

ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 2 March 2005

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

7th Meeting 2005, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Mr Mark Ruskell (Mid Scotland and Fife) (Green)

COMMITTEE MEMBERS

*Rob Gibson (Highlands and Islands) (SNP)

*Karen Gillon (Clydesdale) (Lab)

*Alex Johnstone (North East Scotland) (Con)

*Richard Lochhead (North East Scotland) (SNP)

*Maureen Macmillan (Highlands and Islands) (Lab)

Mr Alasdair Morrison (Western Isles) (Lab)

*Nora Radcliffe (Gordon) (LD)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Janis Hughes (Glasgow Rutherglen) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

Eleanor Scott (Highlands and Islands) (Green)

*attended

THE FOLLOWING ALSO ATTENDED:

Chris Ballance (South of Scotland) (Green)

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

Mr John Home Robertson (East Lothian) (Lab)

Alasdair Morgan (South of Scotland) (SNP)

Mr Andrew Welsh (Angus) (SNP)

THE FOLLOWING GAVE EVIDENCE:

David Dunkley (Scottish Executive Environment and Rural Affairs Department)

Tom McCabe (Minister for Finance and Public Service Reform)

Lewis Macdonald (Deputy Minister for Environment and Rural Development)

Nicol Stephen (Minister for Transport)

Charles Stewart Roper (Scottish Executive Environment and Rural Affairs Department)

Allan Wilson (Deputy Minister for Enterprise and Lifelong Learning)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 6

Scottish Parliament

Environment and Rural Development Committee

Wednesday 2 March 2005

[THE CONVENER *opened the meeting at 10:03*]

Subordinate Legislation

Landfill Allowances Scheme (Scotland) Regulations 2005 (Draft)

The Convener (Sarah Boyack): I remind people to turn off their mobile phones, if they have not already done so, as it avoids embarrassment later.

I welcome colleagues, members of the press and members of the public to our meeting. We have received apologies from Alasdair Morrison. Some visiting members are here this morning: John Home Robertson, Alasdair Morgan and Andrew Welsh. They are not required to come to the meeting, so they have come out of interest. We will come to the topic that they are interested in later.

Agenda item 1 is subordinate legislation. We have one instrument to consider under the affirmative procedure: the draft Landfill Allowances Scheme (Scotland) Regulations 2005. Parliament must approve the draft instrument before it can be formally made. The motion that is in front of the committee from the Deputy Minister for Environment and Rural Development, Lewis Macdonald, invites us to recommend to the Parliament that we approve the instrument. I welcome the minister, who is here to move the motion, and his officials.

The Subordinate Legislation Committee drew to our attention a couple of points of clarification that it sought, which have been provided by the Executive. Members have an extract of that committee's report.

Our usual practice is to have a session to clarify any technical matters or to allow an explanation of detail while the minister's officials are at the table with him. When we reach the debate, the minister will be on his own. I invite the minister to make opening remarks on the purpose of the instrument.

The Deputy Minister for Environment and Rural Development (Lewis Macdonald): Thank you, convener. Like you, I am pleased that the ever-rising profile of environmental issues in the Parliament is attracting ever-greater attendance from members who are not on the committee. I hope that that is a sign of things to come.

The regulations make an important contribution to our proposals for dealing with waste. They are part and parcel of our efforts to modernise waste management in Scotland in line with the national waste plan, which the committee considered last year. Members are aware that, through the strategic waste plan, we have provided indicative resources of almost £1 billion through to 2020 to assist local authorities to increase recycling and to develop new ways of treating waste. The landfill allowance scheme, to which the regulations relate, is closely linked to that and sets clear limits on the amount of biodegradable municipal waste that local authorities can send to landfill, so that they are in no doubt about their targets.

The regulations come at the end of a very long process. The convener will recall, from her involvement, the consultation on the measures that led to the Waste and Emissions Trading Bill. Other members who were in the Parliament in November 2001 will remember the debate in the Parliament on that United Kingdom bill.

The proposals are driven by our own ambitions, but part of the context is set by the European landfill directive, which places an obligation on member states to reduce dependence on landfill for the disposal of municipal waste. In the past, we have landfilled more than 90 per cent of our municipal waste. The landfill directive is targeted at biodegradable waste in order to reduce methane emissions—it is clear that that has wider significance in the context of greenhouse gases.

The Waste and Emissions Trading Act 2003 provides that the limits on landfilling in that respect should be allocated among the four countries of the United Kingdom: England, Scotland, Wales and Northern Ireland. The act allows ministers in those four countries to allocate landfill allowances to individual local authorities in a way that is consistent with the targets and which places a duty on local authorities not to landfill in excess of their holding of landfill allowances. That, in essence, is what is before the committee today.

The regulations have been developed through two stages of consultation and further contacts with the Convention of Scottish Local Authorities on behalf of local government. In essence, the regulations provide for a register of allowances and an allocation to each local authority. They allow local authorities to bank, borrow or trade their allowances to meet their targets flexibly—trading will be introduced in 2008. They provide for the Scottish Environment Protection Agency to collect data to monitor the scheme and to calculate the landfill of biodegradable municipal waste from the data. They allow for the calculation of liability to penalties, should landfill in any year exceed the permitted allowance—taking account of borrowing, banking and trading—and they allow

ministers to assess the level of any penalty to notify for payment.

The penalties, which are clearly an important part of the regulations, are required by section 9 of the Waste and Emissions Trading Act 2003. We have introduced penalties in a phased way. The penalties are based on an assessment of tonnage of excess landfill multiplied by £10 per tonne in the first year—2005-06; £25 per tonne in the following year; £50 per tonne in the year after that—2007-08; and £150 per tonne from 2008-09.

Provision is made for liability to supplementary penalties should the UK fail to meet its target. We hope that that will not happen, but provision for the possibility must be made. Before any penalty for which the regulations provide is imposed, ministers will consult the local authority in question and consider representations from the authority before proceeding to the next stage. The 2003 act, which governs the regulations, allows ministers to waive liability to penalties, including liability to interest on the penalties.

The provision in regulations for liability to substantial penalties is a serious matter. However, of course it is not our intention that the powers should ever be required; our intention is that the targets should act, along with the very substantial grant support that we are providing, to ensure that local authorities are enabled and encouraged to meet their obligations. The provision for liability to penalties signals to everyone that the targets have great importance. It is for all of us to work together to reach the targets and our intention is that the regulations should underpin a partnership approach, whereby the Scottish Executive works with the UK Government and local authorities work with the Scottish Executive to achieve our objectives.

The Convener: I invite members to ask questions or raise matters for clarification.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): I want to ask about equity across local authorities. Correct me if I am wrong, but I understand that local authorities in areas in which the recycling and composting of biodegradable municipal waste can be done at low cost will perform quite well and will be able to build up credits that they can trade with local authorities that are doing less well, because the cost of recycling and composting is high in their areas. Will that create environmental justice problems in that some local authorities, in particular in rural areas, will be unable to recycle and compost as much as other authorities can do, so landfill sites in their areas will be open for longer? Such an approach would create an imbalance in the performance of different local authorities.

Lewis Macdonald: We acknowledge the importance of your point. I do not think that there

is a particular urban/rural aspect to the matter, but I acknowledge that some authorities—in urban and in rural areas—will be in a better position than others will be to meet the targets. We chose the option that involves banking, borrowing and eventually trading in allowances so that we could put into the system the flexibility that we think will allow authorities that have a built-in advantage to press ahead and authorities that will inevitably need longer to make the investments to engage in trading and other mechanisms, so that they are not unduly penalised before they are in a position to meet their targets.

Mr Ruskell: Year-on-year targets will apply to each local authority. Will targets be set at different levels for different authorities? Will there be a cap-and-trade system, whereby allowances will eventually start to be reduced year on year?

Lewis Macdonald: In essence, the overall target is set to decline over the period in question. The target of 1.8 million tonnes in 2005-06—the figure is broadly the same as the amount of biodegradable municipal waste that went to landfill in the last full year for which we have figures—is set to fall to 1.32 million tonnes by 2009-10.

Mr Ruskell: Is that the Scotland target?

Lewis Macdonald: That is the Scotland target. Within that target, each local authority will be given an allocation, as was set out in the consultation document. The targets will have the force of the regulations for each local authority, but we will encourage local authorities to trade if that helps them. In other words, the targets are clear and firm, but they are not targets within which there is no flexibility or room for manoeuvre.

Richard Lochhead (North East Scotland) (SNP): Will you clarify a couple of matters? First, allowances are set to achieve the Scottish target. Is the Scottish target a contribution towards the UK target?

Lewis Macdonald: It is.

Richard Lochhead: Did the UK Government therefore have an influence over the extent of the Scottish target?

Lewis Macdonald: In the sense of—

Richard Lochhead: I assume that the UK set a target, after which Scotland had to negotiate its target as part of that?

Lewis Macdonald: Yes.

Richard Lochhead: Secondly, as I am sure that the minister is aware, COSLA contacted the committee to indicate its opposition to the proposed scheme. In its briefing to the committee, COSLA says:

“the proposed scheme has the potential to increase the risk of the targets not being met.”

It goes on to say:

"Levels of waste growth are, in most cases, outwith the control of local authorities".

If COSLA, which represents most of our councils, is opposed to the regulations, what was the response of the other consultees?

10:15

Lewis Macdonald: The general thrust of the consultation responses was recognition of the need to take measures to reach the targets that have been set. We consulted individual local authorities, COSLA and other interested parties, including the landfill operators. The general response to the consultation was that action needs to be taken to make progress in that regard. Charles Stewart Roper might like to give some detail on the responses.

Charles Stewart Roper (Scottish Executive Environment and Rural Affairs Department): Most of the responses that we received were from the local authority sector and they broadly reflect the concerns that COSLA raised.

We received a few responses from industry representatives who, in general, are strongly in favour of the scheme and want us to press ahead with it quickly. They said that they are in favour of high levels of penalties at an early stage and of getting the scheme up and running quickly. That was the flavour of the responses from the industry.

Richard Lochhead: May I ask a final question?

The Convener: Very briefly.

Richard Lochhead: Given the relationship between our target and the UK targets, how do our projected percentage decreases compare with those in the rest of the UK?

Lewis Macdonald: I am not familiar with the figures for England and Wales. Charles Stewart Roper might have the information, however.

Charles Stewart Roper: The basic figure for the landfill directive target year—the 2009-10 figure—is based on our share of the data in the 1995 baseline year, which is the landfill directive baseline year. The basic target—the landfill directive target—was divided out between the different parts of the United Kingdom purely on the basis of data that were available for 1995. In a sense therefore, no discretion was available to us.

Our track from now to 2009-10—the shape of our line between now and the landfill directive target deadline—is based on a decision of the Scottish ministers. The figures appear in a UK statutory instrument, but that is how the WET act works. The figures were set by Scottish ministers and communicated to the Department for Environment, Food and Rural Affairs, where they were built into its regulation.

Maureen Macmillan (Highlands and Islands)

(Lab): What will the effect of the penalties be on the voluntary environmental groups that have been contracted by local authorities to recycle or facilitate the reuse of furniture, for example? Highland Council has contracted a certain amount of tonnage from such organisations, yet the necessary recycling centres have not been set up to collect the materials. I am anxious that the penalties are not passed on to voluntary groups who, through no fault of their own, are unable to meet the targets.

The voluntary groups tell me that the council told them that they must speak to the Executive on the matter. However, the Executive told the groups that they must speak to the council. I have been in touch with Ross Finnie's office, but I would appreciate the minister saying something on the subject.

Lewis Macdonald: I am happy to comment. I am familiar with the specifics of the matter that the member has raised; I think that I am right in saying that it concerns Lochaber environmental group and Homemade Caithness, both of which are in the category that the member described. We will meet those groups shortly to discuss how their issues might be addressed.

It is important to distinguish between the strategic waste fund and the funding that it provides for specific projects to go forward and the targets. In a sense, the regulations are a response to a failure to meet targets. They set limits on the amounts that can go to landfill, whereas the strategic waste fund promotes alternatives. If projects are in difficulty in relation to funding from the strategic waste fund, there may be other methods by which funding could be provided to allow them to continue dealing with waste issues in ways that help us to meet our overall target.

Maureen Macmillan: That was helpful.

Rob Gibson (Highlands and Islands) (SNP):

Can the minister enlighten us on the subject of voluntary recycling as an activity in other areas of Scotland? Does Highland have fewer contracted voluntary recycling projects such as those that Maureen Macmillan described? I would like to get a flavour of the predicament in which Highland finds itself now that it has those targets to meet.

Lewis Macdonald: All local authorities face targets. In any case, there would be no point in setting targets if we did not think that they would make a difference. Of course, local authorities will regard the targets as demanding; that will be as true for Highland Council as it will be for every other council. The combination of measures from the council and from voluntary bodies will vary from area to area, but the general pattern is that, although councils are taking forward a lot of their

own work, they are engaging with providers in the voluntary sector—and, in some cases, in the private sector—where appropriate and where such actions support their efforts to meet targets.

Rob Gibson: I hear what the minister has said, but there has been no indication of percentages. At the moment, it might be too difficult to secure an answer to that question from other local authority areas. Problems with the on-going transportation of landfill waste to Peterhead and Perth from Highland show that, because of issues such as sparsity, the council still has a long way to go to catch up. I wonder whether your allocations take into account the long period of underinvestment that has brought Highland Council to this position.

Lewis Macdonald: They certainly should do so. For example, the consultation document shows that, in 2005-06, Highland Council's BMW to landfill allowance is 86,216 tonnes. That figure is derived from the status quo. By 2009-10, Highland should have reduced landfilling of BMW to 60,817 tonnes, and that also broadly reflects its share of the overall allowance.

The process by which councils will get from where they are today to where we want them to be by the end of the period will vary from area to area and will be tougher for some. Some will face the challenges earlier and others later. As a result, the banking, borrowing and trading allowances have been designed to help councils that have to meet particularly difficult challenges while ensuring that every council works towards meeting these demanding targets.

Nora Radcliffe (Gordon) (LD): The baseline assumption is that 63 per cent by weight of the municipal waste that is collected is biodegradable, and I presume that councils receive brownie points for whatever is extracted from that. If a council can encourage its residents to compost at home, is there any way of measuring that contribution to its overall effort?

Lewis Macdonald: I do not know whether Charles Stewart Roper can provide a technical answer to that question. I admit that no such answer immediately occurs to me.

Charles Stewart Roper: I am afraid to say that, although much thought has been given to that matter, no full conclusion has been reached. Obviously, stimulating a tonne of home composting would mean a tonne less municipal waste—of which, as you said, 63 per cent would be biodegradable. As a result, the council in question would not receive any credit for the other element that you mentioned, because all material from home composting is biodegradable.

It is very difficult to capture and measure such amounts. That said, it is still worth stimulating such

activity, because we need to reduce waste arisings generally. As for measuring the content of municipal waste, we hope that more home composting will mean a lower proportion of such waste. As a result, that 63 per cent figure might fall or might not rise as much as it would otherwise. Although there is a mechanism for feeding back information, there is no immediate way of capturing the full volume of home composting. It is simply a very difficult thing to measure.

