



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Rural Economy and Connectivity Committee

**Wednesday 2 December 2020**

**Session 5**



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## Wednesday 2 December 2020

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## RURAL ECONOMY AND CONNECTIVITY COMMITTEE

### 32<sup>nd</sup> Meeting 2020, Session 5

#### CONVENER

\*Edward Mountain (Highlands and Islands) (Con)

#### DEPUTY CONVENER

\*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

#### COMMITTEE MEMBERS

\*Peter Chapman (North East Scotland) (Con)

\*John Finnie (Highlands and Islands) (Green)

\*Emma Harper (South Scotland) (SNP)

\*Richard Lyle (Uddingston and Bellshill) (SNP)

\*Angus MacDonald (Falkirk East) (SNP)

Oliver Mundell (Dumfriesshire) (Con)

\*Mike Rumbles (North East Scotland) (LD)

\*Colin Smyth (South Scotland) (Lab)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

#### THE FOLLOWING ALSO PARTICIPATED:

Fergus Ewing (Cabinet Secretary for Rural Economy and Tourism)

Jesus Gallego (Scottish Government)

Allan Gibb (Scottish Government)

Mairi Gougeon (Minister for Rural Affairs and the Natural Environment)

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP) (Committee Substitute)

Alastair Mitchell (Scottish Government)

Graham Simpson (Central Scotland) (Con) (Committee Substitute)

#### CLERK TO THE COMMITTEE

Steve Farrell

#### LOCATION

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Rural Economy and Connectivity Committee

*Wednesday 2 December 2020*

*[The Convener opened the meeting at 08:46]*

### Decision on Taking Business in Private

**The Convener (Edward Mountain):** Good morning, everyone, and welcome to the Rural Economy and Connectivity Committee's 32nd meeting in 2020. The meeting will be conducted in a hybrid format in which some members will participate remotely. I ask all who are in the committee room and participating remotely to set their mobiles to silent, please.

Under agenda item 1, does the committee agree to take in private items 12 and 13, which will allow the committee to review the evidence from the salmon farming in Scotland inquiry update and to consider a letter from the Finance and Constitution Committee on the implications of Brexit for devolution?

**Members** *indicated agreement.*

## European Union (Withdrawal) Act 2018

**Plant Health (EU Exit) (Scotland)  
(Amendment etc) Regulations 2020 [Draft]**

**Trade in Animals and Related Products  
(EU Exit) (Scotland) (Amendment)  
Regulations 2020 [Draft]**

**Common Agricultural Policy (Less  
Favoured Area Support) (EU Exit)  
(Scotland) Amendment Regulations 2020  
[Draft]**

08:47

**The Convener:** Item 2 is a sift of three Brexit-related instruments. The Scottish Government has allocated the affirmative procedure to all three Scottish statutory instruments. Is the committee content with the parliamentary procedure that the Government has allocated to the instruments?

**Members** *indicated agreement.*

## Subordinate Legislation

### Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2020 [Draft]

### Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020 [Draft]

08:47

**The Convener:** Item 3 is consideration of two affirmative instruments, on which the committee will take evidence. The motions to recommend approval of the instruments will be considered under items 4 and 5. Members should please note that no representations have been made to the committee on the instruments.

As the two sets of regulations relate to plant health and to trade in animals, I formally note my registered interest as a member of a farming partnership in Moray. Peter Chapman and Stewart Stevenson want to make similar declarations.

**Peter Chapman (North East Scotland) (Con):** I declare my membership of a farming partnership in Aberdeenshire.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I am the joint owner of a very small registered agricultural holding, from which I derive no income.

**The Convener:** I welcome from the Scottish Government Mairi Gougeon, the Minister for Rural Affairs and the Natural Environment; Rachel Coutts, lawyer; John Speirs, senior policy adviser; Keith White, lawyer; and Jesus Gallego, deputy chief veterinary officer. Would the minister like to make a brief opening statement on the two SSIs?

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** Yes. Would you like me to talk about both sets of regulations at the same time or to talk about the plant health regulations first?

**The Convener:** We will consider and take questions on the plant health regulations first, and then consider the other regulations, if that is all right. That is easier for the record.

**Mairi Gougeon:** No problem, convener. I will give the committee a brief overview of what we are trying to do with the draft plant health regulations. Their purpose is to revoke and remake European Union exit provisions relating to plant and tree health to ensure that we maintain and continue to protect Scotland's agriculture, forestry and horticulture sectors and the wider environment from pests and diseases when Scotland leaves the EU.

The committee will recall that the Forestry (EU Exit) (Scotland) (Amendment etc) Regulations 2019 and the Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2019 were drafted last year, when we were looking at a possible no-deal Brexit in March 2019. The instruments were laid before the introduction of the new EU plant health and official controls regime that became applicable in December 2019, which means that they must now be revoked.

The 2020 regulations deficiency fix the new domestic regime that is to come into force on 1 January 2021 and make provision to update domestic plant health legislation before it becomes retained EU law. The changes that the regulations make are necessary to ensure that the current domestic plant health legislation continues to operate effectively after the end of the transition period. In addition, it is important that our legislation is efficient to ensure that any associated burdens on business are proportionate.

The 2020 regulations introduce a provision in relation to import fees, which will be in effect only from implementation period—IP—completion day until 31 March 2021. Allowing the regulations to pass will reassure anyone who is associated with, or interested in, the plant health sector that we are committed to protecting Scotland from pests and diseases that are not known to occur here.

I am happy to take any questions that the committee may have.

**The Convener:** Thank you, minister. We are having a slight issue with the technology, but we can work through it. Do members have any questions on the regulations?

As there are no questions, I ask the minister to comment on the second SSI, which is the draft Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020.

**Mairi Gougeon:** The primary purpose of the regulations is to ensure that we have a functioning system of controls on imports of live animals, products of animal origin, germinal products and animal by-products following the United Kingdom's withdrawal from the EU and the end of the transition period. The regulations should be read in conjunction with the Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020, which the committee has already had the opportunity to scrutinise; those regulations are undergoing passage through the UK Parliament.

The committee will be aware that it is the intention of the Scottish Government, along with other Administrations, to align with current EU legislation and EU-derived domestic legislation as fully as possible where that is practicable and appropriate. That is the case with the legislation

on official controls that are carried out to verify compliance with those rules in order to protect human and animal health.

The instrument is necessary in order to ensure that appropriate official controls are carried out on animals and products entering Scotland from a third country, so as to protect human and animal health following the UK's withdrawal from the EU.

The 2020 regulations as framed are principally concerned with technical changes so as to ensure that controls on imports of live animals and animal products verify that imported goods continue to meet the specific import conditions that are laid down in retained EU law. The changes to the regulations will reflect the fact that the United Kingdom is no longer a member state and that third-country controls will be applied to imported goods from the EU in a phased way. That approach has also been adopted by other Administrations, in order to ensure that we have a consistent Great Britain-wide approach.

On that basis, it is considered to be necessary that the changes are made in order to secure continuation of an effective regime for official controls on the trade in animals and animal-related products and to provide for continuity of business on our exit from the EU.

I hope that that provides members with sufficient assurance as to why the changes are being made and why the Scottish Government deems them necessary. Again, I and my officials are happy to take any questions that members may have.

**The Convener:** Thank you, minister. There are a few questions. We will go to Mike Rumbles first.

**Mike Rumbles (North East Scotland) (LD):** The explanatory note says:

“Regulation 2 of these Regulations makes amendments to the Trade in Animals and Related Products (Scotland) Regulations 2012”,

and the policy note, under the heading, “Purpose of the Instrument”, says:

“To make changes to the Trade in Animals and Related Products”.

So far, the emphasis has been on imports and not on exports. I assume that trade means both. Although I fully understand the need for regulatory change for the imports and therefore see nothing wrong in the instrument, I am curious as to why, when the instrument talks about trade in animals, we are focused on imports with no mention of exports.

**Mairi Gougeon:** That is why the instrument is needed. I have talked about the other regulations. This instrument is needed to give effect to the official controls regulations and the phased process that we have set out. If we did not have

the phased approach in place and we did not set out the system for imports, as of 1 January 2021, we would face full checks on everything being imported into GB. That is why the SSI is necessary. It gives effect to the wider regime that has been put in place through the official controls regulation.

**Mike Rumbles:** Can I follow that up, convener?

**The Convener:** Absolutely.

I mentioned that we had a technology issue. We now have all the screens working and can see the minister.

**Mike Rumbles:** I understand all that, minister. That is what it says in the policy note. My question is not focused on the imports. I agree with you that we need the regulations. The policy note and the explanatory note talk about trade, but the regulations itself does not mention the trade both ways. I understand the importance of imports, but my question to the minister is: why is there no mention of exports? Is the answer that we do not need to mention exports? If there is a need to mention exports, why has it not been mentioned?

**The Convener:** I can no longer see the screen. Minister, do you want to bring in one of your advisers on that subject?

**Mairi Gougeon:** I would just like to answer Mike Rumbles briefly, and then my official, Jesus Gallego, can come in with further information. *[Interruption.]*

**The Convener:** I remind everyone of the importance of muting phones when they are participating remotely as well as in the committee meeting room. I do not know whose phone that is, but I will not point any fingers. Surely it is not your phone, minister.

**Mairi Gougeon:** Definitely not.

The EU has already set out its position. That is why we have seen so much concern from the industry in Scotland about what will be needed for exporting goods. We have taken a phased approach to imports coming into GB. We have had to adopt that position because otherwise we would not have had the infrastructure in place to be ready on day 1. That is where export businesses face serious issues. First, they do not know what trade agreements might be in place. All the controls that we are looking at phasing in for imports, they will face as of 1 January when they export to the EU.

You will have seen that Scotland Food & Drink wrote an open letter to the Prime Minister asking for a six-month grace period in having to provide export health certificates because of the burden that that puts on businesses that have been dealing with the Covid situation.

I hope that I have been able to make the position clear. We have introduced the phased checks in order to manage imports as best we can, given the situation that we are in. The EU checks will be applied as of 1 January, so we did not need the legislation here, because the official controls regulations have been put in place.

Jesus Gallego might have something further to add to that.

09:00

**Jesus Gallego (Scottish Government):** I will clarify the situation with exports: this set of regulations is only part of the full range of different pieces of legislation that deal with international trading in products of animal origin.

As the minister mentioned, there is another set of regulations. The Official Controls (Animals, Feed and Food, Plant Health etc) (Amendment) (EU Exit) Regulations 2020 is a UK instrument that includes matters of devolved competency. That has already gone through its passage through the Scottish Parliament and it is now with the UK Parliament.

There are prohibitions that deal with trade in the UK regulations, too. They deal primarily with imports, like this SSI. However, any changes that are required in legislation for exports are done through the official controls regulations that are amended by the UK regulations.

Rules on how to trade from the UK to the EU on exports are primarily made by the EU and we have relatively little legislation in place to implement controls. We implement export controls administratively or through the powers that we already have, because from 1 January 2021 export controls to the EU will be identical to the ones that we already have for third countries. Therefore, little requires to be fixed.

**The Convener:** I think that Mike Rumbles is happy with that answer. Peter Chapman wants to come in.

**Peter Chapman:** I am concerned about the export question, too. We have heard that England proposes to ban live exports from the beginning of January, once we are out of the EU. In Scotland, there is worry about that principle because, for example, cattle from Orkney and Shetland must go south to be slaughtered. If we open that door and say that it is not a good idea to export animals across the channel—20-odd miles of sea—but it is okay to haul them from Shetland, which is a considerably longer distance, that might have a serious effect on the farming industries in the islands. Therefore, what is the Scottish Government's position on the export of live

animals after 1 January, and do the regulations have any effect on that?

**The Convener:** Minister, I ask you to be fairly tight in your answer to that question, because it stretches into exports and we are dealing with imports. Perhaps you can just confirm whether the SSI deals with exports, and then I would be delighted if you want to write to Mr Chapman and the committee about the export issues separately, because they are not part of this agenda item.

