONG LEASES (SCOTLAND) BILL: STAGE 1	616
SUBORDINATE LEGISLATION.....	630
Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2012 (SSI 2012/24).....	630

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
5th Meeting 2012, Session 4

CONVENER

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

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Graeme Dey (Angus South) (SNP)

*Jim Hume (South Scotland) (LD)

*John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)

*Richard Lyle (Central Scotland) (SNP)

*Margaret McDougall (West Scotland) (Lab)

*Aileen McLeod (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Richard Blake (Scottish Land and Estates Ltd)

Alan Cook (Scottish Property Federation)

Lionel Most (Law Society of Scotland)

Dale Strachan (Brodies LLP)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 2

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 22 February 2012

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Rob Gibson): Good morning and welcome to the fifth meeting in 2012 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. We also have a technical hitch that requires those who are bid to speak to press the large button on their console when they do and to press it again to turn the microphone off when they have finished speaking. We thank you for bearing that in mind and are sorry about the hitch. No apologies have been received this morning—the committee is all present and correct.

Agenda item 1 is a decision on taking business in private. We seek the agreement of the committee to take items 4 and 5 and the future consideration of a draft stage 1 report on the Agricultural Holdings (Amendment) (Scotland) Bill in private. Is that agreed?

Members indicated agreement.

Long Leases (Scotland) Bill: Stage 1

10:02

The Convener: Agenda item 2 is the Long Leases (Scotland) Bill. This is our second evidence session on the bill and we will hear from two panels. I welcome the first of those: Dale Strachan, a partner in Brodies LLP, and Lionel Most, a member of the conveyancing committee of the Law Society of Scotland. Good morning, gentlemen.

Lionel Most (Law Society of Scotland): Good morning.

Dale Strachan (Brodies LLP): Good morning.

The Convener: I invite committee members to ask questions.

Graeme Dey (Angus South) (SNP): Good morning, gentlemen. I wonder whether you can offer your legal opinion with regard to common good. Do you accept that there are likely to be—as the evidence from local authorities suggests—only four common good cases covered by the bill? I seek your opinion because we were told in evidence last week that neither the Government nor Registers of Scotland can substantiate that one way or the other.

Dale Strachan: I am not a specialist in common good but have encountered it on many occasions. Common good law is one of the most confused laws in Scotland and there is a very low level of awareness of it in the profession, never mind among local authorities. It is extremely difficult to interrogate, and I cannot answer your question any better than those who are better placed will have tried to do before.

There are well-publicised examples of subject matter in dispute, and it would take much greater research to give an honest answer to your question. Princes mall, which was formerly known as Waverley market, is a case in point. It would be unwise of me to reach any rapid conclusion on that. Much historical evidence will require to be carefully analysed. At the moment, evidence tends to point in the direction of it being common good; I will say no more than that.

Lionel Most: Could you clarify your question? Are you seeking to clarify whether there is a great deal of common good in Scotland?

Graeme Dey: No, my question is specific to the bill. The responses to the survey that the bill team carried out with local authorities suggest that the bill might cover only four cases in the whole of Scotland. I am simply looking for your opinion on whether that is an accurate number or whether

there could be more. Last week, we received evidence that there is no way for the Government to verify that.

Lionel Most: First, I will couch my answer by saying that the Law Society of Scotland's conveyancing committee does not give legal advice. From my 35 years of experience as a commercial property legal practitioner, I find that statement to be quite surprising. I would have thought that there are a lot more than four cases. I am not an expert or specialist in the common good, and I have not practised in every geographical area of Scotland, but I have come across three or four situations in which we thought that the land was common good.

Dale Strachan: I believed that your question was purely about land that is likely to be caught by the conversion. That is very hard. According to the only available textbook on common good, which I am sure that some of you are familiar with, one prominent city on the east coast of Scotland reported that it held no common good, which is less than believable.

The Convener: Are there any further questions on common good?

Jim Hume (South Scotland) (LD): In the Scottish Borders in particular, some common good land is contracted out to tenant farmers. From your experience and expertise, do you think that the bill will affect in any way tenants who are in such a situation in the Borders?

Dale Strachan: I do not think that either of us could claim to be an expert on common good, particularly in rural property. I should have explained that I am a commercial property lawyer and do not hold myself up as a specialist in rural or residential property. Beyond that which I have read in the papers that have been given to the committee already, I cannot add anything but, on the basis that landholdings evolved through burghs historically, it would not surprise me to find that quite extensive tracts of land are potentially common good but have never been investigated properly as such.

