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Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 7 March 2012

Session 4

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
7th 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)
Dennis Robertson (Aberdeenshire West) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Nigel Don (Angus North and Mearns) (SNP) (Committee Substitute)
Alex Fergusson (Galloway and West Dumfries) (Con) (Committee Substitute)
Annalee Murphy (Scottish Government)
Martin Nesbit (Department for Environment, Food and Rural Affairs)
Jim Paice MP (Minister of State for Agriculture and Food)
Stewart Stevenson (Minister for Environment and Climate Change)
Simon Stockwell (Scottish Government)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 2

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 7 March 2012

[The Convener *opened the meeting at 10:02*]

Decision on Taking Business in Private

The Convener (Rob Gibson): Good morning, and welcome to the seventh 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 have apologies from John Lamont, for whom Alex Fergusson is substituting—I welcome him—and from Dennis Robertson, who called off sick very recently. We wish them both well.

Agenda item 1 is a decision on taking business in private. I seek the committee's agreement to take in private future consideration of the draft stage 1 report on the Long Leases (Scotland) Bill and future evidence that is heard on the common agricultural policy. Is that agreed?

Members *indicated agreement.*

Long Leases (Scotland) Bill: Stage 1

10:03

The Convener: Agenda item 2 is our last evidence session on the Long Leases (Scotland) Bill. I welcome the Minister for Environment and Climate Change, Stewart Stevenson, and his team of officials to the meeting. Good morning, Mr Stevenson. Could you introduce your cohort?

The Minister for Environment and Climate Change (Stewart Stevenson): Yes. I have with me Simon Stockwell and Annalee Murphy. The bill is essentially quite a technical one, so I have the necessary technical support, particularly if Richard Lyle is feeling frisky again.

The Convener: Everyone will be aware that time is tight and that we must cover a range of subjects, so I would like short questions and answers. I invite the minister to make briefly any points that he thinks it necessary to make before we ask questions.

Stewart Stevenson: I will be a master of brevity, if I can.

The bill will convert ultra-long leases to ownership. There are complexities, but at its heart the bill is straightforward and it implements a report by the Scottish Law Commission.

The key proposals in the bill include the conversion of ultra-long leases—that is, leases of more than 175 years and with more than 100 years left to run—to ownership; provision for compensatory and additional payments to landlords; allowing some leasehold conditions to become real burdens in the title deeds; allowing landlords to preserve sporting rights in relation to game and fishing; and allowing tenants to opt out of converting to ownership if they want to do so.

I have followed the evidence that the committee has heard in previous meetings and I look forward to trying to answer your questions.

The Convener: Thank you. We will start with the number of ultra-long leases on common good land.

Alex Fergusson (Galloway and West Dumfries) (Con): Minister, as you heard, I am substituting for a colleague this morning so, given that the bill deals with a very technical issue, I am at a huge disadvantage.

However, when I read the committee papers I picked up the variation in accuracy of the information that has been brought to the committee, which concerned me. It appears that there are recognised difficulties in the identification

of common good land, largely because of the complexity of the legal situation in that regard. Some stakeholders, including the Law Society of Scotland, think that the number of ultra-long leases that have been brought to our attention is somewhat lower than they would have expected it to be, which also calls into question the accuracy of the information that we have been given.

Will you comment on the inconsistency of the information that has been brought to this committee and its predecessor? How can we have faith that, if the bill is passed, the legislation will be robust?

Stewart Stevenson: The bill is blind to the matter of common good. In other words, the ownership of the land is not considered at all in the bill. Uncertainty has emerged about the categorisation of leases as common good, but, for the bill's purposes, that is of no consequence. The real issue is whether all the relevant leases are identifiable, whether or not they relate to common good land. In that respect, there is quite good information.

The bill has certainly thrown up a wider issue about how accurate information about common good is in the generality and not just in the context of leases. In many ways, that is a matter for another day. Ultimately it is a matter for councils rather than the Government—it is a creature of councils.

Alex Fergusson: Are you saying that, even if the information that councils are providing is inconsistent, that will not unduly affect the robustness of the legislation?

Stewart Stevenson: Yes. I have observed what the committee has been doing, and the inconsistencies appear to relate to how easy or difficult it is for councils to ascertain whether land is in the common good.

In relation to common good generally, it has emerged that it is often only when a council is considering disposal or change of use of a bit of land that it is discovered that the land is covered by common good provisions. On my journey to the Parliament today I happened to travel with someone who has extensive knowledge of the subject and who, informally, gave me practical examples from his professional experience of unexpectedly finding that land was not common good and was covered by other provisions or discovering that land was common good, when it came to disposal or a change of use.

The issue is simply part and parcel of managing councils' assets—common good and otherwise—and does not touch directly on the bill. I am not saying that the bill will not bring into focus issues to do with the common good, but in itself it is not concerned with the matter.

Annabelle Ewing (Mid Scotland and Fife) (SNP): Minister, if you have had time to review *Official Reports* of the committee's meetings during past weeks, you will have seen that there has been debate about the status of the Waverley market as common good land, with differing views put forward. The City of Edinburgh Council currently takes the view that the land is not common good; others take the view that it probably is common good. Will you talk about your understanding of the position?

Stewart Stevenson: I do not think that I would add anything to the discussion by commenting on the matter, because whether the Waverley market site is common good land does not touch on the bill. I have followed the committee's discussions with interest. In particular, I read the council officials' statement that they believed that the issue was covered by acts of council in 1937 and 1938, when the market was transferred to another location. However, I am not a lawyer and I will not express a view on the validity of what, essentially, are legal arguments.

Annabelle Ewing: Thank you.

To maintain the flow of questions, I would prefer to come back to wider issues concerning the Waverley market in a wee while.

The Convener: Given that this has a bearing on future questions, do you have a view on the suggestion that whether land has common good status—on which the bill is neutral—does not necessarily rest on the use to which it is put?

Stewart Stevenson: That opens up an interesting legal debate. There appears to be a view that, if land is held in the common good, it must be used for a community purpose or deliver a community benefit. A case that springs to mind involved Fife Council having a 1,000-year lease for roof space. The council could not work out what the benefit of that was but ultimately decided that it was not a common good anyway, so it did not have to bother.

It is often the case that when councils look at individual assets that they own, whether common good or otherwise, they discover that the passage of time has made it difficult to work out the answers to some of the questions that they might want answers to and to establish whether a public benefit has been derived from them. That just reflects the fact that hundreds of years of history are often involved in property in Scotland.

Graeme Dey (Angus South) (SNP): Good morning, minister.

To get to the nub of the issue, does a case exist for excluding common good ultra-long leases from the terms of the bill, given the nature of some of the examples that have come to light? I am

thinking of the likes of Balloch country park and the case in Aberdeenshire involving pieces of land that are in community use.

Stewart Stevenson: Yes, but the point is that what we are looking at is the use by and the availability of an asset—in this case, land—for the community. As I said in my opening remarks, the bill is about converting leasehold conditions to real burdens, so the test is not whether an asset is a common good; the test is whether the asset and its availability for public good would be affected by what is in the bill. Under the bill, I do not believe that that test would be failed. That is the important question.

The issue of how ownership is accounted for and whether an item is accounted for as a common good in council bookkeeping is a separate issue. In many councils, an asset may not necessarily be a common good for the whole council area. Councils have a variety of common good funds that are associated with historical communities that go back a long way, so they have made a variety of decisions about how to do things.

Graeme Dey: To be clear, you would not be minded to exclude common good land from the terms of the bill.

Stewart Stevenson: I have asked, and I cannot see any systematic way that we could make an exception that would not except everything, if you see what I mean. In other words, the fact that something is common good does not touch on the question of what the structure of ownership or leaseholdship should be. It is just an accounting entry on one page of a council's books or an accounting entry on a different page of the council's books.

10:15

The Convener: Is the question about compensation sufficient to address the loss of a landlord's rights when an ultra-long lease is of common good land?

Stewart Stevenson: If I may say so, that is the important question that covers the whole issue of whether the land is common good or not. We have the provisions for the conversion of the lease payments into a one-off payment. Given that we are talking about leases of no more than £100 per annum, the finance that is associated with that is comparatively modest. Section 51 of the bill discusses extinguished rights and also provides ways in which rights that are extinguished by the conversion from a lease to ownership can be agreed by the Lands Tribunal for Scotland and otherwise. Section 51 seeks to address the issues of loss of rights and financial compensation.

The Convener: Indeed, but it could be argued that a public interest is associated with the council retaining the rights to that land in cases such as the ones that we have been discussing.

Stewart Stevenson: The public interest will be exercised in different ways. One of the arguments about the Waverley market is that it is in a world heritage site and we could not allow things to be built that would destroy the skyline there, but that is precisely why we have a planning system, over which the City of Edinburgh Council has control. I just use that as an example, picking up on something that was said in evidence in relation to one specific property.

The process of converting from a lease to ownership is, in part, about converting the conditions that are associated with the lease into real burdens. That is difficult to do in some circumstances. Harbours were excluded—that was done before I came to the bill—because there are some specifics relating to harbours that would have made it impossible to convert conditions into real burdens, given the way in which real burdens work.

The Convener: Thank you. We will come back to the subject of the Waverley market in a while. We move on to talk about exemptions from ultra-long leases in which a grassum is paid.

Jim Hume (South Scotland) (LD): Good morning, minister.

Sometimes people will pay a grassum up front. I am sorry to use Edinburgh's Waverley market as an example again, but there are many other examples. The council received a £6.25 million grassum in 1989 and the rent is less than £100 per annum. Has the minister considered taking grassums into account? For example, if a 200-year lease costs £6 million, we divide the £6 million by the 200 years so that the grassum can be taken into account rather than just taking the annual rent into account.