**Mairi Gougeon:** That is absolutely fine. I am happy to write to the committee and give more information about that. However, what Peter Chapman mentioned is not affected: we are not changing any policy on maximum travel times; they are already fixed in legislation and we are not looking to change that at all.

We are progressing other measures that relate to the Farm Animal Welfare Committee's report, "Opinion on the Welfare of Animals during Transport". I am happy to write to the committee and provide information on that. However, we are not looking to make additional policy changes in that area as part of this instrument.

**The Convener:** Thank you for confirming that, minister. As no other member wants to ask a question, we will move on to the next agenda item. Item 4 is formal consideration of motion S5M-23354, in the name of the Minister for Rural Affairs and Natural Environment.

*Motion moved,*

That the Rural Economy and Connectivity Committee recommends that the Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2020 [draft] be approved.—*[Mairi Gougeon]*

*Motion agreed to.*

**The Convener:** Item 5 is formal consideration of motion S5M-23469.

*Motion moved,*

That the Rural Economy and Connectivity Committee recommends that the Trade in Animals and Related Products (EU Exit) (Scotland) (Amendment) Regulations 2020 [draft] be approved.—*[Mairi Gougeon]*

**The Convener:** The minister does not wish to comment further. Do members have any comments?

**Mike Rumbles:** All I want to say is that, as the minister and her officials have just confirmed that the regulations are about imports and not exports, I am happy to approve it.

*Motion agreed to.*

**The Convener:** Minister, you and your team are excused at this stage. Thank you for the evidence that you gave us this morning.

**Common Agricultural Policy (Less Favoured Area Support) (EU Exit) (Scotland) Amendment Regulations 2020 [Draft]**

**Direct Payments to Farmers (Miscellaneous Amendments) (Scotland) Regulations 2020 [Draft]**

09:06

**The Convener:** Item 6 is an evidence session on two SSIs. The motion seeking approval of the affirmative instruments will be considered under items 7 and 8. Members should note that there have been no representations to the committee on the instruments.

I welcome, from the Scottish Government, Fergus Ewing, Cabinet Secretary for Rural Economy and Tourism; John Kerr, head of the agricultural policy division; Andrew Crawley, a lawyer in the legal directorate; and Lynne Stewart, head of the direct payments, rural payments and inspections directorate. I invite the cabinet secretary to make a brief opening statement on the two instruments.

**The Cabinet Secretary for Rural Economy and Tourism (Fergus Ewing):** Good morning. I thank the committee for taking the time to consider these important regulations and for giving me the opportunity to address members.

The draft Common Agricultural Policy (Less Favoured Area Support) (EU Exit) (Scotland) Amendment Regulations 2020, which were laid using powers conferred by the European Union (Withdrawal) Act 2018 and the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, will ensure that payments to farmers, crofters and land managers can continue under the current less favoured areas support scheme from 2021. We need to do that as, under the current Scottish rural development programme, LFASS is intended to work only in the period from 2014 to 2020.

The regulations also reverse the cuts that EU law required to be made in 2019 and 2020. The Scottish Government did everything that it could to mitigate the impact of those cuts, and I am now pleased to be able to set payment rates from 2020 onwards at the higher 2018 rate. It is essential that LFASS payments continue at the higher rate in order to support the Scottish rural economy during Brexit and the recovery from the Covid pandemic.

The regulations also make some minor simplifications and improvements, and they fix a deficiency in the LFASS rules that would otherwise have effect on the implementation period completion day.

My officials and I are happy to answer any questions that members have.

**The Convener:** Thank you, minister. Peter Chapman has a question.

**Peter Chapman:** I am delighted to hear that you are returning LFASS payments to the levels that they were at prior to the cuts that were imposed by the EU. Where is the money coming from to reinstate those levels?

**Fergus Ewing:** We seek to maintain the level of LFASS at the full rate from 2021, during the period until 2024. In other words, my intention is that that should be the case. Formal decisions have not yet been taken on that.

There is one very good reason for that, which is that the Scottish Government's ability to continue to pay the LFASS farmers, whose work in producing food and looking after the countryside means that they earn and deserve the payment—I do not look at it as a subsidy—depends on the continuance of funding that was formerly received from the EU through the UK Government. At the moment, there are serious questions about whether there will be sufficient funding up to 2024-25, and there is a real concern that the UK will impose cuts by failing to match what the EU would have provided to Scotland.

Nevertheless, despite the difficulties that have arisen in the past few weeks as a result of a unilateral decision by the UK Government, I intend to proceed to ensure that our hill farmers and those on islands who are farming the more difficult land continue to receive that support.

My approach has been one of stability and simplicity, and part of the stability element is that businesses need to know where they stand in farming and crofting not just for one year, but for multiple years. That was one of the many benefits of EU membership, because programmes were for seven-year periods and not just year-to-year budget periods. That is one of the problems that the UK Government is making in approaching things on a year-to-year basis and not on that seven-year basis.

**Peter Chapman:** I have to challenge the cabinet secretary on what he has just said. When George Eustice was before the committee just last week, he confirmed that, in the lifetime of the current Westminster Parliament, which has about four and a half years to go, the UK Government will guarantee that £595 million will come to Scotland to support Scottish agriculture. He also made the point that EU funding is being cut by 10 per cent, mainly because we are no longer making a contribution to the EU. I refute the argument that we would have done better in the EU than we will do outwith it.

**The Convener:** I am going to get into so much trouble with my colleagues if I shut this conversation down, because it relates to a statutory instrument that has been laid and its principles, which the cabinet secretary alluded to. Cabinet secretary, I will allow you to make a brief response and then I will move on to other questions.

**Fergus Ewing:** I am afraid that Mr Chapman is not correct. There will be a substantial reduction in funding as a result of the failure of the UK to honour its pre-Brexit promises to match EU funding. We calculate that the amount of the cuts that are made by Westminster for Scotland will be £170 million between now and 2024.

**The Convener:** We are definitely going to leave that there.

As committee members have no further questions, I ask the cabinet secretary whether he would like to make any comments on the draft Direct Payments to Farmers (Miscellaneous Amendments) (Scotland) Regulations 2020. I am happy to allow you a brief moment to speak to them, cabinet secretary.

**Fergus Ewing:** I have a short opening statement. The regulations were laid using powers conferred by the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, which received royal assent on 1 October 2020. The act empowers Scottish ministers to make regulations that modify the main common agricultural policy legislation to ensure that it will continue to operate effectively in Scotland beyond 2020. That includes enabling Scottish ministers to set direct payment ceilings. The regulations specify the manner in which Scottish ministers will determine the annual total ceiling for Scotland as part of the annual Scottish Government budget process. Our aim is to provide stability and continuity to farmers and crofters in so far as we are able.

09:15

The draft regulations also make technical amendments to ensure operability of the existing direct payment schemes in Scotland for 2021 and subsequent claim years, and they remove provisions that are spent or not in use in Scotland. Unless the regulations are approved and brought into force by 1 January to enable a ceiling to be determined for 2021 and subsequent years, we will not have a basis for making direct payments next year and beyond.

My focus now is to continue to ensure that we in Government fulfil our role of supporting our farmers and crofters by doing all that we can to ensure that payments can continue to be made to them next year and in subsequent years.

**The Convener:** Thank you, cabinet secretary. As members have no questions, we move to item 7, which is formal consideration of motion S5M-23419.

*Motion moved,*

That the Rural Economy and Connectivity Committee recommends that the Common Agricultural Policy (Less Favoured Area Support) (EU Exit) (Scotland) Amendment Regulations 2020 [draft] be approved.—[*Fergus Ewing*]

*Motion agreed to.*

**The Convener:** Item 8 is formal consideration of motion S5M-23264.

*Motion moved,*

That the Rural Economy and Connectivity Committee recommends that the Direct Payments to Farmers (Miscellaneous Amendments) (Scotland) Regulations 2020 [draft] be approved.—[*Fergus Ewing*]

*Motion agreed to.*

**The Convener:** I thank the cabinet secretary and the officials who attended for those agenda items.

## Salmon Farming Inquiry (Update)

09:17

**The Convener:** The cabinet secretary is staying with us for item 9, under which we will take further evidence on progress towards delivering the recommendations in the committee's 2018 inquiry report "Salmon farming in Scotland". We have been joined by Alastair Mitchell, deputy director of aquaculture and recreational fisheries, and Mike Palmer, deputy director, marine planning and policy, both from the Scottish Government.

I remind members that I have an interest in a wild salmon fishery in Moray.

Cabinet secretary, would you like to make some brief opening remarks?

**Fergus Ewing:** Yes. Thank you, convener. Scottish aquaculture is a pivotal provider of approximately 11,700 often highly skilled jobs and livelihoods, many of which are in some of our most remote and fragile communities. In 2019-20, the sector took on 84 modern apprentices. An 18-year-old operative in the sector can expect a starting salary of around £20,000, and after training and gaining experience they can become a farm manager and earn around £40,000. The sector pays an average salary of £38,000, which is significantly higher than salaries in other jobs in remote coastal areas.

We advocate sustainable growth of the sector with due regard for the environment, for by the £880 million that the sector and its wider supply chain contribute to the economy and the £1.4 billion that is spent annually on supplies and capital investments, mostly in Scotland. With that in mind, I will highlight some of the progress that has been made since the committee's report, and I will talk first about the farmed fish health framework.

Through the framework, we have lowered the thresholds for reporting and intervention to two and six adult female lice per fish, and in 2021 we will go further with a reduction to two and four. We are introducing legislation that will require the reporting of average sea lice weekly in arrears, and the refreshed framework will focus on fish mortality, climate change and the use of treatments.

We are considering our response to the salmon interactions working group report, which will include how implementation will be co-ordinated, and we will ensure that recommendations are prioritised where appropriate. In the new year, we will consult on a risk assessment framework for assessing sea lice interactions with wild salmonids.

We have removed specific grounds for which licences may be granted for fish farmers to take seals, and we are bringing forward mandatory controls relating to wild wrasse harvesting for use as cleaner fish in the salmon farming sector. The Scottish Environment Protection Agency continues to develop its revised fin-fish sector plan, particularly in relation to organic waste discharges.

Sustainability must and will continue to be at the heart of what we do to ensure that future generations can enjoy all the beauty and nature that Scotland has to offer, while safeguarding jobs in local communities. I am pleased that the Scottish salmon sector agrees, as is evident from its blueprint for sustainability, which aligns with, for example, the Scottish Government's world-leading 2045 net zero targets.

I hope that members agree that there has been much progress since the committee's report, which demonstrates our commitment to improvement and moving beyond the status quo.

**The Convener:** Not surprisingly, the committee has a lot of questions that it would like to pose to you, cabinet secretary. We will start with Angus MacDonald.

**Angus MacDonald (Falkirk East) (SNP):** The recently announced blue economy action plan, which the committee has welcomed, includes support for the sustainable growth of aquaculture. Will you outline the Scottish Government's activities in that area to date and anything that is planned?

**Fergus Ewing:** As Mr MacDonald knows more than most, the seas around Scotland's shores are an enormous asset to the country. We have a large seascape, and a large number of economic activities are enabled by that, from oil and gas and renewables to aquaculture, the traditional fishing sectors, various recreational occupations and pursuits, tourism and, most recently, cruise lines. The blue economy is extremely important.

In relation to aquaculture, our approach is to develop the fish health framework by focusing on climate change, mortality and the use of medicines, the salmon interactions working group, the regulators technical working group, the removal of licences to lethally remove seals, research on acoustic deterrent devices to protect stations, SEPA's fin-fish sector plan, innovation through the Scottish Aquaculture Innovation Centre and improving equalities through support for Women in Scottish aquaculture.

In response to Angus MacDonald's question, I note that there is a whole range of activity that we are taking forward to promote sustainable aquaculture as part of our blue economy.