Lewis Macdonald: I am glad that I am not the only one who does not have a full technical answer to that question. However, the general answer is that councils should not be penalised under this system for being more successful than they are required to be.

Karen Gillon (Clydesdale) (Lab): Would a voluntary scheme have enabled us to meet our targets?

Lewis Macdonald: If we had introduced a scheme that did not have regulatory requirements, we would have run a greater risk of missing our targets. We were required to establish a mechanism to make it as likely as possible that we would meet those targets in time.

I do not need to tell members that the consequences of failing to hit the targets—which would result in fines of up to €500,000 a day—would be a most regrettable failure to achieve our environmental objectives and would have a regrettable impact on Scottish public expenditure. Therefore, the scheme is designed to make it more likely that we will hit our targets by assigning responsibility to local authorities for the areas for which they are responsible and providing them with a degree of flexibility that will, we hope, make it equally easy for councils in different parts of the country to make their contribution over the period in question.

The Convener: We have given the points of clarification a bit of a going over, so we move to formal consideration of the motion.

Motion moved,

That the Environment and Rural Development Committee recommends that the draft Landfill Allowances Scheme (Scotland) Regulations 2005 be approved.—
[*Lewis Macdonald.*]

Richard Lochhead: Everyone in the committee is in favour of reducing the amount of waste that goes to landfill, which has been a big issue in recent years. The debate is not about whether there should be regulations to achieve that objective—there is probably quite a good case for such regulations—but about what the nature of those regulations should be. I am slightly concerned about that. The Convention of Scottish Local Authorities, which has contacted us, says:

"This power introduces a degree of uncertainty that is unlikely to assist in long term planning or to promote the establishment of an effective trading regime."

It might be worth while inviting some of the local authorities and SEPA to give evidence to the committee before we take a decision on the motion, rather than just rubber-stamping the regulations.

The Convener: We could put back the decision to next week if necessary, but I would be happy to take it today, because we have COSLA's representations and we have been able to question the minister on the matter. Unless you want to propose formally that we put our decision back to next week, I would be keen to take it today.

Richard Lochhead: I will do that if I need to.

The Convener: The clerk has advised me that, if you had wanted to do that, you should have made that proposal before the minister moved the motion. We are now considering the motion, so we have to address it.

Richard Lochhead: How can I do that without hearing the minister's response to the debate?

The Convener: You will not be able to do that. You should have made your proposal earlier. We are now in the middle of a debate, the motion has been moved and I have opened the discussion to arguments for and against the motion. You would have to vote against the motion and, if it was not agreed to, the Executive would have to decide whether to bring it back to the committee.

Richard Lochhead: What is the point of giving members the opportunity to get points of clarification from the minister if they are not allowed to respond to them?

The Convener: You should have made your point before we began the formal debate. That is the point of the clarification process.

Richard Lochhead: In that case, will you clarify what my options are?

The Convener: If you have such strong feelings that you would rather not agree to the motion without having a lengthier discussion with other representations and more evidence, your only option is to vote against the motion. I realise that that is not an easy situation, but we have procedures to follow, which is partly to be fair to everybody.

Nora Radcliffe: I will make a more positive contribution. It is good to see a phased introduction of a response to a European directive; I have been on the receiving end on occasions on which we have ignored a European directive until we are right up against infraction procedures, which is not a happy place to be. It is entirely right

to introduce measures that we have to take in response to European directives in the time that we are given, which is given to us to enable such phased introduction. I welcome the regulations.

Mr Ruskell: I am minded to support the motion, but I would like reassurance from the minister that he will target the strategic waste fund at those local authorities that have particular difficulties and which incur particularly high costs in diverting compostable waste from the waste stream. I would not like us to be in a situation in a few years' time in which those local authorities that have great difficulties are using the tradable quota credit system to buy their way out of dealing with the problems that they face.

Nora Radcliffe's point about the contribution of domestic composting was well made. I would like the committee to hear about a mechanism for bringing that into the system—whether it is part of the trading system or whatever. Composting must be factored in.

10:30

Karen Gillon: I am minded to support the motion, but I have concerns about what Mark Ruskell said. I do not want matters to be skewed too much one way. Some authorities have taken difficult decisions, which have had consequences, to have landfill in their areas. Some authorities have diverted landfill to other areas, but they should not be rewarded when other authorities have had to take hard decisions for which they have been unpopular.

It will not be easy for any local authority to meet the targets, but if the nation is to meet its targets, we must encourage each local authority to do its bit and, in turn, each household to do its bit. Some local authorities can do far more to encourage recycling and reuse, rather than simply stuffing waste in a bag and sending it to the dump.

Rob Gibson: It is positive to examine how the scheme will be applied. We will have to review how it works in practice. It is all very well to say that the instrument is positive, but it is a fact that people started with handicaps that have never been caught up with. Mark Ruskell talked about what makes it difficult for Highland Council and other authorities to meet the conditions, whether or not they take hard decisions. COSLA has suggested that the scheme is probably not the best way in which to proceed.

What I am saying is not negative; I am just unhappy with the suggestion that some people are not pulling their weight. Members should respect the fact that local knowledge suggests that we must be careful about what we say, so that the whole country is taken along. I am unhappy about the tone that has developed, because not enough

understanding has been shown of the difficulties that are faced in some areas.

The Convener: The scheme is positive in the sense that it is clear. I read the Executive's statement of the options that were available to it and the fines of €500,000 a day should concentrate everybody's minds. We all agree that we should send less waste to landfill and that we should recycle more, but without a stick to concentrate the mind, it is difficult for local authorities to prioritise expenditure and staff time. The strategic waste fund gives authorities an opportunity to plan.

I am glad that ministers have developed a phased implementation scheme. The situation will have to be monitored, but after examining the alternatives, I think that the scheme provides room for flexibility while setting a clear target. The Executive needs to talk more to local authorities to ensure that everybody is engaged and is on target to implement the scheme.

I agree with Karen Gillon's comments about what local authorities do by way of campaigns to communicate with the public. Edinburgh has a waste awareness campaign to encourage people to use resources more wisely and to create less waste. Nora Radcliffe's points about composting were bang on. Over time, it would be useful to capture that. I hope that the Executive will commit to considering that.

Lewis Macdonald: It is important to recognise COSLA's concerns, which have been mentioned. COSLA has worked closely with us and has been fully involved in the consultation process. The scheme differs in several respects from that which applies elsewhere in the UK, largely as a result of the effectiveness of that consultation process. For instance, we have adopted a phased approach, which means that the penalties in the first three years will be less severe than they will be in succeeding years. I think that I am right in saying that that is unique in the UK: Scotland is the only country that has taken such an approach. That will meet some of the concerns that local authorities have.

To meet our obligations, the regulations must be in place by 1 April, so I am glad that the committee is discussing them today. That is important. We are keen to ensure that the concerns that local government has expressed continue to be addressed. It is important that that should be the case. To achieve our objectives, we need stick and carrot. We would not expect the stick to be as popular as the carrot. What we are proposing is proportionate to the objectives that we have set. Broadly, Scotland's local authorities are willing partners in the process of reducing landfill, so I expect that they will work with us closely on that.

An issue that councils have raised is what factors will be considered when penalties are applied. I re-emphasise that the regulations give ministers discretion in the application of penalties. We would want to consider such matters as whether a local authority had received grants for tackling waste issues or had experienced unexpected growth in waste that might have made a difference to its ability to achieve the targets. A perfectly legitimate reason for not quite meeting a target might be unforeseen delays in commissioning plant. In such circumstances, we would want to know what the council had done about any deficiency on its part. We have designed the trading scheme to allow councils collectively to address such deficiencies and to reduce their impact on any one council.

The strategic waste fund must be cost effective. We have discussed with local authorities and others whether allowances might be redistributed as we proceed, to reflect the fact that different councils face different difficulties. If some councils obtain better support from the strategic waste fund that allows them to provide more low-cost solutions, we might want to talk to them about the redistribution of their allowances. In any case, the opportunity for trading will mean that councils will be able to reduce their costs. Concerns have been raised about the provision for ministers to suspend trading but, again, we would take into account all the different factors.

The regulations are about working with councils to achieve agreed objectives. We are all signed up to the achievement of those objectives and the regulations provide the proper basis for us, together with local authorities, to make progress on them in the future.

The Convener: The question is, that motion S2M-2405, in the name of Lewis Macdonald, be agreed to.

Motion agreed to.

That the Environment and Rural Development Committee recommends that the draft Landfill Allowances Scheme (Scotland) Regulations 2005 be approved.

The Convener: I thank Lewis Macdonald and his officials. I ask the deputy minister to stay in his place for item 2.

Conservation of Salmon (Esk Salmon Fishery District) Regulations 2005 (SSI 2005/24)

10:39

The Convener: We come to item 2.

Alex Johnstone (North East Scotland) (Con): On a point of order, convener. During the discussion of item 1 we had a degree of confusion

about the alternatives for dealing with the draft Landfill Allowances Scheme (Scotland) Regulations 2005. As we move to deal with another statutory instrument, which could also be controversial, can we get clarification on the alternatives that are open to us? If a member was of a mind to propose an alternative to the two options that we will have when we deal with the motion, at what stage would it be appropriate for them to do so?

The Convener: I am grateful to you for making that point. I have asked Mark Brough to draw up after the meeting a note about how we handle motions, because once they are on our agenda we have to deal with them or decide to defer them. Normally, if we are dealing with a negative instrument and the relevant minister is not at the committee, we ask the clerks whether we have time to kick it back a week or so. The Conservation of Salmon (Esk Salmon Fishery District) Regulations 2005 were originally scheduled to be dealt with by the committee before the February recess, but because Andrew Welsh lodged a motion to annul, we were given more time to bring it to today's meeting.

The upshot on these regulations, as opposed to the regulations with which we dealt under item 1, is as follows. We have to report to Parliament on the regulations by Monday; that is our deadline. If members are not happy with the minister's proposal and want to take more evidence—the approach that Richard Lochhead took to our earlier discussion—we would have to arrange a meeting to discuss the regulations before Monday. They will go through automatically unless we agree to Andrew Welsh's motion, which would annul the regulations. Members' options are to vote for the motion if they support it, vote against it if they do not support it or call for another meeting between now and Monday to debate the motion to annul, if they want to take more evidence. I know that that sounds complex, but because of the timescale involved we do not have many alternatives. Does anyone seek clarification?

Alex Johnstone: On the issue of asking the minister for clarification—

The Convener: Sorry, I just wanted to check that everybody was okay with my answer to your point of order and that nobody wants to ask about the procedure.

Alasdair Morgan (South of Scotland) (SNP): I seek clarification on something that you said, which might, inadvertently, have misled members. You referred to our annulling the regulations. If we agree to the motion to annul, the regulations are not annulled; we have to lodge a motion before the Parliament to annul them. Is that right?

The Convener: Yes. Thank you for that helpful point. That is what I meant to say initially. I did not

have a scripted answer; I was asked to rule on something without notice.

If everybody is okay, we will now deal with the regulations. We will take questions seeking clarification before we debate the motion before us. I ask the minister to explain the background before we get to the debate. I will then invite members to ask questions. I can see all members nodding vigorously; I will take their questions when we get to that point.

Lewis Macdonald: Members who are familiar with the Gaelic language will know that uisge is Gaelic for water and therefore Esk rivers appear in all sorts of places where Gaelic was spoken 1,000 years ago but is perhaps no longer spoken today. For the avoidance of doubt, the regulations relate to the Esk district in Angus and the Mearns, not to any of the other Esk rivers or bodies of water in Scotland. It is important to make that point.

The second point to make is that the regulations are concerned with the conservation of salmon. They are made under the provisions of section 10A of the Salmon Act 1986, which was inserted by the Salmon Conservation (Scotland) Act 2001 and which allows Scottish ministers to make salmon conservation regulations either upon application to us or otherwise, where we consider it necessary or expedient to do so for the conservation of salmon.

10:45

In this case, the regulations have been made upon application to the Scottish ministers by the Esk district salmon fishery board, to promote the conservation of early-running salmon—which are known as spring salmon—returning to the rivers in the district for which that board has responsibility. Those rivers are the North Esk, the South Esk, the Bervie water and the Lunan water.

As in many other districts, such arrangements have been put in place on a voluntary basis, and we and others had clearly hoped that that would be possible in this case. However, it has not proved possible for the board to reach agreement on a voluntary basis with all those with an interest in the fisheries on those rivers, and it is for that reason that the board has sought the order.

The regulations are part of a package of two instruments that is being introduced, and it is important to be clear about that. The regulations provide for three things. First, on the use of rod and line, they provide that, between the start of the season on 16 February and the end of May, anglers should use single or double barbless hooks in catching fish. Secondly, they prohibit the retention of any salmon caught by rod and line during the same period. In other words, the regulations introduce catch and release on a

statutory basis between the beginning of the season and the end of May. The third aspect relates to netting. The regulations restrict the level of netting effort during the month of May to that which has applied in recent years.

It is important to be clear that these regulations relate to catch and release and to the use of appropriate hooks for anglers, and that they impact on netsmen only for the month of May. There is a separate order—the annual close-time order—which is also being brought into force and which extends the annual close time for netting to 30 April. That separate order is not impacted on by the regulations that we are considering today. It is not open either to the committee or to ministers to remove the close-time order, which is a separate instrument. I can explain why that difference applies in answer to questions if members so wish.

The combined effect of the package—the close-time order, which ends netting in February, March and April, and the regulations that restrict netting in May and introduce catch and release until the end of May—is to reduce the number of spring salmon killed by both anglers and netsmen during that period, for conservation purposes to protect the stock. Both the regulations and the close-time order apply for five years from 16 February this year and will be subject to review after the end of that five-year period.

What we are considering today is the catch-and-release proposal and the restriction of netting effort in May. For clarification, that is a restriction to the level of effort that currently applies, and members will see set out in the regulations what that means in practical terms.

I hope that that was helpful as an introduction. I am happy to answer questions.

The Convener: Just about everybody wants to ask questions. I should add for the record that Fergus Ewing MSP has joined us. I invite Andrew Welsh to ask the first question.

Mr Andrew Welsh (Angus) (SNP): What mortality rate is allowed for in the catch-and-release proposal?

Lewis Macdonald: The catch-and-release proposals are based on an expectation of survival rates of 80 per cent or so—in other words, a mortality rate of up to 20 per cent.

Mr Welsh: If catch and release only really works if it is policed and monitored, what reassurances have been received about adequate policing of the proposal?

Lewis Macdonald: The district salmon fishery board has bailiffs in place. It employs two full-time water bailiffs, whose job will be to monitor and police the requirements. I understand that it is also

appointing honorary bailiffs to support that effort, to ensure that the regulations and other limits are properly enforced. I agree that the regulations will be effective only if they are properly enforced, and it is important that the board should do that.

Mr Welsh: Can you confirm that sea trout are included in the total catch-and-release scheme?

Lewis Macdonald: Yes. The ban applies to salmon and sea trout.

Mr Welsh: Can you confirm that, in recent years, the fish counter has shown that the number of fish that are ascending the river is generally higher than it was in the 1980s?