Stewart Stevenson: Yes, but grassum is not a substitute for rent. I will read out the definition of grassum:

"A single payment made in addition to a periodic payment such as rent".

In other words, it is not a substitute for a periodic payment. A grassum can also mean

"any payment made to a landlord by a person wanting to obtain a tenancy."

A grassum is therefore not to be interoperated with the rent; it is a different issue and not a substitute for rent. To take a grassum and then, post hoc, apply it over the period of the lease to, in effect, take the payment above the £100 per annum limit is to misapply what a grassum is.

Jim Hume: Do you expect legal challenges if we go ahead with only the existing exemption?

Stewart Stevenson: Everything that we in the Parliament do is capable of being challenged legally.

The Convener: The Society of Local Authority Lawyers and Administrators in Scotland has suggested that an alternative approach would be to exempt from the bill all ultra-long leases on common good land. Do you have a view on the policy merits of such an exemption?

Stewart Stevenson: I really have no idea what benefit such an exemption would deliver. Given the uncertainty to which Mr Fergusson referred—nine leases appear to be affected, and the number might be more—the cost of establishing where the leases were and ensuring that they were exempted would be likely to be disproportionate to any benefit that was delivered.

I will give one example—I do not remember whether it is in the public domain or was simply in a briefing that I received. Someone was at a loose end, so they were sent to try to find out about a single site. After two days of continuous, unremitting toil on a relatively minor matter, they were left with more ambiguity than they started with. When people have to go back to minute books that are 150 years old, and when decisions that might affect just one piece of land have not been systematically indexed, a substantial effort is involved.

The question is why an asset is held for common good—whether as "Common Good" with initial capital letters or for common good—and whether the council concerned would be disadvantaged if the ownership changed. The argument is that, by converting the conditions in the lease to real burdens, we protect the interests of the people who seek to benefit from the asset, through access or other means.

Annabelle Ewing: I have listened carefully to what the minister has said. I will put to him a point that was made by Bill Miller, who spoke on the City of Edinburgh Council's behalf at our meeting last week. We are back to discussing the Waverley market or Princes mall, as we expected that we might be. He said:

"By retaining ownership of the whole site, the council can maintain any conditions it wishes, either through a lease or ownership, but if it loses sight of both the lease and the ownership it loses control over the future use of the site.

Future Parliaments might decide to do away with the"

City of Edinburgh District Council Order Confirmation Act 1991

"and planning legislation might change ... However, while the council remains the owner—or as a landlord—it is in control of the site, no matter what the planners or an act of Parliament say."—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 29 February 2012; c 668-9.]

That encapsulates the council's argument for a particular treatment of the site. Would the minister care to comment on that proposal?

Stewart Stevenson: The essence of what you just said is that Parliament might change the laws in the future. That might happen anyway. Independent of whether we pass the bill, the Parliament might change the laws in a way that adversely affected the City of Edinburgh Council's interests. That would be a matter for whatever change in the law was concerned.

It is interesting that the council does not appear to have identified any specific change over which it feels that it would lose control. It is the planning authority so, within the planning system, it has the ability to control the appearance and development of the Waverley market and all other properties on Princes Street, which are equally important to world heritage status and most of which the council does not own or lease out. The distinction between the council's ability to influence what happens to the Waverley market and its ability to do that in relation to every other building on Princes Street is unclear. That boils down to saying that I wait for the examples.

Annabelle Ewing: I was going to go on to the City of Edinburgh Council's argument, which it appears developed as late as last week, on the world heritage site, but you have anticipated my supplementary question and answered it.

My last question on the subject is about additional payments under sections 50 to 52. There was a debate at last week's meeting about whether those provisions could apply in this scenario. Can you provide any clarification on that point?

Stewart Stevenson: We provide for the prospect of additional payments precisely because each case will need to be looked at in its own right. It is not for me to speculate on what the Lands Tribunal might conclude. The relevant bit of section 52 states that the value is the value

"which the right could reasonably be expected to obtain if sold on the open market by a willing seller to a willing buyer."

In considering the matter under section 55, I suspect that the Lands Tribunal would consider matters such as grassum, which is an exchange of value. I imagine that the Lands Tribunal would wish to look at timing. In other words, if the grassum that was paid in the past is discounted with an appropriate rate of interest to the point at which the decision is being made, would that grassum adequately reflect the value, scaled up because the council has had it for many years?

The Lands Tribunal would also perhaps wish to consider what the value might look like at the end of the lease. It would, of course, be very little because the leaseholder would, in the normal course of events, cease to have an interest in the site. The Lands Tribunal and the lawyers for the respective parties would wish to consider a number of significant issues. It is not for me to speculate about what the decision would be. I think that it would not be possible to put in a more specific general provision, because I suspect that every case will have individual features.

The best approach is for a body such as the Lands Tribunal, which is used to dealing with debates about value, to be part of the process for dealing with such issues. Section 54 deals with situations when additional amounts are mutually agreed and section 55 deals with cases when there is a reference to the Lands Tribunal. The bill has all the provisions necessary to cover loss of value when there is transfer of ownership from the current owner to the leaseholder.

Claudia Beamish (South Scotland) (Lab): Good morning, minister. I will pursue the matter further. Brodies LLP and others have stated that it is unsatisfactory that the bill gives no guidance to the Lands Tribunal on how to calculate compensation when the matter is in dispute. Could you comment on that?

Stewart Stevenson: A formula in section 47 refers to

"2.5 per cent Consolidated Stock".

That gives a way by which the discounting can be done. It is important that we do not give advice to the Lands Tribunal that would be confusing rather than helpful. Such a debate comes up regularly during the consideration of bills. For example, I recall that, during consideration of the Land Reform (Scotland) Bill, there was a debate about curtilage—in other words, what represents the land round a domestic dwelling that is there for the privacy and enjoyment of the owner of the building and is therefore not covered by land access. The Parliament debated that, and found that the only satisfactory way of dealing with it was to allow the courts to look at cases on the facts before them.

In the same way, it is not possible for us to know what is in every lease. We have not seen the leases, and we have to delegate to the Lands Tribunal the task of looking at the details of individual leases, and at how grassums and other payments, and the balance of income should be accounted for. I very much doubt that one could come up with comprehensive guidance, and such guidance would anyway be likely to make the tribunal's job substantially more difficult and would perhaps conflict with case law. The professionals in the Lands Tribunal are well used to this kind of activity, and I suspect that we are better to let them get on with it, without providing more guidance than on the formula for compensation—as outlined in step 4 of the calculation process in section 47 of the bill.

10:30

Claudia Beamish: As a non-lawyer, like you minister, may I ask why it might be that Brodies has concerns about this section?

Stewart Stevenson: We will let my lawyer answer that.

Annalee Murphy (Scottish Government): I could not guess why Brodies had a particular concern, but it might be something to do with its advising clients fully on the consequences that the bill will have for their property rights. As the minister has highlighted, section 47 provides a formula for calculating the compensation payment, and section 50(2) contains further guidance for the Lands Tribunal, on how to calculate the additional payment. We have received a response from the tribunal that indicates that it does not seek any further guidance. As the minister pointed out, no guidance could possibly cover all the circumstances of a case and might well hinder rather than help the tribunal in its determination.

Simon Stockwell (Scottish Government): For the Lands Tribunal, much of this will probably follow on from work that it did when feudal tenure was abolished. The bill closely follows the model that we used at that time, and the tribunal will be able to use that experience here.

Margaret McDougall (West Scotland) (Lab): Given local authorities' mixed track record in relation to their common good responsibilities, why has the Government opted for non-statutory guidance for them on compensation received for ultra-long leases of common good land?

Stewart Stevenson: It comes back to diversity: the common good goes back a long way, and its roots are extremely diverse. To be blunt, we would probably need to issue 32 sets of guidance, so it is better that councils consider what makes sense for them. Of course, councils are governed by the need for accountability. They need to ensure that they can show what has happened to common good assets and that they have not transferred assets without proper cause or compensation. They must be able to demonstrate that they are delivering good value in the management of common good assets. I know that that is often a matter of debate—as it happens, the costs of administration of the common good are a matter of some debate in the council in my constituency. I take no view on the matter.

Because common good covers such an enormous range of options and because of the different legal heritage of many items in the common good, it would be nigh on impossible for us to provide statutory guidance that tied councils' hands. It is better to have non-statutory guidance, which lays down principles and allows councils to work out their own salvation according to local circumstances.

Margaret McDougall: What is your view on the alternative approach of stipulating in the bill what must be done in relation to such compensation?

Stewart Stevenson: For clarity, are you suggesting that the bill should say that the money should be kept in the common good fund?

Margaret McDougall: Yes—or is there an alternative?

Stewart Stevenson: Again, the issue is covered by the existing rules and, again, the use to which assets in common good are put is a matter for councils—and their electorates, for that matter. Councils have very different ways of using common good assets. Some councils have a relatively small amount of such assets and the issue does not drive public policy; others have substantial income streams, which they are often able to use for matters for which it would be difficult to justify using council tax payers' money or the money that comes from the Government through the Convention of Scottish Local Authorities formula.

The approach that you suggested would be restrictive and would represent a return to the old days before we took the shackles off in respect of how councils spend their money. My preference is not to take such an approach but to allow councils to use their good common sense to determine how they use the assets that are at their disposal, and to be accountable to their electorates for what they do.

Graeme Dey: This is a slight digression; it is about interaction between the Government and local authorities on the bill. The bill team appears to have had to put considerable effort into obtaining information from some local authorities on common good cases and how the bill might impact on them. Indeed, members of the committee have assisted in the process, by encouraging their local councils to play ball.

Is there a lesson to be learned? In future, might the Scottish Government compel local authorities or other bodies to provide the information that bill teams require—if indeed it can compel bodies in that way—to spare its officials the task of chasing up information or the problem of having an incomplete picture with which to work?