**Angus MacDonald:** That sounds like an extensive plan and we look forward to those developments.

You will be aware that the Environment, Climate Change and Land Reform Committee, which I also serve on, considers that an independent assessment is needed of the environmental sustainability of the predicted growth of the sector. Can you advise the committee whether such an assessment has been carried out and, if not, when it will be undertaken?

**Fergus Ewing:** The aquaculture industry leadership targets are sector-derived targets. They are not owned by the Scottish Government, but we support the sector's ambition for sustainable growth. Our task is to ensure—through the working groups and other initiatives—that growth is sustainable, and we are working hard to perform all components of that task through the fish health framework, through action on sea lice and interactions with wild fish, through the removal of licences to lethally remove seals and by doing further research on acoustic deterrent devices to protect cetaceans.

In addition, over the past years, the sector has invested enormously in improving sustainability, for example through hatcheries and the ability that they provide to grow salmon beyond the juvenile period so that the fish spend less time at sea. That offers a greater element of sustainability, which is sometimes overlooked.

I am really heartened that the Scottish Salmon Producers Organisation, under the leadership of the distinguished former MSP and cabinet secretary Tavish Scott, is working closely with the Scottish Government in pursuit of sustainability as well as growth. It is correct that we pay due regard to both aspects as we go forward.

**The Convener:** Angus, have you completed your questions?

**Angus MacDonald:** Yes—I am happy with the responses.

**The Convener:** The next questions are ones that Richard Lyle wanted to ask. Unfortunately, he is having problems with his internet connection, so I will pose them for him. I apologise in advance if I do not follow the thread that he wanted to follow.

Will you explain what you believe that applying the precautionary principle in relation to aquaculture means?

**Fergus Ewing:** Sure. It means that, as we seek to work with the sector to pursue growth, we make sure that we do so in a sustainable way, having regard to the marine environment and other marine users.

I have already alluded to the approach that we are taking, which I believe is in pursuit of the principle to which the convener refers. Examples of that approach are our tightening of the regulation on sea lice, our introduction of mandatory rules in respect of the use of wrasse, our encouragement of the use of hatcheries and our termination of the use of licences in respect of seals. We are also pursuing a spatial framework approach and taking forward the recommendations of the salmon interactions working group. That group is chaired by John Goodlad, who, as members will know, is a distinguished figure in the marine sector in Scotland. My officials can go into the detail of all those things.

Adopting the precautionary principle means applying the correct approach to ensure that growth does not occur at the expense of other users of the marine environment, but instead enables companies to expand and move in a direction that we have seen being taken in Norway, which I had the pleasure of visiting last autumn. In Norway, there is a move away from having a very large number of small pens to having a lesser number of large pens. That move is seen as consistent with sustainability and the precautionary principle, although it brings its own challenges as regards engineering and protection against escapes and so on.

Our approach is determined by the need to be careful and to pursue caution in how we proceed, and I think that it is generally in line with the ask that Parliament made of the Scottish Government following the inquiries that took place a couple of years ago.

**The Convener:** My understanding of the precautionary principle is that you do not do something unless you know that there will be no adverse effects as a result of it. I think that there is a court case that defines the precautionary principle—I will have a look at it afterwards. However, as that was Richard Lyle's question, I will leave it there.

09:30

Richard's second question is about how the Scottish Government interprets the precautionary principle in relation to producing planning guidance on fish farm development and expansion. Has anything changed in practice in relation to the committee's recommendation in the 2018 report that the precautionary principle should be applied?

**Fergus Ewing:** The principle is a cornerstone of the marine plan and planning policy. Policy has been implemented to enable it to be applied meaningfully and effectively to new developments,

including, incidentally, the presumption against further marine fin-fish farm developments on the north and east coasts in order to safeguard migratory fish species. That is one clear example.

New developments are required to undergo planning pre-consultation and consultation with statutory parties, and to produce environmental management plan for managing on-going behaviour. They also require a controlled activities regulations consent for discharge, following extensive modelling, to appropriately manage water quality and benthic impact, and a marine licence, which includes fish health inspectorate involvement to ensure that disease management is acceptable. That is a series of processes that cumulatively implement the principle in practice.

**The Convener:** I understand those processes, most of which were in place prior to the committee's report, although some of them have been expanded. My question is whether the Scottish Government has produced any planning guidance on how the precautionary principle should be applied in relation to fish farm development. That is a yes or no question. What is the answer?

**Fergus Ewing:** Hang on a second—I am not here as the planning minister. With great respect, I am not sure that those planning matters are susceptible to simple or straightforward answers. I might be missing something, but I thought that I had answered your question by giving lots of examples. You disagree. I would be happy for my officials to give any further information of a factual nature that they think is relevant.

**The Convener:** I would be surprised if you did not know what planning guidance had been issued in a sector for which you are responsible. I am happy to hear from any official that you would like to bring in.

**Fergus Ewing:** I have run through a number of the approaches that planning guidance requires to be taken, all of which have a specific purpose. We will probably come on to the spatial framework, which is another piece of work that is fairly well advanced. However, Mr Mitchell might wish to address the question that you asked, in case there is anything that I have overlooked.

**The Convener:** Perfect. Is there new planning guidance, Mr Mitchell?

**Alastair Mitchell (Scottish Government):** I echo what the cabinet secretary said about the precautionary principle—we reflect the requirements of the EU in that sense. Those requirements are primarily reflected in our national marine plan, but they are also in the planning guidance that advises local authorities.

At the heart of your question was whether there has been any change on the precautionary principle in the two years since the report. Going forward, we expect to see environmental management plans, in addition to the array of considerations that take place at the time of planning, to ensure that the on-going sustainability of a farm is acceptable. As the cabinet secretary alluded to, beyond those EMPs, we are looking to put in place further guidance through a spatial framework that will allow clearer and more certain advice to be given to planning authorities, in the first instance, on the location of new farms.

It is worth confirming that the approach that we take beyond the national marine plan is very much focused on the individual planning applications that are received, on their sustainability and on the application of a precautionary principle in that regard.

**The Convener:** I think that we have moved away from planning guidance. In any case, the next questions are from Mike Rumbles.

**Mike Rumbles:** I wish to pursue issues around planning. Our report of two years ago recommended that guidance should be produced,

“specifying those areas across Scotland that are suitable or unsuitable for siting of salmon farms.”

The objective was to take a strategic view of planning applications, rather than an individual or piecemeal approach. Mr Mitchell mentioned that only an individual planning application view is being taken so far.

Two weeks ago, our witnesses confirmed to us that not much seems to have been done—not very much at all, I would suggest. Why are we being given the impression that that major recommendation by the committee is simply gathering dust on a shelf?

**Fergus Ewing:** I thank Mr Rumbles for his question. He will probably not be astonished to hear that I do not quite see things the same way. We have been extremely diligent in pursuing the whole series of issues that we need to address in order to deliver sustainable aquaculture.

There is a certain element of the horse being put before the cart here. I hope that you will agree with this, Mr Rumbles, as I sincerely mean it. We must tackle issues around sea lice, wrasse and interactions with wild salmon. Those are all controversial topics, particularly interaction with other species. We have had to do that work first, before we could then put in place the proper planning framework.

Do you see what I am driving at? There is a whole jigsaw, and we have to get the right bits in the right order. The planning process can be finalised only once the substance of the

arguments regarding interactions, for example, is properly considered. In the interim, as Mr Mitchell has described, Marine Scotland expects an environmental management plan to be delivered. That represents a tightening up of and an improvement on the previous system.

We have done an awful lot of work on modelling and the various factors that are at play regarding flushing in the marine environment. The next step will help us to deliver an improved planning framework: an adaptive spatial framework, with a strategic approach. I think that Mr Rumbles is suggesting that we should have such an approach to assessing the potential risk of transferring sea lice from farmed fish to wild salmon, and I agree with him. That spatial framework is fairly close to being completed.

It is important to get these things right, in the sense of getting as much buy-in as we can from industry, as well as from the environmental groups—which take a close interest in all these matters—and the regulators. It is a complex business, but we have been extremely diligent in working hard on all the pieces of the jigsaw. The planning response can be finalised only once the other matters are dealt with. In other words, if we had just put in some planning framework and had done nothing about sea lice, wrasse or interactions, you would be saying, “Hang on a second; surely you should have dealt with the substance first to make sure we have proper environmental protection.”

I am genuinely trying to give a direct answer to Mr Rumbles’s perfectly fair question, but I am also trying to put things in perspective. Because we need to proceed on the basis of evidence, and because evidence is often in scarce supply or is a matter of interpretation, we must proceed with care, and that is what we are doing. I am confident that the spatial framework should be available fairly shortly, which will help to inform us in finalising the planning approach.

Finally, the fourth national planning framework will reflect the Scottish Government’s aim of supporting sustainable growth and it will help to guide new developments to locations that will best suit industry needs, with due regard to the marine environment. The fourth national planning framework will take that forward in a way that I hope members will support.

**Mike Rumbles:** I have heard everything that the cabinet secretary has said and I agree with him. He is absolutely right, and I am heartened by what he has said about the strategic view. However, I have looked at the evidence from two weeks ago and what we have heard from Mr Mitchell, the deputy director of aquaculture. I wrote these words down when he was speaking just before the

minister: he said that the Scottish Government’s approach is

“very much focused on the individual planning applications”.

I hope that I am not taking that out of context, that it dovetails with Mr Ewing’s support for a strategic approach and that we might see that in the fourth national planning framework. I say gently to the cabinet secretary that, although the issues with sea lice, pollution and other things are essential and that it is absolutely right that the Government is on top of them, that does not mean that work cannot be done at the same time towards the production of a strategic view. I see that Mr Ewing is nodding. I hope that he can confirm that that is the approach that we should be taking.

**Fergus Ewing:** I am happy to confirm broadly that that is the approach that we are pursuing. Mr Rumbles is entirely correct that we should be working on the planning issues. We are doing that in tandem with other matters. We cannot quite finalise that yet, although I do not think that we are that far away. Frankly, Covid has delayed a lot of things, as we know. It has caused a lot of practical issues for everybody involved in aquaculture and it has brought challenges.

Nonetheless, we are quite close to finalising the work for the spatial framework and the national planning framework—that work has been going on. I assure you that John McNairney, the chief planner, has taken a close personal interest in the matter by attending the industry leadership group. I say that to reassure members that the issue has been the subject of a lot of collaborative working with our planning colleagues.

**Peter Chapman:** The general public expect—rightly, I would argue—that the industry should exist without damaging the marine environment. As evidence of the effectiveness or otherwise of the new regulatory framework becomes available, what action will the Scottish Government take if it is shown that more work is needed?

**Fergus Ewing:** I agree that the industry must conduct itself to avoid having an adverse impact on the environment, and that is what it is working towards. We are proceeding on the basis of that objective being very much in mind. It is an iterative process: it never entirely stops, not least because technology is changing all the time.

For example, a method of collecting the discharge or waste from salmon in the marine environment to prevent it from falling on to the sea bed is being piloted in Norway. I believe that a Scottish company is in the vanguard of that research. In Scotland, there is also a desire and a proposal to trial similar methods of permanently preventing discharges from getting into the marine

environment. Those are two examples of modern technological innovations that are extremely encouraging for the future of aquaculture.

Technology is improving apace and, in Norway, which is really the world leader, we are seeing the trend of moving further out to sea and away from having many small pens close to shore or in sea lochs. That is more sustainable environmentally, although operating further out at sea brings safety challenges, as Mr Chapman will appreciate. The industry is changing all the time, and regulation has to adapt and change with it. I am happy that, in Scotland, we are proceeding apace with improvements, as I have mentioned twice. To answer Mr Chapman's question directly, that work will need to continue.

09:45

**Peter Chapman:** I appreciate that things move on and that we need to be able to adapt. However, one of the salmon interactions working group's recommendations was that interactions with wild fish need to be the responsibility of one agency. We heard that there is a proliferation of agencies involved in that work. We have also heard that no change has taken place in that regard. Have you considered any changes to the statutory roles and responsibilities of the various organisations that monitor that industry?