Lewis Macdonald: Let me just look at the figures, which I have with me. The broad pattern is that the number of fish returning to the coast has decreased, although the number of fish that escape capture and go on to spawn—which is an important distinction—is increasing. The number of fish that escape capture is increasing, but the evidence that we have collected indicates that the total stock of spring salmon, or early-running salmon, is declining. That is the basis for the conservation measures. It is important to make the distinction, as there is not the same concern over summer stock that there is over the spring stock.

The Convener: I have a sense that you have a huge number of questions to ask, Andrew.

Mr Welsh: I have only one more.

The Convener: I want to let other members ask questions, and they may have the same questions to ask as you. However, if you have only one more question, I will let you ask it briefly.

Mr Welsh: Thank you, convener.

Minister, can you confirm that the number of spawning salmon in the North Esk in April and May is steady or increasing?

Lewis Macdonald: Yes, the number of salmon that are escaping to spawn is increasing. I have here some figures comparing the present number with the number in the 1980s. The total number of spring salmon fell from just under 4,500 20 years ago to just over 2,600 in the period 2001 to 2003; however, in the same period, the number of spring spawners doubled from just over 1,000 to just over 2,100. That reflects what I suggested a moment ago: the stock is getting smaller—the number of fish that are getting back to the river is decreasing—although the number that are going on to spawn is increasing. The difficulty with the convergence of those two lines is that, if the number of fish that reach the coast continues to decrease until it matches the number that are spawning, there is a danger that the total number of stock will fall off the edge of a cliff. That is the conservation concern that lies behind the regulations.

Alex Johnstone: I have two brief questions. First, considering the information that you have given us in response to Andrew Welsh's questions, why have you decided to act now on the basis of information that appears to be relatively positive? Secondly, what consultation was entered into with various groups before the regulations were drafted?

Lewis Macdonald: The figures could be regarded as positive only if we focused on the number of salmon that escape to spawn. In the conservation of any stock of fish, the critical question is not how many are escaping to spawn but how many are swimming up the river or coming back to the coast from the sea. The main conservation concerns about salmon lie in what is happening to them out at sea and the fact that the numbers that are coming back to the east coast rivers are declining sharply. Going further back, the average annual catch of spring salmon in the Esk district 50 years ago was 10 times what it is now. There is a significant wider conservation issue, which has increased in severity in spite of the fact that the number of spawning stock is increasing.

The answer to your second question is related to the point that I made in my opening remarks about our wanting a voluntary agreement to be in force. Voluntary agreements have been in force on these rivers in the past. The Salmon Net Fishing Association of Scotland, which represents the netsmen, has had a voluntary agreement in place since 2000, under which it has deferred the beginning of netting for the first six weeks of the season, until 1 April. That voluntary agreement has been effective and is part of the reason for the increase in the number of spawning stock. Unfortunately, one member left the association and no longer abides by that voluntary agreement, and pressure is being put on the stock as a consequence.

Equally, since 1994 there has been a voluntary agreement for catch and release in relation to angling, which applies in many other rivers. Unfortunately, in the Esk district, again because not everyone who is involved in angling has fully bought into the approach, it appears that only 40 to 50 per cent of the catch is being released, whereas the figure for the Dee is closer to 90 per cent and the figure for some other east coast rivers is around 70 per cent. The voluntary agreements that applied in the past have broken down and the efforts that the Esk district salmon fishery board has made to put in place other voluntary agreements have failed. For that reason, the board seeks statutory measures.

Alex Johnstone: What about the extent of consultation?

Lewis Macdonald: The board was responsible for bringing forward its proposals. We consulted

our scientific advisers in the Fisheries Research Services laboratory, whose advice was critical, Scottish Natural Heritage and other parties in the Executive who have responsibility in relation to the matter. We also consulted the Salmon and Trout Association and the Salmon Net Fishing Association of Scotland. There is general agreement that there is an issue about spring salmon.

Alex Johnstone: Have efforts been made directly to consult the anglers who regularly use the rivers?

Lewis Macdonald: Consultation with individuals was part of the process that the board undertook in preparing to bring forward the regulations.

Karen Gillon: Who makes up the Esk district salmon fishery board?

Lewis Macdonald: I have brought a list of members. Like most salmon fishery boards, the board comprises proprietors, netsmen, tenant netsmen and anglers, including members of angling clubs. It was established by statute and includes everyone who has a stake in exploiting the fishery on the rivers in its district.

Karen Gillon: You said that more salmon are going to spawn but fewer are returning. What is the Executive doing to try to ascertain why that is happening? For example, is there research into the bycatch from industrial fishing or the impact of seals?

Lewis Macdonald: There is serious concern about what is happening in the Atlantic. We are fully engaged with the North Atlantic Salmon Conservation Organisation, which is an international body that considers such matters. Clearly, if we knew all the reasons for the phenomenon, life would be a little easier. The International Atlantic Salmon Research Board is considering the matter. There are various suspects: climate change and changing sea temperatures can affect patterns of fish movement at sea; changes in currents can affect the movement of the food supplies that salmon locate when they are at sea—in other words the salmon become lost when they follow a food supply that is moving in a different direction from the one in which it moved in the past; and the pelagic fishing sector appears in some cases to be catching quite a lot of salmon as a bycatch from surface trawling for mackerel. Those are among the chief suspects in our search for reasons why the total stock of spring salmon is declining.

It is important to make the point that the spring salmon stock is genetically distinct from the summer salmon stock. I said to Andrew Welsh that the summer stock is not facing the same threats as the spring stock is facing, which is a significant point—it is not a question of two stocks that

comprise the same type of salmon but return home at different times. Spring and summer salmon are genetically distinct. The risk is not to the summer salmon stock in the Esk but specifically to the spring stock, which spawns higher up river and takes longer to become fit to go to sea and to return. In some respects, the spring salmon stock is less robust because of where the fish spawn and the circumstances of their migration to and from the sea. Therefore, if measures are not taken to protect the spring stock, it will be in jeopardy.

Karen Gillon: Who owns the traps and how does their fish catch compare to that of anglers on the river?

Lewis Macdonald: Perhaps David Dunkley has details of the ownership of the different forms of exploitation.

David Dunkley (Scottish Executive Environment and Rural Affairs Department): The traps to which the regulations refer are the parts of nets—bag nets, fly nets or other stake nets that are operated in the district—in which fish are caught. The traps are operated by either the owners or tenants of net fisheries in the district.

11:00

Karen Gillon: How does their catch compare with anglers' catches?

David Dunkley: In recent years, the anglers' catch has tended to exceed the net catch. That was the case until fairly recently, when there has been a small upturn in fishing effort in the Esk district. During the period in which the fishing season was deferred by members of the Salmon Net Fishing Association of Scotland, the balance swung from there being predominantly net-caught fish to there being predominantly rod-caught fish, but that balance has changed back again as a result of additional salmon being caught in the early part of the season.

The other point to note is that nets cannot catch and release. Things depend on which method of rod catch is measured and whether the number of caught and retained fish or the total rod catch, which may be much higher, is measured, but some fish are being released.

Lewis Macdonald: I will explain that. Netsmen do not catch and release because they are commercial fisheries that catch salmon to sell them. There is more of a tendency for anglers to be game fishers, and catching and releasing is therefore a realistic option.

Richard Lochhead: According to submissions from various interested parties, the scientific case was made in a 37-page document by the Esk district salmon fishery board. What was the

response of the Fisheries Research Services to that case?

Lewis Macdonald: The board's initial proposals were to extend the close season to the end of May and to extend catch and release to the end of June. The Fisheries Research Services thought that that was unnecessary and excessive, but that there was a conservation case that required to be answered, which is the basis on which the regulations have been produced. In other words, the regulations will have a less severe impact on netsmen and anglers than the board's initial proposals would have had, but the Fisheries Research Services made it absolutely clear that there is a real conservation issue that affects the spring stock. Therefore, measures had to be taken.

Richard Lochhead: A scientific appraisal of such instruments would be useful for the committee in the future.

I have two brief questions. The Executive talks about reviewing the Conservation of Salmon (River Annan Salmon Fishery District) Regulations 2005 (SSI 2005/37)—which are next on our agenda—before they end, but there are no plans to have such a review of the SSI that we are now considering, despite its seeming much more controversial. Why is that?

Lewis Macdonald: The regulations relating to the River Annan arise from similar circumstances, in which a single proprietor has made it difficult to proceed with voluntary agreements. However, the difference between the Esk and the River Annan is that there is a permanent Fisheries Research Services station on the North Esk, which allows continuous monitoring of what has been caught.

Richard Lochhead: I ask David Dunkley to elaborate on what he said about the number of fish that netters and anglers catch. What has been the trend in the number of netters who have worked on the river in recent years?

David Dunkley: Over the past few years, the trend in the number of netsmen who operate has been fairly stable, but it is significantly down from the numbers that there were in the heyday of the salmon fisheries back in the 1960s, 1970s and 1980s. There are probably five recognisable fishing groups in the district now. Previously, there were one or two major groups, but the big salmon fishing company that used to operate no longer exists. I suppose that we are talking about a maximum of half a dozen fisheries in the district.

Lewis Macdonald: It is worth noting in that connection that the Esk remains the largest net fishery on the east coast of Scotland.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): You have referred to the advice

that you received from the Fisheries Research Services freshwater laboratory. On 2 August, Mr Beveridge of the FRS gave advice on the Esk board's application, in which he said:

"The Board's internal scientific case is extensively flawed. Their interpretation is not always even-handed and (unsurprisingly) includes a measure of advocacy."

Why did you decide to proceed on the basis of a case that, according to the advisers who you say have a role in providing you with advice, was "extensively flawed"?

Lewis Macdonald: As Mr Ewing will have heard in my response to an earlier question, I considered the case that the board put forward as well as the comments of Mr Beveridge and his colleagues at the FRS. We came to the view that we should follow the scientific advice that was provided by the FRS.

Fergus Ewing: How could you follow it if FRS said that the case was "extensively flawed"?

Lewis Macdonald: No, that is—

Fergus Ewing: I assume that you do not disagree that Mr Beveridge was correct. If you accept that, surely he was correct that the advice was flawed?

Lewis Macdonald: No. If Mr Ewing had listened to the point that I made in response to an earlier question, he would have heard me say that the scientific advice that we chose to accept was not the board's initial proposal but Mr Beveridge's scientific advice. Mr Beveridge said that the board's initial proposals were excessive in terms of their impact on both netmen and anglers and that they went beyond what was required. The advice that Mr Beveridge provided to us forms the basis for what we have done in the regulations.

Fergus Ewing: To pursue the point, in a letter to Mr Stansfeld of 8 October, Mr Youngson of the FRS said that the board's proposal was essentially based on the FRS findings for Scotland as a whole. In particular, Mr Youngson says to Mr Stansfeld:

"You do seem to have a point regarding a mismatch between the Board's so-called PFA values and values generated from the Logie counter."

Surely that casts serious doubt on the evidence base that you believe justifies the regulations?

Lewis Macdonald: I am not sure whether Mr Ewing is hearing my replies clearly, although I think that I am making the point fairly clearly. The evidence base on which the regulations are based is not the initial case from the board but the advice from the FRS.

Although the points that Mr Ewing makes are all very interesting, the fact remains that the decision to bring forward the regulations was taken not on

the basis of the board's initial proposals but on the basis of the FRS advice as to what we needed to do in order to conserve the stock of spring salmon in the Esk salmon fishery district.

Fergus Ewing: I understand that the original catch-and-release proposal was for up to 30 June and that it now relates to 31 May. That proposal has changed. What has changed in the restriction in the level of net fishing?

Lewis Macdonald: The initial proposal from the board was that the annual close-time order should run to the end of May. It now runs to the end of April. In respect of both angling and netting, the board's initial proposals went further than our scientific advisers believed it was necessary to go. We brought forward the regulations on the basis of our scientific advice.

Fergus Ewing: The point remains that it is the evidence and not the proposal that I am challenging. I will move on, however.

It has been put to me that catch and release may risk disease. The point is one with which Mr Dunkley is familiar. I understand that the argument has the backing of Dr David Summers of the Tay district salmon fishery board, although I have not had direct contact with Dr Summers on the matter. In particular, I understand that

"Putting back damaged or diseased fish creates a larger infection pool for the fungal infection 'Saprolegnia' particularly in rivers like the Esks and Erich where narrow barriers cause concentrations of fish to build up."

The point is that

"Infection created by diseased or damaged fish being returned vastly outweighs any benefits catch and return would give."

Those who support the precautionary principle would be concerned about that. What is the minister's response?

Lewis Macdonald: I am entirely confident that Malcolm Beveridge has taken those considerations into account in making his recommendations. Members will be aware that the catch-and-release scheme operates on a voluntary basis on many other rivers and is not responsible for the kind of problems that Mr Ewing suggests. The measures that we are putting in place are intended to achieve the same outcomes as the voluntary approach that we and the board were seeking to put in place, which applies on many other rivers. The scientific advice that we have received is that the operation of a catch-and-release scheme until the end of May is appropriate to and helpful in the conservation of stock, which remains our critical objective.

Fergus Ewing: What assessment have you done of the impact of catch-and-release schemes on angling tourism in Scotland? Do you agree that

such schemes could have an adverse impact on angling tourism, which is a staple of the rural economy?

Lewis Macdonald: The value of angling tourism is not in doubt; the impact of catch-and-release schemes on tourism or on the economic benefits of angling is much more dubious. I do not accept Fergus Ewing's view. The Dee is perhaps the fishery district that is closest to my home. On the river Dee in Aberdeenshire, in excess of 90 per cent of fish caught are released, and I have received no indication that angling tourism on the Dee has suffered as a result of that. Some anglers will not fish a river if they have to put the fish back; however, there are others who think that catch and release is a good idea. Although some people go elsewhere, others want to fish in a catch-and-release fishery.

Mr John Home Robertson (East Lothian) (Lab): It is 28 years since I was adopted as the Labour candidate for North Angus and Mearns, and a bit of water has flowed down the Dee since then.

Alex Johnstone: You did not win, then?

Mr Home Robertson: I did not even stand for election.

The Convener: The rest is history. Get to your question, please.

Mr Home Robertson: I still take an interest in fisheries matters, however, both because they are important in my constituency and because I was, briefly, the minister with responsibility for fisheries. I worked with David Dunkley back in 2000. My experience, especially on the Tweed, gives me grounds for suspecting that decisions can be driven by vested interests rather than by objective conservation considerations. The minister might concede that concern about that exists throughout Scotland. Perhaps he can comment on that.

Lewis Macdonald: As John Home Robertson knows from his personal experience of what happens on the Tweed and elsewhere, the work of district salmon fisheries boards is governed by statute and is constructed in such a way as to involve representation from all those who actively exploit fisheries on a river. The operation of the boards varies from place to place, and I recognise the point that he makes. Where boards are ineffective or inactive, they might be seen also to be partial; therefore, we would encourage the model of active and effective salmon management. It is hoped that the Salmon Conservation (Scotland) Act 2001 will assist us in doing that.

