



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs, Islands and Natural Environment Committee

Wednesday 12 January 2022

Session 6



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RURAL AFFAIRS, ISLANDS AND NATURAL ENVIRONMENT COMMITTEE
1st Meeting 2022, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*Jenni Minto (Argyll and Bute) (SNP)

*Mercedes Villalba (North East Scotland) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Caro Cowan (Scottish Government)

Shiree Donnelly (Scottish Government)

Jesus Gallego (Scottish Government)

Mairi Gougeon (Cabinet Secretary for Rural Affairs and Islands)

James Muldoon (Scottish Government)

Philip Raines (Scottish Government)

Jen Willoughby (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs, Islands and Natural Environment Committee

Wednesday 12 January 2022

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Finlay Carson): Good morning, everyone, and happy new year. Welcome to the first meeting in 2022 of the Rural Affairs, Islands and Natural Environment Committee. I ask committee members who are using electronic devices to turn them to silent.

Our first item of business is a decision on whether to take items 6 and 7 in private. Do members agree to take those items in private? If members do not agree, they should type N in the chat box; otherwise, I will presume that members are content.

I see that we are content, so we will take items 6 and 7 in private.

Budget Scrutiny 2022-23

09:00

The Convener: Item 2 is consideration of the Scottish Government's 2022-23 budget. I welcome to the meeting Mairi Gougeon, the Cabinet Secretary for Rural Affairs and Islands; Caro Cowan, the head of European Union exit at Marine Scotland; and, from the Scottish Government, Shiree Donnelly, the head of finance; James Muldoon, the head of the agriculture support policy development unit; and Philip Raines, the interim deputy director of the rural economy and communities directorate.

I ask the cabinet secretary to give an opening statement.

The Cabinet Secretary for Rural Affairs and Islands (Mairi Gougeon): Thank you very much, convener. When I made my first appearance before the committee in September last year, I set out the priorities for the rural affairs and islands portfolio, so I am pleased to come back today and set out how we intend to fund and support those priorities in the coming year through the Scottish budget that was presented by the Cabinet Secretary for Finance and the Economy to the Scottish Parliament in December.

The budget was published one year after the first Covid vaccinations were rolled out, and it comes at a crucial juncture for Scotland. As the emergence of new variants demonstrates, we must remain vigilant in responding to current and emerging public health challenges, and work out how to manage those risks sustainably into the future. We must be mindful of the need to recover sustainably from the impacts of the pandemic. For rural and island communities and businesses in particular, we must also do what we can to mitigate the impacts of Brexit.

However, despite all of that—particularly the fact that we are in the middle of a global pandemic—the United Kingdom Government has cut the funding that is available for the Scottish Government. The UK spending review in October also fell short of the Scottish Government's ambitious capital spending plans. That has constrained our ability to invest in the infrastructure that is required to support our economy and public services and to deliver the green jobs and technology that are required if we are to reach net zero.

The Cabinet Secretary for Finance and the Economy has been clear that this is a budget of choices and that there are areas in which she would have wanted to go further. In the face of those pressures, the Scottish Government is firmly

committed to using the full resources at its disposal to make Scotland fairer and greener.

One of my key priorities is to support rural industries and businesses during the pandemic and in the aftermath of the UK Government's decision to leave the EU. Much-needed cash flow into our rural areas will come through my commitment to keep basic farm payments at the same level throughout this session of Parliament, with more than £630 million to be provided in on-going agricultural support in 2022-23. We are also maintaining support worth £65 million for our most fragile and marginalised areas.

Rural businesses, especially those that are involved in exporting food to the EU, are still absorbing the extra costs and barriers that were created by the loss of freedom of movement and free trade with our biggest export region, so we will continue to support our world-class food and drink sector in its recovery, supporting it to thrive and flourish into the future. The investment in Scotland's rural businesses and communities provides them with a secure foundation to create growth, prosperity and opportunity, and I want to help them to do that. The budget provides funding to help to build that future.

As part of that, we are investing more than £8 million in the coming year in Scotland's islands. That includes funding to create the first-ever islands bonds and the first-ever carbon-neutral islands, to support population retention and growth and to create innovation and energy hubs.

When I was at the committee in September, I spoke about the immense potential that Scotland's rural and island areas have and their vital role in achieving net zero and enhancing biodiversity. Transforming our agricultural and marine sectors will be key to securing all of our futures.

We are investing £25 million to start work on transforming farming and food production in Scotland, so that we can be world leading in sustainable and regenerative agriculture. We are also delivering a new round of agri-environment investment as part of an overall budget of £36 million to support biodiversity. The new agri-environment climate scheme application round will open later this month and, in addition, I have made a commitment to future rounds until 2024. That is essential while we explore other ways in which farmers can be supported to deliver a nature-rich Scotland. Alongside that, to protect and enhance our marine environment and increase offshore renewable energy generation, we are increasing marine resources by almost £10 million.

Allocating funding between those different priorities is difficult, but I believe that the balance that we have achieved for the coming financial year is proportionate, particularly as we approach

our multiyear resource spending review in the spring. We will fully support Scotland's rural economy and our people during these difficult times. At the same time, we will provide the funding that will enable rural businesses and people to continue to build towards a sustainable future and help them and Scotland to become fairer and greener.

Thank you, convener and committee members. I look forward to our discussion this morning.

The Convener: Thank you, cabinet secretary. I will kick off with some questions before moving on to other members.

Are there still areas of on-going uncertainty given that other parts of the UK have advanced their future policies on rural support but Scotland is some way behind on that? What are the implications of that uncertainty? Is the rural affairs and islands budget expected to change during the current parliamentary session? Are there any anticipated implications for this portfolio from the medium-term financial strategy and the resource spending review?

Mairi Gougeon: I do not agree with your assertion that we are lagging behind the rest of the UK. Part of our process in developing future policy is the work that is being taken forward through the agricultural reform implementation and oversight board taking a co-development approach with the very people the policies will affect. That is why we have established the national test programme, which no doubt you will want to discuss later. It is important and vital that, in developing the future programmes for support, we are taking the approach of working with our stakeholders. That is also why we and the previous Cabinet Secretary for Rural Economy and Tourism committed to a period of stability and simplicity for the sector while we go through this period of transition. That has also been absolutely critical here.

You also asked about the further impact as we look at the resource spending review. The review and the medium-term financial strategy will build on last year's five-year capital spending review. They will all come together to give a comprehensive picture of Scotland's multiyear public spending plans. As the committee will be aware, the UK Government's three-year spending review took place at the end of October last year, and it told us that, overall, the block grant is less than the current aggregate for 2021-22. That is why I said in my opening statement that this year's budget has really been about those hard choices. The Cabinet Secretary for Finance and the Economy has also been really clear about that.

As I have already said, even though we face hard choices, the budget that we have produced for this portfolio supports our agriculture, fisheries,

and rural populations right across Scotland to recover from the twin crises that we are facing, as well as helping them to start their journey towards future transformation.

At the moment, it is not possible for me to predict the outcome of the resource spending review process, because it is a Government-wide exercise and it is currently out for consultation. Again, I come back to what I stated about the Government's priorities. The Cabinet Secretary for Finance and the Economy has outlined three key priority areas: to support progress towards meeting our child poverty targets, to address the climate change challenges that we face and to secure a stronger, fairer, greener economy. In order that we can do that, I have already committed to continuing with the pillar 1 direct payments and not lowering that basic payment scheme rate throughout the current parliamentary session. The pillar 2 payments include the reopening of the eighth round in 2022. We are further committed to developing future rounds up to and including 2024. I have already mentioned the national test programme.

We have worked hard towards the key priority areas that have been identified across the Government, and I feel that the budget that I have put forward and what I am proposing for the portfolio go a long way to achieving that.

The Convener: Regarding the outcomes that you are looking forward to, when it is clearer which policies will be put in place for rural and agricultural support in the future, do you expect the budget requirements for that vision to go up or down in the future?

Mairi Gougeon: As I have said, I have already committed to maintaining the current level of payments. When we are going through such a huge period of change, with so many uncertainties for people, to be able to give that commitment about maintaining the same level of payments is critical. That is something that I have already committed to in relation to the pillar 1 payments. It is also a matter of trying to give certainty and future clarity when it comes to future rounds of AECS.

When it comes to further rural development, you will see the commitments that we have in the budget to increase the budget for that in some areas. For previous EU schemes such as the LEADER programme, which has been vital for our rural areas, we have had to supplement that funding with our own domestic funding to ensure that we are still investing in our rural communities. That is a commitment that we have made, and we will be continuing to invest for our rural economy in the particular areas concerned.

Jenni Minto (Argyll and Bute) (SNP): I want to ask a general question. You have commented on the fact that there have been hard choices to make in this budget round. When you are creating budgets, the budget headings do not remain constant, and there needs to be some flexibility to ensure that budget is allocated to appropriate areas. Would the cabinet secretary please outline some of the changes that she has made to ensure that rural and island Scotland has fairer allocations to meet the challenges of EU exit and to recover from Covid, as well as for continuing to develop our rural and island economies?

Mairi Gougeon: The member has raised an important question. As the Cabinet Secretary for Finance and the Economy said, we have faced some difficult choices right across Government in relation to the budget settlement. We have undertaken careful work to identify the key priority areas, looking at the areas that we need to invest in and need to protect. That always includes difficult choices throughout the process.

Referring back to one of my previous responses and to the LEADER programme, over the course of the past year, we had invested to introduce a tests of change programme, looking to invest with our own domestic funds. That funding has been vital for our rural communities, and I note the sheer diversity of the projects that it has been possible to fund. I think that the overall funding amount for that was £3 million over the past year. There has been an increase in that budget for this year.

There has also been an increase in the budget for Marine Scotland in the region of £10 million, identifying the work that needs to be done to protect and enhance our marine environment. We are looking to offshore renewables, too, and to the extra resource that we need to be able to put in place to deliver on the ambitious commitments that we set out in the programme for government.

There are a number of different areas where we have considered the spend and where we have either increased resource, readjusted spend or reprofiled it over the coming years. For example, as I mentioned in my opening statement, we are looking to invest more than £8 million of funding for the islands, and that will be critical for our island communities.

There are areas of spend right across Government that impact on rural areas and on our island communities that do not necessarily fall within the remit of this budget, but that will continue to be very important.

Jenni Minto: That leads me to my next question. Covid and EU exit cut across all portfolios. Are there other budget allocations and other portfolios that rural areas might benefit from?

In your introductory remarks, you talked about the decrease in the funding settlement from the UK Government. What difficult decisions have you had to make as a result of that?

09:15

Mairi Gougeon: As I said, there are a number of areas of spend in portfolios across Government that will impact on rural areas. An example of that is the spend on, and support for, the enterprise agencies, particularly South of Scotland Enterprise and Highlands and Islands Enterprise. The investment in those agencies is at the highest level that it has been since 2010-11. There is also funding for VisitScotland.

The funding for the three enterprise agencies and VisitScotland has been protected. That will be vital because the enterprise agencies provide advice, support and targeted funding opportunities across their areas, which helps small businesses to grow and develop, thereby creating jobs and, ultimately, sustaining our rural communities. Alongside supporting some of our more traditional rural businesses that are based in food and drink, tourism and the creative industries, they are promoting the growth of new, innovative rural growth industries, such as renewable energy and the space sector. They also have a critical role in helping us to achieve our net zero ambitions.