Lionel Most: If I understood the question properly, I would have thought that the bill will apply to common good in the same way as it will apply to any other tract of land. In the scenario that you propose, I expect that it will apply to the farmland in question.

Margaret McDougall (West Scotland) (Lab): Good morning, gentlemen. Perhaps I should establish with you that I am still a councillor for North Ayrshire Council.

You have both said that you do not have a great deal of expertise in common good. Council registers of common good land and assets are not

always up to date, so what will happen in relation to the bill if councils discover retrospectively that they have common good land?

Dale Strachan: It is worth clarifying that the registers of common good land that are held by public authorities are not conclusive about the common good that they hold. They are merely the administrative registers that they have maintained to date. Some may be haphazard, some may not be being maintained at present, while others may be being kept more assiduously. I do not think that the specific allocation for common good has been given high priority by some authorities, particularly after two batches of local government reorganisation, but the law remains the law until it is changed.

Margaret McDougall: What would happen if it was discovered retrospectively?

Dale Strachan: The common good would not have been recharacterised by neglect or misunderstanding. A mixture of legal and financial analysis would need to be carried out. Ultimately, what matters is that the common good account, whether that be assets or the cash equivalent, is restored.

Lionel Most: Dale Strachan makes a good point about land and the cash equivalent. I am not an expert on common good either—like Dale, I am a commercial property lawyer. I have been on the Law Society of Scotland's conveyancing committee for 20-odd years, and I have been in private practice, dealing with land—I first did residential work, then commercial work and have done some rural work—over the past 35 years. That is my background.

My understanding is that the common good fund can apply to both land and non-land. I am not an expert, but I would have thought from first principles that if the bill applies to common good land, the idea that compensation would go into the common good fund is perfectly consistent with it. Given the way in which the compensation provisions are drafted in the bill, I would not have thought that, just because land happens to be in the common good fund, that is inconsistent with putting the proceeds of that land into the fund.

The Convener: Thank you, gentlemen. We will address this point with other witnesses in due course, but your help on the common good background is useful.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I remind members of my entry in the register of members' interests. I used to be an employee of Brodies before I was elected—I like to think that I am now a reformed character.

I want to focus on Brodies' written evidence, particularly its concern that commercial leases could be caught by the bill because their annual rent is less than £100 per annum and any variable element in relation to a share of turnover or rents is not taken into account. Has the revised version of the bill helped address your concerns?

Dale Strachan: Thank you for allowing me to talk about this. I prepared a written note in advance of this meeting, highlighting my belief that the evidence given to the Justice Committee addressed the mischief, as I perceived it. By commercial leases, we mean leases on commercial terms. I would make a distinction and say that a lease on commercial terms is one for more than £100 annual rent.

My concerns, which are included in the note, have been partially addressed. My specific concern about the bill is that section 2(5) has not been disapplied from any other section. Therefore, under the remedial sections—sections 64 and 69—you are still required to disregard the variable element of rent. Although the explanatory notes clarify what the law is intended to be, that is not yet reflected in the bill. However, as I have identified, simple amendments could make it conform.

John Lamont: Your note is helpful. To clarify and for absolute certainty, you want the information from the explanatory notes to be included in the bill.

10:15

Dale Strachan: I believe that the bill requires clarification, through minor drafting changes, to give effect to the provision such that variable rents may be taken into account when assessing for the purposes of sections 64 or 69.

Annabelle Ewing (Mid Scotland and Fife) (SNP): Good morning, gentlemen. I, too, wish to record for the committee's benefit that I have an interest as I am a current member of the Law Society of Scotland.

I will ask about the position on standard securities. Concern has been expressed, at least in one submission, from Morton Fraser, that the bill contains an ambiguity as it is not absolutely crystal clear whether standard securities, to the extent relevant, would be preserved on conversion. Can you comment on that concern?

Lionel Most: My understanding of the law as it stands is that where there is an absorption, as the keeper calls it, the standard security continues; it continues to be attached to the interest that acquires the old interest. I do not see that the bill has changed that position. If it is felt that there is a need to clarify the position, so as to maintain the

status quo, the Law Society would not have an objection to that.

Dale Strachan: I, too, observed the ambiguity, but I did not make representations on it. I believed that others had.