John Home Robertson will be familiar with the freshwater fisheries forum that we have set up to engage with all stakeholders from around Scotland

to find ways in which we can modernise the management of fish stocks in our rivers. Our aim is to ensure that everyone is represented and that all those who are responsible for the management of those stocks remain focused on the need for a sustainable fishery for the future.

Mr Home Robertson: I will come back to the issue of structures in a moment. The minister referred to the second of the statutory instruments that we are discussing, which is not up for decision in the committee. It would, in effect, take 10 weeks off the legal netting time on the Esk. Does he acknowledge that that is likely to have a significant effect on the viability of netting operations on the Esk?

Lewis Macdonald: It will have some effect. In the past, a voluntary agreement has applied until 1 April; therefore, the effect of the close-time order will really only be on the month of April. The scientific evidence shows greatest concern for February and March runs, a fair degree of concern for April, and some concern for May. In other words, the later in the year, the less the concern, but there is concern for the whole spring stock.

11:15

Mr Home Robertson: But is there not evidence from experience around Scotland that if you go on squeezing the legal netting industry by extending the close time and other restrictions, the cumulative effect tends to be the shutting down of more and more businesses?

Lewis Macdonald: It is a matter of regret that one of the netsmen on the Esk chose to abandon the voluntary arrangements that were in place and to leave the Salmon Net Fishing Association of Scotland. You may say that that is another story, but the point is that netting and angling efforts are sustainable if there is the will on both sides to be mutually sustainable. The moment it breaks down on either side, it becomes difficult for both to harvest the surplus fish. That is when the requirement for statutory action comes into play.

Mr Home Robertson: Sure, but is there not evidence from around Scotland that the cumulative effect of more and more restrictions is the shutting down of fisheries? I think that Mr Dunkley referred to some figures on that, specifically for the Esk. There has been a huge reduction in the number of legal netting operations around Scotland, has there not?

Lewis Macdonald: That is the case, although not necessarily as a result of restrictions, but as a result of buy-out agreements between fishery boards and individual netsmen.

Mr Home Robertson: I have an observation on that, which follows from where I live—

The Convener: Is it an observation or a question for clarification?

Mr Home Robertson: It is leading to a question. Last month, I was walking along the Tweed by a closed fishing station near where I live. There were no fishermen there, but there were three adult seals making free with the scarce spring fish. They were not there when there were nets, and they do not pay any attention to close times, do they? Are you at all concerned about the fact that you are exposing scarce stocks to bigger dangers?

Lewis Macdonald: I refer to your earlier question on the impact of increasing restrictions. It is important to be clear that many of the restrictions that have been placed on the netting industry have been accompanied by compensation arrangements. Part of the board's proposals for the Esk district is that compensation should be paid, which will include compensation to netsmen. The restrictions on netting will not greatly reduce the take that formerly applied in February and March. It will limit the take in May to what currently happens. It will not increase the ecological dangers from other sources for those months. April is the one month when there is a significant change, in order to promote better conservation of stock.

Mr Home Robertson: Finally, if I may, then I will shut up—

The Convener: Be very brief, because I want to get on.

Mr Home Robertson: You may recall that five years ago the Executive launched a consultation document on "Protecting and Promoting Scotland's Freshwater Fish and Fisheries", which proposed to drag the management of rivers out of the middle ages and into the 21st century. Are you making any progress with that?

Lewis Macdonald: We are. The freshwater fisheries forum is the key instrument for making progress. I do not need to tell committee members that there can be severe differences of opinion on priorities within the freshwater fisheries community. The forum has helped us to resolve some of those differences. There is an increasing willingness on all parts to examine how we can secure the conservation of the stock for future fishermen, both netsmen and anglers.

The Convener: Three members around the table have questions. I encourage them to be brief.

Maureen Macmillan: Why did 20 per cent of proprietors not agree to the voluntary arrangement? What were their interests? Presumably, they did not want to release the fish. Was the possibility of a total ban on fishing the

spring run considered? The netsmen seem to be complaining that they are being asked for a total ban yet the fishermen are not.

Lewis Macdonald: Those are two separate questions. The first was, why did individual parties choose not to take a voluntary route? I cannot answer for them. As I say, the situation is regrettable. One of the angling parties that was uninterested in a voluntary approach was a time-share consortium that took the view that its members wanted to be able to take home the fish they caught. As it was unwilling to sign up to a voluntary agreement, the consequence for everybody is a statutory agreement. Catch and release has been in place for angling since 1994 but it has not delivered to the same extent as in other rivers, which is a regret. It is equally of regret that some angling interests and one netsman chose not to take a voluntary approach.

The board did not ask for a complete ban. We took scientific advice on the board's proposals. As I have explained in detail, we considered the board's proposals and produced regulations that will have less impact on netsmen and anglers.

Catch and release for anglers means that if proprietors and others replace anglers who do not want to catch and release with anglers who do, which the evidence from around Scotland suggests can be done, the impact on the local economy that was mentioned will be avoided. We want the minimum negative impact on the local economy. Catch and release allows anglers to go fishing and to catch fish. The only difference is that it requires them to put the fish back alive. That matters if someone wants to take home a trophy to hang up or—perhaps more appropriately—to put in the pot and eat.

Richard Lochhead: The smell is a factor.

The Convener: That is enough information. We get the point.

Lewis Macdonald: Catch and release makes no difference to the net willingness of tourists to spend significant sums of money in the local economy to enjoy the sport of catching fish.

Alasdair Morgan: I understand that the problem went to ministers because the previous voluntary agreement broke down. However, I also understand—correct me if I am wrong—that the statutory instruments, one of which we are not dealing with, go further than the voluntary agreement. Why was it not possible simply to give statutory force to the voluntary agreement, whose breakdown caused the approach to ministers?

Lewis Macdonald: The point is fair in regard to nets, as I said to John Home Robertson. The previous voluntary agreements meant that no netting took place in February or March. The

close-time agreement, which is not in front of us, means no netting in April, either. That is a consequence of having considered the scientific advice about the April component of the spring stock. The pressure is greatest on the February and March components, which involve very low numbers, but April is heading in the wrong direction. I return to Andrew Welsh's questions at the outset. The total number of fish that return to the coast in April is also on a downward slope. For that reason, it is necessary to take action for April, too.

As I said, the catch-and-release system that operated previously was never as effective as it is in other rivers. As voluntary agreement could not be reached, it was clear that if a statutory scheme was to be fair, it had to apply to every fishery and to the time-share fishery as well as others.

The Convener: Does Rob Gibson still have a brief question?

Rob Gibson: I have a point to make.

The Convener: Do you have a question? You can make a point in the debate.

Rob Gibson: I have a question that must be prefaced by a statement.

The Convener: The question does not have to be prefaced by a statement. I am being serious, colleagues—we are asking questions at this stage.

Rob Gibson: My reference is Malcolm Beveridge's advice of 1 September 2004, which claims:

"The Board's scientific case is partially flawed. Pre-fishery abundance figures for the"

north and south

"Esks cannot legitimately be derived."

He also discusses inconsistencies in information.

Yesterday, we received a copy of a letter from the Esk district salmon fishery board's chairman, Hugh Campbell Adamson, to *The Scotsman*, in which he says that the measures will increase the number of spring spawners by 40 per cent. Does the minister agree that that is optimistic?

Lewis Macdonald: If I understood you rightly, the first part of your question quoted Malcolm Beveridge's advice that some of the science advanced by the board was not reliable. In a sense, that was the question that Mr Ewing asked and I responded that we have not followed the board's prescription. We have taken advice from Malcolm Beveridge and his colleagues and acted on that. Mr Beveridge said that in spite of the flaws, there was definitely a case.

On the impact on stock, I do not know whether David Dunkley will say that the 40 per cent is

optimistic. It is certainly intended to protect the stock and prevent its further decline. I do not know whether FRS has a view on how quickly it expects to see stock recovering.

David Dunkley: We do not have a view on how quickly we expect the stock to recover. The answer is that dead fish cannot spawn; live fish will. Whatever the benefit is, it will be an increase and more fish will be alive to spawn in the stock component that our scientists have identified as being particularly vulnerable.

Rob Gibson: The measure is intended to cover five years but we are not going to be allowed to analyse or alter what goes on during that time. A review is built into the Annan scheme, but not into this one.

Lewis Macdonald: The measures are to be put in place in response to a request from the Esk district salmon fishery board. If it is satisfied that the measures have been effective within that five-year period, it can come back to us and request that another measure be put in in their place. As I understand it, the scientific view is that one year of data does not provide enough information on which to make a judgment. Five years is needed to accumulate those data. The pressures on the stock are such that we want the opportunity to do that.

The Convener: We have exhausted the questions, so we will move to the debate. Because the motion is to annul, I will invite Andrew Welsh to speak to it.

I have a couple of comments. I dread to say this, but we are allowed 90 minutes for the debate. We have also notionally scheduled three ministers from the Executive to be grilled about climate change at 11.45, but I am not strictly connecting the two: we really do have 90 minutes. I hope that we will not take that long, but I want to enable as many members as possible who have points for and against the motion to speak.

With those brief words of introduction, I invite Andrew Welsh formally to move and to speak to motion S2M-2380:

That the Environment Rural Development Committee recommends that nothing further be done under the Conservation of Salmon (Esk Salmon Fishery District) Regulations 2005 (SSI 2005/24).

Mr Welsh: Thank you convener, you saved me 20 seconds by reading out the motion.

The order enforces mandatory statutory changes on rod-and-line and net fishing during the next five years. The use of statutory powers by the Esk river board abolishes the past system of voluntary agreements; it sets a precedent with potential repercussions for the whole of Scotland; and it was forced through by the casting vote of

the chairman on a vote split five against five. That picks up the minister's point that the SSI is based on a request from the Esk district salmon fishery board.

The board decision creates statutory fishing bans when almost everyone else who is involved seems to want a voluntary scheme based on compromise and consensus among all sections of the fishing industry. I believe that the minister has consistently favoured the idea of voluntary agreements. Rod-and-line fishermen want voluntary agreement; netmen want a voluntary agreement. In the past, the Esk board has called for voluntary agreements; however it has now chosen the legislative route.

Criticism of the use of statute has come from all quarters of the fishing industry. Netmen have a genuine concern that their minority status will be used to put them out of business; anglers fear that compulsion will be extended to other Scottish rivers. The chairman of the Salmon and Trout Association has stated that his members are totally opposed to mandatory measures being used against anglers—for the first time—in Scotland. The concern is that if the order is applied in the name of conservation on the Esk, which has sufficient salmon stocks, the measures can be applied to every other river throughout Scotland for exactly the same reason.

11:30

The choice is between consensus and statute, but consensus has been abandoned in the order, which forces rod-and-line fishermen into a compulsory catch-and-release scheme, with consequent problems of monitoring, supervision and enforcement that are not mentioned in the order.

I am informed that the number of bailiffs has been reduced from three to two, which is hardly reassuring given the length of the waterways involved. All highly expensive fishing trips over the next five years will be expected to end with every salmon being returned to the river. As that can go somewhat against human nature, how can it be enforced?

Netmen will again have to stop fishing and will face a threat to their economic survival, although they have a premium value product that should mean that fewer fish are required to sustain their livelihoods.

The order introduces mandatory powers that were never designed to apportion resources between netmen and rod-and-line fishermen, which has always previously been a matter of negotiation between those interests. The Esk district salmon fishery board admits that the mandatory restrictions will have a detrimental effect on netting and angling.

Why has compensation for netmen as part of the package been dealt with by verbal assurances of a fixed amount over five years—which does not take into account the effects of inflation or other costs—rather than been guaranteed in the order?

Why has a five-year deal been chosen instead of annual reviews, which would allow a more flexible approach in reacting to any significant changes in fish numbers? It is clear that, in the past and without compulsion, there has been a general willingness to curtail fishing activities to conserve salmon stocks if there is a demonstrable need to do so.

The Esk is the most monitored and researched river in the country, and past voluntary agreements have been successful. Fisheries Research Services states that, in April and May, there are

“adequate existing conservation measures in place.”

It also reports that

“spawning numbers indicate a sustained upward trend”

and that there is

“scientific evidence for a further comfort zone for management.”

By those statements, FRS admits that a comfort zone exists in stock numbers and that existing voluntary measures are working.

For April and May, FRS recommends a ban on fishing, but the compulsory scheme in the order goes further than FRS's stated minimum requirement and even its recommendation. Why are we having a new, compulsory ban to provide a further comfort zone rather than allowing river users some benefit from their past voluntary efforts?

Ultimately, this is about the conservation of salmon stocks and the sharing of resources to ensure a reasonable situation for all who rely on the river for their sport or their livelihood. There is a common interest in ensuring the continuation of that renewable resource. The great danger is that compulsion will become the norm and that a spate of ad hoc regulations that vary from river to river will follow, rather than a national policy framework that is fair to everyone with a genuine long-term interest in the conservation of fish stocks.

The resort to legislation is being made on the basis of a divided Esk District Salmon Fishery Board and against the stated wishes of ministers, fishing organisations and all who prefer a voluntary system. It is also unfair to the interests of the very small number of remaining net fishermen.

I ask the committee to support my motion to annul the regulations and to give the Government time to create a national policy framework in which sensible, mutually agreed solutions can be found.

I move,

That the Environment and Rural Development Committee recommends that nothing further be done under the Conservation of Salmon (Esk Salmon Fishery District) Regulations 2005 (SSI 2005/24).

The Convener: Thank you very much. A couple of members would like to come in. Alex Johnstone will go first.

Alex Johnstone: I have considerable sympathy for the motives that lie behind the SSI, but that is not to say that I do not have significant concerns about its nature and the process that led to its being introduced.

I have spoken to anglers who regularly use the North Esk and there seems to be a view that the voluntary return policy has been extremely successful, especially among anglers. There is also the issue of the movement towards the buy-out of the Montrose bay nets, which is achieving much of what the regulations seek to achieve. In other words, the regulations are not necessary.

It appears that there is a background of increasing fish numbers in the Esk. Anecdotal evidence suggests that that trend is continuing in the current season. I am concerned that the regulations appear not to have taken sufficient account of the views of anglers. When I asked the minister how anglers' views had been taken into consideration, he told me that that had been done through their involvement in the Esk District Salmon Fishery Board. I am not content that that consultation was adequate or that anglers' views were properly taken into account.

I support a number of the points that Andrew Welsh made in his speech. I am in favour of the concept of building a review into the process but, unfortunately, the regulations do not include such a proposal.

My final point is about the notion of angling as a means to bring in resource. That is beneficial to the fishery in the longer term. The comparisons that have been made between the Dee and the Esk are perhaps not fair, given that the idea of angling tourism is considerably more advanced in areas of the Dee than it is on the Esk. That means that the difference in the catch and release figures for the two rivers may be a measurement of their popularity among angling tourists.

My main concern is that we should encourage the recovery of resource by owners and managers of the banks of rivers such as the North Esk to ensure that proper management of those banks can be maintained and financed over time. Anecdotal evidence from anglers to whom I have spoken appears to indicate that on the North Esk there are many instances of young fish being left stranded simply because the banks have not been properly managed over time. If the necessary

resources are to be drawn into the management of rivers such as the North Esk, we must ensure that angling managers have sufficient opportunity to recover resource from their asset. In certain circles, there is a genuine fear that the restrictions that the regulations will place on anglers in the spring may reduce the returns that are obtained, which in turn will reduce people's ability to manage their assets and resources properly.