There are also significant contributions from other national programmes. An example is the green jobs fund, given the importance that the growth in the environment-related sector will have in rural areas. There is also the five-year place-based investment programme. Even though that is not directly within my portfolio, rural communities can be expected to benefit from that support.

You asked about where the decrease in funding from the UK Government has had an impact. You can see that impact in the replacement of EU funds. We were promised that they would be replaced in full, but that has not transpired. The European maritime and fisheries fund is an example that I have used previously. Just over £14 million has been identified to replace that fund, but our entitlement should have been in the region of £62 million. We also expect a shortfall of around £95 million in funding for agriculture up to 2025. If we had received what we were promised and the funds had been invested in fully, that would have enabled us to go further in our proposals.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): You mentioned the Scottish Government's commitment to maintaining payments and some difficulties, shall we say, about the UK's commitment at the other end of the balance sheet. I am sure that the committee will want to put this

question to a UK minister at some stage, but has the UK Government explained its position on that to the Scottish Government? What have you said to the UK Government? What communication channels have you tried to set up with it to explain the Scottish Government's position?

Mairi Gougeon: We try to engage with the UK Government on those matters as much as possible and we work as closely with it as possible. However, despite assurances that we would have discussions about future allocations of funding, those have yet to transpire. We have regular monthly meetings with the devolved Administrations and the UK Government at which we discuss a number of items of mutual interest across agriculture, marine policy and various other sectors. In spite of that, the meaningful discussions that we were assured would take place are yet to happen. However, we make representations repeatedly to the UK Government.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): The Scottish Parliament information centre papers that we have been given show a 2.6 per cent real-terms decrease due to inflationary pressures. Is there anything that the Scottish Government can do to mitigate that decrease, given that you have a decreased budget coming from Westminster?

Mairi Gougeon: That comes back to some of the points that I raised previously on the replacement for the EU funding for marine. We are also facing a funding shortfall for agriculture. Again, we had been promised that those funds would be replaced in full, but that has yet to transpire. We have an allocation of £14 million for our marine industries when we should be able to expect to receive something in the region of £62 million, and there is also a £95 million shortfall in agriculture spend.

Obviously, if those funds were available to us, that targeted spend would help those industries. It would also help us towards a transition to net zero and would enhance the work that we are undertaking on climate change and enhancing biodiversity. It would help us to achieve all those aims. We continue to make representations on that to the UK Government, to ensure that it upholds its obligations and the promises that it made to replace those funds in full.

Jim Fairlie: I have a follow-up question. Have you had engagement with the UK Government on the inflationary pressures that your budget will face, given that that inflation has been a relatively new thing and that it has been rising exponentially? Have you had negotiations about that shortfall?

Mairi Gougeon: The interaction that I have had with my counterparts in the UK Government has

related to the shortfalls that we have faced in the funding for agriculture and marine. I would have to check back to see whether that specific point on inflation has been raised, but I will be happy to come back and confirm that either way, unless officials have that information.

Karen Adam (Banffshire and Buchan Coast) (SNP): Good morning. There is an increased budget allocation of £10 million for Marine Scotland. What is that intended to support, and what assessment has the Scottish Government made of additional Marine Scotland operational costs that are associated with EU exit?

Mairi Gougeon: The extra investment that we have made for Marine Scotland has been vital because, since the UK left the EU, nearly 500 new obligations that relate to the marine environment, which were previously undertaken by the European Commission or by member states, have been transferred to the Scottish ministers; there are also 86 new powers. That means that we need to have more resource and to focus resource on managing all of that.

We also have ambitious targets when it comes to what we want to achieve in the marine environment. In the Bute house agreement with the Scottish Green Party, we have committed to establishing highly protected marine areas and to implementing management measures for our marine protected areas and our priority marine features. Given all the commitments that we have made on enhancing conservation and our marine environment, it is vital that we have the resource to put into supporting that work.

In an earlier response, I touched on the work that needs to be done on offshore renewables. Again, it is vital that we have in place the resource to enable us to support and deliver on all the commitments that we have set out and the transition that we need to make in some of those areas. That is what that £10 million will enable Marine Scotland to do.

Karen Adam: Earlier, you touched on the EMFF. Given the current situation with replacement funding, what is happening with that, and with the UK seafood fund in particular?

Mairi Gougeon: That has been a source of frustration for us in the Scottish Government. Obviously, we welcome any additional funding. However, a key issue with the £100 million that has been allocated through the UK seafood fund is that it duplicates the funds that we already have. We have in place the marine fund Scotland, which replaces the previous EMFF. The £100 million fund from the UK Government looks to duplicate and replicate some of our funding through that.

Ultimately, that is direct spending on what is a devolved area. Given that we have our own

priorities and that we work closely with our stakeholders and with industry in Scotland, we think that that resource should be given to the devolved Administrations, because we can best determine the priorities and how to spend the funds. However, unfortunately, the UK Government has decided to progress with its plans.

The Convener: Mercedes Villalba has a supplementary question. *[Interruption.]*

I am afraid that we cannot hear Mercedes. We will try to sort out the technical problem.

The next questions are from Ariane Burgess.

Ariane Burgess (Highlands and Islands) (Green): Good morning, cabinet secretary, and thank you for your responses so far. You mentioned the UK Government's £100 million seafood fund. I understand that funding will be allocated across the UK on a competitive basis. Will you expand on that? I am aware that competitive funding can be challenging—we talk about postcode lotteries and such things. Although the funding sounds like a good idea, what will the impact be on Scotland? You started to touch on that, but I would love to hear a bit more about it.

Mairi Gougeon: No problem. As I said, we welcome any additional funding that comes to Scotland, but the main problem is that it involves direct spending in a devolved area. We have our own set of priorities, but the UK Government will determine, according to its priorities, how it will spend its £100 million fund, on which we, in Scotland, have had no say even though it will affect industries and sectors that are critical to us. We have had very little involvement in the design and development of the fund, let alone any input into how it should be spent.

The concern, especially for our industries and stakeholders that would have an interest in the £100 million fund, is about duplication with the marine fund Scotland and what we are already trying to do. That causes confusion. Given that we are talking about a devolved area, we hoped and expected that the funding would be given directly to the Scottish Government, because we are best placed to determine how the money should be spent on our industries in Scotland.

Ariane Burgess: I will pull back a little and shift to questions on business development. From the SPICe paper, we have learned that the increased capital budget will support

“business viability, competitiveness as well as creating and safeguarding employment in rural areas”.

I would love to hear your thoughts on which areas should be developed in rural and coastal communities. What business development are you looking for?

Mairi Gougeon: I understand that the titles that we use in the budget sometimes do not do justice to what is involved. You have mentioned a critical part of the budget that, as you have outlined, will support business viability and competitiveness and will ensure that we safeguard employment in rural areas.

The budget heading includes a number of important funds. For example, it includes the Farm Advisory Service, the knowledge transfer and innovation fund, the food processing, marketing and co-operation grant scheme, the crofting agricultural grant scheme and the small farms grant scheme. The budget is providing support and ensuring that there is flexibility around transformation. We are also providing direct increases for a lot of those schemes, which will be critical as we go through the journey of transformation across agriculture, farming and crofting.

There is a provision for financial transactions within that, which supports the quick and early payment of farmers, crofters and land managers. There is quite a lot under the business development heading. Again, a lot of the funds are vital to the transformation programme that will be undertaken.

09:30

Ariane Burgess: I have a quick supplementary question on that. You have listed all those great programmes, and it is good to hear that some that were already in place will continue.

Will you take a moment to underscore what business development and support will help us in the just transition? In your opening remarks, you talked about the twin emergencies. Where can people who really want to start taking action around the climate and nature emergencies go? Business development will be critical for that, so it would be great to hear your thoughts on where we should head if we want to start taking action.

Mairi Gougeon: You are absolutely right. That is why the business development element is so important. Looking at some of the funds that are listed, I note that the Farm Advisory Service has been critical in offering advice and support to farmers. That service will continue to be important as we develop future policy and embark on the transformation programme. We must have that source to provide advice and support to farmers and crofters as we go through this big period of change. There is also the knowledge transfer and innovation fund, which has been really important in helping to encourage innovation in agriculture. Again, that will be really important, given the climate emergency and biodiversity crisis that we face.

So much good work is already going on, but the funds enable us to kick-start specific projects, to tease them out and to look at things that might work or could potentially go on to be done at scale. Enabling such innovation and ensuring that we have knowledge transfer will be absolutely critical. We have certainly heard that from stakeholders as well.

Ariane Burgess: That is great to hear.

The Convener: We will now try to bring Mercedes Villalba back in.

Mercedes Villalba (North East Scotland) (Lab): Thank you, convener. Is it working now? Can you hear me?

The Convener: Yes. Go for it.

Mercedes Villalba: Perfect. Good morning, cabinet secretary. I have three questions. The first is on the overall budget allocations to different areas. As far as I can tell, there is a big disparity between agriculture and aquaculture. It looks as though there is about £36 million for agri-environmental measures alone, versus £20 million for fisheries as a whole. Will you tell us a bit about the thinking behind that?

Mairi Gougeon: Yes, absolutely. In relation to the agri-environment climate scheme, the £36 million budget that is set out is our financial commitment for previous rounds of the scheme. With AECS, people enter into contracts for five years. We ran a limited round over 2021 and we extended contracts in 2020, so the amount that is set out for AECS in the budget is the commitment that we have already made to fund those projects. It is not possible for me to prejudge the 2022 round that we opened for AECS, for example, and say what the spend on that will be next year. I hope that that helps to explain why there can be variations in what that budget looks like.

Mercedes Villalba: Thank you for going into that.

My next question is about the Marine Scotland budget. It looks as though that has grown by around 45 per cent since last year's budget. Targets have been missed or pushed back for important policies such as the marine protected areas network, which was due in 2015, and for ensuring good environmental status and ending wasteful practices such as discarding. Has the additional funding that Marine Scotland received in previous budgets been appropriately spent?

Mairi Gougeon: I was going to say that the funding that Marine Scotland has received has been appropriately spent. Again, however, I note that a lot has changed, even just over the past year. We declared a climate emergency and a biodiversity emergency, and we face similar challenges in the marine environment to the

challenges that we face on land. As I outlined, the extra £10 million in resource will really help Marine Scotland to face up to some of those challenges, as well as in the drive for offshore renewables, which I mentioned earlier. We need to ensure that we enable that work, which is currently at the planning and consenting stage, to be done, and that we have in place the resources to scale it up.

We also had the Bute house agreement with the Scottish Green Party, which led us to look at our priorities, reprioritise some areas and put in place some ambitious commitments. That is why the extra investment in Marine Scotland is so important.

Mercedes Villalba: Ambitious commitments are definitely important, but the most important thing is that they are actually met and delivered. I hope that we can look forward to that.

My final question is on the marine fund Scotland, which I believe is £14.5 million. Around the world, in the wake of the 26th United Nations climate change conference of the parties—COP26—the environment and sustainability are increasingly being seen as important, and citizens and campaigners are calling for them to be prioritised. However, funds are being targeted at things such as getting larger trawlers in order to be more energy efficient, or getting more efficient nets, rather than looking at moving away from unsustainable practices such as dredging and trawling.

Will there be conditions attached to the £14.5 million for the marine fund Scotland to ensure that there is a drive to use more sustainable measures in fishing?