Stewart Stevenson: You make a relatively fair point, but it must be balanced with a couple of things. Each level of government has its responsibilities, and as a matter of general principle it would probably be unhelpful if the Scottish Government were to start to instruct local government on what it must do. That would take power away from local authorities and, as a general principle, that is not an approach that we would want to take.

More fundamentally, what has emerged from the bill process is that it is probably not possible to have 100 per cent accuracy, however much effort is made, and there will continue to be areas of uncertainty. It is clear that a large amount of work is involved in getting even relatively close to 100 per cent certainty. Councils, ultimately, will have to deal with the consequences of the bill and it is up to them to make a judgment on how much effort they want to expend.

At the end of the day, we always make decisions based on what is likely to be, to some degree, imperfect information. If we could make decisions at all times based on 100 per cent perfect information, we would just put that into a computer and press a button, it would tell us what to do and we would not need anything else. In other words, the process of making legislation and of administration involves our exercising judgment, balancing interests and making the best possible decision within the resources that we have.

In that sense, councils have made a pretty decent, honest effort to give sufficient information to enable us all to make a defensible and reasonable judgment on the matter. However, ultimately, they are responsible for matters that affect them, and for drawing it to our attention if we inadvertently create difficulties for them of which we might not otherwise be aware. The relationship is a partnership; it is not a master and slave relationship. It would not be helpful to get into that position.

Simon Stockwell: I have been a civil servant for a long time—more than 25 years—and in most of my career I have worked with local authorities. There was a time when the relationship was perhaps a bit more like a master and slave relationship, or trench warfare as I call it. In the past, we have gone out to local authorities and said that we would like them to supply information to us, and we have quoted relevant statutory provisions. That quickly gets local authorities' backs up, understandably. When I have gone out and said to local authorities that I want information because of section whatever of such-and-such an act, they have been more likely to say no than to say yes.

Stewart Stevenson: The genuine difficulty is that if there is not partnership working, we get the

appearance of co-operation, but the reality might be otherwise.

The Convener: Armed neutrality. [*Laughter*.]

Stewart Stevenson: Or mutually assured destruction, convener?

The Convener: Let us get back to the realities of the bill rather than the philosophy. Claudia Beamish has a question on variable rents.

Claudia Beamish: I would like to explore two aspects. New provisions on variable rents were added to the session 3 bill. In oral evidence to the committee on 8 February, officials stated that they were content with the drafting of the provisions on variable rents, although they said that they would double-check the position and report back to the committee. Brodies suggested that the provisions need to be amended. It observed that section 2(5), which contains the instruction to leave variable rent out of account, should be expressly disapplied in relation to sections 64 and 69, which provide for the opportunity to exempt leases over £100, taking into account variable rent. The Scottish Property Federation endorsed that point in oral evidence to the committee on 22 February.

Will you give a view on whether the provisions on variable rents require to be amended in the interest of clarity?

10:45

Stewart Stevenson: Obviously, I will listen carefully to what the committee says and I will read its report. However, section 2(1) limits the scope of section 2 to section 1(4)(a), so it is less restrictive than it might seem. The issue is also covered in section 64, particularly in subsection (1), which covers the issue in a different way. We will consider the matter further, but we believe that we have covered the necessary bases through section 2(1), which limits the scope of section 2, and hence of 2(5), to only section 1(4)(a), and through section 64, which is on "Exemption of qualifying lease by registration of agreement or order".

As much as anything, the point is that irregular payments might be made or demanded. Because of circumstances, irregular payments might be part of a lease. So the issue is not only about a single payment; it might be about multiple payments. We believe that the bill as drafted covers that. In particular, section 64(1)(b) talks about cumulo rent, so I believe that we have that covered.

We have considered the matter now, as you have asked the question, and we believe that it is covered. Just to make absolutely sure, we will consider it in more depth than my officials and I can do sitting here.

Claudia Beamish: Another committee member with more of a legal mind than I have might want to probe the issue further. However, so that we can have a full discussion, I will raise the second point, which relates to section 2(2) and rent review. Dundas and Wilson is concerned that the section might be inadequately drafted. In particular, the wording appears to exclude situations in which the original lease was varied by agreement in a separate document, such as a rent review memorandum. When we took evidence on 22 February, Brodies and the Scottish Property Federation agreed on that. Brodies also argued that the drafting excludes situations in which a rent variation has been agreed verbally, which adds another complication. I would value your comments on that. The convener might wish to call other members to ask questions on the issue.

Stewart Stevenson: An agreement does not have to be on paper to exist, albeit that the tests that apply when there is a dispute are a bit more challenging.

Simon Stockwell will do the techie bit.

Simon Stockwell: We think that that is a stronger point than the first one that Claudia Beamish raised. We are not really persuaded on the first point, given that section 2 applies only in relation to section 1(4)(a).

On the second point, there is an argument in relation to section 2(2) that we should perhaps cover other cases in which the rent has been varied and where that is clear. We think that there might be a bit more in that than there is in the first point. We will come back to the committee to let you know precisely what we are thinking.

The Convener: Thank you. We will move on to standard securities.

Annabelle Ewing: Concerns have been expressed that the current drafting is not absolutely clear in preserving a standard security that has been granted with respect to the subjects. When we took evidence from the bill team, it was comfortable that the drafting is okay, but would you care to comment on those concerns, minister?

Stewart Stevenson: We are talking about leases that are worth no more than £100 a year. It is not terribly likely that there will be a large number of standard securities over such small leases, because they represent such a modest asset. I start from that viewpoint.

Such cases are unlikely, but if there are any, the effect of section 6(4) will be to extinguish the standard security on the appointed day. That is deliberate, because it would not be appropriate for a standard security of a former landlord to affect the title of a former tenant—the new owner.

However, the personal debt that the former landlord owes is not extinguished.

Given the modest amounts of money that we are talking about, where a landlord retained a genuine financial interest in the property, it is more likely that he or she might have granted a standard security over his or her interest.

Annabelle Ewing: I wonder whether it would be helpful to clarify the language in the relevant section.

Stewart Stevenson: It is quite clear that Simon Stockwell wants to respond to that.

Annabelle Ewing: I see him shaking his head.

Simon Stockwell: The short answer is no. After discussing the issue with our lawyers, our view is that the section is as clear as it can be.

Annabelle Ewing: I suppose the fact that only a few standard securities will be affected is neither here nor there; the point is that, if a standard security is going to be affected, the person who granted it will want to know that their rights will be preserved. I accept Mr Stockwell's view that he is confident that the language in the bill is sufficient in that respect.

Stewart Stevenson: The view is, I think, that it is as clear as certain complex legal issues can be made.

Annabelle Ewing: As a lawyer in a previous life, I take the point.

We discussed with the bill team the possibility of seeking a comment from the British Bankers Association on its position, to the extent that it has one. Have you received any response?

Stewart Stevenson: We have, and the BBA understands that the protections that the bill puts in place seem appropriate.

Annabelle Ewing: Thank you for that clarification.

Jim Hume: On standard security, the minister said that because it would apply to rents of under £100 the assets involved would be modest. However, the Edinburgh Waverley market site, which has a rent of under £100 per annum but a £6.25 million grassum, is quite a substantial asset.

Stewart Stevenson: The standard security applies to the lease, not to the asset—unless the lease itself is an asset. In the case of the Waverley site, it is rather unlikely that a standard security would be granted over a lease of the value of a penny per annum. Indeed, I am not sure what asset the standard security would be secured over.

Jim Hume: But we are talking about long leases. In the case of the Waverley market, the tenant is not paying a large rent but is obviously getting a large income from subletting the site.

Stewart Stevenson: The tenant might use their interest in a lease as an asset to back borrowing, and a standard security might be granted over that. However, in such circumstances, they are hardly disadvantaged by the transfer of ownership to the tenant.

Jim Hume: That is fine. It is something to think about.

The Convener: A number of submissions have raised concerns that the Government's approach to updating property registers as a result of this bill should be made compatible with the Land Registration (Scotland) Bill's objective of ensuring that the public and relevant professionals have accurate and up-to-date information on land ownership. Will you comment on the compatibility of this bill's approach with the aims of the Land Registration (Scotland) Bill?

Stewart Stevenson: Clearly, we think that it is compatible. The question is whether it is necessary to update the registers at one point in time, and it is proposed that the updating take place the next time it is necessary to update the land register in respect of ownership. That method is more economical and, indeed, more effective, particularly given that the Registers of Scotland will be heavily engaged in implementing the Land Registration (Scotland) BIll, should it be passed by Parliament.

For a property transaction, including a sale, the former tenant can choose to make an application to rectify the land register to reflect his or her ownership. The fee for that is currently £60. So, the obligation is on the former tenant and present owner to protect their interest by paying the fee and making the update. If they planned to hold the property for a long time, they might choose not to do that for a long time, but that would be a matter for them. The proposed method is simply more effective than spending a large sum of money to develop a system to do it. It makes it relatively straightforward, costs a great deal less and does not appear to cause any legal difficulties.

The Convener: Updating the land register seems to take longer than glaciers do to melt. In fact, we do not have a good picture of the land register because of the lack of updated transactions. The impression was given that we wanted to use the land registration system to try to bring items together and update them at the one time. Are we approaching updating on a transaction-by-transaction basis for merely economic reasons?

Stewart Stevenson: There are choices here. Historically, land ownership has involved lodging deeds in the register of sasines. However, that in

no sense gives you an easy way of finding deeds, because you have to kind of know what you are looking for in the register of sasines if you are going to find it. The approach that has been taken to land registration strikes the right balance. This bill is not the place to address that issue; it should be dealt with in the Land Registration (Scotland) Bill. I acknowledge that it is fair to say that we are not close to understanding the ownership of every square metre of land in Scotland.