**Fergus Ewing:** We are working hard to consider a response to the 40 recommendations that I think the salmon interactions working group made, which cover a range of areas. My officials can speak with more authority about the detail of those, but the relationship and the interactions between the farm sector and the wild sector cut across different organisations, by their nature, and that is unavoidable. They cut across my department, Roseanna Cunningham's department, local authorities, the Scottish Environment Protection Agency and Marine Scotland. The wider question is possibly whether the whole regulatory approach should be streamlined. Is it a bit too complicated? Many people argue that that is the case. Therefore, the answer to Mr Chapman's question is that it would be desirable to have one body in charge, but that we should look at the whole sector. If we are going to further reform the regulatory system, we should not do it in a piecemeal fashion, picking out one particular aspect, important though it is. We should look at the whole, and, in that respect, there is a lot to learn from the Norwegian model. Indeed, one feature of that model is an agency that deals with promoting fish health. I am pleased to say that one of the developments is that the chief veterinary officer in Scotland, Sheila Voas, has agreed to chair the fish health framework and to bring her

expertise in fish health to the fore. That is a positive development for these issues.

**Peter Chapman:** There was a general feeling on the part of the working group that there was confusion of regulation and regulators and that simplification of that was needed.

Finally, is the Scottish Government considering a regulatory regime for interactions with wild fish, specifically?

**Fergus Ewing:** I can ask my officials to answer that specific question. However, my understanding is that the expert working group that John Goodlad chaired identified 12 factors that might have an influence on the decline of wild fish—salmon and trout, but particularly salmon. Those included climate change, predation by seals and interactions with aquaculture. Therefore, the issue of wild salmon and wild trout and the impacts that have caused a diminution in numbers over several decades are complex.

There is not just one factor; farmed salmon is not the only issue. There is a plethora of factors that cover a very wide range of threats to the mortality of wild salmon, so I do not think that singling out one of the 12 factors would necessarily help to address the problem. However, I do not know whether any of the 40 recommendations specifically covered that. To enable that point to be closed down, I wonder whether there is anything else that Mr Palmer or Mr Mitchell could add.

**The Convener:** I am sure that we can bring in Mr Palmer or Mr Mitchell very briefly.

**Alastair Mitchell:** We are doing some positive things on simplification within the existing regime. We have introduced a wellboats order, which essentially takes Marine Scotland licensing out of wellboat consideration for their discharges. That all rests with SEPA now. We are actively looking at other opportunities.

The Norwegians co-ordinate all the regulators' views through a single consenting regime so that there is a one-stop-shop approach for the developer or the fish farmer. Mr Ewing alluded to that. We are actively looking at what we might do in that space in Scotland.

On the salmon interactions working group's view on there being a single regulatory body, we recognise that, as far as the interactions question is concerned, there may be the opportunity to consider a single regulator in that space but—again, Mr Ewing alluded to this—we need to get the evidential base and the full range of considerations as part of the evidence to look at who might be right for that role and how that would work. Before all that, getting in place a spatial planning framework that looks beyond the current

regime and looks at water body capacity perhaps—that is the direction of travel that we have talked about—is a necessary prerequisite to understanding how that would work and what the right body might be. However, it is fair to reflect that the body remains the planning authority through the environment management plan that it puts in place when planning permission is given.

**Emma Harper (South Scotland) (SNP):** Good morning, cabinet secretary. I have a question about public bodies that have a duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. Has any review of the exercise of public bodies' statutory duty to further the conservation of biodiversity with respect to salmon farming been carried out, or is any such review in process?

**Fergus Ewing:** There is a statutory duty on all public bodies, including the Scottish Government, to further the conservation of biodiversity in carrying out their responsibilities, and we have been doing that. For example, the west of Scotland marine protected area represents Europe's largest marine protected area, and it will safeguard vulnerable marine life that is under threat in deeper waters across the north-east Atlantic. It covers an area of 100,000 square kilometres.

We are carrying out a three-yearly review of conservation and biodiversity in the marine environment. That is in process, and I am told that reports for the period 2018-20 are due to be published in January next year.

I have mentioned some elements; I have got a lot more information in my briefing material. Essentially, a lot of work has been done to conserve biodiversity in the marine environment.

**Emma Harper:** You mentioned the salmon interactions working group. Do you have any thoughts on licensing conditions in relation to interactions with wild fish?

**Fergus Ewing:** What sort of licences? Are you envisaging a particular kind?

**Emma Harper:** Not really. The salmon interactions working group came up with various recommendations, including a number of robust conditions that should be attached to licences for salmon farms. I am a recent—or not so recent, now—addition to the committee, so salmon farming was all new to me. One of the questions in our briefing paper talks about the licensing conditions that I suppose would be attached to farms of a particular size or position, for example close to land or further out to sea.

**The Convener:** Cabinet secretary, I think that you understand the question, which is to do with the conditions that are placed on applications, as

well as the licences that are granted by SEPA, and the Crown Estate in relation to the seabed, but maybe you know more than us and can explain it all.

**Fergus Ewing:** I am tempted to explain bits of it but, given that it is largely a technical matter, it might be better just to ask officials. I mentioned the tightening up of sea lice regulations, which is designed to improve the interaction issue. The spatial framework will take that forward. The EMP requirement that I mentioned will also have regard to all those issues. Mr Mitchell or Mr Palmer might want to provide a more technical answer about the licensing issue.

**The Convener:** Alastair Mitchell is ready to come in. Alastair, I ask you to respond briefly. If we do not get all the answers, I am sure that Emma Harper will be happy to get a written response afterwards. She is nodding.

**Alastair Mitchell:** That is fine—I will be brief. The environmental management plan is the current mechanism. We may look to change that over time, but that is where any requirement lies as far as sea lice and interaction with wild fish are concerned. In addition, the fish health inspectorate expects to see appropriate measures in place on the farm. Mr Ewing alluded to reporting and intervention levels where sea lice are thought to be becoming an infestation that may pose a risk to the farmed fish and the broader population of wild fish beyond the farm gate. Those are the primary areas for now that are used to ensure control.

**The Convener:** Emma, do you have further questions on that subject?

**Emma Harper:** I have one final question, which is about technical standards for fin-fish aquaculture. Witnesses have told us that we will have to rely on the infrastructure and equipment on farms to prevent escapes in future. What work is going on in relation to those technical standards?

**Fergus Ewing:** There are two issues there. First, with regard to escapes, a huge amount of work has gone on across a range of areas, including on the type of nets used. Some nets can avoid nudging by seals, which is a big factor behind escapes. In a certain way, the manufacture of the nets is designed to deal with that. There is also the design of pens; the larger ones provide a safe area for fish to retreat when seals are approaching. There is a whole corpus of practical things that the industry is doing to tackle escapes. I am no expert, but I discuss the subject and listen to discussions about it in the industry leadership group.

10:00

I am advised that we are updating the Scottish fin-fish technical standards, which were published about five years ago, which will include consideration of climate change and higher-energy sites in order to improve containment at fish farm sites. That work has been delayed by Covid, but we hope to complete it early next year. That on-going work should come to a conclusion fairly shortly.

**Colin Smyth (South Scotland) (Lab):** It was suggested to the committee in a previous evidence session that the farmed fish health working group had not achieved a great deal and that its work had stalled. It would be good to hear your thoughts on that. Why did you decide to reformat the working group?

**Fergus Ewing:** Significant progress was made in the fish health framework's first year, as we reported to Parliament back in July 2019. As the workstream was new, it was sensible to review the working practices in order to inform how best to move forward.

To answer Mr Smyth's question, the steering group made recommendations to streamline its governance and focus on the areas that it considered could make the most difference to fish health. The new approach will achieve that. Rather than having multiple workstreams that operated under different sets of leadership, we have introduced a single steering group with a chairperson, which allows us to focus the work more clearly. I mentioned that Sheila Voas—the distinguished chief veterinary officer—is leading the work.

The term “stalled” is unfair to the people who have worked extremely hard on this complex matter. The fish health framework is not a one-off ad hoc response; it is a standing response over 10 years under which we will work closely with the industry, environmental scientists and others to improve fish health in general. The approach is not that of a short-life working group; the framework will be part of our response for several years to focus even more on fish health, as I said in answering an earlier question.

**Colin Smyth:** You mentioned the update that was given to the committee in July 2019. What has been achieved since then? What are the priorities for the next few months?

**Fergus Ewing:** I am sorry, convener—the first part of Mr Smyth's question was cut off, but I think that he asked about the priorities for fish health. We have several priorities. Since we reported to Parliament, legislation to introduce mandatory reporting of average sea lice numbers has been progressed; that will be laid in Parliament later this

month. That is an important matter on which we have made progress.

We remain committed to the work on the analysis of mortality by cause and we have recently reinvigorated discussion with the SSPO, which is taking that forward as a partner of the framework.

We recognise that climate change and ocean acidification have implications for fish health. The previous climate change sub-group considered how best to create real-time monitoring of plankton and provide alerts to the presence of potentially harmful phytoplankton species. As a result of collaboration between Marine Scotland and institutions such as the Scottish Association for Marine Science, a studentship to develop new techniques in phytoplankton monitoring has been advertised.

On treatments and medicines—again, an important practical area—the framework is about collaborative working and providing a scientific practitioners' forum for discussion. The transfer of wellboat licensing, to which Mr Mitchell referred, to SEPA and the introduction of its sectoral aquaculture plans addresses issues relating to use of medicines. I could go on, but those are some of the important issues. Lots of work has been done and I am grateful to Mr Smyth for giving me the opportunity to demonstrate that the vehicle has not stalled and is moving forward at moderate speeds and doing a lot of work on the practical issues that we all need to grapple with and which I hope members will agree are all extremely important and serious.

**The Convener:** Thank you. The next questions are from John Finnie.

**John Finnie (Highlands and Islands) (Green):** Good morning. Cabinet secretary, you have touched on the issue of sea lice three or four times; indeed, you have referred to it as a controversial topic. Can you update the committee on the review of the evidence on the reporting and intervention thresholds for sea lice? You have alluded to legislation that is coming. Can you provide some details about the Scottish Government's statutory instrument and what precisely it will introduce?

**Fergus Ewing:** I have given a ministerial overview and indicated that we are moving to tighten up the regulations. I will pass to my officials to answer the technical question about the content of the statutory instrument. They are better placed to comment than I am, as they have dealt with that work more directly than I have. My job is to have an overview and to ensure that we move forward with the measures, but Mr Mitchell can enlighten the committee on the detail of that.

**The Convener:** Before we go to Mr Mitchell, John Finnie has a supplementary question.

**John Finnie:** Can Mr Mitchell touch on the extent to which the review of the evidence on the reporting and intervention thresholds informed the direction that is going to be taken?

**Alastair Mitchell:** The farmed fish health framework working group was the overarching body that looked at the issue. There was a recommendation in the committee's report that we seized on as important, which related to the fact that, at the time, sea lice reporting by the sector was voluntary and was, I think, done on a three-monthly basis, although it might have moved to being done on a monthly basis by that point. That was thought to be inadequate, so our regulation, which, as Mr Ewing has said, should come to Parliament before the end of December, will put on a statutory footing the requirement to make each farmer or farm report on a weekly basis in arrears on the numbers of female lice that are found on the farmed fish from a sample that is agreed as good practice.

That regulation will come into force in March 2021, at which point, in addition to the fish health inspectorate being aware of all the numbers, there will be a public face to that so that people can interrogate at a farm level what is happening in terms of sea lice performance weekly one week in arrears. We will be looking at a time lag of approximately a fortnight, which will be a significant change and improvement on what happened previously. That will start on the Marine Scotland website, but it will move on to the Scotland's Aquaculture website in due course, once we have the information technology fixed.

I hope that that answers the question.