Mairi Gougeon: We have tried to ensure that the marine fund and any funds that we have align with the priorities that we have set out. We set out priorities in our future fisheries management strategy, but—again—a lot has changed over the past year. That was the first year of the marine fund Scotland, so we are seeking to evaluate the programme and look at what was achieved as a result of the funding that was spent. We want to ensure that, when we develop the strategies for these funds, they meet the ambitious priorities and commitments that we, as a Government, have set out and that they seek to achieve those goals.

If the committee would appreciate further information on the projects that have been awarded funding so far through the marine fund Scotland, and on the criteria that have been used, I would be happy to send that on.

Mercedes Villalba: Thank you. There are no further questions from me for now, convener.

The Convener: Okay. We will move on to Beatrice Wishart.

Beatrice Wishart (Shetland Islands) (LD): Good morning, cabinet secretary. You will not be surprised to hear that my questions are on islands issues.

Looking at the budget for Highlands and Islands Enterprise, it seems as though there has been a reduction for HIE where the South of Scotland Enterprise Agency and Scottish Enterprise have both had an increase. I think that we can all agree that business development is very important in supporting rural and island areas. Can you explain the reduction in HIE's budget, please?

Mairi Gougeon: As I said in a previous response, the overall funding for the three enterprise agencies is at its highest level since 2010. With regard to Highlands and Islands Enterprise, the spending power that it has over the coming financial year has not been reduced. The budget has been protected as far as possible, because—as you said—the enterprise agencies have a particular role in supporting economic recovery across the different parts of Scotland.

The budget allocation was based on the agency's forecast of its needs—it was the non-cash allocation that was reduced. Shiree Donnelly might be able to come in with more information on what exactly that means. The non-cash budgets are utilised for accounting charges such as the depreciation of assets and the needs that are set based on accounting standards.

The reduction in HIE's non-cash allocation does not affect its ability to continue its work on improving business and community resilience and protecting and creating jobs. Shiree Donnelly might be able to offer more information on that.

Shiree Donnelly (Scottish Government): As the cabinet secretary said, the non-cash reduction covers accounting items such as depreciation and impairments. The reduction is simply for presentational purposes. It is a separate and distinct budget category and does not impact the spend that is available for rural communities; it is just to reflect the accounting for depreciation.

Beatrice Wishart: Is the spending that is available to businesses the same as it has been in previous years?

Shiree Donnelly: The non-cash reduction does not impact on the spend that is available to businesses.

Beatrice Wishart: I am trying to get at whether HIE has the same as it had last year, whereas other enterprise agencies have had an increase. I am trying to establish what the difference is between HIE and the other agencies.

Shiree Donnelly: For HIE, the budget is marginally the same between both financial years

in terms of the funding that is available for businesses.

Beatrice Wishart: Thank you.

My second question is about the islands bond. Cabinet secretary, I note from the SPICe papers that £300,000 is being allocated for islands bonds in 2022-23, which could potentially benefit six households if they get £50,000 each. Do you think that that is sufficient to mitigate island depopulation? I give you the example of a constituent who has been looking to build a modest house on one of the outer islands. Given the high cost of getting materials to Shetland and onwards to the outer islands, it will cost them £350,000 to build their house, but it might be valued at only around £160,000. How will the island bond help someone in that situation?

Mairi Gougeon: I completely understand the points that you have raised. When I was in Shetland in the summer, I heard directly about the increased construction costs and various other issues that people face. The islands bond has never been seen as a blunt tool that will fix all those problems. I have been asked questions in the chamber about the islands bond, and it is just one strand of work that we are looking at to try and stem depopulation and support our populations in fragile communities. Many areas are involved in ensuring that we tackle the other issues that can lead to depopulation. The islands bond is one element that we feel can help to retain populations in fragile areas and repopulate depopulated areas.

As we have developed the bond, I have been keen to make sure that we undertake as much engagement as we possibly can so that, if we implement the measure, we do it right and in a way that will work. There have been a lot of misconceptions about what the bond will do and what it will look like, but that is why engagement is so important. Officials have undertaken extensive engagement so far, and that will continue. That has led us to propose the funding that we have in the budget this year. When you break it down, it looks like it may help only a specific number of households, but it is based on the engagement that we have had, and we are reflecting on the feedback that we have received. As you can imagine, there have been lots of different opinions on what it might look like and the different ways in which it might work.

It is really important that we listen, and that is exactly what we have tried to do. The funding will allow us to test some of the different approaches to the delivery of the island bond at a scale that will enable us to measure and understand the challenges and opportunities that are associated with the policy. The learning from that will allow us to develop a more effective and meaningful intervention for future years.

The commitment still remains with the funding for the islands bond, but the policy is being developed in that way purely based on the listening and learning that we have done along the way. That engagement will continue.

09:45

The Convener: Rural fishing communities face additional pressures across the board, including from the changing climate and the need to protect the marine environment. A report from last session's Environment, Climate Change and Land Reform Committee suggested that inshore fisheries groups should be funded. What consideration did you give to funding them in your budget?

Mairi Gougeon: I will have to ask Caro Cowan for the specific information on that.

Caro Cowan (Scottish Government): I am afraid that I do not have the exact detail, so it might be best if we write to the committee with further information on that, if that is okay.

The Convener: That is fine. I would appreciate that.

Ariane Burgess: Cabinet secretary, the Good Food Nation (Scotland) Bill and local food strategies will start to come through. Will we need any more funding to enable the food sector to deliver on that bill?

Mairi Gougeon: In the financial memorandum that accompanies the bill, we have set out some of the costs associated with what we currently expect in relation to the spend. The main costs are administrative and relate to consultation and the publication of the good food nation plans. We have estimated that, for the first year, costs will be somewhere in the region of £30,000 and decrease for subsequent years. We do not expect the costs that are associated with the bill to be a huge burden.

The Convener: We will move on to further questions on islands.

Dr Allan: Before I ask specifically about the islands, I will think about the Highlands and Islands a little and ask about the Crofting Commission, if I may, convener.

The Convener: Certainly.

Dr Allan: The budget for the Crofting Commission seems to be up. Will you say a bit more about the plans for how to use that budget in new ways this year, cabinet secretary? You will be more than aware of people's frustrations regarding delays when dealing with the Crofting Commission, which, I hasten to add, is not a criticism of its staff.

Mairi Gougeon: As you highlighted, there is an increase in the commission's budget. As a result of the section 22 report on the commission, a programme of work is under way to make the necessary improvements. The commission has undertaken various pieces of work. One of the report's recommendations was to undertake a workforce review, of which we are considering the implications, and to look closely at what the Crofting Commission needs to enable it to carry out its functions and deal with the backlog of cases that has emerged. The increase in funding is important to enable some of those changes to take place, to ensure that the Crofting Commission has the necessary resources to enable it to carry out its functions and to ensure that it deals with cases as effectively as it can.

Dr Allan: I welcome what you have said and the recognition of the backlog in many of the ways in which crofters interact with the commission. Part of the commission's function is to tackle derelict or all-but-abandoned crofts and, one might hope that in the future it will deal with the growing problem of speculation in crofts. Is the review of the staff and the budget an opportunity for the commission to do things differently?

Mairi Gougeon: You are absolutely right. The review will enable that to happen because it will provide the necessary resources to deal with the backlog, which should then enable the commission to look at some of the other issues that you have talked about, such as tackling derelict crofts, attracting more new entrants and implementing the crofting development plan.

We will continue to monitor the matter closely. I have regular engagement with the convener and the chief executive of the Crofting Commission to discuss on-going issues, look at the improvement plan and ensure that improvements are being made. The extra resource is so important because it will enable that work to take place.

Dr Allan: Before I ask about issues relating to the funding of island areas in the budget, I will ask another question relating to islands and, in some ways, to crofting. You are very aware of the housing problems on the islands. We have spoken before about your not being the housing minister, but where, in the Government's thinking, does the rural housing crisis come into your work?

Mairi Gougeon: You are absolutely right that housing is critical. I hear about it a lot; it is continually raised with me. When I responded to Beatrice Wishart, I spoke about how the islands bonds cannot be seen as a blunt instrument that will automatically solve all the problems that are experienced on the islands, because there are so many other vital issues, including housing and wider connectivity.

I have regular engagement through the islands strategic group, which discusses such issues. I also have regular engagement with colleagues across the Government. For example, Shona Robison, the Cabinet Secretary for Social Justice, Housing and Local Government, attended our latest strategic meeting to discuss the Government's plans for housing. Although the spend in that area does not necessarily fall within my portfolio, an action plan for rural and island housing is being developed and it will look to tackle and address some of the critical problems. The issue is raised repeatedly and we are committed to tackling it.

Dr Allan: In relation to what comes under the budget headings, you have talked about backloading some of the things in the islands programme. Can you explain the reasons for that and what that means?

Mairi Gougeon: Absolutely. We decided to separate this year's spending on the islands programme into three strands of funding. We had the islands infrastructure fund, the communities fund and the healthy islands fund—the projects from that fund were announced last week.

We committed to spending £30 million over a five-year period up to 2025—I emphasise that we are still committed to that—but we are proposing a reprofiling of the spend. Putting forward the amount that we have for this year means that we will be able to work on some longer-term infrastructure projects over a slightly longer timeframe and not be constrained by budgetary years. In essence, that means that although there is a £4 million allocation this year, there will be an increase in spend as we move to later financial years.

Jenni Minto: The budget has £3 million allocated to the carbon-neutral islands project, and the plan is to have at least three carbon-neutral islands by 2040, which supports the Scottish Government's aim to demonstrate the low-carbon potential of Scotland's islands as hubs of innovation. How we are progressing with that?

Mairi Gougeon: Our initial commitment was to progress with three islands as part of the carbon-neutral islands project, but we have now extended that to six. We have developed internal and external working groups to consider the criteria that will inform the selection of islands that will be part of the project, and we are working across Government with existing policy and funding approaches to ensure that we are not duplicating work in other areas.

We have recently commissioned a mapping exercise, which will contribute to the knowledge of carbon accounting and emissions reductions on

islands, ensuring that we avoid duplication when we begin the implementation phase of the project.

We aim to publish a report by summer this year, setting out the steps that we will take to support the six islands to move towards carbon neutrality. The £3 million that we have identified as part of the budget will support the implementation of that over the course of the coming financial year. As with the islands bonds, we want to engage and consult as we progress with the plans, because that will be critical as we proceed.

The Convener: Before we move away from the islands, cabinet secretary, what contingency funding is available to you to ensure island proofing by addressing any issues that might come up as a result of policies in other portfolios?

Mairi Gougeon: I am not too sure that I understand the question. We want to ensure—it is an obligation to ensure—that as we introduce new policy, we carry out island communities impact assessments. Those should be built into the process across Government as we look at any other areas. I do not know whether that answers your question.

The Convener: Our portfolio concerns issues around rural disadvantage. If policies that are created in the health or transport portfolios, for example, have a detrimental effect on the islands, and given that we have a sort of rural-proofing rule, do you have any contingency budgets to address such disadvantages?

Mairi Gougeon: No specific contingency budget has been identified. The whole aim of our legislation is to prevent us from reaching that stage by ensuring that island communities impact assessments are built in to policy and decision making. The assessments are required to evaluate and take into account the impacts of our policies, strategies and services on island communities. Our officials work every day to ensure that the needs of island communities are fully considered as part of existing policies and of any policies that we create in the future.

The Convener: We will move on to the theme of the climate and nature crisis.

Jim Fairlie: The agricultural transformation budget appears to have been reduced by about 46 per cent. From reading some of our notes, I am not quite sure whether you have just transferred some of that money to other areas of the budget. If you did, what was the purpose of that?