Annabelle Ewing: In a previous evidence session, at least one individual expressed disappointment that the opportunity had not been taken in this bill or in the Land Registration (Scotland) Bill to provide for registration as part of the process of conversion, with the appropriate fee therefore being payable according to the scale. Such a requirement would not simply rely on action on the tenant's initiative and would facilitate the production of a land register that would provide far greater clarity on land holding in Scotland. Do you have any comment on that?

Stewart Stevenson: What the bill will affect is comparatively modest compared with the system as a whole. How many leases do we think there are?

Simon Stockwell: Nine thousand.

Stewart Stevenson: Right, which is a comparatively small number. Again, the question is what benefit would be derived from forcing registration to be done at one point and at considerable extra cost to tenants, landlords and, indeed, the public purse. The system has been such from the outset of reforming the feudal system. I recall owning a house that was feued, and basically you converted only when you sold the house. There is much to commend that. It smoothes the workload and it is perfectly clear to lawyers who make inquiries what the situation is when they look at what is in the files. The inconvenience to which the member referred is comparatively modest compared with the advantage in smoothing the workload over a period of time.

The Convener: We will crack on with time limits issues.

Annabelle Ewing: On a perhaps more technical point, a representation was made inter alia by the Faculty of Advocates—I think that the Law Society in general supported its position—on time limits and whether it would be preferable to set them in the bill rather than in secondary legislation. It would be helpful to have the minister's comments on that.

11:00

Stewart Stevenson: It would be better to do the consultation and seek views on a potential time limit. I am not clear on what the advantage of incorporating the limit into the bill at this stage would be, and think that it would cause difficulties. Parliament will have to consider a suitable timetable when secondary legislation is proposed. When the bill reaches its final stage—assuming that Parliament consents to that—we will seek views and consult on the time limit. We would prefer to take that approach.

Annabelle Ewing: I am heartened to hear about the potential future involvement of those august bodies in fixing the time limit.

The Convener: We now turn to land held in trust and managed by local authorities

Margaret McDougall: What are the minister's views of the comments made during our previous discussions of the issue? Is the Scottish Government's approach still as stated by officials in their evidence to the committee?

Stewart Stevenson: This issue occupies the same space as common good. Sometimes, councils have not realised that land that they thought was held for the common good was actually held in trust. A senior official with whom I happened to be speaking casually gave me an example of that a few days ago. When it comes to taking the benefits of any conversion, a council's rules on common good are likely to be applied to this issue as well. At the end of the day, it is a matter for local authorities. Given the diversity of what trust deeds may say—every trust is individual—local authorities, rather than Government, are best placed to make such decisions.

Margaret McDougall: In that case, a trust could be dealt with differently, because its conditions may say that the land should continue to be held for the benefit of the people.

Stewart Stevenson: That takes us back to the change in ownership structure that could result from the bill. It is necessary to protect the public interest exercised by the council on behalf of the trust. This is about the trust, rather than the council—you are asking me about trusts managed by the authorities. Ultimately, the ownership is one thing, but the responsibilities that the council has accepted by taking on the management of the trust would endure.

Margaret McDougall: Is the minister minded to make any further drafting amendments to the pipes and cables exemption, based on the Law Society's comments to the committee on the issue?

Stewart Stevenson: It is necessary to include an exemption in the bill. Wayleave is an English term, but I think that the term I am looking for is heritable right of access.

Simon Stockwell: The correct term is servitude.

Stewart Stevenson: Thank you. Servitude is a different issue. We believe that the clarification of the wording should make it clear that the responsibilities of the tenant and the owners are covered.

We are aware of leases of exactly 175 years for pipes and cables, and they would not convert, as the lease must be over 175 years. In practical terms, we think that the bill covers the needs that exist.

The Convener: We have had a fairly thorough look at those matters.

Finally, there is an issue that I want to return to, as we have received further, late submissions from the City of Edinburgh Council. Does the minister accept the City of Edinburgh Council's argument that Waverley market is a special site for Edinburgh and Scotland? Is he minded to amend the bill to make that site the subject of a special exemption?

Stewart Stevenson: I am still entirely unclear about why Waverley market is different from the Balmoral hotel, which is adjacent to it, Marks and Spencer on Princes Street, and every other building in the area that is covered by planning law and a range of other laws. Until and unless there is something distinct, it is difficult to identify why, when we look at the policy as a whole, one building should be treated differently in primary legislation in a relatively arbitrary way. I await further information on what the distinct difference might be.

The Convener: Thank you for that answer, minister.

We have a lot of deliberations to make. The area is complex, and we will provide a stage 1 report on the bill in due course.

I thank the minister and his officials for their evidence.

11:06

Meeting suspended.

11:11

On resuming—

Common Agricultural Policy

The Convener: Under agenda item 3, the committee will take evidence on the common agricultural policy from the United Kingdom minister. We have done a lot of work on the CAP over the past few months: we have heard from members of the European Parliament and stakeholders; and we have held a committee debate in the chamber on the proposals. At next week's meeting, we will take evidence on the CAP from the Cabinet Secretary for Rural Affairs and the Environment; today, we will hear about the UK Government's position.

I welcome to the meeting the UK minister, Jim Paice, and his official, Martin Nesbit, who is European Union, international and evidence base director in the UK Government. I invite the minister to say—briefly—anything that he wishes to say before we ask questions.

Jim Paice MP (Minister of State for Agriculture and Food): Good morning, and thank you for the opportunity to join the committee today. It is not trite of me to say that it is always good to come to Edinburgh: I have family up here and I spend quite a lot of time in Scotland.

The next seven years of the CAP have great potential for British agriculture. They are set against a background of increasing global populations, increasing prosperity in some of the largest countries of the world, and climate change, which will make some parts of the world much more difficult to farm. Right through to 2050, we have the prospect of immense opportunity and responsibility, as described in the Foresight report. The overall picture of increasing global demand means that there is a responsibility on all countries to play their part in maintaining and increasing food production, not in terms of self-sufficiency—those days are past—but in terms of their capacity and trading ability to export what they are good at.

My big disappointment is that the European Commission's CAP proposals do not seem to reflect that. They refer to things such as increasing productivity, but when we study them, we find them to be very disappointing. I will not go into all the individual aspects of the proposals, as committee members will no doubt wish to question me about them, but we think that there has been a missed opportunity so far to develop a CAP that looks forward to the prospects that I have just described and which would create the opportunity for farmers across Europe, and particularly in the UK, to take on the opportunities and challenges through producing food in an ever-increasingly

sustainable way, as that is part and parcel of the challenge.

We need to increase our ability to compete because, even if prices are rising—and that is the long-term prospect—salvation is not automatically in the hands of the market. Farmers will still have to compete with producers from elsewhere in the world.

We feel that the opportunity is not yet being grasped, but the general approach to our negotiations is that that is the right way forward.

The Convener: Thank you. I invite Graeme Dey to begin our questions on the UK and Scottish Government views in general.

11:15

Graeme Dey: Good morning, minister. My questions relate principally to funding. What progress is being made towards confirming the size of the CAP budget? What are your views on the fairness of the distribution of that budget across the EU and the likely distribution across the UK, given the fact that Scotland receives the fourth-lowest level of pillar 1 funding and the lowest level of pillar 2 funding in Europe? What is your thinking on the balance between pillar 1 and pillar 2 and the need for modulation, and for how long do you think that pillar 1 funding will be required?

Jim Paice: This will not be a short answer, as you might appreciate. I will begin with the easy bit. We have no clear idea of when we will have budgetary figures. The general expectation is that, following the pattern of last time around, the CAP budget will be fixed by heads of Government at the summit in December. The last time, they set not just the CAP budget but the balance between pillars 1 and 2. I cannot give you a timetable, but we believe that that approach will be repeated. There is no doubt that the absence of figures makes the negotiations very much harder. That is particularly true in relation to the funding for pillar 2, which is an issue of great concern. We cannot make a lot of the decisions on our negotiating stance in the absence of those figures.

I know, from reading the *Official Report* of the debate that you had a few weeks ago, that you are well aware of the UK Government's view that there should be a substantial reduction in funding for the CAP. We believe that that is right in terms of overall European expenditure and the pressures that are faced by countries right across the EU. We also believe that it would encourage farmers to look to the market for a greater share of their income, given the background that I have described. I emphasise that we are not suggesting a big cut today or tomorrow. Nevertheless, we think that a trajectory should be set for a decline in direct payments—currently, the single farm payment under pillar 1.

You asked about the balance between pillars 1 and 2. We believe that there should be a reduction in pillar 1 funding and an overall increase in the proportion of the CAP that goes into pillar 2. We believe that pillar 2 provides much better value for the taxpayer, the environment and all the other public goods that it pays for and that it can be more effectively targeted at what we need to spend money on.

Your other question—please intervene if I have misunderstood—was about the distribution of funding within the EU and within the UK. As you know, the Commission has proposed convergence criteria. The feeling about that around the table at the Council of Ministers is extremely divided, as you might imagine. Those who would see a reduction in funding say that they could not afford it, and those who would see an increase in funding say that it would not be enough. The UK is roughly in the middle, so we can listen to the arguments on both sides. We are sympathetic to the proposal for an element of convergence. However, we think that total convergence—which is not what is being proposed—would be excessive at this stage, because we fully understand that the newer members of the EU, primarily, feel that they are getting a poor deal and would continue to do so until 2020.

To be frank, as far as distribution within the UK is concerned, until we know what the figures are and the basis on which funding will be allocated across the EU, we cannot speculate. At that time, all four devolved Governments will have to sit down and work it out together. As you know, the money that we receive is entirely based on historical funding and if there is a different allocation in future, we will have to take that into account. I am sorry; I cannot speculate today about what those allocations might be.

Graeme Dey: Thank you.