**John Finnie:** Yes—thank you, Mr Mitchell.

Cabinet secretary, there is a lot of interest in the relationship between the Scottish Government and the industry. The SSPO suggested that the reporting and intervention thresholds for sea lice were voluntarily reduced, while in a letter to the committee in July 2019, the Scottish Government stated that the changed thresholds were a result of farmed fish sea lice policy. Which is it? How does the process for reviewing the sea lice threshold work? How were the review's conclusions reached?

**Fergus Ewing:** I do not think that there is a contradiction there. The reality is that—quite rightly, I think—the Scottish Government works closely with the SSPO, which is a responsible representative body that is comprised of many people with considerable expertise in the marine science area and in aquaculture matters generally.

Therefore, I do not think that there is a contradiction between the SSPO voluntarily reducing thresholds and how the reduction on reporting and intervention limits was implemented by the Scottish Government. Obviously, those matters were discussed and considered very carefully, and there was a shared sense that we needed to tighten things up, which is what we have done. We did not foist a regime on the industry without discussing it; we discussed how we could work together to tighten things up to address some of the concerns that were expressed to the committee during its inquiry. The industry has largely been supportive of changes in sea lice policy, so although the lowering of thresholds became Government policy, the SSPO contributed to the decision being reached and it accepted it voluntarily.

Therefore, I do not think that there is a contradiction; it is quite the opposite. Things work best when Governments work closely with regulators, industries and environmental bodies, and that is what Marine Scotland, in particular, seeks to do.

If Mr Finnie wants to pursue the issue, I am sure that Mr Palmer could give him more information on the details, but I hope that I have answered his question fairly and directly.

**John Finnie:** I am content with that—thank you.

**The Convener:** Richard Lyle has had to change location to sort out his broadband. Welcome back, Richard. I believe that you have some questions to ask.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Thank you, convener. Unfortunately, the wi-fi in my constituency office went down, so I have come home.

Good morning, cabinet secretary. Knowing you, I am sure that the vehicle is moving forward correctly and that things have been done since we last looked at the issue. Has the Scottish Government developed a consistent reporting methodology for the collection of information on the causes of farmed fish mortality? If so, when does the Scottish Government expect that it will be published, and how will it ensure that the methodology is applied?

**Fergus Ewing:** We take the issue of mortality very seriously, as I have said in previous answers. It is an industry responsibility, so industry is best placed to undertake the work, and the SSPO is committed to doing so.

We are assured by the SSPO that work is under way to create a standardised approach to the recording of on-farm mortality that will allow an annual analysis of the causes of salmon mortality across companies to be produced. That

information will be a main source of evidence to inform further work by the farmed fish health framework working group, including its implementation. It will provide an analysis that is measurable and comparable over time. We understand that the SSPO plans to complete the analysis in the early part of next year.

**Richard Lyle:** As I said, I know that the work will be being done.

Does the Scottish Government have any plans to improve the presentation and accessibility of fish farm data, which many people would like to see?

10:15

**Fergus Ewing:** Yes. As I think that I mentioned earlier, we have already committed to the publication of average sea lice numbers, which will be reported on, on a statutory basis, within one week of receiving the information. We understand the importance of providing such data accessibly, and have committed to the publication of data on SEPA's aquaculture website. However, that will require additional IT development of the systems that are deployed by Marine Scotland and SEPA. Although work is under way on both systems, it will not be completed in the immediate future; if need be, the sea lice data will therefore be published on Marine Scotland's website in the interim.

**Richard Lyle:** I thank the cabinet secretary for that answer and again apologise for my system going down.

**The Convener:** Richard Lyle has remarkable versatility, if I might say so.

Just before we leave that issue, cabinet secretary, if you look at mortality figures on the website, you get a percentage of production; it is not until you interrogate SEPA that you find out how many tonnes have been lost. Which do you think is a more accurate way of reflecting mortality on fish farms?

**Fergus Ewing:** I am a cabinet secretary, not a statistician, and I am not about to profess expertise in areas in which I do not possess it. I think that I should probably write back to the committee after officials have had a chance to look at that, unless they want to answer now.

**The Convener:** Given the time constraints, I am happy for a response to be provided by letter.

The next questions come from the deputy convener, Maureen Watt.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Good morning. Cabinet secretary, you will be aware of research undertaken on behalf of the Sustainable Inshore

Fisheries Trust and Salmon and Trout Conservation Scotland that suggests that the economic and employment benefits of salmon farming are overstated and that Scottish Government analyses do not adequately consider the costs to other marine users. As a cabinet secretary who is normally out and about a lot, and whose constituency is in the Highlands, do you come across lots of adverse comments in Highland communities about the fish farming industry?

**Fergus Ewing:** I get emails from some people who have criticisms of the industry, which is fair enough. However, as the constituency MSP for Inverness, I note that one of the largest private sector employers in Inverness is Gael Force Marine, which is a major company in the supply chain. It is, in fact, the UK's largest chandlery, and it also manufactures—as I understand it—feed barges and pens for the sector. It purchased a company called Fusion and it now manufactures pens. I know several people who work for that very successful company, which operates in many countries. Equally, there are centres of excellence in the salmon sector in places such as Larkhall. There are therefore lots of jobs onshore.

However, we are really talking about an industry of the periphery—an industry that is on the edge—in which there are opportunities for people to earn an average of £37,000, which is probably about twice the average earnings from other opportunities, even if other opportunities exist.

I used to represent Lochaber and places such as Lochaline. At that time, Marine Harvest was a big employer and, incidentally, a big supporter of local communities, such as through its sponsorship of the Camanachd Association over many years. I see the aquaculture sector as providing enormous opportunities for Scotland, especially in more remote locations on the west coast and our islands, but also in the areas of scientific research and engineering. Increasingly, as we move to the use of larger pens, it is an engineering industry.

In addition to that, the salmon itself, as a source of protein, has about the lowest carbon footprint of any foodstuff. Therefore, arguably, it has a big contribution to make to tackling climate change, by producing protein in a way that is congenial to our climate change objectives.

The study on the wider economic impacts of aquaculture reported that the wider supply chain is worth £880 million a year and supports 11,700 jobs across the Scottish economy. That is a fairly substantial number, and I see that as very positive. As we have discussed, we are working hard with the industry to tackle some of the issues that people are—fairly—concerned about so that

we make progress, alongside other countries that are doing similar things.

**Maureen Watt:** The report that I referred to suggests that the gross value added figure, which has been extensively quoted and relied on by Highlands and Islands Enterprise, might be exaggerated by 124 per cent, and that employment could be overestimated by a massive 251 per cent. Is the Scottish Government considering carrying out an independent cost benefit analysis for the expansion of fish farming to understand whether the industry really provides a net benefit to Scotland and to satisfy itself that such an expansion would, on balance, be beneficial rather than detrimental?

**Fergus Ewing:** It is not standard practice to assess an entire sector on the framework of a cost benefit analysis.

To give a practical answer to the question, Maureen Watt is correct: ordinarily, I get out and about. I opened the new hatchery at Invergarry, I visited the premises in Oban and I am aware of the investment in Kyleakin. I have mentioned Gael Force Marine, but there are many other companies operating that are not really household names at all. I have seen the investment. In fact, I cannot think of a sector, certainly in the rural economy, where there has been more investment than there has been in aquaculture. That investment has been designed to increase not only the sector's productivity and profitability but also its sustainability—I have mentioned the development of hatcheries. There are tremendous opportunities ahead in the aquaculture sector in Scotland, provided that we work hard at ensuring sustainability, and there are enormous opportunities to grow the supply chain in Scotland.

Many people say that the industry is mostly owned by Norwegians. On many occasions, I have met and spoken to representatives from Norway of leading companies, and they are absolutely committed to investing in Scotland and in the Scottish supply chain. The dialogue and work with them mean that aquaculture is actually one of the most exciting sectors in Scotland, which uses our natural assets, provides very well-paid jobs and offers the prospect of a significant increase in the use of engineering solutions and the application of marine science to further clean up the discharges, which is an example that I gave earlier.

The sensible approach for the Scottish Government is to continue to do what we are doing for sustainability but also to up our game in identifying opportunities for sustainable expansion and building on the enormous investment that has been made—hundreds and hundreds and hundreds of millions of pounds—in Scotland's rural economy over the past few years.

**Maureen Watt:** Have you come across communities or businesses, such as tourism businesses on the west coast or smaller inshore fishers, that have been adversely affected by salmon farming? Is there any action that is required by the Scottish Government to assist those businesses?

**Fergus Ewing:** I cannot think of any individual example where a company has said that its business has suffered significant financial losses directly as a result of salmon farming.

I mentioned right at the beginning that we have the inshore, the shellfish and the wild salmon sectors in the blue economy, and we need to find a way of accommodating all those interests. I think that we largely do that. In my work in the Highlands, which is where most of the activity is, I have found that the people who work in the industry are friends of, and part of, the community, alongside the people who go out with the creels, the crofters and the tenant farmers. They are all part of the fabric of rural Scottish society.

The advent of aquaculture has prevented the slow death of many rural communities in the west coast of Scotland. Had the industry not existed, what would have taken its place? With the Nancy Glen, it was people who were working on a feed barge who rang for the rescue. If they had not been there, would the young chap who survived have got out and been rescued? That is personal to me, because I was very much involved with that case, but it illustrates that the guys in the fish farming industry are part of the community, along with everybody else.

I hope that people can focus on and accentuate the positive as we go forward in future, while trying to eliminate the negative.

**Maureen Watt:** That sounds like a song.

**The Convener:** I will park that comment, deputy convener.

We will move on to the next questions, which are from John Finnie.

**John Finnie:** Before I move to the agreed questions, I will follow up on something that the deputy convener raised with the cabinet secretary in relation to the information that the committee was sent by the Sustainable Inshore Fisheries Trust.

My question is about the absence of an independent cost benefit analysis and the trust's assertion that

"we understand that the absence of a relevant CBA breaches Scottish Government guidelines on providing financial and other support for a particular industry, as detailed in the Green Book and the Scottish Public Finance Manual."

Could you comment on that?

**Fergus Ewing:** I am not an expert on the green book, but I have already given quite a lot of practical evidence about the demonstrable benefits that the industry provides. I have said that it is not standard practice to assess an entire sector in the framework of a cost benefit analysis. That is typically undertaken in line with green book guidance when considering specific policy interventions. However, we are engaged with a number of research projects and working groups to improve the sustainability of Scottish aquaculture to mitigate potential environmental impacts and further support blue economy developments.

I have absolutely no doubt at all, from 20 years as a member of the Scottish Parliament, where I have worked in and about aquaculture, representing a Highland seat, and from campaigning in the Highlands for 10 years before that, that aquaculture is an integral part of our economy. The value that it brings to Scotland is enormous and immense. Attempts to suggest that that is not the case are confounded by the facts, some of which I have mentioned. No doubt there will be an on-going debate by those who wish to pursue it.

In the meantime, we will carry on working on further improving sustainability, and we will continue to work very closely with the industry in order to ensure that Scotland gets the most out of aquaculture. I see those as my twin roles, and I hope that members will agree that that is a fair approach.

10:30

**John Finnie:** The debate is very polarised. People ask, "Are you for or agin it?" For the avoidance of doubt, I am for salmon farming, and I want salmon farms to operate as good neighbours in an environmentally strong way. Our job as a committee is to scrutinise information that is put in front of us. If you are not able to confirm that the funding is entirely in line with the green book and the Scottish public finance manual just now, perhaps you could write to the committee about that, and I will move on to other questions.

I do not think that it helps to polarise the debate and the scrutiny of an important industry in those terms.

**The Convener:** Hold on, John. I am sorry, but I could not quite hear the cabinet secretary. Is the cabinet secretary offering to write?

**Fergus Ewing:** I would be happy to write to Mr Finnie, because I have not studied the document that he referred to. To be fair to Mr Finnie, I should have a further look at that, so I will write to him.

With respect, I do not think that I am projecting things in a polarised way. However, I am very pleased to hear that Mr Finnie supports the sustainable growth of aquaculture. Maybe there is not as much between us as might be thought.