I add my support for the broader sentiments of Andrew Welsh's speech and indicate my support for the motion to annul.

Richard Lochhead: The debate has been interesting, but we should bear in mind the fact that the written evidence that we have received before today's meeting includes a substantial amount of criticism of the new regulations by some organisations.

I am quite relaxed about the catch-and-release element of the regulations; my concern is over the impact on the netsmen and on what has been their livelihood for many generations. When we are putting in place new legislation that sets a precedent, we must be careful to ensure that it is even handed towards everyone with an interest in the issue.

We are all aware that many vested interests are involved in the debate. John Home Robertson alluded to the possibility that the current laws give too much power to certain vested interests over and above others, which is something that we must take into account. That is why we must be extra careful in treating everyone equally.

I am convinced that, if we approve the regulations, they will cement ill feeling on the River Esk for at least five years, which would not be in the interests of anyone—we want to avoid that if we can. There have been voluntary agreements in the past but, in this case, those seem to have broken down. One of the most effective contributions was from Alasdair Morgan, who pointed out that the proposed regulations go further than the original voluntary agreement that they were supposed to reinstate. Andrew Welsh also referred to that and mentioned that the Fisheries Research Services would have settled for something less than what is contained in the regulations. There is no commitment to review the regulations, as there has been in the case of other, similar SSIs.

I would have preferred to hear evidence from scientists. We have been told that the only option is for the committee to hold another meeting before Monday. It is fair to say that that is not practicable. The only option left on the table is to reject the regulations and support the motion to annul. I propose to vote that way and I hope that the minister will be able to come back to us with

an improved set of regulations or, even better, with a new voluntary agreement for the River Esk.

Alasdair Morgan: I return to the point that I raised with the minister earlier, to which Richard Lochhead has just referred: the statutory measures go further than the voluntary measures that have failed. The measures did not fail with regard to conservation, but people did not sign up to them. The minister responded by saying that the scientific advice outlined a particular problem in April, which was why the statutory restrictions go further. I can understand that argument.

The irony is, however, that the minister would not even have reached the stage of considering the evidence if a few people had not stuck to the voluntary agreement. As a result, those who want to comply with the voluntary agreement are being penalised because of a minority who were not prepared to sign up to it. That is unfair to those who have worked for a voluntary consensus over the years, especially if what Mr Welsh tells us is correct—I have no reason to doubt it—and the decision of the Esk board that triggered this whole process was passed only on the casting vote of the board's convener. For those reasons, the committee should agree to the motion to annul.

Fergus Ewing: Alasdair Morgan has identified the key flaw of the proposal. We are being asked to put the measures in place for a period of five years. That seems draconian and is likely to create further division and hostility and to ferment acrimony among the various competing interests, which, as the minister has recognised, are characterised by a lack of consensus on every point. Back in August last year, Mr Malcolm Beveridge argued that it would be justifiable for the Scottish Executive to reject the proposals and instead

“defend a refusal ... coupled with a recommendation for year-by-year re-assessment of a tabled proposal.”

At least at that point, Mr Beveridge, the minister's adviser, was recommending a year-by-year assessment.

In his letter of 8 October last year, Mr Alan Youngson, on behalf of the Fisheries Research Services, pointed out:

“it takes 10 or more years to generate a long enough series of data to examine trends”.

On the one hand, it is being recommended that a year-by-year assessment be considered; on the other hand, it is being pointed out that it takes 10 years to come up with sufficient data on which to found any rational conclusion. The FRS argument seems to suggest that five years is too short.

The minister is caught between a rock pool and a hard place and the best thing that he could do would be to withdraw the regulations. If he does

not withdraw them, my concern is, as Andrew Welsh argued in his opening comments, that they would set a precedent for other rivers in Scotland and many other salmon rivers are not as well stocked as the Esk. If the precedent of the conservation case led to stronger restrictions for other rivers, my arguments about the impact on angling tourism would be only the stronger.

I appreciate that the minister responded to the question that I put earlier. Perhaps we can agree to disagree. In any event, when assessing what will happen in the future, only fortune tellers are armed with crystal balls, so neither of us can display any certainty.

I am no expert, but my constituent Eric McVicar asked me to become involved, which is why I am here. There is a plethora of arguments with force behind them, coming from a range of different interests. Whether one is primarily interested in the environment or business, the rural economy, netmen, anglers or anyone else, there is an extremely strong case—one of the strongest that I have heard in this type of argument—for withdrawing the regulations and thinking again.

11:45

Karen Gillon: I have read through all the evidence that we received and found it a bit contradictory. That is the basis of my problem—the general attitude seems to be, “It wasnae me, it was you,” and, “You’re hurting me, so let’s hurt them more.”

I understand that the board has proposed a review, but I share John Home Robertson's concerns about the vested interests that are represented on the board. I would be grateful for some indication from the minister about whether the Executive will be prepared to review the regulations after two years, for example. I would be reluctant to proceed on a year-by-year basis, because that approach can be slightly misleading.

However, the Executive should undertake a review after two years to look at whether the regulations have achieved what they were supposed to. That would also allow the Parliament to look at the issue again in this parliamentary session—we cannot bind our successors to do anything and, given that such a review would take place before the 2007 election, it would be useful if the Executive would commit to it.

The Convener: As no other members want to speak, I will let the minister make brief comments in response.

I notice that John Home Robertson wants to speak, although he did not stick his hand up.

Mr Home Robertson: I am sorry, I thought that I had—I am not sufficiently conspicuous.

I urge the committee to think carefully about the progressive destruction of the legal netting industry as a result of what I see as collusion between Governments and riparian owners over many years. I first raised the issue in the House of Commons in 1988, when I had the support of Alick Buchanan-Smith, who was then the Tory MP for Kincardine and Deeside. The issue has been running for a long time.

I fully accept that angling is much more important to the rural economy than netting and that the long-term survival of the wild salmon species is extremely important to the Scottish rural economy. There are very few netting stations left in Scotland, but the removal of the nets has not turned out to be the salvation of the salmon on the rivers where that has happened. It is an historic fact that the legal netting industry has operated for centuries subject to seasonal controls, weekend closures, mesh regulations and so on. Those restrictions meant that, although the nets took a percentage of the available catch, they let far more fish up the rivers to spawn and breed. The salmon have survived centuries of that kind of treatment.

Meanwhile, the removal of legitimate netmen can expose the endangered salmon species to significantly worse hazards—I referred to seals and there are other considerations. Therefore, I am suspicious of such regulations. I suggest that legitimate netmen could be part of the solution to what is a genuine problem, but I do not expect any district salmon fishery board anywhere in Scotland to understand that point—they are not like that.

I would like the committee to consider these regulations carefully. The committee might also ask the Executive when it is going to move forward with plans to drag freshwater fisheries legislation out of the middle ages, following proposals that were put forward by a dangerously radical fisheries minister about five years ago. I submit that, in general, district salmon fishery boards are an embarrassing anachronism and should be replaced by credible, accountable, inclusive bodies to manage what is a very important resource for Scotland and to protect fish stocks in all our rivers. If I had a vote on the committee, I would probably vote to annul the regulations.

The Convener: Thank you for that information. I ask the minister to respond to the debate before I bring Andrew Welsh back in.

Lewis Macdonald: John Home Robertson raises some important points about the netting industry and the modernisation of the management of fisheries. I agree that it is important for us to protect netting where that is still a commercial activity and that we should do so by conserving the stock. I also agree that we should modernise the management of freshwater fisheries; as I said earlier, we will introduce

measures for that. I emphasise that there is absolutely no collusion between us and either netting or angling interests.

As Mr Ewing said, there are concerns on both sides. Sometimes, in finding an even-handed and fair way for people to make a contribution to conservation, it is difficult to persuade either side that they are not being asked to do too much. However, I think that the regulations achieve the right balance. Andrew Welsh concluded by saying that the issue is the conservation of stocks—a common interest—and sharing those stocks equitably. That is why it is important that the annual close-time order, which is in place, and the regulations that are under discussion today should both go forward.

Comment has been made on the opinion of those who are involved in the fisheries. I should clarify that, last July, the board was unanimous about the need for measures to be taken. In November, the vote of proprietors was 79 per cent in favour of the proposals. A vote was taken in January that was split 5:5 and was determined by the casting vote of the chair. That was the very last vote in the process, when it became apparent to a majority of proprietors—[*Laughter.*] The point is an important one. It distinguishes between the will and the recognition of the need to do something to conserve the stock and the unwillingness of some interests to go down the statutory route. As has been said, a voluntary agreement was wanted by everybody—that is absolutely correct. That was wanted by the Government as well. Nevertheless, mandatory powers exist and were designed precisely for circumstances in which a voluntary agreement could not be reached. That is the position that we are in.

There is not a choice between a voluntary and a statutory route. Every effort has been made to achieve a voluntary agreement. However, one netsman and one or two parties on the angling side have refused to sign up to a voluntary agreement. That is why we are going down the statutory route. Taking that route does not penalise those who have signed up to the voluntary agreement; on the contrary, it protects them and means that they are making an equitable contribution. A voluntary agreement that was respected by only some parties would penalise those who respected it. By obliging all those who are involved to protect the stock, we are making the situation equitable between nets and rods.

It is critical that the terms of the instrument are equitable to netmen and angling interests and are seen to be so. The annual close-time order remains in place and annulment of the regulations would punish the netmen; it would not relieve any

of their difficulty but would skew the balance between net effort and angling effort. It is important that the regulations tie in with the annual close-time order that is in place, to ensure that the pain is shared equally and future stock is conserved for both parties.

The point about a review is important. As I said in reply to an earlier question, the FRS has a permanent station on the river basin. That means that it will be in a position to provide us with the information that we require on an on-going basis. I expect that information to come to ministers, as well as to go to the board. At some time in the next five years, the board may come to the view that the measures have succeeded and that there is no longer a requirement for them. I expect that the same scientific advice that led to the introduction of the regulations will allow us to move towards their removal if they are no longer required.

The Convener: I ask Andrew Welsh to wind up and to say whether he intends to press the motion.

Mr Welsh: The minister talked about the modernisation of fisheries management and the measures that are to come—those are certainly things to look forward to. He also mentioned the need for conservation and the need to achieve a fair and consensual solution. I am with him on that, but the committee does not appear to be entirely convinced about the regulations. He mentioned the 5:5 split vote that led directly to the regulations—that tells us that the statutory solution could perhaps be better and fairer.

I fully understand the complexity of the situation and the fact that there are a number of vested interests, but some common themes have emerged from today's debate, such as the fact that a review system is required, the effect of the compulsory agreement and the fact that the agreement is to last five years. The committee has expressed great concern about the situation and I believe that there has to be a better way. I would like an overall framework that provides a decent living for all and a river system that has an adequate amount of salmon. The issue boils down to the conservation of salmon, which is in everyone's interest. We should consider what happened in relation to fishing at sea, where vested interests fought one another, leading to the destruction of the industry.

If we are at the five-minutes-to-midnight stage, I appeal to everyone involved to go back to that consensus—I hope that the minister will play a part in that—and return to the wider picture of how the framework could apply to the whole of Scotland. The Esk has sufficient salmon, but that is not necessarily the case with other rivers. We can argue about the science, but I believe that some evidence has been led on that. We should look towards a better picture in the interests of the

industry throughout Scotland. The task is not easy, but I look forward to the modernisation of fisheries management that the minister mentioned and the measures that are to come. However, given the proposed solution, I still wish to press my motion.

The Convener: The question is, that motion S2M-2380, in the name of Mr Andrew Welsh, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Rob (Highlands and Islands) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Lochhead, Richard (North East Scotland) (SNP)

AGAINST

Boyack, Sarah (Edinburgh Central) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Radcliffe, Nora (Gordon) (LD)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Motion disagreed to.

The Convener: The committee is therefore content with the instrument and will make no recommendation to the Parliament. We will record the result of the division in the committee's report to the Parliament on the instrument.

That was a difficult debate but I hope that the minister will pick up the spirit of Andrew Welsh's comments and that the matter will come back to us. If there was agreement, it was on the fact that we would like the matter to be kept under review.

Lewis Macdonald: I am happy to say that we will keep in mind the points that Andrew Welsh made in his closing remarks about encouraging co-operation in the sector.

The Convener: I do not want to reopen what has been a difficult debate. I just wanted to put that on the record.

I thank the minister, his officials and Andrew Welsh for enabling us to have that important debate this morning.

**Conservation of Salmon (River Annan
Salmon Fishery District) Regulations 2005
(SSI 2005/37)**

**Antisocial Behaviour (Noise Control)
(Scotland) Regulations 2005 (SSI 2005/43)**

**Domestic Water and Sewerage Charges
(Reduction) (Scotland) Regulations 2005
(SSI 2005/53)**

**Water Services Charges (Billing and
Collection) (Scotland) Order 2005 (SSI
2005/54)**

The Convener: We have four instruments to consider under the negative procedure: the Conservation of Salmon (River Annan Salmon Fishery District) Regulations 2005, the Antisocial Behaviour (Noise Control) (Scotland) Regulations 2005, the Domestic Water and Sewerage Charges (Reduction) (Scotland) Regulations 2005 and the Water Services Charges (Billing and Collection) (Scotland) Order 2005. The Subordinate Legislation Committee has considered those four instruments and has made no comment on them. Do members have any comments on the instruments?

Members: No.

The Convener: I would like a bit more detail from the Executive on the implications of the Antisocial Behaviour (Noise Control) (Scotland) Regulations 2005 for individuals, but I am not suggesting that we do not agree to the regulations today. Are members content with the instruments and happy to make no recommendation to the Parliament?

Members *indicated agreement.*

The Convener: Thank you for that.

12:00

Meeting suspended.

12:05

On resuming—

Climate Change Inquiry

Rob Gibson: On a point of order, convener. I notice that we have with us the Minister for Finance and Public Service Reform, the Minister for Transport and the Deputy Minister for Enterprise and Lifelong Learning. Why do we not have the Minister for Communities, who has responsibility for housing?

The Convener: We did not invite him. In December we discussed which ministers we would invite. If you are suggesting to me that we could make recommendations to the Scottish Executive Development Department on the basis of the evidence that we have taken in the past few weeks, you are pushing at an open door. We asked specifically to hear from four ministers; by the end of the meeting, we will have done so.

Rob Gibson: I welcome the ministers, but the evidence as it has developed shows that we need to hear from the minister who has responsibility for housing. I am just sorry that we were not able to alter our plans to hear from him.

The Convener: That is not the fault of the ministers who are here, to whom I am grateful for turning up. I know that this meeting is a bit of an exception. The backdrop is that we have spent two years scrutinising the budget and asking detailed questions about climate change, but we have not got a sense of how cross-cutting policies on climate change have worked. We heard useful evidence last week from the Minister for Environment and Rural Development, which set the overall context and enabled us generally to ask about the Executive's climate change policy.