Annabelle Ewing: Good morning, minister, and thank you for coming to our committee. As my colleague mentioned, Scotland is the fourth-lowest recipient of pillar 1 funding. How can the UK Government's position, which appears to advocate a global reduction in pillar 1 funding across the EU, be viewed as being in the interests of Scottish farmers?

Jim Paice: I will make two points. We have to be quite straightforward about this. You say that Scotland is the fourth-lowest recipient of pillar 1 funding, but the allocation is done on a per hectare basis equally across all Scotland's land when we all know that a large area of Scotland is of significantly less agricultural value than some of the rest of it. If you allocate on the per hectare

basis, you are right about Scotland receiving the fourth-lowest level. However, it is interesting to note the Scottish Government's suggestion that it does not want to pay people in parts of Scotland for doing nothing and that it wants to take that land out of the subsidy scheme. It seems odd to include it all when you work out how much subsidy you are getting.

The second point is about overall funding levels. As I said in my opening remarks, we believe that the global background is such that, in the coming years, there will be clear opportunities for farmers to get a significantly greater proportion of their income from the marketplace. What has been happening during the past few years shows that that is not just a projection; it is beginning to happen. We have seen significant rises in the price of most commodities and, although I do not want to forecast that they are all going to stay as high as they are, very few pundits believe that they are going to fall back to where they used to be. The trend is clearly upwards and I believe that it will continue in that way. It is not reasonable to expect the taxpayer to continue to pay large sums of money against a background of increasing opportunities in the marketplace. That is why we believe that support for the industry, which is essential—I stress that—should gradually move across to pillar 2 so that it can be more targeted at paying for those things that the public demands from our farmers but for which there is no market.

Annabelle Ewing: I will be brief, convener; I know that many of my colleagues wish to put questions.

The marketplace will vary from sector to sector and, in any event, surely food security is the overarching issue. If we look back to the CAP's early days, we can see that food security has informed CAP development. That remains true to this day, particularly in places such as Scotland. I am sure that the minister is aware of conditions here so it is important to bear food security in mind during this crucial debate.

Jim Paice: You are assuming that a reduction in the single farm payment will mean a reduction in production. That must be the assumption behind your comment about food security. I entirely agree with you that food security is hugely important—the UK Government puts it right at the top. Increasing British food production is part of our overall business plan. However, the assumption that we need to continue to pump large sums of money in through the single farm payment to maintain food security is a leap too far. If farmers increase their competitiveness and improve their productivity, coupled with the opportunities that I have already described, there will be greater opportunity for them to generate income from the marketplace, which will stimulate production.

Of course there are other issues, such as funding for research; the Commission is proposing a significant increase in that, which is good. I am not suggesting that farmers can make the changes automatically overnight. All I am suggesting is that our approach will mean a long-term journey—that is the phrase that we have used—towards a day when farmers can operate more closely to the market without significant levels of direct support. I do not know a farmer who does not want that to happen, in time. They are just frightened about what will happen in the period before they get there.

The Convener: I would like to take you back to your point about the Scottish Government thinking about all land. With regard to beef production, for example, the beef started off on the hills and ended up being fattened on the better land. In the 18th century, people talked about Highland bone and Norfolk grass. I think that it is quite right that the Scottish Government should take into account all the land of Scotland in terms of thinking about its productive capacity. Do you agree?

Jim Paice: I entirely agree that you can take it all into account. I was simply pointing out the apparent contradiction between the Scottish Government taking it all into account and also wanting a system that allows it not to pay for large areas of it.

We sympathise with the position in relation to slipper farmers. However, there is also an issue about the quality of the land in any given area. That issue is not unique to Scotland; all that is unique to Scotland is the proportion of land that we are talking about. Many countries have many areas with natural constraints, to use the new term, and I do not believe that simply taking the whole area of the country, dividing it by the subsidy and using that as a comparison provides an accurate result. I think that it would be better to consider in a more accurate fashion the types of farms that are being supported.

Farmers in areas with natural constraints need support. There is no doubt at all about that. We believe it to be the case in England and we believe it to be the case in the UK. There is just the question whether there should be a direct single payment or a more targeted approach, which can be done under pillar 2.

The Convener: Given that you have 17 per cent of the less favoured areas and we have 85 per cent of them, you can understand why NFU Scotland says that its position on the reform of the common agricultural policy is pretty much the same as that of the Scottish Government. It recognises that coupled payments and so on are an important part of the production of beef and cattle. Given that you would possibly accept a 5 per cent level of coupled payments, what would be

your view if we in Scotland decided that the level should be between 10 and 15 per cent?

Jim Paice: The important thing to note is that we do not want there to be any reversal of the major reforms that were made last time around. I do not think that many people would disagree that they were the right reforms, in that they moved subsidy away from production. That is why we do not want measures that could allow for a recoupling of support where that does not exist at present. I am well aware of the Scottish scheme. It needs to be recognised that Scotland is already spending considerably more than 5 per cent because I decided to allow Scotland to use some of England's allowance. If Scotland wishes to continue with a coupled payment for beef, along the lines of the current system, that may well be a final conclusion of the matter. As I have said, we have made arrangements within the United Kingdom to allow you to do that. As far as I am concerned, that is part of working together. If that is how it works out, so be it.

The Convener: I think that it is probably in the UK's interests that those arrangements are made, given that, as I mentioned, we have a large measure of the less favoured areas.

Jim Paice: Arguably, yes. I fully recognise your point about the beef industry. I learned all about that and the stratification of the beef and sheep sectors at agricultural college 40 years ago. I just draw your attention to my earlier point, which was that I do not think that you can necessarily say that the best way of keeping people farming in those disadvantaged areas is by making a blanket payment, which is what the single farm payment is. There are other ways. In England, we are doing it through the uplands entry-level stewardship scheme, which is not related to production at all. Of course, we are not dealing with the same scale that Scotland is dealing with, but the point is that there are other ways of getting that money to where it is needed for public good.

The Convener: I guess that we will come back to that issue. Thank you, minister.

Margaret McDougall has a point on funding.

11:30

Margaret McDougall: As I understand your response to the question about distribution within the UK, you said that you could not consider the issue until you knew how much you had. I do not see why you could not consider—

Jim Paice: Not only how much we had but the basis on which it had been allocated.

Margaret McDougall: Ah, right—on the basis on which it had been allocated rather than the actual pot.

Jim Paice: I agree with you. If it was just an issue of how much, maybe we could sort it out now. The issue is the convergence criteria in the Commission's proposals, which is about gradually narrowing the gap between the highest-paid member states and the lowest-paid member states. Until we know how that will work out we will not have a framework against which we can make our own judgments.

The Convener: We move back to process issues. I ask Jim Hume to take the lead.

Jim Hume: Good morning, minister. Things have changed with the reform proposals, and we now need agreement from the Commission, the Council of Ministers and the European Parliament. You said in your opening remarks that you are disappointed with the proposals as they stand. It would be interesting to explore your relationships with ministers from other member states and with the European Parliament itself in progressing your view of where we should be with the reform. I am interested in how many friends you have out there.

Jim Paice: That is an important point. The first point that I should make is about a decision that the coalition Government made right at the beginning about engagement. Whatever your individual views about Europe are, engagement is the key issue. If we are going to make any progress in getting things through in the British interest in Europe, ministers and civil servants have to get stuck in and negotiate.

We also need a negotiating position that is seen as reasonable by the other member states. The previous Government wanted to abolish the single farm payment overnight—that had been its position for most of its period in office—and we know that that meant that the British view was just laughed out of court all the time because it was never seen as realistic. I have previously discussed this, so I will not repeat all of it, but that is why we radically altered that perspective to one of having a long-term plan to phase out the single farm payment, as much as the industry can accommodate that. That is the first point.

The second point is that, as far as agriculture is concerned, the secretary of state and I—and, in the case of fisheries, my colleague Richard Benyon—therefore spend a great deal of time not only attending council meetings, which is the relatively easy bit, but in bilateral and multilateral meetings, sometimes in the context of a council meeting. The secretary of state and I have made a number of special visits to other member states to build up relationships and partnerships. That approach is continuing. We are working with other member states to put forward alternatives, particularly in the greening context. It is not just individual member states that are talking; groups

of like-minded states are talking and putting forward alternatives.

It is important to point out that you will not always get the same—dare I say it?—coalition on different issues. Sometimes a group of countries will agree on one thing but not on another, then some of them will agree on another thing. It is a variable geometry.

You rightly refer to the European Parliament. Suffice it to say that there, too, we are engaging as much as we can. I spend quite a bit of time there. I liaise with UK MEPs across the piece, including Scottish MEPs, and with Paolo de Castro, the chairman of the Committee on Agriculture and Rural Development—and I have met all his rapporteurs. We are engaging as much as we can.

Jim Hume: Looking inwardly—not outwardly—I think that it would be interesting to hear your views on where we are with securing a consensus among all the devolved interests in the UK. I guess that the fact that you are here shows that you have an interest in Scotland, but—

Jim Paice: I am passionately interested in Scotland. All the devolved ministers are entitled to attend all agriculture council meetings with us. Richard Lochhead attends the most; the other ministers might attend slightly less frequently, but they still send officials. Before a council meeting, we always get round the table early that morning, talk through the position that the UK minister will take and, where possible, find common ground to ensure that everyone is happy. Outside formal council meetings, we have regular meetings and telephone discussions with all the devolved ministers either as a group or, more often, individually to ensure that, wherever possible, we speak not only for the UK but generally for all legislatures within the UK. Inevitably, we will not always agree on certain issues but overall I think that the positions that we adopt are largely accepted by all the devolved ministers.

Jim Hume: It is interesting to hear that devolved ministers have the right to attend council meetings.

Jim Paice: They certainly do.