**The Convener:** I remind the cabinet secretary that the letter should go to the committee rather than to Mr Finnie, because the issue was raised in the committee.

**Fergus Ewing:** Okay.

**John Finnie:** I thank the cabinet secretary for that. That would be helpful. Our job is to scrutinise.

I want to move on to regulation and enforcement, and the need for further change. Last week, we heard Mr Charles Allan speaking about mortalities. He said:

"The legal process that the fish health inspectorate could put in place with regard to mortality is limited."—[*Official Report, Rural Economy and Connectivity Committee*, 18 November 2020; c 12.]

There is understandable public concern about the levels of mortality. Salmon & Trout Conservation has talked about conditions in environmental management plans not being enforceable, and the salmon interactions working group has raised concerns about enforceability in relation to licensing conditions, sea lice and escapes. Do the regulators have adequate enforcement powers? Would you consider strengthening things in that area?

**Fergus Ewing:** We are improving the regulatory processes, including the consideration of the enforcement powers, based on the application of available evidence and continued enhancements in the scientific base. A recurring ask from industry representatives is better regulation to enable investment. Developers have a willingness to pay more if those conditions exist, which mean that developments can be brought on stream quicker and with more certainty while appropriate environmental safeguards are maintained. We are taking that approach.

There has been much improvement since the committee's report in 2018 through, for example, the farmed fish health framework and the positive steps in focusing on climate change, mortalities, the use of medicines and wrasse. I hope that I have gone through all of that to the committee's satisfaction. We have not been sitting back with the car stalled; rather, we have been doing our best to tackle serious and quite complex issues. Almost by definition, capturing data for anything that happens in the marine environment is more difficult than it is on land, where things are visible and able to be physically inspected, counted and analysed. Regard should be given to that.

As I have said, I think that we all want to move forward in a way that eliminates the negatives. Just in case there is any misunderstanding, I was referring to factors, not people. The negatives are the problems that the industry has had with escapes, mortalities, disease and impacts. We are taking matters very seriously, as is the industry—members will see that if they look at its blueprint document, which was published very recently. That is the correct approach.

I would have to bring in officials to give the letter of the law on the precise details of the enforcement powers, but I could write to the committee with a more factual answer if Mr Finnie would prefer that. I appreciate that he has a fair interest in the area and that the point is legitimate. However, we are making lots of progress on all those issues.

**The Convener:** I assume that John Finnie is going to accept the offer of a written response to the committee.

**John Finnie:** On the committee's behalf, I think that it would be very helpful to hear from the cabinet secretary, particularly if he could touch on the issue of the fish health inspectorate regime being limited, which Mr Allan raised. I will leave things there.

**The Convener:** We are quite close to the time limit for this evidence session. I thank members very much for all the questions, and the cabinet secretary for the answers. As the cabinet secretary will remember, there were 65 recommendations in the committee's report, 54 of which required direct action by the Scottish Government. Given the two evidence sessions, it is appropriate that the committee has the chance to reflect on how the recommendations have been achieved. The cabinet secretary has helped us in that process, so I thank him.

We will have a nine-minute break to allow the committee to prepare for the next evidence session, which will start at 10.45.

10:36

*Meeting suspended.*

10:45

*On resuming—*

## Implications of Brexit (Rural Economy)

**The Convener:** Welcome back to those who were already here. Further to last week's session with the UK Secretary of State for Environment, Food and Rural Affairs, the committee will take evidence on the implications of Brexit for the rural economy from Fergus Ewing, the Cabinet Secretary for Rural Economy and Tourism, who is assisted by John Kerr, head of the agricultural policy division, and Allan Gibb, acting deputy director of sea fisheries, both from the Scottish Government.

I ask the cabinet secretary to make a brief opening statement. We have a lot of questions to get through and, as always, I am keen to have members' questions answered.

**Fergus Ewing:** Brexit will have a significant impact on Scotland's rural economy and policy. The UK sheep sector depends heavily on exports to balance supply—about 30 per cent of production is exported, and the EU accounts for more than 90 per cent of that. We know the devastating effects that applying the no-deal 40 to 50 per cent tariffs are likely to have on the sector by resulting in a crash of perhaps 30 per cent in prices and jeopardising the future of many in the sector.

The sector is already financially fragile, which is why I pressed the UK Government hard to recommence work on the sheep compensation scheme. I am pleased that progress is being made to ensure that an appropriate scheme is in place for the end of the transition period.

On agricultural funding, during the Brexit campaign, pro-Brexit campaigners and UK ministers promised that farmers and crofters would not be worse off and that EU funding would be matched post-Brexit. The UK Government is not delivering on that promise. We now know that Scotland stands to lose out on £170 million of funding between now and 2024-25. That includes a failure to commit to delivering the £25.7 million of annual convergence payments beyond 2022 that were the subject of the Bew review, which was a process that committee members supported. In response to the Bew report, in September last year, the UK Government undertook to work with the devolved Administrations to agree a fair funding allocation model for agricultural support, but I am afraid that no such discussions took place.

On fisheries, UK ministers have conceded that there will be trade friction and possibly tariffs. The

salmon industry could face costs of £9 million annually. The UK Government must meet its commitment to prioritising seafood exports at the border to avoid spoilage.

Details from the spending review on fisheries funding are scarce. The allocation to Scotland seems to be based solely on 2014 funding levels, with no reference to the increases in the European maritime and fisheries fund allocation or even to inflation. In good faith, we entered into the process that the Department for Environment, Food and Rural Affairs set out for engaging with HM Treasury on the level of need for the sectors. That long process, which was led by economic analysis, identified a funding requirement for Scotland of £62 million. HMT seems to have totally ignored that; I have had no detailed reply from the UK Government.

On labour, the end of the transition period will bring an end to the free movement of people. That could have a devastating impact on Scotland's soft fruit and seasonal vegetable sectors, which rely on seasonal workers. I am also concerned about the seafood processing industry, which depends heavily on EU labour. In the Grampian region, 70 per cent of that industry's workforce is from the EU.

I have sought to be brief and I am happy to end my introduction there so that I can answer questions from the convener and committee members.

**The Convener:** I remind all members to keep their questions succinct and I ask for similar answers. In that way, I can get through all the questions from members, which is always my intention.

**Mike Rumbles:** As the cabinet secretary knows, in January 2019, Parliament unanimously agreed to request that the Scottish Government set up the farming and food production future policy group, which is an opportunity to develop our own policy, post 2024, and the Government did so. This week, the UK Government came forward with its view of the future for south of the border, post 2024. I know that the cabinet secretary's view is that Scotland's policy group is independent, which it is, and that he cannot interfere. However, can he use all his good offices, not to interfere—I am not asking him to do that—but to encourage and, more importantly, to facilitate that group to report to him as soon as is practical?

**Fergus Ewing:** Yes, we have been seeking to do that, and I hope that our efforts will shortly bear fruit. Mr Rumbles was, in one sense, the architect of the group, and I am grateful for that.

However, we have not just been waiting for the group to report. As members know, in our programme for government, we have committed to

taking forward farmer-led groups for devising new approaches to farming in the future in Scotland. Members will also be aware of—and, I hope, familiar in principle with—the outcome of the report on suckler beef farming by Jim Walker, the former NFU Scotland president, which recommends improved practices to address climate change issues and reductions to methane emissions. I am pleased to say that that work is now going forward. Jim Walker and I chaired the first meeting of the programme board last Thursday. The second meeting will be in a couple of weeks, and the group is due to report in February. A group on arable farming is being convened, with the pig sector industry leadership group taking on that role, and I am working on establishing groups for dairy and hill farming.

All of that addresses Mr Rumbles's point and shows that I have a clear vision for the future of Scottish farming. I have enunciated it recently, and I will do so briefly now. It is that we combine high-quality food production with the pursuit of high environmental standards, and that we reward our farmers, crofters and land managers by continuing to provide them with a reliable and sufficient income, but with conditionality. Continued income for what they do—producing food—requires compliance with high environmental standards, especially to meet our climate change targets, but also having regard to biodiversity. That is my vision, convener, and I hope that it is shared by you, by Mr Rumbles and others. I am working on groups with a farmer-led focus to secure practical solutions as well as the buy-in of the various sectors of the farming community. I am confident that that will be a substantial element of our way forward. It will not be everything, because we also have forestry, peatland and change in land use patterns to deal with. However, I am confident that I see a clear way forward for Scotland, if, of course, our vision is shared by the electorate in a few months' time.

**Mike Rumbles:** I agree with the vision of how we need to proceed, but, as I understand it, the farming and food production future policy group was meant to be an overarching bringing together of all the sectoral elements. I appreciate the work that has been done on the sectoral elements, as the cabinet secretary has outlined, but it is really important—and I think that Parliament would expect—that the group needs to report on that overarching view fairly soon.

I know that the group's membership includes Scottish Government officials. I am not suggesting that the cabinet secretary should say when the group should produce its report, because that is not his remit, but it should be facilitated. If there is a blockage so that it cannot produce its results sooner rather than later, could the cabinet secretary use every ounce of the facilities of his

office to ensure that any barriers to the group producing its report are removed?

**The Convener:** Please be brief, cabinet secretary.

**Fergus Ewing:** I do not think that they are really any barriers. As Mr Rumbles has rightly said, it is an independent group and I have to be wary of being seen to exert any pressure that might be regarded as inappropriate.

I offered views to the group. It has taken further soundings from Mr Walker and others, including the 1.5 degrees study and Dieter Helm. Things have moved on because of Covid, so the group wanted to get more evidence. To be fair to it, I think that that was reasonable, rather than it just relying on a pre-Covid approach. I will see if there is anything that we can do in practice to get that moving forward.

As I think is right for Government, we have not taken the view that we would just do nothing and wait for the report to come along; we have taken the view that we have to get on with it. Members have been urging me to do that, which is what we have done: we have got on with the farmer-led groups.

We also have a duty to bring forward a climate change plan. I have not been working in isolation to produce that plan; I have been working on it closely with my friend and colleague Roseanna Cunningham and I believe that it is likely to be considered relatively soon. That plan takes the overarching strategic approach, which Mr Rumbles rightly says should be part of our response.

**Angus MacDonald:** How has the UK Government worked with the Scottish Government to ensure that Scottish interests are represented in the on-going future relationship negotiations?

**Fergus Ewing:** We have had, and I have participated in, many meetings with the UK Government. I have always sought to have a constructive relationship with the four DEFRA cabinet secretaries who have come and gone, including George Eustice, the current incumbent. It is not unfair to say that that engagement has not been meaningful. We have not been involved in any of the negotiations that we sought to be involved in, especially those on fishing, which we will come to. We have not been in the room to discuss that, and although we asked for it specifically and although Mr Gove said that he would consider our request carefully, he never got back to me.

We have not been involved in discussions about trade and the terms of reference for various committees. In general, there has been courtesy, a lot of interchange and work on frameworks, but

we have asked to be part of the really big decisions as a sort of partner but I—[*Temporary loss of sound*].

**The Convener:** I do not know if the cabinet secretary has frozen or if it is his internet connection. Are you there, cabinet secretary?

Angus MacDonald, the cabinet secretary appears to be back with us.

**Angus MacDonald:** Unfortunately, I did not hear the full response from the cabinet secretary. Perhaps he could cover the second half of his response when he answers my next question.

As the cabinet secretary knows, George Eustice gave evidence to the committee last week. What on-going engagement is the Scottish Government having with the UK Government on the impact of any outcome of the negotiations on the committee's remit? For example, the secretary of state suggested that proposals for support for the sheep sector have been developed; the cabinet secretary may have referred to that in his opening remarks. Unfortunately, George Eustice was unable to share any detail and he said that it would be released further on in the year. Has the Scottish Government been involved in developing that strand of support, and have the details been shared with the cabinet secretary?