I believe that the bill could be clarified quite simply to make clear the intent. I do not believe that the intent is clear now. Curiously, as I read the bill, it is not the qualifying lease that becomes converted land that is extinguished but merely the rights and obligations that flow from it. That may be deliberate. A standard security over a lease that is converted is therefore still there, but it has little purposive effect. If the intent is that the standard security migrates up the chain to cover the converted land, I believe that amplified wording in the bill would be desirable.

Annabelle Ewing: At the committee's evidence session with the bill team last week, they said that they felt that it was clear that the standard security would be preserved by section 6(2), but your comments will be helpful when the committee decides what it needs to highlight in its draft report.

I have one other technical question, which is on a concern that the Faculty of Advocates raises in its written submission about the prescription of time limits. The faculty felt that it would be much more helpful to have those prescribed in the bill rather than leaving them to be implemented by the Scottish Government in subsequent measures. It would be helpful to have your comments on the concerns that the faculty raises.

Lionel Most: The Law Society's view is generally that legislation should be as explicit as possible, so if it is possible to have something in the bill rather than in delegated legislation, we would prefer it to be in the bill. That is the stated position of the Law Society's conveyancing committee—or property committee as it is now called.

Dale Strachan: I did not have a view, but I see no reason not to adhere to Lionel Most's view.

John Lamont: Dundas and Wilson raised concerns about whether a lease for which the annual rent was less than £100 per annum when the lease was originally granted, but the rent was subsequently varied to be greater than £100, would qualify for automatic exemption under section 1(4)(a). Do you have an opinion about that?

Lionel Most: This is my personal view as a practitioner, but I would have thought that, where the bill says,

"the annual rent payable under the lease is over £100",

it must be referring to the appointed day. If the committee feels that there is a need for clarification, it could add that, but it is implied.

Dale Strachan: I refer you to section 2(2), which does not assist that conclusion because it says:

“the rent payable under a lease is the rent as set out in the lease (or as the case may be the assignation of the lease).”

The practice is that, when rents change with time, they are recorded neither in the lease nor in an assignation but in a separate memorandum. If you confine yourself to the documentation that may be referred to, you do a disservice to the legislation. A better expression is “the rent payable under the lease” because it can be assessed in whatever way is open.

John Lamont: So, although the bill talks about the lease and the assignation as the vehicles by which the lease or the rent may be varied, we should interpret that as referring to any document that has validly or legally varied the lease. Dundas and Wilson also had concerns about the fact that there are other mechanisms—more than simply an assignation or the original lease—by which a lease or rent could be varied. Is your view that we should not interpret the provision in the bill literally?

Dale Strachan: I support the view of Dundas and Wilson that, although the mechanisms for identifying the rent at review may be contained in a lease or an assignation, the evidence by which a rent may be assessed or recorded is unlikely to be recorded in those documents. It is likely to be recorded in separate documents—if, indeed, it is documented at all. There are occasions when the rent is simply agreed and paid. That may not be best practice, but it happens.

Lionel Most: Mr Strachan made a good point when he said that, for the purposes of section 2(2), the rent payable under the lease is the rent payable under the lease. That makes it clear that that is the rent, howsoever it may have been agreed. As he pointed out, it may have been agreed in a separate memorandum. It may also have been agreed in an assignation, although that is less likely in my experience. It may also still be the rent that is payable under the original lease or there may be some other kind of documentation or agreement that documents the rent.

Aileen McLeod (South Scotland) (SNP): My question revolves around a different issue: the bill’s compliance with the European convention on human rights. That matter is raised in the submission from the Scottish Law Agents Society, which has some concerns about it. The society considers that, because the bill involves varying the property rights of landlords, it could engage

article 1 of protocol 1 of the ECHR. The SLAS was keen for the committee to consider that point.

We took evidence from the Scottish Government’s bill team on 8 February. The officials underlined the extent to which they had considered the ECHR implications and seemed to be content that there was no issue with compliance.

Would the witnesses like to add any comments on that?

Lionel Most: We had the same discussion in relation to the Abolition of Feudal Tenure (Scotland) Act 2000 and in relation to the variation of title conditions under the Tenements (Scotland) Act 2004. I do not consider the position with the bill to be any different. Nothing in it is materially different from the processes that took place for the previous legislation.

Dale Strachan: I am sorry, but I do not feel qualified to answer that question.

The Convener: I thank you both. I see that members have no further questions.

Gentlemen, would you like to make any general comments or points that we may have missed that are germane to the development of our discussion on the bill?