Mairi Gougeon: There have been some changes to the agricultural transformation budget. We have committed to £25 million overall in relation to agricultural transformation this year, and part of that funding is identified in the budget this year. There is also the £51 million that has

been identified for the national test programme, which is spend that we have allocated over the next three years.

10:00

One of the main reasons for reducing the agricultural transformation budget was that there are no financial transactions as part of that for this year. There are a number of reasons for that. For example, equipment was not available, which meant that it was difficult to identify options for a loan scheme that would be available for capital projects.

Any loans that we might have been able to offer would have had to be at commercial rates to avoid state aid issues and they would therefore have been unlikely to attract a wide range of applicants when compared to existing loan products. There is also no readily available mechanism that would allow commercial-type loans to be administered by the rural payments and inspections division or elsewhere in the Scottish Government.

The overall reduction in financial transactions relates to £20 million, so it made no sense for us to include that in the budget when we knew that there was no realistic chance that it would be used, for the reasons that I have set out.

Jim Fairlie: Is that the explanation that we have in paper 1? It says that questions about how much of the £40 million had been spent in 2020-21 were raised during last years' budget scrutiny in the Rural Economy and Connectivity Committee. At that point, only £18 million had been committed under a pilot scheme. Was only £18 million committed because there were not enough applications or because people could not get hold of products? What kind of products could people not get hold of and where were they coming from?

Mairi Gougeon: As, I am sure, the committee is aware, I am happy to follow up with specifics and further information on the sustainable agricultural capital grant scheme that you are talking about.

A lot of what has transpired has been completely outwith our control or the control of anybody else who applied for specific pieces of equipment. Unfortunately, budgets have not been able to be fully utilised purely because people have not been able to get access to the equipment that the fund would enable them to buy. Again, those issues were entirely outwith our control and that is why, when we look specifically at the financial transactions for this year, we do not include them as part of the budget. There is no point in taking an allocation that we know that we will not be able to spend.

That is also why we did not open another round of the fund last year. If we had opened another

round of the sustainable agricultural capital grant scheme, knowing that there were the same issues with the availability of equipment, it would have created more problems. In the allocations that we have made in this budget, we have tried to set out what we know we realistically can spend.

I hope that that is helpful, but if you would like more specific information on the capital grant scheme itself, I would be happy to provide the committee with more details, or perhaps James Muldoon would like to add something just now.

Jim Fairlie: As somebody who has been in farming, I cannot understand why a farmer would not find a way of spending money when there was money available. I would just like to understand what stopped their being able to access that money. What were they not able to buy?

Mairi Gougeon: Equipment suppliers were just not able to supply equipment on time. People have been unable to get materials in construction, and we have seen the same issues in relation to agricultural equipment. It just has not been possible to get it. That is not a problem of governance or something that the farmers have not done; the equipment has just not been available for them to access. James Muldoon might have some further information on that point.

The Convener: James, would you like to come in?

James Muldoon (Scottish Government): All that I can offer is a bit more emphasis on what the cabinet secretary has said. My colleagues have been in contact with external partners and it comes down to supply issues and manufacturing supply chains coming back online after Covid, and so on. We are in on-going discussions with external partners to monitor the situation and advice is provided to the cabinet secretary on that basis. According to the information that we got, the money was unlikely to be spent, so decisions were made accordingly.

The Convener: Just for clarity, there is a reduction in cash of about 44 per cent. Has some of that been transferred to the national test programme and the development support programme?

Mairi Gougeon: The national test programme comes from funding that was previously ring fenced for agriculture. Some £10 million of the £25 million identified is for the national test programme. The £10 million that we have put in the budget this year is part of the overall £51 million that I announced last year for the national test programme.

Of the £25 million identified for this year, there is the £10 million that I have just mentioned, there is the £5 million capital spend and there is a further

£10 million for development support. I hope that that explains the situation.

The Convener: Thank you for that. Before I let Rachael Hamilton in, I have a practical question. We are very much aware that things such as slurry injection equipment are expensive and it is sometimes not economically viable for smaller agricultural units to purchase them. What consideration is being given to opening up some of these agricultural capital grants to agricultural contractors and people working through machinery rings and so on, who do not have agricultural holding numbers, so that we can get the biggest bang for our buck and the best return for our investment?

Mairi Gougeon: Getting the biggest bang for our buck is exactly what we want to do with our spending, and we are identifying an amount that we know that we can spend and that we hope to spend over the course of the coming financial year.

On holding numbers, again, I would be happy to get back to the committee if you know of specific issues with people being unable to access the previous round of the grant scheme. We have been evaluating the scheme and, as part of our discussions with the implementation board, we are considering whether the fund can be better targeted and are looking to learn lessons from the pilot round that was run so that we can better spend the resource that we have allocated in the budget this year.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I know that this session is focused on environmental questions, but I would like to take you back to a point that you made earlier, cabinet secretary.

We know that future farm support is guaranteed until 2024. However, the Scottish Fiscal Commission's analysis of the Scottish budget shows that there is a risk of there being a £190 million tax receipt shortfall next year, and a shortfall of up to £500 million over the subsequent four years. The Scottish Government also faces slower growth in income tax revenues compared with the rest of the UK. After 2024, where will the agricultural support budget come from?

Mairi Gougeon: Again, we have made a commitment about the funding that we have and how that will be spent to give people in our agriculture sector some stability and security by letting them know that they can rely on those grants, which means that they know what their income will be over the next few years.

Obviously, a lot of the spend on agriculture funding across my portfolio previously came from the EU. There are still some legacy schemes that receive funding from the EU, but that will taper off,

and all the funding that we get will come from the UK Government. However, as I have said in previous responses, we are not getting the full replacement funds that we were promised. On top of some of the issues that I identified, that means that we will face a £95 million shortfall in agriculture as well as the significant shortfall that we face year on year in relation to marine funding.

Rachael Hamilton: That does not really answer my question about where the money will come from in the Scottish budget.

Jim Fairlie asked about the national test programme. The National Farmers Union Scotland has called for front loading of £10 million so that we can support Scottish agriculture in relation to carbon audits, baselining, soil testing and nutrient management. Have you agreed to that?

Mairi Gougeon: Those things are the subject of our discussions with the implementation board, which—as the committee will be aware—I co-chair with the NFU Scotland president, Martin Kennedy. Discussions are on-going as to exactly how the funding will be allocated and how we will progress the spend to implement what we have set out in part 1 of the national test programme, with regard to rolling out the carbon audits, the nutrient management plans and other elements that we will look to introduce over the years of the programme. Again, however, I note that that is all subject to the discussions that we are currently having.

Rachael Hamilton: It is on record that the national test programme will be rolled out in spring this year. I hope that the committee and the Parliament can get an announcement very quickly, rather than continually being referred to the oversight implementation board, because we are looking for certainty.

I take you on to the comments from the UK Climate Change Committee, which highlighted agriculture as an area of concern in its 10th annual progress report, “Progress reducing emissions in Scotland—2021 Report to Parliament”. It said that no strategy is in place to achieve emissions reductions and that the ambition is not deliverable.

Farmers need to make decisions and to have the ability to plan, so they need to be given certainty with regard to the schemes that you are supporting in the budget. Why has the funding for the agri-environment climate scheme been cut from £55 million to £34.2 million? In addition, we know that the application system is very restricted and has attracted huge criticism from farmers.

Mairi Gougeon: I come back to my response to Mercedes Villalba, because what you have described is not a straightforward assessment of how the budget works, in particular the lines that relate to AECS. The £36 million in the budget line

for AECS this year is actually contract spend from previous years to which we had already committed. It also reflects the projects that have been funded through the 2021 round.

It is not possible for me to predict right now, given that we will be opening the 2022 round for applications this month, what the budget for the following year will be. The budget line therefore simply reflects previous contracts and financial commitments that we have made, so it is not quite accurate to portray it as a cut.

In addition, we had to run a more restricted round last year. We had an extension of contracts in 2020 purely because we were not getting the financial certainty from the UK Government to enable us to open another round. AECS contracts run for a period of five years, and without any financial commitment or certainty it was impossible for us, at that time, to reopen a full round.

I know that that was a huge cause of concern and frustration; I heard directly from a lot of farmers about that at the time. However, we were left with little option—or even no options—with regard to what we could do. It would have been irresponsible of us, over the past two years, to open full rounds for the future without having a bit more clarity. I hope that the announcement that has been made about reopening this year, and the commitment until 2024, provides clarity and an assurance that we are committed to continuing the programme.

Rachael Hamilton: Given the new Green and Scottish National Party co-operation agreement, do you believe that the Scottish budget, in terms of voting it through, is a done deal? What do you feel is the right way for Parliament to scrutinise the budget? It is clear that you now have partners in the Government who will support the budget. Can you comment on whether there is an agreement for the Government to look at setting the same trajectory as England in terms of environmental goals and the public-money-for-public-goods policy?

Mairi Gougeon: On your last point, about taking the same trajectory as England, you will be aware that we are taking a different road because we do not agree with the policy decisions that have been taken in England in relation to future agricultural support. That is why it is vital that we formulate our own policy in Scotland.

10:15

One of the key commitments in the SNP manifesto was about maintaining direct payments, and we have also committed to making half those payments conditional by 2025. That is very much the route that we want to go down, because we want to support active farming and food production

as well as ensure that we tackle climate change and the biodiversity crisis that we face. That approach is quite different from the approach that has been taken in England, which has been met with quite a lot of concern from the agricultural sector.

Rachael Hamilton: Finally, I reiterate that the Climate Change Committee has said that there is no strategy in place to achieve emissions reductions and that your ambition is not deliverable. It is there in black and white. The agricultural transformation fund has been cut by 88.9 per cent. How are you going to deliver on your ambition when the funds that you have are not being allocated specifically to achieving it?

Mairi Gougeon: I do not agree with that assertion at all. I hope that I have been able to explain in my previous responses to you, and in my responses to some of Jim Fairlie's questions, why we have set out what we have in the budget. There is no point in us allocating money, or looking to protect moneys, in the budget that we know for a fact that we will not be able to spend because of some of the issues that I have outlined, whether in relation to financial transactions or the capital schemes for funding equipment. There is no doubt that, if we did that, and there were huge underspends in budgets and areas that we had not been able to progress as a result, you would be criticising me in my future appearances at committee.

I have set out the realistic level of spend that we can hope to achieve over the coming financial year, while firmly setting us on the path for transformation. Again, I come back to the work of the implementation board in ensuring that we co-develop the approach with our stakeholders and with industry. That is where the national test programme comes in. That work, as it progresses from spring onwards, will be vital, because we need to take the whole industry with us. I hope that some of the measures that we have set out in that regard will enable that to happen.

Rachael Hamilton: Sorry, but I completely disagree with the cabinet secretary on that. We are talking about the Bew money, which is £51 million—that is not new money. I cannot see the Government making a commitment to the national test programme.

Mairi Gougeon: I have already said that the money that we had identified for that has been ring fenced specifically for that purpose, and for looking at agricultural transformation. That is exactly what we are spending the money on.

Rachael Hamilton: I will leave it there, convener.

The Convener: We move to questions from Jenni Minto.

Jenni Minto: I return to Jim Fairlie's questions on the issues with the supply chain for procuring agricultural equipment. Can the cabinet secretary explain what the impact of Brexit has been in that regard?