11:00

**Fergus Ewing:** Yes. It is fair to say that I have pressed the issue personally over the past several years. When previously we were looking at the concerns about a Brexit no deal, I pressed the issue with Michael Gove and he undertook that there would be a compensation scheme throughout the UK if there was a no deal and tariffs at 40 to 50 per cent were imposed on our EU exports, which form a significant part of the total, because of fear of price collapse. Those proposals were developed but were never ratified by the Treasury. I asked Mr Gove at one of the meetings, "How can we have absolute certainty that in a disagreement between yourself and the Treasury, the farmers will win and there will be a sufficient sum of money to compensate sheep farmers throughout the UK?"; and he said "We will win." That is what he said. However, as I understand it, the Treasury still has not committed to a specific figure.

To be candid, I think that we all want to avoid a situation where there is a no deal. That would be a disaster. Brexit is bad enough, but Brexit without a deal is utterly catastrophic, so I do not want that to occur. However, we are very close now and it is a matter of weeks until the end of the transition period, so the scheme needs to be finalised between the devolved Administrations and the UK Government. We are not quite there yet, although

there has been a reasonable amount of work on that at my instigation at the interministerial meetings, where I have pushed it with support from Wales and Northern Ireland.

**Angus MacDonald:** Last week, the secretary of state was bandying about the figure of £200 per head for ewes; and I think that he also mentioned £300 at one point. Obviously, we do not want to get farmers' and crofters' hopes up if that is the figure that is being looked at, but certainly as soon as the Scottish Government is aware of the details it would be helpful if it could be shared with the committee.

**Fergus Ewing:** I will take that away as a specific request. Obviously, convener, I do not want to start breaching confidences, so I will need to go away and check that. However, I will take that as a serious request from the committee and I will get back to the committee as quickly as I can on that.

**Angus MacDonald:** Thank you.

**The Convener:** Just for clarity, Angus, I think that the figures that the secretary of state was talking about at that stage were payments in relation to sheep that could distort the internal market, so I think that we need to be careful about those figures. It would therefore be helpful, cabinet secretary, if you could clarify that.

Emma Harper has the next group of questions.

**Emma Harper:** Good morning, again, cabinet secretary. We have heard evidence in the Parliament chamber as well as in committee about significant issues with being ready for the end of the Brexit transition period on 1 January, especially with moving produce through ports such as Cairnryan, in the south-west of Scotland. I am interested to know what work the Scottish Government has done to support the movement of produce from Scotland into Northern Ireland and vice versa. We have heard that 25 extra vets will be needed at Larne and Belfast as well as more administrative staff. I am interested to know what work is being done round about Cairnryan in particular. I will probably also have some supplementary questions.

**The Convener:** I will let you in with the supplementaries, Emma, but the question is about letting everyone else in as well. Short answers and short questions always go down well. Over to the cabinet secretary.

**Fergus Ewing:** Emma Harper is right that there will need to be more vets and other staff. We are working on that and a lot of detailed work is going on, but I do not have time to go into it. However, the basic problem is that the UK Government has yet to communicate the requirements of the Northern Ireland protocol regarding how trade is to

be regulated between Great Britain and Northern Ireland, bearing in mind that many of the goods that come from Northern Ireland have come from the Republic of Ireland. That raises a series of complex issues that I am afraid have not been resolved.

We in the Scottish Government think that there should be a border control post at Cairnryan and we have made that view clear to the UK. Of course, the UK should be funding a border post that is necessary only because of Brexit. The UK has created the need; it should pay for the costs. All those matters have been left very late, but we are seeking to work with the UK Government and Edwin Poots of the Northern Ireland Administration. Basically, we want frictionless trade to continue between Scotland and Northern Ireland and, indeed, the Republic, but there simply has been no proper consideration of the necessary preparatory work, including the establishment of a border control post, which will require a new building. Planning permission must be obtained before the construction of the new building, but there is not enough time for that.

Whatever arrangements are required, there will need to be a transitional period during which any changes can be considered properly and the necessary measures taken for increased numbers of vets and other staff dealing with the health certificates and phytosanitary certificates to be recruited just to deal with the trade. The worry is that if we do not have that, we might lose out in Larne, Stranraer and the south of Scotland, which Emma Harper represents. I am pleased that she has, quite rightly, raised this important issue today in order to stand up for the interests of the south of Scotland.

**Emma Harper:** Thank you, cabinet secretary, I will be brief, unlike last week. The cabinet secretary talked about the health certificates and other matters. Obviously, there will be issues with the digital infrastructure as well, but I am also interested in how the dairy supply chain will be affected. You mentioned earlier that a dairy stakeholders group is being developed, but there will be issues with the movement of our dairy produce, and the producers, the processors and the whole supply chain will be affected. There are big processors in the south-west of Scotland that move produce back and forwards between there and Northern Ireland, and between there and the south of Ireland. I am interested to hear your thoughts on how the dairy supply chain will be impacted after 1 January. Is it ready?

**Fergus Ewing:** I do not mean to be political, but the necessary arrangements have not been put in place for the dairy sector or the lamb sector. Nearly 10,000 lambs are exported to Northern Ireland for breeding purposes, and that has been

going on for years. However, there is now a problem with testing for scrapie, whether exports can be permitted in accordance with the EU rules, and whether that has even been raised in the negotiations.

There is a meeting of the IMG on Monday and I will raise those issues with Mr Eustice at that meeting. In fact, I discussed some of them yesterday with NFUS's Andrew McCormick, from the south of Scotland. I cannot speak for him, but I think that NFUS has also expressed its concerns about some of those issues.

**The Convener:** Thank you. I am afraid, Emma, that we will have to move on to questions from other members. Richard Lyle now has some questions.

**Richard Lyle:** Not that I noted. I am down for question 14, convener. Anyway, I will ask my questions. The secretary of state outlined the UK Government's commitment to maintaining the level of funding for agriculture and stated that Scotland would get £595 million per year throughout the current parliamentary session for pillar 1 and pillar 2. Does that provide the Scottish Government with the funding guarantees that it requires to set out longer-term plans for future policy?

**Fergus Ewing:** I am afraid that it does not. I set out in my opening remarks that our analysis points to the fact that there will be £170 million of cuts by the UK Government, compared to the funding that we would have received had we remained in the EU. I make it clear to committee members that that is a serious matter. As Mr Lyle has rightly said, it is not possible for me to finalise all future spending plans without knowing that the money is there. The final point that I will make about this, because I do not want to go on, is an important one.

Those concerns are shared by the Welsh and Northern Irish Administrations—it is not only the Scottish Government that is seeking restoration of the cuts and a review of the decision that was made by the HMT without reference to the devolved administrations. Scotland, Wales and Northern Ireland jointly have expressed our profound concern at what appears to be a violation of the trust that was engendered by the promises that were made during the Brexit referendum that EU funding would at least be matched.

In that respect, Edwin Poots, Lesley Griffiths and I have been as one in raising those concerns with George Eustice. We continue to do so and will do so on Monday. If the UK Government wants to argue that it is being fair to the devolved Administrations, surely it has to match the EU funding. That was the promise that was made during the Brexit referendum. Had that promise

not been made, I wonder if Britain would have voted for Brexit.

That could not be more serious, convener. I assure the committee that I will pursue pursuing Scotland's interests and those of the rural economy as a matter of paramount importance during the weeks and months ahead, with the objective of restoring the funding that was due to Scotland and that we would have received had it not been for Brexit and the UK Government's policies on that.

**Richard Lyle:** What is your view of the suggestion that Scotland will lose £170 million in funding due to the UK's exit from the EU against our wishes?

**Fergus Ewing:** I think that I have answered that question. It is extremely serious and it is unacceptable. It is a matter of fact that that is the cumulative amount in cuts. It is not only Scotland. Wales is similarly affected and Northern Ireland is—[*Temporary loss of sound.*]

**The Convener:** We have lost the cabinet secretary. Can the cabinet secretary hear me?

I will suspend the meeting briefly as we try to re-establish contact with the cabinet secretary. I ask committee members to remain where they are.

11:13

*Meeting suspended.*

11:19

*On resuming—*

**The Convener:** I reconvene the meeting and welcome everyone back. That break came at a bad moment, as we were already up against the time for answering questions. There are still a lot of questions to go.

I will come back to Richard Lyle, because I am not sure that he got the full answer to his question. He might have other questions that he could put succinctly to the cabinet secretary.

**Richard Lyle:** I apologise, convener. I did not receive the email with the updated questions.

Does the Scottish Government have a clear understanding of how the new Trade and Agriculture Commission will operate in relation to Scotland, and how it will represent Scotland's interests?

**Fergus Ewing:** The short answer is no, we do not have sufficient clarity. That is a relatively new venture, but it has been set up in part to meet the concerns about cheap imports flooding the UK market and undercutting primary food producers in Britain. Many farmers are worried that there is a

risk that trade deals will be made with countries that do not necessarily have the same high environmental and animal welfare standards that apply in the UK. The Trade and Agriculture Commission has been set up as an attempt to look at those issues, but I do not think that it is an effective answer to the fears and concerns that exist.

Time is short so, rather than use up more time now, my officials can write to the committee with a little more detail on our concerns about the formation and remit of, and the representation on, the commission.

**The Convener:** We will take up the cabinet secretary's offer to come back to the committee on how he sees Scotland's interests being reflected in the Trade and Agriculture Commission.

**Peter Chapman:** My question is about the UK Withdrawal from the European Union (Continuity) (Scotland) Bill, which would provide the Scottish ministers with the power to ensure continued alignment with EU law. Does the cabinet secretary have a view on the secretary of state's comments to the committee last week that keeping pace is a strategy that

"cannot be maintained in the long term, because it is only a matter of time before the EU introduces a policy proposal that would be manifestly against Scottish interests. It then becomes a moot point: do you elevate the pursuit of EU law above the interests of Scotland?"—[*Official Report, Rural Economy and Connectivity Committee*, 25 November 2020; c19.]

I would welcome the cabinet secretary's comment on that point.

**Fergus Ewing:** The two worries that we have are that, although the regulation that is generally applied in the EU to the rural economy can appear to be cumbersome from time to time, it is recognised as necessary to maintain food production standards in processing and the way in which we look after animals in the UK. In turn, that is seen as essential by most retailers, because their customers expect that they do not buy food from countries that are mistreating animals and so on. Customers also want high levels of sustainability on the marine side, for example.

My worry is that, if we start abandoning those high standards—and George Eustice has made no secret of the fact that he wants to do that—we may be causing real commercial damage very quickly, because retailers will not change their standards. In turn, that could threaten our export market to Europe, because it will not be happy if we lower our standards and we will therefore set much of our exports at risk.

My second concern relates to the powers that we have over fishing and farming, which are at serious risk of being predated by the UK

Government. I am already seeing early signs in fishing that that is happening, and that UK officials seem to think that it is for them to take decisions on devolved issues. I will raise that with George Eustice on Monday. I am extremely concerned about that.

To answer Peter Chapman's question, those are the two main concerns that I have.

**Peter Chapman:** Your concerns are predicated on the belief that we would be lowering standards. Can you not understand that, often, animal welfare and environmental standards in the UK are ahead of those in the EU? I do not understand your argument that we are focused on lowering standards.

**Fergus Ewing:** The reason why I am concerned about that is that members of the Conservative Party and serious members of Government have made comments to the effect that they are intent on reducing what they see as red tape and bureaucracy. It is members of Mr Chapman's party who have caused me to have those concerns. Various utterances that I could quote—but which I will not quote, because that might be using up time to delve into political matters—cause me to believe that concerns are real. Members of the UK Cabinet have clearly indicated that they want to reduce standards across a whole area, because they see them as inappropriate. I think that my concerns are grounded in fact.

**Peter Chapman:** We will move on, cabinet secretary.

What has been the nature of the engagement between the UK and Scottish Parliaments on the future fisheries agreement with the EU and on co-ordination on fisheries matters across the UK?

**Fergus Ewing:** I should say, first, that there has always been a good relationship between officials. Arguably, they work more closely together than most, if not all, other officials, because of the annual fishing talks in Brussels—where, incidentally, in many years we secured quite a good outcome for the Scottish fishing sector.