Jim Hume: Obviously we hope that all the reforms will go through and be agreed by the end of next year. However, given the number of bodies, commissions, Parliaments and ministers that have to reach agreement, will there be contingency funding via DEFRA—the Department for Environment, Food and Rural Affairs—to meet any likelihood that the new CAP might not be in place?

Jim Paice: The sting is in the phrase "via DEFRA".

Jim Hume: Or via another body.

Jim Paice: Originally, the plan was to have the new CAP decided by the end of this year to ensure that it was in place for 1 January 2014, which would allow a year for implementation procedures. Although no one realistically expects that timetable to be met, the Commission still stands by the view that it will come into being on 1 January 2014. I do not know whether you are planning to interview anyone from the Commission, but it is really up to that body to justify its view; I certainly do not think that many other people believe that the timetable will be achieved. Because of the situation that I described with the budget at the end of this year, being realistic, we do not expect the CAP agreements to be finalised until towards the middle of next year and, in our view, that would not give member states the time to set up the necessary information technology systems for their payment agencies or to put together all the secondary legislation and so on. Being realistic, I believe that we will start the new CAP on 1 January 2015.

As for the interim period, I should highlight two aspects. First, we have already raised with the Commission the fact that, because of the way we allocate funding in the UK, there will be an interval in pillar 2 money and we are seeking its agreement to carry on the funding process over the one-year gap that we would have next year in any case. If no CAP agreement is reached in time for a 2014 start, that will be a pan-European funding issue—not, as you implied in your question, just a funding issue for DEFRA—and Europe will have to do whatever is necessary to roll over the current programme.

Jim Hume: So you reckon that there will be a rollover and that the situation with the interim year will be the same as that under the present CAP.

Jim Paice: That is what I am presuming. The obvious point to make is that, as things stand, there is no power and no money for anything to happen that year. We cannot just assume that there will be a rollover; the fact is that all the previous CAP decisions effectively die at the end of next year. We need the European budget to be set first and then some decisions to be taken at a European level to roll the current process over in some way.

Martin Nesbit may have something to add to that.

Martin Nesbit (Department for Environment, Food and Rural Affairs): The technical position is that pillar 1 payments would continue and roll over in the way that the minister described, but the legislation that underpins pillar 2 programmes applies only to the end of 2013, so the legislation would not be in place and the programmes would

not be in place or agreed with the European Commission. We would need to find a way of bridging the interim problem for pillar 2 payments—for agri-environment schemes, less favoured areas and so on. We are conscious of that, as is the Commission, although it does not want to say anything about that publicly yet.

Jim Hume: If no interim mechanism was in place, that would be of concern, especially in less favoured areas in Scotland.

The Convener: I have a question before we reach the end of discussing process issues. You said that ministers from the devolved Administrations were involved in Council meetings with you. As we know, we will come to the big debate about the final arrangements, which might be at the end of the year, as you said. In the crunch negotiations in the room, the European Commission and the presidency will be on one side and the member states will be on the other side. Will UK ministers allow a Scots minister to be alongside them in thoughse talks?

Jim Paice: I cannot give a general answer, because that will depend entirely on the situation at the time. None of us has been through the process before as ministers—it comes up every seven years, and few of us have such a lifespan in the job.

We certainly expect all the ministers from devolved Administrations to be actively involved and we expect to have discussions with them. However, the UK is the member state and it must ultimately take the lead and have the discussions.

In the hypothetical case that you talked about, in which a bilateral discussion perhaps takes place between the commissioner and a member state, the Commission might not want anybody other than the member state minister to be in the room. I cannot give you the guarantee that you seek, but I assure you that we want to involve all the ministers from the devolved Administrations as much as possible, right up to decision time.

Annabelle Ewing: I am not entirely sure that it would be for the Commission to veto a member state's delegation desires. We take your point about the lifespan of an agriculture minister, which the committee found quite amusing, but I point out that the Scottish Government's Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, is probably the most experienced agriculture minister in the British isles. I would have thought that it would be a help, not a hindrance, to have such experience ready and waiting at your disposal in such crunch negotiations, which will have a huge impact on the Scottish agriculture sector.

Jim Paice: I hear what you say and I am aware of Richard Lochhead's duration in office and his experience. As for your first point, the Commission and the presidency have the power that I described. Often, they say that the room should be cleared and that the debate will involve the presence of just one minister from each member state. That happens at Council meetings now, so the precedent for them to require one minister for each member state is there.

Claudia Beamish: Good morning, minister. I reiterate our appreciation for your attendance. I understand that the negotiations have stipulated a cap of €300,000 per year on the support that an individual farm would receive under the basic payment scheme. My understanding is that the funds that are saved would be retained by the member state for use in the rural development programme. That is significant in relation to the public good and the wider benefit to our country. Will you comment on the possibility that the cap will be set at that level and give your views more generally on the capping?

11:45

Jim Paice: First, I confirm that you are right. Any money that is saved from capping will stay in the member state, and in this context we believe that it would stay in Scotland.

The capping issue is a challenge. As "Panorama" showed the other night, there is clearly a populist view that we should not pay too much money to people whom some people perceive to be wealthy, but we need to look behind that to consider some important points. First, if we start to put a limit on the amount of money that anybody can get, that is clearly anti-competitive. It is a discouragement to businesses to grow and expand.

Secondly, the single farm payment was brought in as compensation for the move away from production support, which was clearly based on area, tonnage, litrage or headage. If it is a form of compensation, why should it be limited according to the size of the business?

Thirdly, to be frank, we should consider whether capping would lead to any gains at all, because all that it would mean is, as I have sometimes put it, a lot of money for lawyers as they find ways of breaking up businesses so that they get down below the limit. Would it achieve what we are trying to achieve in the first place?

The final point is that the figures—I am not sure that the ones you quoted are accurate, but we need not worry about the particulars—might seem high at the moment, but once we have put the system in place, there is nothing to prevent it from being reined down to lower levels, where it would have a lot more impact. Some 35 farmers are believed to be affected in Scotland, but many

more would be affected if a future determination dropped the limit to a lower level.

Claudia Beamish: Other members might want to pursue that, but in the same context, I ask you to comment on the possible definition of an active farmer. That is a topical issue and indeed an important one, given the public's perception of the industry and the injustice, in my view, of what has been demonstrated to be happening in relation to transference, or what slipper farmers are able to sell on. It would be helpful to have your comments on that.

Jim Paice: As I expect you know, the Commission has made two proposals. One is that subsidies should consist of at least 5 per cent of non-agricultural income, and the second is that the person should be doing something actively on the land. The UK Government has considerable sympathy for those concepts. We believe that the money should go to people who are actually doing farming work and carrying the risks.

We oppose the idea of linking subsidies to income. The idea that, in our case, the Rural Payments Agency computer would speak to the HM Revenue and Customs computer to sort out how much of a person's income was subsidy sends shivers up my spine, frankly. Added to that, revenue figures often run two or three years behind the times, particularly in corporate organisations, and it would largely be such organisations that were affected. We do not believe that the Commission's proposal is the right one, although we sympathise with the approach.

We strongly agree that people should have to do something for the money; people should have to actively manage the land in order to receive the single farm payment. The Commission's proposals are now much closer to our thinking, but we are not entirely convinced that they are right. We will almost certainly see much more national discretion on both aspects, and member states will define things according to their situation. However, the Government's overall approach is strongly sympathetic to the idea that money should go only to people who are doing the work.

The Convener: I presume that that is why the agriculture commissioner has agreed to a Scottish clause in the definition of active farmers in the new CAP. Do you agree that that is a good approach?

Jim Paice: As I have just said, the commissioner's overall proposal takes a two-pronged approach, and we appreciate what he is trying to achieve. Obviously, the problem is not unique to Scotland; across the EU, a number of other member states face similar problems.

The Convener: We have talked about types of land. Should the definition of greening be extended to include unproductive but potentially environmentally important features?

Jim Paice: We have strong reservations about the proposals on greening as they stand, and I cannot answer your question without addressing that point. As you know, there are three aspects to greening. First, there is permanent pasture, and we believe that the definition would exclude heather and moorland arrangements. If land is being actively managed—in the way that I have described—we think that it should be included. We would therefore like the definition to be altered.

I shall leave the issue of rotation to one side and come back to it in a moment. It is less relevant up there.

The third aspect is ecological focus areas. We think that a figure of 7 per cent, applied across the board, is the wrong way forward. If there is to be added value for the taxpayer and the environment, you need tangible and managed environmental measures—such as those that are offered by our stewardship schemes. A few other countries take similar approaches. If land is being actively managed, whether for farming or the environment, we feel that it should be classified as part of greening—whatever the final greening mechanism. However, I stress the word "actively". We do not think that people should get money just because they happen to have certain features on their property.

The Convener: Permanent pasture and crop-diversification measures in Scotland could have negative environmental and economic impacts. What alternatives is DEFRA exploring?

Jim Paice: A lot. We have pressed the commissioner on the issue of permanent pasture. At the English and Welsh NFU's annual conference two weeks ago, the commissioner said specifically that reseeding could be part of dealing with permanent pasture. The Commission is thinking about a period of five years, but we feel that that time is not adequate. Many farmers may reseed only once every nine or 10 years. The commissioner appeared to accept that. We do not have that in writing, but we have it in words.

On the issue of rotation, if someone is not growing any arable crops, they will clearly be outside the rotational requirements anyway. If they are growing a small area of fodder for their livestock, we would contend that that should fall outside the requirements as well. It is early days, but we think that the Commission is sympathetic to such ideas. What the Commission is trying to stop, in particular, is the large-scale monoculture of maize that appears in parts of Europe.

The Convener: Stakeholders in Scotland are seeking a longer turnaround for permanent grass

reseeding—perhaps 10 years rather than five years. We agree that that might be acceptable—

Jim Paice: Are you suggesting that 10 years is not enough?