Lionel Most: My colleague from the Law Society property committee John Scott sent in a written submission previously on the definition of pipes and drains, on substations and public facilities and on the ultimate right to go to the Lands Tribunal for Scotland. We would be grateful if the committee would consider Mr Scott’s points.

Dale Strachan: I have two comments, convener, since you ask.

First, where the bill provides for an amount of compensation to be agreed between the parties or, failing that, to be determined on application by the Lands Tribunal, I have concerns that the tribunal is given no guidance about the basis on which it is to assess the compensation payable. The Lands Tribunal may have members who are qualified in property valuation, but I am unaware at present of what guidance it would seek from this legislation. It is a key feature of the legislation—and possibly also of ECHR compliance—that appropriate compensation is paid.

Secondly, I was slightly concerned to read in recent evidence to the committee that Registers of Scotland does not intend to update the registers. It is a key feature of Scottish property law that the registers may be relied on for accuracy and correctness in relation to all matters disclosed. Although I may be straying from the agenda here, I urge the committee to look again at a system

whereby those registers would not record the true position.

The Convener: Thank you very much for those comments. We will have an opportunity to ask further witnesses and the minister about those issues.

Annabelle Ewing: On Mr Strachan's last point about registration, what does he advocate should be included in the bill to deal with that concern?

Dale Strachan: I may regret having raised that point. If it is a matter of budgetary restraint, it would be unfortunate if that was to be the guiding principle for reform. The bill involves quite a serious reform of land law; we are talking about cutting a very long story short with regard to very long leases.

I would have thought that Registers of Scotland would wish its registers to reflect an accurate position. This legislation was not invited by Registers of Scotland or by those who hold the interests. It seems that either matters could be rectified on the keeper's own initiative over time and with appropriate budgeting, or there could be a mechanism whereby the registers could be corrected on application for a fee. Forgive me—I have not examined the issue in detail; I was not anticipating that question.

Annabelle Ewing: Thank you. That is an important point. Is it your understanding—I am asking both of you gentlemen—from your practical experience over the years that a considerable amount of land will be affected by the bill with regard to the consequential issue of whether the registers show the true picture?

10:30

Lionel Most: I do not think that a material amount of land will be involved. From our point of view, there are other pieces of legislation that can transmit land from one party to another in Scotland—for example, in relation to compulsory purchase and so on. There is a precedent in those pieces of legislation, and the bill can provide for an obligation to register or an obligation on the keeper on application to register. The registers are not always up to date. For example, the keeper does not know when someone dies—it is up to the beneficiary to register a notice of title or whatever. There is a precedent for being able to update the register in that respect. It may be appropriate to have something in the bill—I have not checked; there may already be something there—to allow the registers to be updated at the request of the tenant who acquires the land or, indeed, the heritable creditor in the case of a standard security.

Dale Strachan: The registers are public registers of land and are held in high esteem on account of their accuracy. It would be unfortunate to compromise that by leaving unfinished business in this matter.

The Convener: It would be interesting to see the map-based register cover all the land of Scotland. There are far greater tracts that have never been registered except in the register of sasines, which may well be the bodies of land that have the long leases on them. Perhaps the transfer of long leases under the bill might be a means to getting further registration.

Graeme Dey: On the subject of registration, would you gentlemen consider it wise to pursue the creation of a detailed register of common good assets throughout the country?

Lionel Most: That might be difficult, given that we are not even sure what common good is. That would need to be looked into further. It has been apparent from this discussion that there is concern about common good generally, which may be the subject of a whole discussion in itself. Perhaps this is not the forum to discuss that issue.

Dale Strachan: It seems to me that common good has been an issue for a few hundred years and is a matter that is not going to resolve itself. If it were to receive the attentions of the Parliament, that may be a favour to all concerned with it.

The Convener: Thank you for those remarks, which we will take on board in the context of the bill and beyond. Our report will reflect the evidence that we have heard. Thank you both for your contributions, which have been most helpful. The subject is a vexed area, given that it involves common good and many other things, but we hope that the bill will simplify the law in due course.

10:33

Meeting suspended.

10:35

On resuming—

The Convener: We recommence with our second panel. I welcome Richard Blake, legal adviser to Scottish Land and Estates Ltd, and Alan Cook, the chair of the commercial committee of the Scottish Property Federation. Good morning.

Members have an opportunity to question the witnesses. I invite those who wish to do so to indicate their desire to me.