If the ministers have been following our inquiry for the past few weeks—this is our last evidence session—they will know that we have raised many issues relating to each of their portfolios. The committee is grateful that you have all made the time to be here. We regard climate change as an important issue for Scotland. I am glad to see you all here today; I know that it has been difficult to get everyone co-ordinated. I invite you all to make a brief statement about how you are attempting to address climate change. I will then allow members to ask questions of all three ministers and thereafter have us ask questions on each portfolio. I will not let all members ask 10 questions four times, but I will let them into each of the four slots. I know that we might not abide by that 100 per cent, but I want to ensure that, having taken time to come here, each minister is able to express his views. Without further ado, I invite Tom McCabe, the Minister for Finance and Public Service

Reform, to say a few words about how he is grappling with climate change.

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Thank you and good afternoon. The Executive's commitment to delivering sustainable development and securing environmental justice is central to the partnership agreement of our coalition Executive. You will be aware that the two most recent spending reviews have included sustainable development as a key cross-cutting issue and that we have made it central to our spending decisions across each and every portfolio. Along with sustainability, climate change is a key element of our overall approach to sustainable development.

The inclusion of sustainable development as a cross-cutting issue signals our determination to ensure that sustainability is increasingly embedded in mainstream spending programmes. The Executive is committed to playing a full role in Scotland's sustainable development and has implemented comprehensive environmental policies in support of that goal. Many of the Scottish Executive's programmes and policies and much of its strategic guidance demonstrate our expectation that sustainability be pursued throughout the public sector. For example, the obligation to pursue and deliver best value provides a strong incentive for local authorities and other public sector bodies to act sustainably.

Our efficient government programme seeks to eliminate unnecessary duplication of services and, by definition, to deliver the same outputs using fewer resources, thus supporting sustainability as energy is saved and carbon emissions are reduced.

Our infrastructure investment plan, which was published last week, is about co-ordinating public sector plans for capital investment to ensure that the resources that are needed to develop them are used more efficiently and sustainably. It also stresses up front that we are building sustainable development principles into each portfolio's operational planning and delivery and that we are improving awareness of sustainable development priorities and how they should be addressed.

The Executive has integrated its sustainable developments through internal processes and guidance. At the heart of that is the work of the Cabinet sub-committee on sustainable Scotland, which is chaired by the First Minister. Although we are aware of the potential impacts of climate change, reacting to those impacts has substantial costs. For example, in the most recent spending review, we allocated an additional £47 million to reduce the risk of flooding in order to protect a further 4,200 homes.

However, there are also opportunities. There is no doubt that climate change has increased the

focus on energy efficiency. Right across the Executive, we are committed to investing in areas that will reduce energy consumption and promote long-term sustainability. Energy efficiency improvements typically have a very quick payback period. We are committed to investment of £210 million for initiatives in the domestic sector—initiatives such as the central heating initiative and the warm deal. The main driver for that is that we want to tackle fuel poverty, but the gains in lower carbon dioxide emissions are also important.

Scotland has potential as a source of renewable energy, and our ambitious targets to build on our good progress are again driven by concerns about climate change. That can affect all areas of policy, so we continue to drive forward our ambitions for reform of the planning system to ensure that we have up-to-date development plans and effective community consultation.

Last year, the Executive passed the Building (Scotland) Regulations 2004, which require new buildings, extensions, alterations and conversions to be designed and constructed to ensure that energy performance is 25 per cent better than it was in the past. Those regulations will come into force in May this year.

The Executive's procurement practices show how sustainable development influences our purchasing decisions. The Scottish procurement directorate is the Executive's procurement body. It aims to buy goods and services in such a way as to minimise impacts on the environment. For example, all the energy that we buy is from renewable sources and all our information technology equipment meets demanding criteria for energy efficiency. The directorate has published a considerable amount of guidance and information for public purchasers and suppliers, which is available through the Executive's website and which requires that purchasers take full account of relevant sustainability objectives and policies.

We believe that we practise what we preach. We do our best to ensure that sustainability goes right through the organisation. For example, we have introduced a co-ordinated fixed delivery for laser/copier paper either once or twice a week, rather than allowing ad hoc deliveries to be made to different users in the same building, which has reduced the need for the contractor to make multiple deliveries to the same building.

All the paper that the Executive uses daily is 100 per cent recycled. The design, print, publication and associated services contract stipulates that 100 per cent recycled paper must be used. For printed publications, paper that has a minimum of 60 per cent recycled content, of which 75 per cent is post-consumer waste, is used whenever that is practicable.

All in all, we believe that the Executive is making significant progress in embedding sustainable development in its spending programmes and procurement policies. Through the resulting resource efficiency, we are reducing energy demand, thereby making a valuable contribution to tackling climate change. Of course we can always do more, but we believe that we are moving in a sustainable direction.

The Minister for Transport (Nicol Stephen): Climate change is clearly an important issue for the transport sector. It is a global issue and all countries should endeavour to reduce their impacts on climate change. We believe that Scotland's transport can play an important role.

Transport, in its various aspects, is an integral part of our daily lives. However, we acknowledge that transport can have a negative as well as a positive impact on communities and the environment. Carbon emissions, poor local air quality, reduced green spaces, increased noise—all those issues have to be considered.

The Executive has a number of measures that are aimed at promoting more sustainable transport and at reducing transport emissions. The most significant measure is the target that we have set to spend 70 per cent of our budget on public transport over the period of the long-term investment plan. That is a dramatic turnaround from the balance of investment in the 1990s. I know that people will challenge us on whether it is enough simply to provide encouragement through extra investment or whether we need to introduce other measures to restrain traffic growth, particularly in relation to car use and single-occupancy vehicles—in other words, cars whose only occupant is the driver.

12:15

As a good and current example of what new incentives and improvements in the system can achieve, we have received information that in 2004 there was an increase of more than 10 per cent in the number of rail passengers in Scotland. We had originally set a long-term target of 2 per cent growth per year and this information goes against a recent, somewhat bumpy, trend in which the figures have gone up and down. I hope that committee members find that encouraging.

We have supported the Argent Group's construction of Scotland's first large-scale biodiesel plant, we are funding Cycling Scotland and TRANSform Scotland and we are piloting in schools the stepchange programme, which addresses individuals' travel behaviour and encourages children to become involved in travel choices. In the partnership agreement, we promote green travel plans. Moreover, we are

funding school travel co-ordinators and are supporting the choose another way campaign to encourage the shift from the roads to public transport, including buses.

We are offering freight facilities grants to promote the shift of freight from roads to the rail system and we are due this month to launch the waterborne freight grant. We are targeting improvements to the trunk road network to reduce congestion; stationary cars and lorries that are stuck belching out fumes on congested roads do nothing for our environment.

We are committed to the Scottish transport appraisal guidance, which means that environmental issues are always taken into account in the appraisal of new transport projects and policies. As the Minister for Environment and Rural Development mentioned last week, we have introduced the do a little, change a lot campaign. We also get involved with the UK Government on such matters, particularly with regard to the powering future vehicles strategy.

I mentioned that, in the long term, we need to consider sticks as well as carrots. As you know, the Transport (Scotland) Act 2001 legislates for road user charging. In principle, we support the concept of road pricing in Scotland as part of a UK approach that would involve replacing the road tax. The potential advantages are that people would pay for how much they drive, where they drive and when they drive. Such an approach could allow differentiation between areas of the country where people have real public transport choices and areas where such choices are very limited. Much work has to be carried out on the practicalities of that a longer-term project; however, we are committed to working in close co-operation with the Department for Transport on the issue.

I could say a lot more, but I will try to keep my remaining remarks short. I point out that, as far as the development of the national transport strategy is concerned, we intend to build on the white paper that was published last year. That strategy provides a very good opportunity for us to align the work of the transport division of the Enterprise, Transport and Lifelong Learning Department with, for example, the Scottish climate change review and the forthcoming sustainable development review. It should also give us an opportunity to re-examine current transport policies to ensure that they are better aligned with our environmental goals; that we have better and earlier information on, for example, the predicted carbon-emissions impact of a transport project; and that Scotland's transport makes its appropriate contribution to the global response to this important issue.

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Thank you—it is good to be back before the committee. In the

three or four minutes that are available, I will concentrate on the part that energy supply and demand play in climate change.

Obviously, energy in all its various forms is vital to our contemporary society; it powers all sectors of our economy. It is the supply and use of energy that adds most to carbon emissions which, of course, are the main cause of climate change. As well as examining the proportion of energy that is supplied from renewable sources, we have to be prudent in our use of energy. Just as important—in fact, we discussed it only last week—is the need to consider how we can improve energy efficiency across all sectors of our economy.

As the committee knows, the Executive has set the ambitious target of 40 per cent of Scotland's energy coming from renewable sources. Scotland has considerable renewable energy potential, not only for onshore wind—upon which there seems to be a contemporary media focus—but for a range of technologies including biomass, hydrogen, and wave and tidal power. I believe that it is vital that we take action now—not next year or the year after—so that those sectors can develop and realise their potential and so that we leave something for future generations that will be of long-lasting benefit in terms of future energy production.

Clearly, in that context, marine energy has huge potential. We contributed £2 million towards the creation of the European Marine Energy Centre and have committed another £1 million to help develop its potential. That will support the centre in constructing a brand new state-of-the-art tidal testing facility that will have the potential to open up another avenue of renewable technology and will ensure that Scotland remains a world leader in marine energy.

As the committee knows, our forum for renewable energy development Scotland—FREDS—continues to identify how best we can drive forward development of new and innovative techniques and technologies. We have begun to action the marine energy report and we recently received a biomass report that has the potential to make a major contribution to our renewable energy targets—something that is often underplayed. Of course, we are also looking at hydrogen, photovoltaic cells and so forth.

Our support for renewables is not limited to large-scale developments. Our Scottish community and household renewables initiative is very important in micro-renewable developments in the domestic and industrial sectors, so we have allocated another £6.5 million or thereabouts over the next three years to increase the potential of that development.

The Department for Trade and Industry energy white paper made clear the vital role that energy

efficiency needs to play. Energy efficiency measures are expected to contribute half of the UK's target of the 60 per cent reduction in carbon emissions by 2050. We have put in place a broad range of energy efficiency measures in that respect.

Importantly, we introduced the £20 million spend to save fund so that the public sector—including health boards, Scottish Water and so on—can reduce its energy consumption. The initiative is expected to achieve a 20 per cent reduction in energy consumption by local authorities and a 15 per cent reduction by health boards over five years. Our support for the Carbon Trust and for the Energy Saving Trust amount to circa £10 million a year, which is leading to significant improvements in carbon savings in both the industrial and the domestic sectors.

To a certain extent, my next point will address the issue that Rob Gibson raised about the way in which energy efficiency can address fuel poverty through measures such as better insulation in domestic residences. So far more than 200,000 homes—nearly a tenth of Scotland's housing stock—have been insulated and more than 46,000 efficient central heating systems, which also include insulation measures, have been installed under our warm deal central heating programme. We are working with local authorities under the Scottish housing quality standard to take measures to improve our housing stock and to improve its energy efficiency. Scotland has the best thermal energy insulation standards in the UK, but we want to look at building standards more generally in order to see how we can further improve domestic residence energy efficiency.

I could have talked at length about business resource efficiency and I could have spoken about the network contribution to the sustainable development agenda, industrial symbiosis, the green jobs strategy and the ways in which we would direct investment towards more innovative techniques. I am happy to answer questions on any of those issues. If I cannot answer them immediately, I will get back to members with the detail that they require.

The Convener: Thank you. We said that we would allow three or four minutes to get some questions in, so I thank the ministers for packing quite a lot of helpful information into their time. As I suggested, we shall kick off with broad overview questions to all three ministers, before we move on to ask questions relating to individual portfolios.

Mr Ruskell: Emissions by the public sector and the business sector are going down, which is really good news. However, emissions from energy and from transport are rising and are set to continue to rise. Does the Cabinet believe that we should allow emissions from transport to increase

and that the emissions reductions that transport could provide should be met elsewhere, such as by business or the public sector? Can we take up the slack from transport elsewhere in your portfolios?

Nicol Stephen: I shall start because the question is first about the rising emissions trend in transport. We must do whatever is realistically possible to limit that continuing growth. As with the congestion target that we set—to return congestion levels by 2020 to what they were in 2001—we need to be serious about achieving it. We also need to be serious about reducing carbon emissions from transport. It is difficult to achieve that against the long-term rising trend in traffic growth.

Our investment in public transport is clearly the first element in our strategy, but we recognise the need to tackle the problem in other ways. For example, there is likely soon to be a proposal relating to road user charging on the Forth road bridge, so that people can be charged a higher toll at different times of day or if they are in a single-occupancy vehicle. Around 70 per cent of the vehicles that cross that bridge are single-occupancy motor cars. We need to keep working at all those initiatives. Ross Finnie has signalled that we need to consider some sort of interim targets in relation to climate change. We need to do that for transport as well, and we need to do so in the context of the national transport strategy, which will be a significant document.

In the short term, however, Mark Ruskell is right to say that the trend for transport will continue to be upwards. That is where some of my colleagues might be able to pick up on the issue of compensating reductions in other sectors.

Allan Wilson: This is a matter of joined-up government. I support the basic contention that there ought, in the context of developing a sustainable development strategy, to be greater interdepartmental liaison on how targets and indicators are achieved. In my portfolio, there are two ways in which we can do that. The renewables obligation has been remarkably successful in driving the private sector in a certain direction. The European trading scheme is another means by which we can entice the private sector, by direct reference to companies' bottom lines, to reduce carbon emissions. From the point of view of improving energy efficiency, all the work that we do with the Carbon Trust—and, to a certain extent, at the micro level with the Energy Saving Trust—is directed at improving the bottom line for business in energy efficiency and resource use in areas such as waste symbiosis. We can drive forward private sector organisations by making such measures attractive to their profit and loss accounts.

Mr McCabe: To try to compensate for increased emissions from road traffic through the work that is done in other portfolios would be the wrong approach. We obviously need to pursue the targets that we have through every portfolio in the Executive and we must continue to look for innovative ways of minimising, in relative terms, emissions from road transport. I do not think that it would be right to say that we should simply give up in one area and try to do more in another.

12:30

Mr Ruskell: I have a brief supplementary question. Those responses were interesting. Obviously, transport is a difficult sector to tackle, but there is reluctance to address the problem in other Executive portfolios. Is that an argument for setting achievable and meaningful sectoral targets? Do you plan to do that?

Nicol Stephen: Ross Finnie has indicated in evidence that we will examine the practicality of that suggestion. The issue has been addressed in a number of submissions on climate change. He will consider what is suggested, but he wants to do so in a way that can be achieved and monitored, so he will examine what is sensible and realistic. However, Ross Finnie accepted that the position as it was set out in 2000 is not sustainable—we cannot simply make our general contribution to the UK target. He wants to look at ways of breaking it down.

Allan Wilson: I anticipate that the energy efficiency strategy that we are working on will be cross-sectoral.

Mr Ruskell: Will that strategy have targets?

Allan Wilson: There are already targets to improve the efficiency of domestic residences and so on. We intend to take a cross-sectoral approach to improving energy efficiency and to viewing how it relates to, for example, the development of biofuels in the transport sector.