The Convener: Well, 10 years is the kind of—

Jim Paice: That is what we want.

The Convener: That is good; we agree on that. What are the benefits and risks of the environmental focus areas? You have said that you are concerned about them on farms. In the pillar 2 area of rural development, those might well be the areas in which environmental focus brings public good.

Jim Paice: Yes. Our fundamental view is that pillar 2 is where we should be funding greening and conservation measures through targeted payments to farmers and landowners for delivering specific things for the environment. However, it is abundantly clear not only that it is proposed that greening funding should be in pillar 1, but that that is going to happen. We must find a way to ensure that it achieves value for money for the taxpayer and a genuine advancement in the environment.

When one talks to the commissioner, one cannot help but form the view that what he is trying to achieve is almost the lowest common denominator—something that everyone in Europe can deliver without much problem. He talks about hedges, ditches, tracks and things like that. When one asks what happens if there is not enough of that land—if it does not come to 7 per cent—the suggestion is that more land will have to be taken out of production. We do not think that that gives the impression of any real activity for conservation and the environment. We think that, if 30 per cent of the budget is to be directed towards green measures, there must be some development and improvement. That is why I said what I did a few minutes ago about the need for managed conservation.

Last week, at the NFU conference, the commissioner referred to us as the champions of conservation. I like to think that some of our schemes demonstrate active management rather than the ballpark figure—the source of which we know not—of 7 per cent. We would much rather see farmers rewarded for doing something positive. That is why the proposition on which we are working with like-minded member states and sharing with devolved Administrations is a menu of equivalents. A list of options would be available, which would have an environmental equivalence with what the commissioner is trying to do, and member states could choose the right ones for their farmers. That would move us away from the one-size-fits-all idea. Taking 7 per cent of black fenland in my constituency out of prime agricultural production is a different proposition from taking out 7 per cent of barren sand somewhere in the south-west—I will not use Scotland as an example.

The Convener: I am pleased about that.

Jim Paice: There should be equivalence, in that any measures should achieve an equivalent environmental gain.

The Convener: In those measures of equivalence, should the current agri-environment activity count towards the greening?

Jim Paice: Very much so, yes. I am sorry to keep returning to what the commissioner said a fortnight ago, but that was his most recent appearance in the UK. He referred to us as the champions of conservation and agreed that such activity should count. The challenge will be in whether he agrees to equivalence in quality or in quantity. I fear that he is still thinking in terms of quantity. For example, if a farmer has taken headlands out of production as part of an environmental stewardship scheme but that land does not add up to 7 per cent of the farm, they will have to take more land out of production. We would argue that properly managed headlands need not amount to anything like 7 per cent of a farm to have a far better environmental impact than other measures.

The Convener: Thank you. Let us move on to new entrants.

Alex Fergusson: I will take the lead on that subject. Before I do so, however, I welcome much of what the minister has just said on the issue of greening. I was beginning to think that he must have read my speech in the recent debate to which the convener referred, but I suspect that it is more likely that I read one of his speeches before I thought about my own. I very much share the view that the place for greening is in pillar 2 rather than pillar 1, and I was pleased to hear the minister reiterate that.

We have a significant issue in Scotland around new entrants. Forgive me, but I am not sure whether there are similar—

Jim Paice: It is not the same south of the border, but I am aware of the issue.

Alex Fergusson: There are a number of issues that exacerbate the situation. Under the EU proposals, there are measures that I think might refer more to young entrants than to new entrants. The two appear to have been conflated. What are your views on the definition of young farmers, and the fact that the measures that will be put in place will be confined to people who are under 40 years old?

12:00

Jim Paice: My background is one of active membership in the young farmers movement, and I strongly support the idea of help being given to young farmers. Across the industry, however, "new entrants" is a better phrase than "young farmers". Some people would question whether someone who was 40 years old was a young farmer. From where I sit, that is very young, but that might vary, depending on who you are.

We believe that there should be assistance for new entrants. The Commission proposes that we should have the ability to pay them a 50 per cent enhancement of their entitlements, up to a certain level—I have forgotten the precise level, but Martin Nesbit can give us the details. Again, like so much of what the Commission does, that is a one-size-fits-all approach. That might be fine if someone has taken on an extra 3 hectares in Poland, but for most UK farmers it will not add up to a row of beans, frankly. We think that the means by which new entrants are helped should be left to the discretion of the member state, which will be able to decide the best way of doing it in its own territory.

Alex Fergusson: You say that it should be up to the member state. However, as you have already accepted, the situation in Scotland, at this point in time, is different from that which exists throughout the rest of the UK. How would you address that?

Jim Paice: I will not pontificate on what would be right for Scotland. As I understand it, the problem with getting young people into farming in Scotland is much more to do with land tenure legislation than it is in the rest of the UK. As an avid reader of the Scottish farming press, I see that issue being explored every week. It would be impertinent of me to comment on what is the right way forward.

My personal view with regard to young people in farming, regardless of country, is that the ownership of land has to be separated from the farming of that land as a business. There should be opportunities for young and new entrants to be able to come to an arrangement with someone who owns the facilities—which is to say, the land—that they need, in order to find a way to share the income and so on. That might be a tenant arrangement, a contract-farming arrangement or the share-farming arrangement that exists in New Zealand. I believe in that sort of freedom of opportunity. However, that is a generalised approach, and I will not say what is the right way forward for Scotland.

Alex Fergusson: I might well agree with you, but I think that we will have to leave the issue for another day.

One of the issues that we have is the number of farmers who have entered farming since 2002 and who find themselves without entitlements. We are now talking about a requirement for people to hold a 2011 entitlement in order to be able to claim whatever support mechanisms are put in place.

What view does DEFRA take of the need for the continuation of a national reserve after 2014? I suppose that the issue comes back to land tenure, but what alternatives might be available to ensure that tenant farmers are protected from landowners being tempted to take back land in hand in order to meet that 2011 requirement?

Jim Paice: If they have not yet met the 2011 requirement, they are too late, of course. Our view is that we are unlikely to end up with that 2011 requirement but, in terms of the proposal, the die is now cast.

With regard to people who have joined the industry since the beginning of the present scheme, we believe that that issue needs to be resolved. There should be an on-going national reserve. We take the view that, however much we try, there will be some unintended consequences as a result of the conclusions. However hard we try to prevent it, there will be some inherent unfairness and I think that a national reserve is necessary to deal with that.

My understanding is that the Commission's proposals are for new entitlements, which means that people who might currently be farming naked acres, because they have come in since the original date, might be able to establish entitlements on that land for the future. Am I correct in that understanding, Martin?

Martin Nesbit: Yes.

Alex Fergusson: So that would apply to people who have come into farming in the past few years. Figures that the Scottish Government made available recently show that, over the past five years, roughly 200 farmers a year have gone into the sector without any support whatever. Are you suggesting that, following the reforms, they should be able to access entitlements?

Martin Nesbit: On the basis of the Commission's proposals, if they activated an entitlement in 2011, they can secure entitlements in 2014 on the basis of the entitlements that they claim for in 2014. If they did not activate an entitlement in 2011, they will not be participating in that new allocation of entitlements. That does not entirely resolve the problem that you have referred to, and I think that we need to work with colleagues in the devolved Administrations to ensure that we have a mechanism that is capable of doing that, possibly using the national reserve or perhaps through amendment of the slightly complex approach that the Commission has

proposed to the allocation of entitlements and the link to 2011.

Alex Fergusson: DEFRA is willing to work towards a solution to that issue.

Martin Nesbit: Absolutely.

The Convener: I want to address another transition issue, which we missed earlier. Scotland still operates the historic payment system, and England has an area-based system. Given the experience of England's messy transition, what are your views on the timing of a move to area payments and how that should be achieved?

Jim Paice: We believe that it is right to move to area payments—I need to emphasise that. However, as you rightly say, we bear the scars of that process. That is one reason why we do not want implementation to be rushed next year, or whenever it will be—I refer you to my earlier comments.

As you know, the Commission proposes a 40 per cent transition in year 1. We believe that that is wholly unrealistic. We have already given a commitment to the Scottish Government and the other devolved Administrations, all of which face the same issues, that we will make the case to the Commission that the transition should be more even—in fact, we have already begun to do so.

The Convener: That is helpful.

There has been a suggestion about small farmers receiving an annual payment set at between €500 and €1,000. Those who were taking part in the scheme would not be eligible for other pillar 1 schemes and they would not have to comply with the greening measures or the good agricultural and environmental conditions requirements. What is the UK's position on that?

Jim Paice: We think that it is up to individual member states if they want to have a small farmer, de minimis-type of scheme, but we do not believe that those farmers should be exempt from the greening requirements.

The Convener: I declare an interest, in that I am a member of the Scottish Crofting Federation, which is not keen on the proposal at all, as it sees it as a limiting factor. There does not seem to have been much support for the proposal from any sector in Scotland. I presume that that might be reflected in the UK's position.

Jim Paice: Yes. I am not aware of any strong support for it within the UK at all. I think that people understand the idea of having a simple scheme for basic levels—I do not have anything against that myself—but it should not absolve someone from the responsibilities that apply to other farmers, not least because, if you add up this lot over the whole of Europe, they come to several million farmers. If you exempt them from the greening proposals, you have driven quite a large hole through your policy.

The Convener: Annabelle Ewing has a question on areas with natural constraints, which are a slightly related issue.

Annabelle Ewing: On the discussion that we had earlier, I believe that the Pack report made a recommendation of 15 per cent relative to the national ceiling.

What is DEFRA's thinking on the protection of high nature value farming systems in particular?

Jim Paice: Sorry, on high nature—

Annabelle Ewing: On high nature value farming systems, where there are particular social and environmental considerations to be taken into account, as is the case in relation to some livestock systems. The issue has been raised by various stakeholders, and I wondered what DEFRA's view is.