Annabelle Ewing: Good morning, gentlemen, and thank you for coming along.

We have just taken evidence from representatives of Brodies and the Law Society of Scotland. I asked a few technical questions that reflected concerns that have been raised within the legal profession. I appreciate that it may not be within your bailiwick to comment, but you may wish to do so nevertheless. There is concern about whether the language of the bill is clear and unambiguous with respect to the need to preserve the continuity of any relevant standard security on conversion. Do you have any comments to make about that?

Alan Cook (Scottish Property Federation): Good morning.

I have just a brief comment. As I understand it, section 6(2) of the bill is intended to preserve the standard security interest over the leasehold interest so that it will continue to exist as a standard security interest over the converted ownership interest. I guess that you have to understand the language of that subsection to know that that is its purpose, as it does not use the phrase "standard security". The very fact that we are having a discussion about how solidly the bill picks up the standard securities point suggests that it could be strengthened by making it clear, for the avoidance of any doubt, that that point is covered by section 6(2).

Richard Blake (Scottish Land and Estates Ltd): I have no comment, other than to say that I agree with the comments that were made in the previous evidence session. I have no particular experience of the matter.

The Convener: Do members have further questions on that or any other point?

Graeme Dey: I have a brief question, which, again, you may feel unable to answer. From your experience, do you believe the evidence from local authorities that suggests that, across the whole of Scotland, the number of common good cases that the bill will cover might be in single figures?

Richard Blake: I have limited experience in common good land. Before we sat down, I explained to Alan Cook that I practised as a solicitor in Perth before I took up my current position. Perth has quite a lot of common good land that comes from the time of King James VI, for which the records are reasonably good. As it happened, that land included the salmon fishings on the River Tay. I was involved in acting for a trust that wanted to buy out the netting rights. We took a long lease but, from memory, it was for only 99 years. I think that we did that simply for convenience.

I have no experience to tell me whether more than four cases will be covered by the bill but, given that much of this is lost in the mists of time, I suspect that four seems a very small number.

Alan Cook: I agree that four seems a very small number. At the same time, I doubt that the actual number is terribly big. We are not talking about the extent of common good land in Scotland; we are talking about the extent of common good land in Scotland that is held under a lease of more than 175 years and where the rent is at the relevant level. If we think about the issue in that context, it seems that we are talking about quite a small subset, even of common good land.

John Lamont: I put this question to the previous panel. Concerns have been expressed about leases where the annual rent is less than £100 but there are commercial terms in so far as there is a variable aspect. Can the revised bill and guidance notes address those concerns? Do you have anything to add to what the previous witnesses said?

Richard Blake: I have nothing to add. We rarely get involved in commercial property leases. From our point of view, the bill reflects the concern that we expressed in evidence when the session 3 bill was being considered in detail. We are comfortable with the provisions, but I have no experience on the commercial nature of leases.

Alan Cook: The SPF endorses the comments that Brodies made, and I am aware of the point that Dundas and Wilson made about section 2. There is an opportunity, as the bill goes through the Parliament, to ensure that everyone is comfortable with the language that is used in the legislation that is enacted, so it would be useful if the points that have been made were picked up.

Aileen McLeod: I, too, want to ask a question that I put to the previous panel. Are you concerned about the bill's compliance with ECHR?

Alan Cook: I profess no particular expertise in ECHR compliance with regard to legislation. I tend to agree with what Lionel Most said on behalf of the Law Society. There does not seem to be anything in the bill that is particularly different from what has been in previous legislation, which has not given rise to sustained concern about ECHR compliance.

Richard Blake: From the rural property angle, we have no particular concerns, because compensation is dealt with, as is the right to preserve the rights to game or fishing, if there are such. I think that I said in evidence on the session 3 bill that the issue was not hugely significant. The ability to convert important lease conditions, whatever they are, into servitudes of some sort covers most of the bases for rural property owners.

I am not an expert in ECHR, but I think that the committee knows that we would be jumping up and down if we thought that there was an ECHR

issue for rural landowners. I do not think that there is a particular issue.

The Convener: I could not have put it better myself.

John Lamont: I think that Mr Strachan, from Brodies, expressed concern about the lack of guidance on how compensation will be worked out. Do the witnesses share his concern?

Richard Blake: Clarity is the best way forward, and guidance, if it can be given, certainly makes it easier for the professions to get to grips with the situation at an early stage.