Mairi Gougeon: Brexit has undoubtedly had a huge impact across the portfolio, and has undoubtedly led to a lot of the issues that we are currently experiencing, whether in agriculture, fisheries or our food and drink industry. There has undoubtedly been a huge impact right across the portfolio when it comes to Brexit.

The Convener: We have no further questions on the budget, so I call this session to a halt. We will come back to discuss EU exit at agenda item 3, after a 10-minute comfort break.

10:18

Meeting suspended.

10:30

On resuming—

Impact of European Union Exit

The Convener: Our third item of business is evidence on the impact of EU exit on the rural affairs and islands remit. We welcome back the cabinet secretary and Caro Cowan, along with Jesus Gallego, deputy chief veterinary officer, and Jen Willoughby, head of the national and international regulatory alignment unit. I invite the cabinet secretary to give an opening statement.

Mairi Gougeon: I do not have an opening statement, convener. I am happy to move to questions.

The Convener: I want to look at the impact of the common frameworks on, in particular, the future of Scottish agricultural policy. We have been told that consideration will be given to the role that the Parliament might have in the on-going monitoring and scrutiny of the frameworks, post implementation. In the previous parliamentary session, the Environment, Climate Change and Land Reform Committee raised concerns about the lack of transparency around the development of the common frameworks. What specific role is there for stakeholder engagement and parliamentary scrutiny in the process of putting together those common frameworks, particularly when it comes to the exclusion of certain provisions from the internal market access principles?

Mairi Gougeon: No problem. The scrutiny of the frameworks is important, and we remain absolutely committed to working collaboratively on common frameworks, in cases in which those are in Scotland's interests, on the basis of consensus and in line with the principles that have been agreed.

In essence, the frameworks offer a model for progress by agreement and collaboration between equals that we think can be usefully applied to intergovernmental relations in the UK more widely. We recognise that there will be policy divergence; however, the model is the means by which we can try to manage that.

However, we face significant threats to the common frameworks process—a process that we engaged with in good faith—predominantly from the United Kingdom Internal Market Act 2020 and from the Subsidy Control Bill, which is currently working its way through the UK Parliament and which we believe is an assault on devolution the likes of which we have not seen since the Scottish Parliament was established. We remain fundamentally opposed to the imposition on Scotland of such legislation.

When it comes to a scrutiny role for the Parliament and for stakeholders, we are committed to transparency. Stakeholder engagement and parliamentary scrutiny are a critical part of the framework process. That is why we were clear that greater clarity was needed on the impact of the 2020 act and on the interaction of the frameworks with some of the wider cross-cutting issues before meaningful scrutiny by the different legislatures within the UK and by stakeholders could commence. We remain committed to ensuring that full scrutiny of each framework can take place, that stakeholder engagement occurs and that the outcome of those processes is reflected in common frameworks before their final agreement and implementation.

I emphasise that the frameworks are policy neutral. They are intergovernmental arrangements for managing and agreeing policy; they are not, in themselves, policy innovations. In many cases, they just reflect existing arrangements and agreements between Governments.

I know that a number of frameworks that are relevant to the portfolio are due to be published. I believe that that is going to happen this month. In one of my previous roles, I took part in the scrutiny of one of the other frameworks that the Scottish Parliament was asked to consider. Such scrutiny is important. The frameworks that fall within this committee's remit will be available shortly.

The Convener: More specifically, what exactly is your understanding of Parliament's role in scrutinising the development of the common frameworks? What will Parliament's role be in the scrutiny process in future? What has that meant in the past, and what will it mean in the future?

Mairi Gougeon: Parliamentary scrutiny of the frameworks is important, and we are committed to engaging in that process. However, it is up to each parliamentary committee to determine the time and depth of scrutiny needed for each framework. The process for that was agreed at official level between the Scottish Government and the Scottish Parliament, and was set out, around the start of last year, I think, by the then Cabinet Secretary for the Constitution, Europe and External Affairs, Mike Russell. He set out a flexible approach that depended on the size and complexity of the proposed area for consideration.

Obviously, the four legislatures will review the same version of the provisional frameworks, which will not be finalised until all the Parliaments have had the chance to fully scrutinise the relevant framework. As I said, in a previous role, I took part in the Health and Sport Committee's scrutiny of one of the frameworks at the start of last year. That is one of the frameworks that has undergone a formal scrutiny process by the Scottish Parliament. I think that there were others that

related to hazardous substances, planning and nutrition labelling, composition and standards.

The four Governments have agreed to a revised timeline that would secure ministerial clearance for the final frameworks ahead of the pre-election period in Northern Ireland, which was anticipated to take place in mid-March this year. UK Government delays in obtaining ministerial clearance to publish the other frameworks leaves a limited window for completing the scrutiny process ahead of that pre-election period. Therefore, as it stands, the earliest opportunity for the publication of the other frameworks for parliamentary scrutiny is the end of the month. As I said, there are another six frameworks that will be relevant to the immediate work of the committee and its portfolio interests.

The Convener: I thank you for that answer but, specifically, what is your understanding of how, in practice, the Government will engage with the Parliament with regard to future frameworks that revolve around Scottish agricultural policy? In practice, how will you engage with the committee?

Mairi Gougeon: As I said, I believe that the process for engaging on the frameworks that have been published has already been set out. However, it will be up to the committee to determine how it undertakes that scrutiny. Obviously, I am willing to engage in that process with the committee. I want to be open and transparent and to work with you as much as possible. If you want to have a discussion about some of the frameworks that will be coming forward and how we will undertake that process—although some of that is for the committee to determine—I am more than open to engaging in that process with you.

The Convener: We would certainly welcome details of exactly how the Government is going to engage with the committee on that.

Jim Fairlie will now ask his questions.

Jim Fairlie: Cabinet secretary, I would like to delve into the impact of the United Kingdom Internal Market Act 2020 and common frameworks on our devolved remit. I remember clearly that I raised concerns after the Brexit vote in 2016 about where competence would lie with regard to how the Scottish Government as a devolved legislature could continue to fund and work with agriculture in Scotland. At the time, I remember a lot of talk from the UK Government about these common frameworks, but it could never quite tell me what they meant and where the power would ultimately lie. The Scottish Government's view is that

“the common frameworks approach provides all of the claimed objectives”

of the internal market act

“in guaranteeing market access across the UK, while respecting devolved competence, and, crucially, effectively providing agreed minimum standards which all producers must meet, avoiding the risk of competitive deregulation while giving producers and consumers clarity and certainty.”

What impact will the internal market act have, and is it necessary when common frameworks are supposed to work across the UK?

Mairi Gougeon: No, I do not believe that it is necessary, because it completely undermines the common frameworks process. As I said in a previous response, we engage with the process in good faith, but there will obviously be policy divergence on some lines. The common frameworks process was meant to address—it is a policy-neutral framework—a means for the devolved Administrations to work together on an equal basis to manage policy divergence while recognising and respecting the specific roles of the devolved Governments.

However, what the internal market act has done, and what the Subsidy Control Bill will do, is completely undermine that process and the meaningful engagement that we expected to have, because it means that the UK Government has the power to impose certain measures or restrictions on devolved Governments. Common frameworks were a collaborative approach that was built on the basis of parity and respect for devolution.

As it stands, the 2020 act's market access principles would, in many if not most circumstances, undermine any policy divergence agreed in common frameworks. The process has been developed to ensure that policy divergence agreed in common frameworks is protected from the 2020 act's market access principles. UK ministers confirmed that in a statement to the UK Parliament on 9 December. That process reflects commitments that were made by UK ministers during the bill's passage in December 2020. Through a common framework, the UK Government committed to using the powers that the act confers on UK ministers to exclude that policy area from the effect of the act.

It is vital that UK ministers honour that commitment consistently, because the sustainability and viability of the framework process relies on that. These pieces of legislation are frustrating because, as a member of the EU, we were able to develop and tailor our policies to our needs through the principle of subsidiarity. This is a backwards step that undermines our power to set our policies based on what best meets the needs of the people of Scotland.

Jim Fairlie: We will come back to the Subsidy Control Bill. Perhaps the clerks or the convener can confirm that we invited George Eustice and a UK Government minister to talk to the committee

about the impact of Brexit and the internal market act on devolved powers.

Should we be concerned about specific areas of agriculture policy in Scotland being undermined by the UK Government's use of the internal market act? This issue is not part of the committee's remit but, for example, the UK Government could undermine minimum unit pricing of alcohol. Is there anything in the committee's remit that we should be concerned about?

Mairi Gougeon: There are specific concerns in some areas. As we have gone through the process, those policy areas have gradually started to emerge. I remember discussing the food and feed safety and hygiene framework, which I mentioned earlier, at a previous appearance at the Health and Sport Committee. Discussions were held in relation to the framework and a potential divergence in policy on genetically modified organisms. That could be impacted.

Other areas are emerging, too. If it would be helpful, I would be happy to follow that up with the committee and outline current areas of concern in relation to the internal market act. One of the key concerns in relation to agriculture is the Subsidy Control Bill, which you said we will come on to, given that it is working its way through the UK Parliament.

Jim Fairlie: We have not yet had a UK minister come to the committee, but I confirm that we will.

10:45

The Convener: Certainly. We wrote to George Eustice and got a response. Unfortunately, he was unable to attend on the date that we asked, but I am confident that we will have him in front of us at some time in the near future.

We move on to questions from Mercedes Villalba on keeping pace powers.

Mercedes Villalba: My first question relates to fisheries. The cabinet secretary will be aware that the EU has taken action to put an end to the practice of discarding in fisheries. I understand that it is the Scottish Government's stated position that it wishes to rejoin the EU. Is the Scottish Government committed to a discard ban? If it is, what steps is it taking to introduce such a ban?

Mairi Gougeon: You are absolutely right. On keeping pace, the Government has made a commitment to align with the EU and, potentially, go further where it is in our best interests to do so. Ultimately, we want to become an independent country and join the EU. We want to make that as streamlined a process as possible. In some policy areas, it will not always be possible to replicate like for like everything that happens in the EU. Some of it will not be relevant and some of it might

not be legally possible. However, it is our stated policy intention to align with the EU as much as possible.

The specific policy that you talked about has been on-going for a number of years and we have already applied it in Scotland.

Mercedes Villalba: My second question is about the management of fisheries. I understand that UK fisheries are currently managed under the UK Fisheries Act 2020 and that the SNP in Westminster opposed that legislation but the Scottish Government in Holyrood gave it legislative consent. Does the Scottish Government intend to introduce its own legislation to govern fisheries in Scotland—for example, a Scottish fisheries bill?

Mairi Gougeon: We do not have plans for legislation on fisheries management.

The Convener: In session 5, the Scottish Government undertook to work with Parliament to agree an appropriate and proportionate decision-making framework for parliamentary scrutiny of the commitment to maintain regulatory alignment that would provide an appropriate level of consultation at the early stage of policy development. Where are we at with that?

Mairi Gougeon: As you said, we are committed to working with Parliament to consider that scrutiny. I know that this committee and the Constitution, Europe, External Affairs and Culture Committee have made representations on the approach that is taken in that regard. The Cabinet Secretary for the Constitution, External Affairs and Culture, Angus Robertson, will respond to those representations in due course.

Dr Allan: We have rightly talked for a while about the legislative and constitutional fallout from Brexit. I will ask a little about the economic consequences in rural Scotland, particularly the impact on population in rural areas. You will be relieved to know that I will not give a village-by-village account of the impact of Brexit on population in my constituency. Suffice it to say that there are fragile communities where it has made a difference. What evidence or information do you have about the impact on rural Scotland of the absence to some extent of people from eastern Europe?