Jim Paice: It is not a phrase that I am particularly familiar with—it is certainly not one that we use in England. I thought that we were talking about the areas with natural constraints, which is the new terminology.

Annabelle Ewing: Yes, and stewardship and so on.

Jim Paice: As I said earlier, we strongly believe in the provision of public support for farmers in areas with natural constraints, which we used to call LFAs. In an ideal world, that would be paid for out of pillar 2 funding. We provide funding through the entry-level stewardship scheme, which pays farmers for the environmental benefits that they provide in the uplands.

As an aside, I hope that the national ecosystems assessments, which we published last summer, will, in time, come into play as a mechanism for putting real values on environmental aspects. In the uplands and Highlands, such an approach will be particularly relevant because it tries to put a value not only on social aspects but on water retention, ecosystems, carbon sinks and other elements. All of that can then be built into a scheme. We have not yet reached that stage, but that is where I want us to go.

We believe that it is right for farmers to receive that funding, because their role is vital to the rest of the community. Because there is no market for what they are doing, we think that such activity is best funded from pillar 2. If, as is currently proposed, it is to be funded with top-level pillar 1 money, so be it; quite frankly, we will not oppose the idea. However, the question of affordability arises; as I understand it, it would take a very

large sum of money to pay the minimum €25 a hectare to all of Scotland's areas with natural constraints. There are issues that we need to resolve, but the principle of identifying and funding those areas is fine.

Annabelle Ewing: If I understand you correctly, you are saying that if Scotland wishes and feels it appropriate to have the option of accessing pillar 1 funding to whatever agreed ceiling for areas with natural constraints, the UK will not seek to do anything contra that. Is that right?

Jim Paice: That is a non-question in as much as the issue does not arise. As I understand it, the payment from pillar 1 proposed by the Commission will be, if you like, a third top-up: there is the base level, the greening element and then the area with natural constraints top-up, which would be given to every farmer in the area. I am not sure that we need to answer whether we are for or against that for Scotland. If that system is brought in, that is what will happen.

Martin Nesbit: DEFRA and UK ministers do not make any implementation decisions in relation to Scotland. Clearly, if Scotland chose to do what you suggest with part of its pillar 1 payment ceiling, that would be possible.

Annabelle Ewing: Maybe I should rephrase the question. Would the UK actively lobby against such a proposal?

Jim Paice: No.

The Convener: Margaret McDougall has some questions on rural development.

Margaret McDougall: As we know, changes are going to be made to structural funds. What are the benefits of greening pillar 1 instead of using pillar 2?

12:15

Jim Paice: I am probably not the right person to answer that question, because our view is that the real benefits come through pillar 2. As I have said, in an ideal world, all greening funding would be provided from pillar 2 to landowners and farmers for carrying out clear, specific and targeted activity to help the environment. I am not saying that we in England have got it entirely right with our stewardship schemes, but I think that we are pretty well on the way.

Indeed, that is how it should be. This is only my perception, but the Commission's reasoning for greening pillar 1 is, first, that it believes—quite rightly—that the taxpayer is entitled to think that farmers who get single farm payments are also looking after the environment. Secondly, I think that the Commission recognises that there are large areas of Europe that do not even pay lip service to conservation or the environment, which need to be brought into the framework. That is why I used the phrase "lowest common denominator"—something that most areas could deliver relatively easily. Thirdly, I think that the Commission is trying to enshrine greening publicly in the CAP. It is enshrined in pillar 2, but the Commission thinks that putting it in pillar 1 makes it more of a headline issue. As I said, we do not think that it should be in pillar 1, so I am not the right person to defend its position there.

Alex Fergusson: How much support, if any, are you getting on that from other EU member states?

Jim Paice: Some, but almost certainly not enough. Some member states—the Scandinavian states and Germany—take the same view as we take. However, we are pretty clear that it will happen in pillar 1 and therefore we must work a system that will deliver.

Margaret McDougall: We talked about LFA; some 85 per cent of farmed land in Scotland comes under that heading. Is maintenance of LFA support an important part of DEFRA's CAP strategy?

Jim Paice: Yes, it absolutely is.

Margaret McDougall: Thank you for that short answer. What transitional provisions are being considered, to ensure that there is a smooth transition between rural development programmes?

Jim Paice: As you might imagine, we are in favour of a smooth transition. We have discussed the possible financial hiatus that could occur for funding of pillar 2 if, as we suspect, the next round of CAP is not resolved until the middle of next year. I do not think that I can add to that. We will have discussions with the Scottish Government and the other devolved Administrations and we will work with them to ensure a smooth transition across the piece. In England, we have no desire to alter radically what we are doing. We want to roll forward our pillar 2 rural development programme roughly as it is; other member states or countries might want to do something slightly different.

That takes us back to the early part of the discussion, when I said that we do not know how much money we will get in pillar 2. The Commission has said clearly that it will not give us an indication of allocations until the budget is set at the end of the year. We think that that is a great pity and many other member states feel the same way, but so far the Commission is being robust in its reluctance to give us figures.

The Convener: Nigel Don, who is a substitute member of the committee, wants to ask a question.

Nigel Don (Angus North and Mearns) (SNP): Thank you, convener. It is good to see you, minister. This is my first appearance as a committee substitute, so it occurs to me that I should make the customary declaration and refer members to my entry in the register of members' interests—although I do not think that I have particular interests in the subject matter.

My interest in the issue is in the context of rural development in general. We are talking about money that is principally spent in rural communities, in that it goes to farmers, who have a duty to protect the rural environment. Is there any thinking about protecting and sustaining rural communities, minister? The issue is relevant to parts of England and certainly to remoter parts of Wales, as well as to Scotland. There are places and communities that need to be protected, where I suspect that there is not a great deal of agricultural activity, given the natural constraints, but where the funding that you have at your disposal is probably the single largest stimulant to the environment and the economy.

Jim Paice: As far as the next CAP, which is what we are largely discussing, is concerned, the Commission's proposals for pillar 2 are still fairly vague, beyond the fact that it will get rid of the current three axes. I will come back to the matter, if you like, but there are three axes in the current pillar 2 and the Commission is getting rid of those. There is talk of introducing a minimum spend of 25 per cent on the environment. We do not have a problem with that and we certainly welcome the flexibility created by getting rid of the three axes.

You are right that rural communities are part and parcel of the debate. Within the current rural development programme—in other words, what pillar 2 funding can be spent on—a lot of discretion lies with member states. It can be spent on things to do with the rural economy generally, such as the support of start-ups, the extension of a business or some community activities. The current rural development programme has three axes and within each axis there is a long lists of options from which member states can choose. Each member state, or in this case each devolved Administration, was able to narrow down the list of options if they wished to, and submit it to the Commission. That caused some delays for Scotland, England and others, but there is immense flexibility.

There is also something that is not strictly a fourth axis but is seen as such by some. It is funding for what is called a LEADER activity, which is for rural groupings, and it is awarded by local action groups. They can spend money on the sort of things that you describe.

We can go into very fine detail if you wish, but the principle of what you talk about is part and parcel of the rural development programme now and we would want to see that continue.

Nigel Don: My concern is to see it continue and, at one level, be enhanced to ensure that we have, and you have, the appropriate discretion to do sensible things for places that can turn out to be very disadvantaged, but which we recognise as being important communities. Those communities are part of our country. I encourage you to ensure that you retain that flexibility.

Jim Paice: We wish to.

Jim Hume: I come back to a point on which I seek clarification. I maybe picked you up wrong, but I think that you said that the condition for someone qualifying, of needing to hold an entitlement in 2011 and lodge it with their integrated administration and control system form, might not stand. Will you expand on that? Did I pick you up incorrectly?

Jim Paice: You picked me up correctly. I was reflecting on the fact that nothing is decided yet. All that we have is a set of proposals from the Commission. I know that quite a lot of member states feel that there is no logic in using 2011 as a start date or threshold date. That is what I was reflecting on.

Jim Hume: Do you know when other member states think that the threshold date should be? Do they consider that it should be whenever the new CAP starts?

Jim Paice: Yes. Most member states seem to think that it should be closer to when that starts.

Jim Hume: That is interesting.

The Convener: That information is useful.

Claudia Beamish: In your opening remarks, minister, you referred to the significance of climate change. Can you make any more general remarks on how DEFRA, and you as the minister, are addressing the significance of UK-wide climate change targets? Will you also comment on the concern about the biodiversity targets, which obviously fit in with the rural development side but also more broadly with both pillars? How do those targets fit into the negotiations?

Jim Paice: Yes. DEFRA has two strands of policy. First, through industry itself, there is the greenhouse gas action plan to deliver on those targets. An industry-based group that represents farmers, landowners, the agricultural supply industry and a few others is developing an action plan for the significant reduction of emissions from agriculture.

Secondly, we are working on an adaptation plan, because we must all recognise that, to a greater or lesser extent, climate change is happening and we need to adapt to it. I cannot put

a precise date on it off the top of my head, but DEFRA will publish an adaptation plan later this year.

You are right that biodiversity and the biodiversity action plan targets often figure strongly in pillar 2. As far as we are concerned, we are working on biodiversity primarily through our stewardship agreements. We have three strands of stewardship. One is the entry-level scheme, which is a broad and shallow scheme to which 70 per cent of farmers belong. The high-level stewardship scheme is much more targeted and is moving more towards targeting specific ecological gains, which in many cases involves measures to promote individual BAP species and assist in their conservation and population growth.

The Convener: Thank you very much. We have now gone round most of the houses, but I am sure that there will be another round of discussions later on. I thank Jim Paice for his expansive answers, which have been very helpful to our deliberations, and Martin Nesbit for his advice.

12:26

Meeting continued in private until 12:45.

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