Alan Cook: The SPF agrees.

Annabelle Ewing: Mr Strachan also expressed concern about registration potentially not being taken up to the full, through the bill being used to facilitate that, such that the land register will not show the true picture of landholding in Scotland.

For various reasons, that issue is of interest to many committee members. The committee will have to reflect on whether to suggest that the registration provisions be strengthened, and I wonder whether either of our witnesses will comment on the desire to make the land register of Scotland reflect landholdings of whatever kind relevant to registration. The committee might be well disposed to considering such a proposal as it reflects on the bill.

10:45

Richard Blake: That is a very valid point. I recently gave evidence on the Land Registration (Scotland) Bill; indeed, I believe that the committee scrutinising it is just about to consider its stage 1 report. That bill contains a lot of detail on completing the register and under one particular section—which I might well have flagged up to this committee during its consideration of the Agricultural Holdings (Amendment) (Scotland) Bill—any paperwork to do with a registered lease must be put on the land register. I do not think that that sits comfortably with your point about a possible lack of facility to register converted leases. If Government policy is to try to ensure that land registration covers the whole of Scotland, which is something that we support, this would seem to be a very good opportunity to catch some land that might otherwise stay under the same ownership for a long enough time before it triggered first registration. I certainly think that the committee should consider the move that has been suggested.

Alan Cook: I forget where it was, but I saw in the papers for this meeting that the Registers of Scotland was changing its view on whether it would proactively update the register. I might be

surmising unfairly, but such a move seems to be budget driven.

There are examples in which, as a result of other legislation, the registers do not reflect the exact legal position. Although the Abolition of Feudal Tenure etc (Scotland) Act 2000 abolished feudal interests and superiorities, the registers still contain references to title conditions that refer to superiors and lawyers have to use the legislation to determine the extent to which those title conditions remain relevant. The fact is that the register is not an accurate reflection of existing title conditions.

However, despite those precedents for mismatches between the register and legal reality, the SPF supports the general policy objective of completing the land register. If the Long Leases (Scotland) Bill presents another opportunity to take a step towards that and if the objective can be met—indeed, it seems that that is the case, given that the Registers of Scotland was ready to undertake a process in relation to it—we will support it. However, policy on how the Registers of Scotland should approach these matters should be driven by the Government.

Richard Blake: Speaking as a lawyer, I can perhaps clarify Alan Cook's point. What the committee is driving at here is to get the land registered rather than to ensure that title conditions on the register are 100 per cent up to date following changes in legislation. I think that there is a fundamental difference in that respect.

Claudia Beamish (South Scotland) (Lab): I simply seek some clarification and assurance that neither witness has any concerns about section 8, which relates to sporting rights.

Richard Blake: My understanding is that section 8 is pretty consistent with provisions in the preceding Abolition of Feudal Tenure etc (Scotland) Act 2000 and, in so far as that is the case, it will be very helpful. As I might have mentioned earlier—and as I certainly mentioned when I gave evidence on the session 3 Long Leases (Scotland) Bill—I do not think that it will be a huge issue. In my practising career, I have not come across any examples of long leases in which sporting rights have been reserved.

Alan Cook: The SPF has no view on the issue.

Margaret McDougall: This question is for my own personal information. I hate to raise again the subject of common good land, but does the land register cover such land or is there a separate register for that?

Richard Blake: In view of the previous panel's discussion of whether there would be any benefit in considering a register of common good, I rather assume that there is no public register of common

good land at the moment. However, I believe that the local authorities are meant to have a register of such land.

The Convener: Members have no further questions. If the witnesses think that we have missed anything about the bill, we will be glad to hear their comments just now.

As neither Mr Cook nor Mr Blake has any further comment to make, I thank them for their evidence. We are proceeding at a good pace and I believe that sufficient comments have been made to extend our consideration of the bill and deal with the next group of witnesses.

I suspend the meeting briefly to allow the witnesses to leave.

10:51

Meeting suspended.

10:52

On resuming—

Subordinate Legislation

Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2012 (SSI 2012/24)

The Convener: Agenda item 3 is consideration of a negative instrument. No motions to annul have been lodged on these regulations and I refer the committee to the briefing paper. If members have no comments or questions, does the committee agree that it wishes to make no recommendations on the instrument?

Members *indicated agreement.*

The Convener: I thank those members of the public who attended the meeting earlier on. We now move into private session.

10:53

Meeting continued in private until 12:01.

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