Mairi Gougeon: The evidence that we have has shown that there has been a dramatic drop. You will have heard a lot of that evidence articulated in the debate on labour shortages that took place yesterday. My rural affairs and islands role includes responsibility for the food and drink industry, which has been heavily affected by Brexit. You can see that there has been a massive shift and a drop in population in relation to the

industry's labour needs. There is no doubt that there have been dramatic changes there.

We have had to consider specific things that we can do within our own powers. Yesterday, I announced some of the rural visa pilots that we will consider. It is very frustrating that our labour needs and population needs tend to be ignored by the UK Government. A number of approaches have been made by me and by colleagues across Government to UK ministers in the Home Office, which have largely been ignored. I think that more than 19 attempts were made at the last count, whether by letter or otherwise, to address some of the issues that we are facing at the moment. There is a refusal to engage with us on some of the issues, unfortunately.

Dr Allan: You have mentioned the food and drink sector, but I would be interested to know what contact you have had from other sectors. The obvious ones are fishing and fish processing, but there is also the care sector and tourism. What approaches has the Government had from people in business about what they feel the impacts are?

Mairi Gougeon: They feel that the impacts are massive. I undertake extensive engagement with stakeholders across the piece, and labour is the issue that has been raised first and foremost above any others. A lot of businesses have been at crisis levels.

There is a fortnightly meeting with the food sector resilience group, at which we engage with our food and drink stakeholders. I understand, from hearing about some of the issues that have been experienced, that 63 per cent of seafood processors have experienced shortages and that some of them are up to 15 per cent down. I have heard story after story about various businesses losing out on multimillion-pound contracts purely because they were not able to fulfil the orders required of them, as they did not have the staff available to them.

There was also the announcement on Christmas eve about the seasonal agricultural workers scheme. Disappointingly, it will be tapered off over the course of the next few years, and that has been met with anger by many of our stakeholders and by NFU Scotland, who are seriously concerned about the impact of labour shortages on the sector.

Those are the issues that we continue to raise time after time with the UK Government, as shortages are at critical levels. I would be happy to check the figures on social care and tourism with colleagues who are responsible for those areas and to come back to the committee with further information as to the impacts there. As acute as the shortages are across the sectors for which I am responsible, there are acute shortages across

the piece, which disproportionately impact our rural communities.

Dr Allan: Earlier, you touched on the UK Government's approach to finding responses—"solutions" is perhaps too strong a word—to some of these issues. For instance, approaches have been made for lorry drivers and care workers. Those proposals have been for relatively short-term interventions on visas, for example. Given the interconnected nature of communities and local economies in rural Scotland, do those short-term proposals work there, or do we need longer-term solutions?

Mairi Gougeon: No, those proposals do not work. That has probably been shown by the numbers of people who have taken up some of those initiatives. We can look at this the opposite way round, and this is part of the problem with the visas that were given for certain occupations a few months ago. The visa for butchers, for example, was for about six months. Who is going to uproot their life for such a short period of time knowing that there is no opportunity to stay on beyond that period? That is essentially what we are asking people to do—to uproot their lives and move to another country. I do not think that a lot of people would find that to be worth their while for such a short window of time.

Some of the initiatives were for a few months only. When we analysed the time that somebody would be able to spend in the country by the time their visa application had been processed, we saw that it was somewhere in the region of six to eight weeks for some of the occupations for which three-month visas were proposed. Those are all short-term ideas that do not go anywhere near to addressing the crises that a lot of these industries face.

I know that a lot of sectors feel that there have been specific exemptions, such as for butchers, but those exemptions have not been applied to other sectors that are also facing critical shortages. That has caused a lot of concern.

There are a lot of outstanding issues. That is why we repeatedly call for these issues to be addressed. As we announced yesterday, some of the pilot work that we are trying to do ourselves is looking to address these issues in the medium or longer term. We want to work with the UK Government on solutions, but it takes both of us to be willing to look at them and to engage meaningfully. We are certainly willing to do that.

The Convener: There are two brief supplementaries on this topic from Rachael Hamilton and Jim Fairlie.

Rachael Hamilton: I want to pick up some of the conversations that the committee has had about depopulation of the islands. Cabinet

secretary, do you recognise that, prior to Brexit, there were long-standing issues with the general perception of some of the types of part-time work and jobs that are on offer, the geographical and transportation challenges, the lack of affordable housing, and so on? We recognise that those are long-standing issues and that they perhaps have been exacerbated by Brexit. However, we are still attracting workers, if not necessarily into Scotland.

Mairi Gougeon: I do not think that there is any question that those issues might have been exacerbated by Brexit because it absolutely has exacerbated them.

You spoke about depopulation of some of our rural areas and islands. We have spoken in previous meetings about initiatives such as the islands bonds, the rural and islands housing plan and the investment in connectivity, and they are vital in trying to address the endemic issues that we face in those areas.

I engage with our stakeholders. I go out to speak with our farmers, our fishers and our food and drink businesses, and all I am saying to you is exactly what is being said to me about the availability of labour. At some point before Christmas, the Prime Minister was quite insulting when he said that all the jobs are low paid and people need to improve their working conditions, as if that would solve all the problems, which is not the case. It did not matter how much some of those businesses were offering; they were just not able to attract people to fill the positions.

We really need some meaningful interventions to address these critical issues in the immediate term. That is why we have repeatedly called for a number of different initiatives and for meaningful engagement from the United Kingdom to address some of these problems.

Rachael Hamilton: It is disappointing that the Scottish Government is not concentrating on ensuring that the industry is attractive to the domestic workforce.

Mairi Gougeon: That is not the case at all. We are looking at a number of employment initiatives. Of course we want to encourage people to work in these different sectors. The food and drink industry is such an exciting sector and there is so much that we can do to promote it as a career that our young people can engage with and get involved in.

A number of initiatives are working on that, and we are also looking at some initiatives to try to tackle depopulation. However, there is no getting away from the fact that, although we can do these things, they are medium to long-term interventions but the immediate critical issue is helping businesses to survive. That is what we need to address.

Rachael Hamilton: I appreciate your warm words, but, for example, the answer to a parliamentary question of mine is that there are 12 female butchers in Scotland. Workforce planning has been left short by the Government.

11:00

Mairi Gougeon: I do not at all agree with that. Absolutely, there is scope to try to get more women into some industries, and I come back to some of the investment that we are making through the budget. This year, we have increased to £400,000 our investment to develop skills in agriculture and get more women involved in it. That includes a number of different strategies. In fisheries and aquaculture, too, we have commitments, and work is under way to deliver on that.

The Convener: Jim Fairlie has a short supplementary question.

Jim Fairlie: I am slightly confused by that last line of questioning. There is no doubt that Brexit has caused massive problems for our workforce. I have had constant correspondence from businesses in my constituency and right across the country about our huge lack of labour. I take the point about the demonisation of some industries, in calling them low skilled or saying that they involve only labour. A lot of the jobs that we are talking about are highly skilled, and the loss of our European workforce has been significant.

Recently, I had a discussion with a butcher, who made the point that, although he could increase his wages by 10 or 15 per cent, he would only be taking people from some other place, because the labour pool is stagnant. It is stuck, because we do not have freedom of movement.

Cabinet secretary, what steps are you taking? I know that you have instigated a discussion with the UK Government about a Scottish visa scheme to try to tackle the Scottish issue, and I think that there might be a rural migration pilot scheme as well. Will you outline what those schemes are and how they might help us to get through the current labour shortage crisis?

Mairi Gougeon: Absolutely. You made an important point on the portrayal of a lot of jobs as “low skilled”. I refuse to use that term because—you are absolutely right—those jobs are highly skilled, and it does not help to portray them in such a light.

What I outlined and announced yesterday was on the back of the Migration Advisory Committee’s recommendation to develop a pilot scheme on rural migration. In February last year, our expert advisory group on migration and population published a report on options that could be

explored when developing the visa pilot scheme. Three potential options were outlined in the report.

In looking at options, it is not as though we are doing something completely new. Different schemes are currently in operation throughout the world, and there are many different examples that we can learn from.

For example, one of the three potential options that are outlined in the report is a remote and rural partnership scheme, which is modelled on the Canadian Atlantic pilot scheme. Such a scheme would be employment based and would be part of a wider partnership with local authorities, employers, public services and the voluntary sector, which would play a more active role in identifying which areas and employers would benefit the most from the scheme, and would be engaged in delivering an integration plan. There are also proposals for a Scottish visa that look at how we can expand the skilled worker route.

We are keen to work with the UK Government in, I hope, delivering much of that. The previous Home Secretary had been willing to commit to that, so we hope that that commitment is delivered in full and that we get the support to continue that work. It is certainly the case that we are not standing still on the matter. We have lots of different ideas about how such schemes can work in Scotland's best interests. I put forward just some of those ideas yesterday.

The Convener: Before we move to the next section, I have a question. Brexit has undoubtedly had an impact. However, given that we are where we are, what work is the Scottish Government doing to identify how much of the reduction in numbers is down to Brexit, how much is down to the Covid pandemic and how much is down to other issues that other European countries are also facing?

Prior to Brexit, and prior to Covid, Scotland appeared to attract few overseas workers who came to the UK; a relatively small percentage of those who came to the UK ended up in Scotland. What work are you doing to identify all the impacts in order to look for solutions to address labour shortages?

Mairi Gougeon: I hope that I have been able to outline in previous answers some of the work that we are doing to try to address that issue. For example, we are looking at tackling depopulation in our rural areas and on our islands, and I have outlined some of the pilot projects that we are considering to try to deal with some of the issues that we are experiencing.

I do not think that it is necessarily fair to characterise the situation by saying that everybody in Europe is facing the same problems. That is an oft-quoted characterisation in relation to the issue

with heavy goods vehicle drivers in particular, with shortages being experienced across the piece, but there is no denying that the situation here has been particularly acute since Brexit.

I am outlining to the committee exactly what I have heard when speaking to businesses about the various impacts that they have seen; that is the information that we have. I am happy to follow up with the committee and provide more specifics, if that would be helpful. I hope that some of the work that we are doing to try to tackle those problems, as I have outlined today, will start to have an impact. However, I come back to the critical and immediate issues that we are facing, on which we need engagement. All that we are asking is for the UK Government to work with us on addressing some of those problems.

The Convener: Absolutely. Thank you for that offer. It would certainly be interesting, and most helpful, to find out how we can allocate a percentage of the reduction in numbers in the labour market to the various crises that we are facing.

Rachael Hamilton: Cabinet secretary, we have been told by numerous witnesses, including NFU Scotland representatives, that a seamless UK internal market is integral to Scottish farming. How will any changes that are made to domestic policy in a devolved context affect the integrity of the important agricultural market in Scotland?

Do you envisage any issues as a result of deciding to align with the EU on, say, a ban on glyphosate or of not wishing to progress with gene editing? Such decisions would mean that production costs for farmers in Berwickshire, for example, would be higher than those for farmers in Northumberland, in England. Will your decisions be a backward step that leaves Scotland's farmers at a disadvantage?

Mairi Gougeon: Some of those issues are ongoing in the EU, so we continue to monitor them. As members of the EU, we had the potential to set our own policies, and we had the ability to diverge, which did not cause any particular issues. For example, we had specific schemes in Scotland that did not exist elsewhere in the UK. It is those specific schemes, which address the specific constraints and types of land that we have in Scotland, that are now very much under threat as a result of both the United Kingdom Internal Market Act 2020 and the Subsidy Control Bill. There is no getting away from the issues that we face in that regard.