Mr Ruskell: What does the Minister for Finance and Public Service Reform think?

Mr McCabe: The evidence that the committee has received from previous witnesses does not conclude that everyone agrees that sectoral targets are necessarily the best way forward. One of your witnesses—I think that it was the Energy Saving Trust—said that it does not necessarily view sectoral targets as the way ahead. That is how I interpret its evidence. The Executive does not rule out sectoral targets, but our thinking on the best approach is yet to be concluded.

The Convener: I should have said in my introductory remarks that you are also in the middle of your consultation on the climate change strategy. We are keen to contribute to that discussion.

Richard Lochhead: I have two quick general questions. The first is a bit of a daft-laddie question and the second will be more intellectual.

The Convener: Can we tell you which is which afterwards? Sorry—that was too obvious.

Richard Lochhead: The daft-laddie question is this: how do you measure the impact of your policies on climate change? How does that work within Government? Do scientists give you reports on the impact on climate change? How does it work when you are trying to determine how to spend your money and the impact that your policies will have on climate change?

Mr McCabe: If we try to build sustainability into our spending review, to have a target to ensure that all our energy is from renewable sources, to have targets for the kind of paper that we procure, and to have targets for other things that I mentioned in my opening remarks, we will have an impact. If an organisation the size of the Executive uses only recycled paper, that will have an impact on sustainability.

Richard Lochhead: That is an obvious example. There must be hundreds of thousands of less obvious examples when you are spending money to implement policies.

Mr McCabe: I am attracted to obvious examples.

Richard Lochhead: You might not need a scientific expert to give an opinion on recycled paper, but there must be other budget areas for which you would. Whose advice do you take? How does it work? Do you commission research on the impact of emissions on climate change? Do you have a central unit in Government that advises all ministers? Do all ministers have their own advisers?

Nicol Stephen: That varies depending on the scale and nature of projects. Strategic environmental assessments are coming in for all major projects. For many of those projects we get professional advice. We need to pull that together better; that is an issue for the climate change and sustainable development reviews.

We have to work out what the overall impact would be on the transport sector rather than on just one transport project before we link the transport sector up to all the other sectors and work out the overall impact on climate change. Those issues are complex and, as you have discovered from the evidence that the committee has taken, there is some professional academic dispute about the level of impact. However, on the basics—for example, the level of additional carbon emissions or emission reductions that are associated with a particular road or public transport project—we should be as factual and

open about the issues as we can be. That is certainly the approach that I would like to be taken in the future. There must be greater openness and there must be determination to ensure that we join up the issues across Government in order to ensure that we have a good understanding of the overall impact.

Richard Lochhead: I take it from what you have said that each department approaches the issue differently in terms of their policies and how they measure the impact of climate change.

Nicol Stephen: There are differences between the approaches of the departments. Various approaches are taken depending on the nature of the project—for example, whether it is to do with recycling and the use of recycled paper, renewable energy or a major public transport project.

Allan Wilson: The work that is done comes together through the sustainable development indicators that we publish at the level of the Cabinet sub-committee on sustainable development. The targets that we set for carbon emission reductions and cash savings from better business resource use and energy efficiency measures feed into the pool of indicators that we use to measure our progress towards more sustainable development, which obviously contributes towards combating climate change.

Richard Lochhead: My second question is slightly more philosophical and deep. How does the Government determine the concept of value? You have policy objectives to achieve and certain set amounts of money with which to achieve them. Let us take central heating as an example, although I know that none of the ministers present is responsible for it. If you had the choice between buying a lesser number of high-tech, state-of-the-art—in terms of sustainability—central heating systems or a greater number of central heating systems of a lower standard, where would you draw the line? How would you determine which would get you the biggest bang for your buck?

Allan Wilson: Individual decisions would be taken in the context of wider policy objectives. In terms of energy efficiency, we measure prospective carbon emission reductions and the bottom-line cost. There does not seem to be a shortage of organisations that are keen to help us in that process. The areas of better environmental management and better use of resources are well served both commercially and in terms of policy development. Indeed, there might well be an argument that the field is too cluttered. We are considering the issue in the context of a more general energy efficiency strategy.

As you know, we are in the process of developing a document that will identify energy

supply and demand for the whole of Scotland. That will enable us to gather Scottish figures in the interests of better policy development rather than simply having to extrapolate from UK figures. That is all part of the on-going process by which we determine best value in procurement.

Mr McCabe: We also have pre-expenditure assessments that would help us to make a judgment on the sustainability of any purchases. That is an important part of the process.

Richard Lochhead: Presumably, there must be rules relating to Government contracts and you must be under pressure to take the cheapest tender in some cases, even though that might not be the most sustainable option. Does that create a tension?

Mr McCabe: There can be a tension on some occasions, but the public sector is increasingly being encouraged to take a more comprehensive view of what provides value, which is not necessarily the lowest price. There is an increasing realisation that sustainability and, for example, the energy saving aspects of a purchase must be factored into the overall consideration of best value.

Nora Radcliffe: In your bilateral meetings with Ross Finnie on sustainable development, to what extent is climate change a distinct part of the agenda? What analysis do you do to ascertain whether action that you take in that regard is successful? The question perhaps follows on from Richard Lochhead's question.

Mr McCabe: I have had one bilateral meeting with Mr Finnie on sustainable development. Implicit in any initiatives that were proposed was the understanding that their success would have an impact on climate change. Indeed, such an outcome was regarded as an automatic consequence. I do not know whether it was specifically suggested, for example, that the efficient government agenda is being promoted because it will have an impact on climate change. However, through efficient government we will use fewer resources to achieve the same or better outcomes, so there is a sustainable development aspect to that agenda.

Nora Radcliffe: You are saying that consideration of such matters is more implicit than explicit.

Mr McCabe: Yes.

Allan Wilson: We consider what works. The classic example is the criticism of the Office of Gas and Electricity Markets of the renewables obligation as offering a more fuel-expensive, less value-for-money means of promoting renewables, reducing carbon emissions and addressing climate change than does, for example, the emissions

trading scheme. We constantly assess what we do against other UK and European parameters.

Nicol Stephen: My bilateral meeting will take place next week and it would be wrong to comment ahead of the meeting. However, I will ensure that we discuss climate change and sustainable development in relation to transport projects.

Nora Radcliffe asked about the success of initiatives. It is important to emphasise that in transport projects and through, for example, the freight facilities grant and the waterborne freight grant, we can take into consideration non-financial issues such as the environmental benefits of removing freight from our roads or of a particular public transport project. Such considerations form part of the value-for-money calculation that allows us to justify a project. I want to continue to take that approach.

It seems to me that in the Scottish transport appraisal guidance, which represents a big improvement on the system—perhaps it would be better described as the lack of a system—that we had before the guidance was adopted, the highest net present values and the greatest benefits are generated by major roads projects, rather than by public transport projects. In future we need to consider how we correctly balance investment in public transport with investment in roads schemes. However, it is not the guidance that is driving the policy decision to invest 70 per cent of transport resources in public transport; a deliberate, political decision was taken as part of the partnership agreement very significantly to increase investment in public transport, while continuing to support the trunk road network in Scotland.

Rob Gibson: It is clear that the development of the bilateral meetings process is at an early stage, particularly for Nicol Stephen—I do not know whether he has taken part in such bilateral meetings in the past. A sustainable development directorate with a cross-cutting interest has been established in the Executive. Clearly, that directorate could have a major impact in helping ministers to work on specific aspects of policy.

There is a cost associated with doing nothing. Although the cost of doing something might be greater in the short term, the cost of doing nothing will be higher in the long term. Therefore, on what specifically do you envisage an increase in spending in each of your portfolios to try to reduce climate change?

12:45

Allan Wilson: That is a relatively easy question for me to answer. I have concentrated on energy use, supply and demand as the principal means by which we would tackle climate change and

benefit future generations. Of course, spending decisions that we take in that context must have regard to the bottom line for business and industry—the wealth-producing sector of the economy—and that is how we incentivise their approach to resource efficiency.

On the price of electricity, it is clear that we see the renewables obligation certificates mechanism that we introduced as the principal market driver that is available to industry to improve the proportion of generating capacity that comes from renewable sources. As I have said, that mechanism has been remarkably successful—indeed, I announced an extension to it yesterday. The future scope and direction of that system, or market mechanism, are currently under review, but it is the principal means by which I see the bottom line being affected in my portfolio. Interesting discussions are under way on the costs of electricity and who pays for it. Obviously, the consumer currently pays for the increased proportion of electricity that is generated from renewable sources.

Mr McCabe: I will mention three aspects of my portfolio, the first two of which are capital grants for land decontamination and the strategic waste fund over the period 2004-05 to 2007-08. Some £35 million will be spent on land decontamination and £450 million will be spent on the strategic waste fund over the same period.

The third aspect is efficient government. As I said, it is clear that applying fewer resources to achieve the same or better outcomes—particularly through procurement, through which we can make a considerable difference to how public sector organisations go about their business—can make a significant difference.

Nicol Stephen: I will be brief, as I have mentioned much of the investment that the Enterprise, Transport and Lifelong Learning Department is now making in public transport. I simply ask committee members to reflect on the position back in the 1990s. A huge proportion of the investment went into the roads network and many new transport projects were road improvement projects or new road building projects. We now have proposals for tramlines in Edinburgh and for a range of improvements relating to rail lines, such as proposals on reopening rail lines, rolling stock improvements and station improvements. There is the freight facilities grant and there will be the new waterborne freight grant this month. There is the concessionary bus fares scheme and the bus route development fund, about which we will make announcements later this month to try to kick-start new bus routes. We have a range of rural transport initiatives.

The balance of expenditure and the whole approach to transport in Scotland have shifted.

There is a much more balanced approach—if anything, it is now biased towards public transport. When ministers are making decisions and have the opportunity to look at the appraisal guidance, we try to push towards public transport investment rather than investment in our roads. However, it is obvious that our roads network is particularly important to our economy and to business, which is why targeted improvement in our trunk road network is important. Such improvement is part of the balanced overall package of investment in transport.

Maureen Macmillan: I want to follow up on best value, on the relationship with local authorities and on the cross-cutting nature of what we have to do. We are at the start of a major change as we move from traditional energy sources to renewables, but I feel that we might miss the boat on some big opportunities because of the way in which local authorities have to work with private partners.

For example, in my area at least, it seems to be impossible for renewables to be factored into the large school building programme that is in progress because the private partners perceive risks from cost uncertainties. However, the Minister for Education and Young People has told me that there should be no problem. Another situation that arises is that, when a local housing association is involved in a mixed housing development, the housing association might be keen to install a district heating scheme, but the private builders will not hear of it because they feel that it will involve risk. Is the Executive engaging with that problem and considering how private partners who work with local government might address the renewables issue?

Mr McCabe: On the school building programme, I agree with the Minister for Education and Young People that there should be no problem, as the design is specified by the public sector body that issues the contract. Many public-private partnership contracts for school buildings include energy-saving initiatives, so I do not understand why that should not be possible in Highland. Energy saving has certainly been promoted in PPP procurement schemes because it provides opportunities for efficiency and cost savings. Those have been welcomed both by the public sector and by private partners.

Maureen Macmillan: The problem is not so much whether the new buildings are energy efficient as whether they can use, say, biomass rather than oil-fired central heating.

Allan Wilson: In part, that is why we set up the Scottish community and householder renewables scheme and increased its resources to £6.6 million over the next three years. The scheme addresses that dilemma by enabling public and community bodies to access funding support so that micro or

other community renewables projects can be built into local developments. We are in the process of undertaking an evaluation, which will shortly be put out to tender, to study issues surrounding the operation of the Scottish community and householder renewables scheme, including whether PPP projects can receive funding and whether the state-aid considerations that need to be taken into account limit the amount of support that we can give such developments.

I agree that we need to focus more on that issue. Indeed, I had a meeting comparatively recently with colleagues from the Education Department to consider how we can improve the uptake of community renewables in such projects. That is something that we could usefully do.

The Convener: I thank the minister for that helpful response.

Karen Gillon: I am interested in how the Executive is supporting and developing Scotland's biomass industry, which has such tremendous potential but has lagged slightly behind. What action is the Executive taking to move it forward?

Allan Wilson: As I mentioned, we recently received a report on biomass from FREDS. The report demonstrates that, as we suspected, considerable opportunities—and challenges—exist for biomass to make a bigger contribution towards achieving our renewables targets. The ability of biomass to contribute base-load energy generating capacity is, to my mind, a great advantage that represents an opportunity for the sector.

We are considering that in the context of the renewal of ROCs and in relation to co-firing, which we will say more about shortly. We have tremendous potential in our forestry resource, which I know a little about. Matching the forestry resource in Scotland with the biomass by-product and using that for energy production is a win-win situation, although much carbon generation comes from land use—it produces about 85 per cent of the UK total. Challenges exist—the idea is not entirely without problems—but I agree with the contention that biomass offers great opportunities that we aim to develop in the foreseeable future.

Alex Johnstone: I am greatly encouraged by what the minister said.

Allan Wilson: You should be.

Alex Johnstone: I will talk about not biomass but biofuels. The Minister for Transport said again that he has given grant aid to a biodiesel project, which is welcome. However, the problem is that when demand is created in the Scottish economy for biodiesel, it seems simply to suck in imports. Can ministers do anything to ensure that biodiesel that is produced in the Scottish economic

environment is used here and is not supplanted by subsidised imports, which I believe come from Germany in particular? Does the UK Government need to consider changes in regulation to make that happen?

Nicol Stephen: UK Government action to grow the market significantly will achieve that. As the member knows, European Union targets have been set. The UK Government is considering the issue seriously—I am a member of a joint committee that is doing that with UK ministers and ministers from Wales. The UK Government is considering seriously how we increase the level of biofuel in the fuel that we purchase, whether local filling stations will have separate biofuel tanks, as they do for liquid petroleum gas, or whether over time all fuel will have an element of biofuel, which is more likely. The argument about whether we can shift to all fuel having a biofuel element is a bit like the argument about leaded and unleaded petrol.

Those issues are important and their resolution depends on the taxation approach that the UK Government takes. Once the tax incentive exists, the change could happen fairly quickly. We must continue to press and work with the UK Government on those issues to grow the market. Any suggestion such as Alex Johnstone's will mean intervention in the market when the market is still small. The real opportunity is to grow the market dramatically. At that point, the demand for production in Scotland will be significant and what is produced will be likely to be used here.

Allan Wilson: I agree entirely. As Alex Johnstone knows—much as he may dislike it—we live in a single European market, which properly has rules and regulations about state aid that govern public investment in such private enterprises as have been described, as I said. However, I agree with his basic contention that we should examine—as we do—current market incentives for biofuel production and whether we can better incentivise the indigenous UK market. That is a fair point.

Rob Gibson: Can I make a general point?

The Convener: I will wind up general questions and move on to specifics—we have already delved into individual portfolios. I ask members to keep to one question that focuses on Tom McCabe's portfolio, which covers public sector, local government and finance issues.

Nora Radcliffe: Mr McCabe mentioned building regulations. They are fine for new buildings, but can he give us any indication of how the Scottish Executive is focusing on the upgrading of existing building stock?