Unfortunately, however, the relations with the UK Government have not followed suit. Despite repeated requests, Scottish Government officials were denied the opportunity to participate in the talks about a future fisheries agreement. I made that request directly to Michael Gove at a meeting that took place in Buckie not so very long ago. He said that he would think about that request, but we never heard back from him on that. That is despite the fact that Allan Gibb, who is here today to give evidence if required, is regarded in Europe as—if I can say this without embarrassing him—one of the foremost exponents of negotiation and expertise on the technicalities of the fisheries negotiations. Despite his expertise and knowledge, and the trust

that he has built up over many years with the leading players in the fishing industry in Scotland, he has been kept out of the room, and has simply been briefed about what has taken place in the room afterwards. I think that that is a missed opportunity in terms of getting the best deal for Scotland.

The risk in the next couple of weeks is that some last-minute shady deal is done by Mr Frost or whoever on the UK side without reference to Scotland and with unforeseen and unintended adverse consequences for Scotland.

On a ministerial level, I am afraid that there just has not been engagement. That has also been the case with third-party negotiations—those with Norway, the Faroe Islands and Iceland. We have been cut out of those negotiations. That is a foolish approach because, frankly, the Scottish officials have the knowledge about Scottish fishing interests. I am afraid that the UK officials just do not have the same degree of knowledge, probably because it is not their direct responsibility and, therefore, they are not as familiar with the highly complex issues that are involved. That is extremely unfortunate and potentially very damaging.

**The Convener:** Thank you, minister. However, I have to say that, because of the length of that answer, I cannot bring in two members who want to ask questions. I ask everyone to be mindful of time, in the interests of other members. Colin Smyth will ask the next question.

11:30

**Colin Smyth:** I turn to two important pieces of UK legislation—the Fisheries Bill, which last week became the Fisheries Act 2020, and the United Kingdom Internal Market Bill.

The Fisheries Act 2020 replaces article 17 of the common fisheries policy with the national benefit objective. How does the cabinet secretary foresee that being different? What criteria will the Scottish Government use for that objective to ensure that fishing opportunities are distributed to those who deliver the best socioeconomic and environmental objectives?

**Fergus Ewing:** My view is that the Fisheries Act 2020 produces a framework which, although not perfect, is workable. That is not really the issue.

The issue is that the early signs are that, in the discussions that are taking place and the work that is being done to work out a bilateral deal, DEFRA seems to be taking on the mantle of being, if you like, a new Commission, instead of it being a partnership of equals. We should bear it in mind that Scotland's fishery is much more valuable and far bigger than the English fishery. Despite that,

the early signs are that the UK Government seems to regard itself as the boss—the Commission, if you like—which is seriously worrying for me.

On the technical matters, I do not know whether Mr Gibb could have the opportunity to come in. I am sorry that we lost so much time when the BlueJeans system apparently failed, but I think that it would be useful if, at some stage, Mr Gibb could give his comments on those matters.

**The Convener:** I am happy to let Mr Gibb come in, but I caution people to be mindful of the fact that we want everyone to get a crack at participating in the session.

**Allan Gibb (Scottish Government):** Thank you, convener. I will be brief. I will add to the cabinet secretary's remarks by pointing the committee to the future fisheries management process that we are going through. We have made it clear in our strategy that we will look to allocate fishing opportunities and any additional—*[Inaudible.]*—in a way that ensures that it—*[Inaudible.]*—active fishermen will benefit across all communities in Scotland, allowing for—*[Inaudible.]*—employment opportunities—*[Inaudible.]*—at the heart. That is how we will—*[Inaudible.]*—the article that Mr Smyth referred to.

**The Convener:** That was not entirely satisfactory, because you broke up all the way through that answer.

Cabinet secretary, we can try to bring in Mr Gibb at a later stage, but it looks as though you might be on your own for a bit.

**Colin Smyth:** Given the internet problems, perhaps it would be helpful for the Government to write to us on the national benefit objective.

You mentioned that the Fisheries Act 2020 is not perfect. Does the Government plan to use the UK act to manage Scottish fisheries in perpetuity, or are you still committed to adhering to your party's manifesto commitment to introduce a Scottish inshore fisheries bill? I appreciate that that will not happen in this session of Parliament.

As a small aside, how will Parliament debate fisheries issues? We are used to having an annual fisheries debate at this time of year. As a Parliament, how will we debate such important issues in the future?

**Fergus Ewing:** Mr Smyth raises a number of very fair points. It is up to Parliament how it wishes to conduct proceedings, but I expect that there will be—there must be—opportunities to debate fishing in the future. Indeed, I very much hope to make a ministerial statement on fisheries management and our analysis of the consultation that we carried out on our discussion paper. Mr Gibb alluded to some of those proposals, and there are many others.

Fishing is devolved, and it must remain devolved. We must make decisions on fishing in Scotland. Obviously, we will work with the UK Government, but the early signs are that DEFRA seems to be taking on the role of the Commission and acting as a unilateral arbitrator on domestic management decisions, which completely cuts across devolved competences.

On the inshore matter that Mr Smyth mentioned, it is fair to say that, after the interruption caused by Covid, the installation of remote monitoring equipment is now beginning to be delivered, and that will address many of the serious issues that have been raised with parliamentarians about inshore fisheries. We are committed to helping local management of inshore fisheries to build on the efforts that have been made already. When the local management arrangements work, they work very well and there are good examples of that. I meet representatives from SEPA regularly, and I also meet well-respected fishing leaders who represent their communities. That practical work, particularly the REM delivery, is probably more important in the short term.

We have also established a nephrops task force because of the serious problems that the prawn sector is facing, and because of the loss of the brown crab market in China. We have also delivered compensation and financial support during the Covid crisis to fishing interests, starting off with those with the smaller boats. We have made a fair effort to provide businesses with a lifeline so that they can get through. It is fair to say that the inshore shellfish sector has been most adversely affected during Covid, and it is also worried about the loss of the absolutely essential European markets because of Brexit.

**Colin Smyth:** I will turn to the United Kingdom Internal Market Bill, cabinet secretary. As you know, clause 3 of the bill on mutual recognition provides that goods that are produced in Scotland or imported to Scotland, for example, can be sold to any other part of the UK without having to adhere to requirements or regulations in that part of the UK. Under the non-discrimination principle, that means that a producer in Scotland should not be affected by regulatory requirements elsewhere in the UK. How will that impact on the Government's pursuit of its rural policy objectives? Last week, the secretary of state told the committee that he believes that the looser regulation would be beneficial to Scotland.

**Fergus Ewing:** We are worried that the internal market bill will open the door to a race to the bottom on food and environmental standards. I have said that already. We are also concerned that the non-discrimination principle of the bill will constrain our ability to make devolved choices. I could give examples, but it would take too long.

There are some technical aspects to it and I would be happy to share more of them with the committee in writing, as time probably does not permit now.

The overriding concern is that, as the UK announced yesterday that it wants to stop paying farmers to grow food, and as in Scotland we think that farmers should earn our financial support, not subsidies, for the hard work that they do in producing food as well as caring for the environment, there is now a clear divergence between Scotland and England. England wants to abandon farmers as food producers; we do not. We want to value them and recognise them—

**The Convener:** Cabinet secretary, I have given you a huge amount of leeway. As you know, agriculture is devolved and it is for the Scottish Government to sort it out. It is not therefore entirely helpful for you to go into the political issues like that.

As Colin Smyth has finished his questions, I will move to the deputy convener, Maureen Watt, who has a series of questions.

**Maureen Watt:** The committee heard from the UK Government that there will need to be a stated framework to address potentially market-distorting subsidies, but that will principally be dealt with through the common framework. What is your view of such a state aid framework? Are you confident about the ability of the Scottish Government to run an agricultural support scheme that is tailored to the needs of the Scottish agricultural sector within UK state aid rules?

**Fergus Ewing:** As I understand it, the provisions of the internal market bill mean that UK ministers could put in place new subsidy controls that would make unlawful payments that we would otherwise have been able to make. That could have a negative impact. A one-size-fits-all framework for agricultural support, to which I just alluded, could prevent us from making payments to farmers that, in my view, represent the value that they provide to society.

I am worried in particular about our ability to continue with LFASS, or some variant of it, for the hill farmers. Other parts of the UK dropped the scheme seven or eight years ago, so there are particular concerns in that regard. At present, it is difficult to be categorical about how everything will pan out. I am primarily concerned—this is not a political point—with the need for us to value the rural economy and continue to supply that funding. If the funding is not to be maintained in the long term, that will threaten many small farms and crofts, which rely on getting that financial support for the work that they do and what they produce for the country.

**Maureen Watt:** It has been recognised that there is a need for common approaches to maintain the UK internal market. What is the Scottish Parliament's role in that process? How would we be able to scrutinise effectively? Is it possible that the United Kingdom Internal Market Bill could constrain the Scottish Parliament's role? For example, if we were to disagree on a particular point in a devolved area, could the Scottish ministers bring forward separate legislation? Would that be permitted under the bill? In other words, would the bill be severely detrimental to the ability of the Scottish Government and the Scottish Parliament to make their own laws for Scottish agriculture and fisheries?

**Fergus Ewing:** Those are risks. Whether they become realities, we must wait and see, but there are serious grounds to indicate that there are concerns.

We should bear in mind the fact that we have made different decisions in Scotland—I just mentioned LFASS, for example. Agriculture has been devolved for about 20 years and many of the decisions that have been taken here, such as supporting hill farmers, have not been implicitly controversial, but the same decisions would not have been taken by a UK Government.

There are real risks here. I do not want to be alarmist about it—my job is to get the best for the rural economy, whatever the wider macro picture is. However, my main concern is about finance, and my second is about our ability to shape our own policies in Scotland.

As for the Parliament, I think that it should stand up for its powers robustly. Michael Russell has been leading the campaign to raise concerns that the UK Government's approach would result in predation of those powers. As I have seen for myself, that is not a fanciful worry—it is happening right now in fisheries. I will do my best to stop it and stamp it out right now. If I cannot do that, then—my goodness me—I would expect that the Parliament would take on the mantle very quickly.

**Maureen Watt:** I have one further question. We all know of the benefits that LEADER funding has brought for many rural communities. I understand, from last week's evidence session with the secretary of state, that LEADER funding will now become a strand of the shared prosperity fund. We have not heard anything about that fund, but it seems that it will be able to fund anything and everything. At your meeting next week, can you get some more clarity on how LEADER funding will be replaced?

**Fergus Ewing:** I should say yes, but I am not sure that I will be able to do so. I have been asking that question for the past three years and, so far, the only thing that we know about the UK shared

prosperity fund is the four words in its title. There was supposed to be a consultation. The LEADER programme is essential for communities—I think that that is a cross-party view; we all know of examples on our own patches. The UK shared prosperity fund is becoming a sad joke. There is about as much evidence and factual information available regarding the UK Government's plans for that fund as there is an evidential basis for the source of funding of Santa Claus's largesse. *[Laughter.]*

**The Convener:** That probably ends the session. I wonder whether, after that comment, Santa Claus will come and visit you—possibly not, I think. On the basis that we have come to the end of our questions, I thank you and Allan Gibb for attending the meeting, albeit that Allan's internet connection let him down at the critical moment.

## European Union (Withdrawal) Act 2018

### Direct Payments, Spirit Drinks and Wine (Amendment) Regulations 2020

11:45

**The Convener:** We move to item 11. We have received a consent notification in relation to one EU statutory instrument. The instrument is being laid in the UK Parliament under the European Union (Withdrawal) Act 2018. It has been classified as category A. No issues have been raised on the instrument.

Does the committee agree to write to the Scottish Government to confirm that it is content for consent for the UK statutory instrument to which the notification refers to be given?

**Members** *indicated agreement.*

**The Convener:** We now move into private session.

11:46

*Meeting continued in private until 12:34, suspended thereafter until 14:02 and continued in private thereafter until 15:23.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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