I come back to the common frameworks process. That process helps us to manage divergence, because it is only fair, given that the powers and the responsibility rest with the devolved Administrations, that it is up to those

Administrations, which are elected in those countries, to take the policy decisions that work best for the populations that they represent. It is up to me to deliver on the commitments that we have set out in our manifesto and on what we have set out in the programme for government. All that we want is the ability to carry out that work.

As I highlighted in a previous response, agricultural policy is taking a different road in England from the route that we have set out to take in Scotland. We have made different commitments, and that is where the fear of the United Kingdom Internal Market Act 2020 and the Subsidy Control Bill comes in, because those pieces of legislation could well constrain our policy choices in the future.

Rachael Hamilton: Can you give examples of any constraints that your policy decisions might place on farmers in Scotland, if you do not adopt the same approach, that would not affect the integrity of the important UK internal agricultural market on which Scotland relies?

Mairi Gougeon: We also have other important markets to which we now no longer have access, unfortunately, because of Brexit. Again, that is why we had the common frameworks process, with which all Administrations engaged in good faith. That process is about helping to manage policy divergence, which is not a threat to any one Government—there was divergence when we were members of the EU. All that we ask for is the ability for Scotland to continue to do that.

If the Subsidy Control Bill is passed in its current form, it will constrain our policy choices in the future. For example, we have support payments for our less favoured areas that do not exist in other parts of the UK, and our ability to continue to offer such payments might well be put at risk, given the powers in the bill as it is currently drafted.

It is not only the Scottish Government that is raising those concerns; the same concerns have been raised by the Northern Ireland Executive and the Welsh Government. They, too, are seriously concerned about the powers in those two pieces of legislation, which completely undermine the collaborative work that we have all done to establish the frameworks. That might lead the devolved Administrations to lose faith in the process altogether, because the UK Government is trying to retain control of those powers and to constrict our policy-making powers.

Rachael Hamilton: What kinds of domestic policy choices do you want to make that the rest of the UK does not want to take? How will those affect Scottish farmers?

Mairi Gougeon: One of those choices is to maintain direct payments, which the UK

Government has said it will phase out. Again, the Subsidy Control Bill could have a serious impact on our ability to do that, or to offer payments through the less favoured area support scheme or some of the coupled support schemes that do not exist elsewhere or in which there might be policy divergence in the future.

Rachael Hamilton: The only policy divergence that you can foresee relates to direct payments.

Mairi Gougeon: No—that is one area, but it is a fairly substantive area, given the size of the payments involved and the fundamental nature of the support for our whole agricultural sector.

Rachael Hamilton: You mentioned this in answer to a previous question, but I would like a bit more detail. What progress has been made in developing the common frameworks? Do you believe that the Scottish Government has the power to make regulations on food, for example?

Mairi Gougeon: With regard to the common frameworks, I know that there are six areas that relate to the committee's remit. Those frameworks should be published at some point towards the end of the month, and it will then be up to the committee to scrutinise them.

I am sorry, but I have forgotten the last part of your question.

Rachael Hamilton: Do you believe that you have the necessary powers to make regulations on food, for example? You have stated previously that you did not have such powers.

Mairi Gougeon: I do not know whether there are particular issues in that regard. Perhaps my officials have further information on food regulation.

The Convener: I can see no volunteers.

Mairi Gougeon: That is one area on which I would be happy to follow up with the committee after the meeting.

Rachael Hamilton: Okay. I will give you a helping hand by quoting what the Government has said:

“Without a power to keep pace with changes to EU law Scottish Ministers would lose the ability to introduce, amend or update secondary legislation on livestock matters in line with EU legislation.”

Bearing in mind that your goal is to keep pace with EU powers, that is what I am getting at.

Mairi Gougeon: I know that there are powers in legislation that we have introduced in Scotland, such as the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, that enable us to maintain alignment with the EU. The 2020 act includes provisions on matters such as marketing standards and covers a wide range of food

products. I believe that we have the necessary levers in that act, but I would be happy to look into that and follow up with the committee in more detail.

Rachael Hamilton: It would also be helpful for the committee if you could give us more examples of the financial implications that you talked about with regard to domestic policy decisions, in particular on direct payments, which you mentioned. Perhaps you could give us an insight into what you are thinking, because we are running out of time, without any future farm policy direction, as it were.

11:15

Mairi Gougeon: We have already committed to maintaining that level of spend throughout this session of Parliament. I know that the committee is aware of the work that is under way with the implementation board to help to design and develop our future policy.

It is not possible for me to give the committee the full financial impact. The problem with the Subsidy Control Bill is that it could constrain our ability to make future policy decisions so, sadly, it is not possible to quantify the impact. When I spoke about figures earlier, I was talking about the scale of the overall investment that we make in our agriculture sector and the fact that our policy choices about how to direct that investment are constrained.

The Convener: I am conscious of the time. Alasdair Allan has a brief supplementary question.

Dr Allan: In her questions, Rachael Hamilton attributed support for the United Kingdom Internal Market Act 2020 to the NFUS. There is certainly support for access to markets in England, but more than one committee of the Parliament has had representations from the NFUS about its concerns about the 2020 act. For instance, Andrew McCornick, the former president of the NFUS, said:

“the UK Internal Market proposals put forward limit the devolved administrations’ ability to act if any standards were lowered and give the UK Government a final say in areas of devolved policy”.

The NFUS said that publicly, and we have had representations from the industry to more than one committee. Has the Government had representations about some of those concerns, too?

Mairi Gougeon: Absolutely. Some of the concerns that I have outlined about the Subsidy Control Bill and the United Kingdom Internal Market Act 2020 are shared concerns. That is why we have continued to raise them with the UK Government.

I will further explain some of the impacts that we can expect from the Subsidy Control Bill. Agriculture is fully devolved. Farmers and crofters in Scotland face challenges that do not exist elsewhere in the UK, but the principles that are set out in schedule 1 to the bill put at risk our ability to develop future policies that are tailored to address those challenges. For example, the incoming coupled support payments play a vital role for many of the businesses that operate in some of our most remote and constrained areas, but they would be incompatible with the principles that are proposed in the Subsidy Control Bill, particularly those about encouraging a change in the economic behaviour of the beneficiary.

Agriculture is carved out of many subsidy control regimes and is covered by the World Trade Organization agreement on agriculture, so it does not make sense for it to be included in the Subsidy Control Bill. The UK Government told us that a consultation was undertaken and that the vast majority of respondents agreed to agriculture’s inclusion in the bill. We have asked for that consultation information to be shared with us but, as yet, it has not materialised. At first, we were told that it could not be shared because of data protection legislation. We asked for anonymised examples to try to understand the rationale for including agriculture in the subsidy regime, because it is unusual for it to be included in that way.

The Subsidy Control Bill could also prevent us from retaining alignment with the EU if schemes that we want to develop and adopt are incompatible with the UK regime. The Minister for Business, Trade, Tourism and Enterprise, Ivan McKee, and I had a meeting with the relevant UK minister this week to discuss some of the significant issues that we have with the bill and to try to better understand the rationale for some of the decisions that have been taken. It is unusual for agriculture to be included given that it is carved out of so many other regimes and that there is sector cover for it under the WTO agreement on agriculture.

Ariane Burgess: At a previous committee meeting, in November, we looked at the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 policies. One of the things that stood out for us was a statement on behalf of Scottish ministers that

“the constraints under which Scottish Ministers currently operate, in particular as a result of the working of the UK Internal Market Act, mean that they judge that to align in full at this time would not serve Scotland’s wider interests.”

Although you are beginning to touch on that in some ways, could one of you expand on that? I want to hear about that in connection specifically to the United Kingdom Internal Market Act 2020.

What are the issues to do with the powers that the Scottish ministers have or do not have?

Mairi Gougeon: It is about those pieces of legislation together. Ultimately, we are finding that it is huge step backwards from being in the EU, where we had those powers and the freedom to exercise those powers in developing our own policy. The 2020 act and the Subsidy Control Bill remove those powers and put them in the hands of UK ministers, which—as I said in previous responses—undermines the common frameworks process. It was designed to resolve, or to try and work through, some of the policy divergence that we will have in some areas, because it is every devolved Government's right to set the policies that are right for the people who elect it to that position and who deliver on the commitments that it has set out. In essence, the 2020 act and the Subsidy Control Bill remove our ability to do that, because the ultimate end decision rests with the UK Government. That completely undermines the powers that we have in those devolved areas that are of critical importance for devolved Administrations, and it means that the UK Government can overrule us in devolved areas of policy.

Ariane Burgess: Thank you very much for clarifying that. From my perspective, it is quite concerning in relation to the work that we have to do for Scotland. Other colleagues have outlined that we have a very unique set of circumstances, and the Scottish ministers need to be able to take forward the things that we need for Scotland, including for our island and rural communities.

Mairi Gougeon: Exactly.

I note that we are not subject to subsidy control. We are able to operate effectively under the trading co-operation agreement that is in place at the moment. Again, because of its very nature and the fact that we need those interventions, the situation with agriculture is very specific and separate to other subsidy control or state aid regimes. However, that is not to say that it is not monitored. As I said previously, we have the WTO agreement on agriculture. It is therefore simply not necessary for it to be caught by the bill. That is where it is frustrating, because, with that information so far not having been shared with us, it is hard to understand the rationale for its inclusion. We see no reason why it should be included when it is covered by those other schemes.

The Convener: I will ask you to clarify something, cabinet secretary. You seem to have contradicted yourself. One moment you were saying that there was lots of collaboration over common frameworks, then you were saying that there was none. Is there good collaboration over common frameworks or not?

Mairi Gougeon: We are talking about two different things here. In relation to engagement on the Subsidy Control Bill, it has so far been difficult to get that information. The situation is similar to what I said about different areas in relation to population and the different departments of the UK Government that we deal with. Sometimes, we get no engagement whatsoever. So far, in relation to engagement on the Subsidy Control Bill, it has been difficult to get that information. As I said—

The Convener: I am asking specifically about the common frameworks.

Mairi Gougeon: There has been collaboration on the common frameworks. As I said, it is now up to the legislators to approve what has been set out. There has been collaboration there, which is why it is disappointing when we see pieces of legislation such as the 2020 act and the Subsidy Control Bill, because they undermine the process in which are all engaged in good faith.

Jenni Minto: I want to reflect a bit on the Subsidy Control Bill. I am a member of the Constitution, Europe, External Affairs and Culture Committee, which heard evidence from Jonnie Hall of NFU Scotland in which he raised concerns that the Subsidy Control Bill could be used as a tool to say that the Scottish Government had to stop giving certain types of support, as it was affording Scottish farmers an advantage. In that regard, he cited areas such as Northumberland and Cumbria, where the farming is very similar to that in Scotland.

I thank the cabinet secretary for the information that she gave on what the Scottish Government is doing to challenge Westminster on the Subsidy Control Bill. I was interested in her comment that the Westminster Government has been reticent to provide the Scottish Government with the information on questions and the evidence that it gathered for including agriculture under the bill. I am interested in her thoughts on general procedures between Westminster and the Scottish Parliament for legislation. A lot of statutory instruments have come to us from Westminster at short notice. How is the cabinet secretary working with Westminster to inform it that it should take account of our procedures in the Scottish Parliament to enable us to do the proper scrutiny that is required?