Mr McCabe: The energy efficiency of buildings will be addressed partly through initiatives such as

the warm deal, the central heating programme and our programmes to improve the insulation of domestic properties.

Nora Radcliffe: Is the spend-to-save programme going to impact on large public buildings?

Mr McCabe: A £20 million capital grant is now available to public bodies in Scotland that make applications for grant assistance for energy-saving projects—for instance, condensing boilers and improved lighting. Up to now, 31 of Scotland's 32 local authorities have applied to that fund with proposals for improving the energy efficiency of their public buildings.

13:00

Richard Lochhead: I was told recently in answer to a parliamentary question that only 4.4 per cent of the heating of the Executive's 14 biggest buildings comes from renewable sources. Are you disappointed with that figure? What action are you taking to address that? I understand that the matter is your responsibility.

Mr McCabe: It goes without saying that we are always aiming to improve our performance. I hope that the evidence that my colleagues and I are giving today underlines the Executive's commitment to seeking continually ways in which to improve our performance. If our performance is not at levels that are internationally recognised, we will strive to improve on what we do currently.

Richard Lochhead: Is any programme under way to address the fact that only 4.4 per cent of the heating of the Executive's 14 biggest buildings comes from renewable sources? Heating is a large component of our energy needs. Is any programme under way to adapt Government buildings or improve on that figure?

Mr McCabe: I think that the fund that I have just mentioned would be available for Executive proposals, too. It is about improving the energy efficiency of public buildings. The people who are responsible for managing the facilities that are in those buildings are always considering projects to improve their energy efficiency and would have access to some of the funds that I have made reference to.

The Convener: I know that we do not have a major budget review planned for this year, but I have a question about the next budget round. Through the evidence of the past week, it has hit home forcibly that although we tend to think about how we can reduce climate change or stop it happening, it is equally important to think about how we can deal with the climate change impact that we are already going to see. Nicol Stephen announced some review work that the Executive is

going to do on adapting to climate change, building on the experience of big storms in the Western Isles.

In looking at climate change as a relevant issue for the next budget round, will you think about asking people to say how they might deal with climate change and how they will try to reduce our impact on climate change? Will you consider asking colleagues to be specific about addressing climate change instead of taking a tick-box approach?

Mr McCabe: Yes. That would follow on from the approach that was taken in the previous spending review. I earlier mentioned the fact that, as a direct result of climate change, we have allocated a considerable amount of money—more than £40 million—for flood prevention programmes to protect more than 4,000 additional homes. That review of what is required to deal with the consequences of climate change will continue at the same time as we build into our future spending plans as many initiatives as we can to minimise the contribution that we make to any future climate change.

The Convener: Okay. Thanks. Let us move on to transport. Most members will want to ask about transport, as the issue has come up at almost every evidence session that we have had.

Rob Gibson: I am interested in the role that pricing and demand management play in your approach to transport development. The conditions in Scotland are clearly different from those in the highly populated areas in the south, yet we have inherited the kind of appraisal that looks at business plans for areas of concentrated population. How far do you see the rail programme being rolled out for freight and passengers in the more sparsely populated areas of the country? From evidence that we have heard, it will clearly be important to take transport off the roads in those areas. Do you intend to alter the criteria for the business viability of moving to rail transport, to take account of Scotland's geography?

Nicol Stephen: Currently benefiting from the freight facilities grant are forestry schemes, schemes to take food to the far north of Scotland, and schemes to take fuel to the north-east of Scotland. Some significant schemes are already benefiting. The challenge over the next few years will be to continue that investment and make a real impact. We are investing in the freight facilities grant and are encouraging industry to move freight from lorries on to the rail network or on to the water. At the same time, there is growth in the economy and increased levels of freight movement. We can still have severe congestion problems on the roads, even though we are having success in terms of modal shift. Those are the kinds of challenge that we have to consider. In

your question, you rightly referred to some of the big issues that we will have to address over the next decade or so.

Rob Gibson: I have a short follow-up question.

The Convener: Please keep it very short, because everybody else wants to ask questions.

Rob Gibson: Minister, you have not said much about infrastructural development in the railways. You have talked about ways of adjusting the current system, but measures of business viability mean that we will probably have to spend more on investing in the rail infrastructure.

Nicol Stephen: I agree with that, and that will now be our responsibility. It has not been our responsibility up to now, but through the Railways Bill at Westminster there will be a major shift in responsibilities to Scotland. Through the transport budget, we will receive an additional £325 million or so a year to invest in rail. That will be very important for the Scottish Executive over the next few years.

Maureen Macmillan: Climate change will have a severe impact on our infrastructure—especially if it leads to more severe storms and flooding. This winter, coastal roads have been washed away and harbours have been damaged along the west coast and on the islands. Roads have been blocked by landslips and railway tracks have been undermined by floods. Such incidents will get worse, so how will you address that?

Nicol Stephen: We have had to take short-term measures, investing significant sums to get our road network up and running again as quickly as possible, and learning the reasons behind individual landslips. However, we are also doing longer-term work on climate change. We are considering the pressures on our harbours, piers and road network and I will receive a report on those issues later in the year.

We must be open and admit that we are at only the early stages of addressing the issue. We do not want to shift all our investment to dealing with it because, for example, we want to continue to develop our public transport network. We do not want all our investment to go towards the shoring up or the defending of our current network. However, we have to consider the implications and the potential consequences for future budgets.

Karen Gillon: How do you assess how a transport project will impact on climate change? Can a cost-benefit analysis reveal whether it is worth paying the price for increased road usage?

Nicol Stephen: We use the Scottish transport appraisal guidance to assess projects. We always address the impact on the environment and we also address safety, social and economic issues.

As part of the new focus, strategic environmental assessment will have a new importance for transport projects. We have to look at projects with a fresh eye, examine the strategic environmental consequences, and ensure that we have addressed all issues in terms of EU legislation and legislation that is going through the Parliament. We consider the environmental consequences and the negative impact of any project, whether road or rail. Negative impacts can arise from rail projects, because people are not necessarily happy to have a new operational rail line going past their property. We always have to examine those issues and balance them but, at the end of the day, I suspect that it will continue to be a political judgment. The answers to the issues will never come purely from analysis and science.

Chris Ballance (South of Scotland) (Green): I was interested in what you said about the need to be serious about achieving the 2021 targets for traffic reduction. Do you support short-term milestones or targets for better transport and for reducing road traffic?

Nicol Stephen: I have been pushed hard on that issue on various occasions in the past few months. I return to the answer that I gave on climate change targets. As long as the targets are appropriate and there are ways to get the relevant data on them, I am prepared seriously to consider them. People must be aware, for example, that interim targets on congestion and traffic levels may simply be about slowing the rate of increase until we reach a point where the increase stops, and then making up ground by reducing the levels. If I were to introduce interim targets, I would signal that point clearly, so that I was not immediately criticised for introducing targets that, through the 15-year period or so that we are talking about, took account of the fact that, over the next few years, the rise might continue.

Chris Ballance: But you would consider it appropriate to introduce targets.

Nicol Stephen: Yes, I have said that I would consider the introduction of interim targets.

Nora Radcliffe: You said that we have achieved a degree of modal shift, but we have to do an awful lot more to get people out of their cars. The Commission for Integrated Transport has proposed national road user charging as a possible long-term solution. Is the Executive giving that serious consideration?

Nicol Stephen: Yes, we are. I mentioned that in my opening remarks, in relation to the DFT proposals, which are at an early stage, but are being actively considered by us and the DFT. We have agreed to work with the DFT on those proposals, but it will be some considerable time before we—collectively throughout the UK—are in

a position to implement them. The proposals offer the potential significantly to tackle congestion. If we were to have the interim targets that Chris Ballance has encouraged me to consider again this afternoon, we would need to factor in the introduction of national road user charging and the impact that it might have from perhaps around 2015 onwards—it is at that sort of stage in the future.

The Convener: It is a not-in-my-term-of-office target.

Mr Ruskell: We have established that the transport sector must reduce emissions, and that we cannot easily trade off those emissions against other sectors. Do you acknowledge that certain Executive policies, such as building the M74 motorway and the air route development fund, are increasing emissions in Scotland? Do you not agree with the representative of the Sustainable Development Commission who said in evidence last week that we should focus on the win-wins—measures that produce wins for the economy and for the environment—and abandon the win-loses that produce wins for the economy but have negative effects on the environment? Do you not view the M74 extension and the air route development fund as win-loses? Both those projects may well have economic benefits, but they will result in losses for the environment such as an increase in CO₂ emissions, which will affect the Executive's ability to meet any sectoral targets. Should we not abandon, or at least delay, those projects? If the committee concluded that we should delay the M74 motorway upgrade so that matters such as the increase in CO₂ emissions that it will produce could be considered in the round, would you agree to do that?

13:15

Nicol Stephen: We need to take a balanced view. We must consider the impact of what we do on the environment and on climate change. I want to make it clear that we do that. We must also take account of the potential benefits of our proposals for communities in Scotland and for the Scottish economy. That is why I said in response to Karen Gillon's question that such issues will continue to be matters of political judgment. We will not always be able to reach decisions on the basis of analysis and science.

In relation to the air route development fund, it is important that we factor in the number of journeys that people make to Heathrow, Gatwick or Stansted, or even to airports in France and Holland, to catch onward flights to destinations that, through the route development fund, people can now fly to directly from Scotland. Examples of destinations to which people used to have to take more than one flight are New York and Dubai, to

where people can now fly directly from Edinburgh and Glasgow respectively.

The same is true of investment in our road network. Although there may be some people who argue that that network should remain fixed as it is in 2005, I believe that some strategic developments are important. However, we have moved away from the position that was adopted back in the 1990s, when transport investment meant roads investment. We are now investing substantial sums in public transport. That will be good for the environment and for climate change.

Mr Ruskell: So you would not delay the M74 project to work out what impact it will have on climate change emissions in the transport sector?

Nicol Stephen: It would be wrong for me to comment on the M74 proposal because I hold responsibility for reaching the decision on it. That decision will be made soon. It would be inappropriate for me to comment further, given my role in announcing the decision.

The Convener: Do you have a supplementary comment, Tom?

Mr McCabe: Nicol Stephen is obviously restricted in the comments that he can make on the M74, but what he said about the need for balance is important. Studies have shown that the M74 project has the potential to create some 40,000 jobs and to provide economic opportunities for communities that have been disadvantaged for many years. We must balance those considerations against environmental considerations. Every day, the people of Rutherglen experience serious congestion on their main street and there is idling traffic along miles and miles of the M8 motorway. Those problems have a detrimental impact on our environment and I do not think that we would want to avoid eliminating them.

I do not advocate that we delay the M74 project—far from it. If we are serious about growing the economy in Scotland, I advocate that we advance it as fast as we can. I remember taking a decision on the M74 back in the early 2000s but, even with a fair wind, it is unlikely that we will see traffic on that road before 2010. That suggests to me that we need to be a lot more serious about putting in place the infrastructure that will allow us to grow the Scottish economy. *[Interruption.]*

The Convener: I told people to turn off their phones.

I want to wrap things up. Our final round of questions is for the Deputy Minister for Enterprise and Lifelong Learning. I do not know how much appetite there is for having a big round of questions. Allan Wilson answered many questions

during the first round, but I do not want to deny anyone the opportunity to ask questions that are specifically for him. Does anyone have any such questions?

Richard Lochhead: I will give an idea of the big picture elsewhere in the world. The Austrians source 14 per cent of all their energy needs—not just electricity—from biomass. I understand that the Danes are on the brink of exhausting their wind potential. It seems that Scotland is quite far behind many other countries in its use of renewable energy. What is the reason for that?

Allan Wilson: We have a way to go to catch up with other European competitors, but we are well placed to do so. We have had an historical dependence on fossil fuel energy production, not least because of the discovery—beneficial for the Scottish economy—of North sea oil, and our substantial coal reserves that we depended on for energy supply and generation. Those advantages were not common in continental Europe and in large part they shaped energy policy over the piece as a result.

However, as I said in my introduction, we now have an opportunity to seize the day and drive forward our renewables agenda, not least the development of our marine resource, and turn Scotland into the renewable energy capital of Europe. The Executive is focused on that aim.

Mr Ruskell: Earlier in the inquiry, Scottish Enterprise told us that there had been no systematic analysis of what the impacts of climate change might be on Scottish business, or of what the opportunities might be for Scottish business. That worries me a bit. Does it worry you? What steps will you take to ensure that we get a clear idea of what the positive and negative effects of climate change will be?

Allan Wilson: You will pardon me if I do not comment on precisely what the Scottish Enterprise representatives said because I do not know. However, it would concern me if that organisation were not focused on the opportunities that the development of the green jobs strategy gives it. It is not simply a question of developing economic opportunities in those enterprises that one might envisage would be at the forefront of the green business resolution; it is also about improving business resource efficiency. Scottish Enterprise has a range of products that it makes available to businesses through the local enterprise network; it also advises on better environmental management.

To the best of my knowledge, Scottish Enterprise is focused on both the challenges that face business in terms of better resource efficiency via the green jobs agenda, but also on the opportunity of procuring economic growth through better environmental management.

Mr Ruskell: What about the impact on business? We have heard a lot of evidence about the economic damage that could arise through climate change.

Allan Wilson: I am happy to pursue that question with Scottish Enterprise.

The Convener: How many more members want to ask questions? Karen Gillon has just pulled out. I am going to be really brutal and allow very few questions.

Rob Gibson: ScottishPower told the committee that there is no technological problem with achieving a 60 per cent reduction in emissions. It said that the real problem is the lack of policy clarity. Will you reflect on that?

Allan Wilson: There are genuine technological challenges out there, not least in the development of marine technology to which I referred. Those challenges are placed in stark relief today of all days. I am confident that, with the vision, political drive and leadership that we are showing in the field, we can overcome those remaining technological challenges and ensure that the marketplace, in which ScottishPower plays a key part, delivers our agenda. As you know, Governments do not, cannot and should not build power stations—that is a matter for the market. It is our job to ensure that the interests of wider society, particularly in combating climate change, are taken account of by companies when they take decisions on how they enter that marketplace.

Nora Radcliffe: My question follows on quite nicely from that. Renewables obligation certificates have done a good job in moving the market towards renewable energy generation, but is there any prospect of an equivalent for heat?

Allan Wilson: We are reviewing the entire operation of ROCs, as I said. Within that, there are strong arguments for extending ROCs into other areas in which they have historically not been applied. I mentioned one such area in relation to biomass, but there are others. As ever, there are—dare I say it—differences of opinion in the industry about the best means of doing that, but I look forward to receiving the committee's views on how we review the ROC mechanism because it has been the single most successful market driver in promoting renewable electricity generation. As you say, it has been particularly successful to date in relation to onshore wind, the contribution of which should not be lost. When people talk green they should back that up with green actions.

The Convener: That could lead us into a range of questions and supplementaries, but I will stop there. I can hear lots of voices off, but I am not going to let them in.

I thank the three ministers and their staff for preparing for today and answering our questions. Today's was the final evidence-taking session in our climate change inquiry. Next week, we will consider our report. I thank everyone for coming.

Meeting closed at 13:26.

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