Mairi Gougeon: That is an absolutely critical point, which we continually re-emphasise to the UK Government. We highlight the parliamentary processes that we have in place and continually make the point that it is hugely important to recognise those processes to enable the scrutiny that you need to undertake. I can only apologise for the late notification that you get, particularly with some pieces of secondary legislation. Again, some of those issues are outwith our control. We

try to keep the committee up to date and informed as much as we can. However, there are occasions on which we get information at the last minute or when decisions are taken that completely change initial policies.

There was an instance of that just before Christmas, with the official controls regulation and some of the changes that are proposed on that. Discussions took place at a meeting that was attended by the devolved Administrations, only for a huge policy shift to then become apparent, which we were asked at very short notice to sign up to and agree to. The committee will be aware of that, because you had the various notices from me that then had to be revoked and changed.

That is just the environment that we are working in. However, we take every opportunity to remind the UK Government of the essential parliamentary scrutiny processes. Some of that is outwith our control. We genuinely try to give the committee information as and when we receive it to ensure that we allow as much time as possible for scrutiny. However, that is not always within our remit.

Jenni Minto: We have talked about agriculture, but are there any concerns with regard to fisheries in relation to the Subsidy Control Bill or the 2020 act?

Mairi Gougeon: Fisheries is a more complex area in relation to the Subsidy Control Bill. I will bring in Caro Cowan on that point.

Caro Cowan: The position on fisheries is quite different. I am sure that you are aware that there are live WTO negotiations on that. It was originally hoped that they would be completed by this year. The approach broadly matches our views on fisheries subsidies—actually, the EU would have supported the direction, and thus there would be no questions about alignment.

It is worth noting that, with fisheries, there is a very mobile resource and a mobile fleet—hence the involvement of the WTO in the sustainable management of fisheries, and to an extent a level playing field. I am afraid that I do not know enough about agriculture to be able to compare the two, but the committee should be aware that we are in a very different position with fisheries because of the WTO negotiations. We expect to be engaged by the UK Government as it develops a position on that, but, because of the live negotiations, we are not yet at that stage.

Jenni Minto: Thank you. In relation to both of those answers, it is important to recognise the engagement and the need to have the Scottish perspective as the UK Government negotiates on our behalf to ensure that it is recognised that one size does not fit all.

The Convener: I will bring in Karen Adam to ask her questions, and then Rachael Hamilton can ask a brief supplementary.

11:30

Karen Adam: Quite a lot of my questions have been answered. I express disappointment that a UK Government minister cannot come before the committee next week as planned, and I hope that that is taken into consideration before we change our work plan again to accommodate that. It would be helpful if the session could be rearranged for any time before completion of our consideration of the Subsidy Control Bill, because we seem to have quite a lot of questions about that.

We have spoken quite a lot about agriculture, and we have touched on fisheries. What can we do to prepare our Scottish fishing industry for what is ahead in the light of EU exit?

Mairi Gougeon: A number of changes are still due to come into force. The industry will face changes towards the end of this week, with new export health certificates needing to be used, for example. There have been a number of changes, and transitional arrangements have been put in place in relation to border checks and controls on imports, for example. We use our connections with stakeholders and concerned businesses, and we work with our industries as much as possible, to prepare them for any changes that are coming their way, but that can be difficult.

A source of frustration has been that the goal posts have continually been moved in relation to import checks. Our exporters are being put at a specific disadvantage because they have had to be aligned, to implement checks, to satisfy all the requirements for export health certificates and to face all the other barriers, whereas imports into the UK have not faced the same barriers. The deadlines keep shifting and moving backwards, but we work with our industries as much as possible to prepare as best we can for any issues that come our way.

Rachael Hamilton: Jenni Minto mentioned Jonnie Hall's evidence to the Constitution, Europe, External Affairs and Culture Committee, which I followed with great interest. With regard to the Subsidy Control Bill and the Scottish Government's policy choices, he said that international safeguards are already in place through WTO rules that would ensure that, if the Scottish Government decided that it wanted to keep direct payments, Scotland would not be at a competitive advantage. I just want to make that point.

Mairi Gougeon: That is not the case with the Subsidy Control Bill, which will open us up to legal challenge from other parts of the UK if we continue

to provide the type of income support that I have talked about, because that conflicts with the principles that have been outlined in the bill. That is where the problem lies.

Rachael Hamilton: We need to get clarification on that, because my point was taken directly from Jonnie Hall's evidence.

Mairi Gougeon: I would be happy to write to the committee outlining our concerns about specific parts of the bill, if you would find that helpful.

Rachael Hamilton: Yes, that would be helpful. Thank you.

Jim Fairlie: The cabinet secretary has answered an awful lot of the questions that I wanted to drill into. I have serious concerns about the Subsidy Control Bill. As a very recently retired farmer, I know how vital direct payments are to farmers across the country.

Also, I have written down, "Why has the UK said agriculture hasn't been taken out, given that there are protections from the WTO?" and you have kind of answered that on the basis that there was a consultation. The question that sprang to my mind is: who did the UK consult? I cannot think of a single farmer or farming organisation in Scotland that would have wanted the Subsidy Control Bill to go through in its current form, which, if I am not wrong, is in the second reading in the House of Lords, meaning that its passage is imminent. Who did the UK consult with? I just cannot see how the Scottish agricultural industry would have agreed to the Subsidy Control Bill going through in its current form.

Mairi Gougeon: No, and that has been part of the problem. We asked for the consultation responses to be shared with us but we were told that they could not be, for reasons of data protection. We followed up by asking for anonymised responses so that we could understand the rationale for people asking for agriculture to be included. After the meeting we had on Monday, we were told that that information will be shared with us, but, as yet, we have not received it.

Jim Fairlie: Would it be worth asking the farming unions or representatives if any of them have been asked about the consultation? Has anybody in Wales or Northern Ireland been asked about it? Was it an England-only consultation? I simply cannot understand where it was done, who was asked the questions or how it could ever be described as okay for us here, in Scotland, or those in the other devolved nations. I just cannot get my head around that.

The Convener: Jim, I suggest that your questions might be more appropriately addressed to the UK Government minister when he appears

in front of the committee instead of to the cabinet secretary. She obviously does not have that information in front of her.

Jim Fairlie: I will be delighted to ask the UK Government minister, but, as we do not have a date for that meeting at the moment, I was pressing the cabinet secretary to do the homework on our behalf so that we can find out whether the Scottish agriculture industry has been consulted.

The Convener: Okay. We move on to questions from Beatrice Wishart.

Beatrice Wishart: My question is about the import and export of chilled meat products. What are the long-term plans for those, and do you expect the derogation to be rolled over?

Mairi Gougeon: I will bring Jesus Gallego in on that point.

Jesus Gallego (Scottish Government): The current derogation is expected to run for the duration of the stated period to the point where the transitional period for the introduction of checks expires during this year. The local plan for what we call prohibition and restrictions, which includes the prohibition of fresh and refrigerated minced meat and meat preparations, is to come to a technical agreement with the EU so that the conditions that apply are the same in both directions. The UK Government, with Scottish Government involvement, has put the case to the EU of a risk assessment that shows that there is no scientific ground for the prohibition of refrigerated minced meat being traded internationally. Our objective is to have that restriction lifted in both directions. If we can import fresh meat and meat preparations, there is no reason why we cannot export refrigerated minced meat and meat preparations. At the moment, however, the prohibition is on both directions, so we are treating it as a technical discussion under the trade and co-operation agreement and we are looking to come to a consistent point that the rules should be for both imports and exports.

The Convener: I have a quick question on statutory instruments and Scottish statutory instruments.

Prior to Christmas, the Scottish Government withheld agreement to a statutory instrument that related to border controls, and a Scottish statutory instrument was brought in, which I believe we will look at next week. Can you go through the process that the Scottish Government follows to decide whether to agree to an SI or put in place an SSI that, ultimately, has the same outcome? At what point do you make the decision to agree to a UK-wide SI or to bring in your own? We saw an example of that with the decision on the border controls instrument, which was taken at the very last minute.

Mairi Gougeon: Yes—that is because there had been a significant policy change, which we were made aware of only at the last minute. I understand that the timing of that was not ideal.

Normally, the policy notes that accompany the SI notifications that we send to the committee explain what the instrument is looking to achieve and why Scottish ministers are content to agree that the UK does that on our behalf. Often, it saves our time and resource for the UK to do that on our behalf and with our consent. Off the top of my head, I cannot think of many other incidences where we have taken the decision that we took with the border controls instrument. I do not know whether officials have further information, but, because of the extent of the policy that was changing in that SI, we needed to be able to take the time to fully consider the ramifications, which is why we decided to bring forward our own piece of secondary legislation. Jesus Gallego will have more to add on that.

Jesus Gallego: In respect of the instrument just before Christmas, which the convener referred to, we were not given the option. The UK Government has the ability to legislate on behalf of Scotland, but it does not have the obligation, and we cannot introduce a UK SI unless we are given that opportunity. What happened before Christmas was that the UK Government introduced that last-minute change to the island of Ireland checks and requested that the Scottish Government consented either to the whole instrument or to nothing. Since we were not in a position to consent to the whole instrument, we had no choice but to withdraw from the rest of the instrument, including the provisions that we were prepared to consent to. Those provisions were introduced through a separate Scottish statutory instrument just before Christmas. The officials' preferred option would have been to continue with the UK instrument for the provisions that we had agreed to, but we were not given that option.

The Convener: Thank you. That is very useful information.

Finally, Rachael Hamilton has a supplementary question.

Rachael Hamilton: I want to pick up on Jim Fairlie's point, because I was also interested in who was involved in the Subsidy Control Bill. It seems as though there is a statutory duty under section 53 of the United Kingdom Internal Market Act 2020 to consult devolved Governments. Therefore, unless Jim disagrees with that, it seems as though the UK Government invited the devolved Governments to make representations within that consultation, to which they received 234 responses.

The Convener: I think that you were just putting that on the record rather than expecting a response from the cabinet secretary.

Since I see no further questions from members, I thank the cabinet secretary and her officials for taking part. It has been most useful, and I am sure that we will visit some of those topics again in the near future.

Subordinate Legislation

Animal Products (Transitional Import Conditions) (Miscellaneous Amendment) (Scotland) Regulations 2021

11:43

The Convener: Agenda item 4 is consideration of a piece of subordinate legislation, and I refer members to committee paper 3.

As some provisions were made under the European Union (Withdrawal) Act 2018, we first need to consider whether the parliamentary procedure that the Scottish Government designated to the instrument is appropriate.

Members will note that the negative procedure has been designated, and the Delegated Powers and Law Reform Committee agreed with that designation when it considered the matter on 7 December.

Are members content that the negative procedure is appropriate for SSI 2021/432? Please type N in the chat box if you do not agree, otherwise I will presume that members are content.

Members are content.

11:45

We will continue our consideration of the instrument under agenda item 5. The instrument, which came into effect on 1 January, extends a previous derogation allowing chilled meat to be imported from countries in the European Economic Area, the Faroe Islands, Greenland and Switzerland. The derogation is extended to 30 June 2022. The instrument also removes, for the period that transitional arrangements are in place, the health certification requirements for animal products that would otherwise have applied from 1 January 2022.

No motion to annul the instrument has been lodged. If any member has a comment to make about the instrument, they should type R in the chat box.

Since no member has indicated that they wish to make a comment, are members content to note the instrument? Again, if any member wishes to make a recommendation about the instrument, they should type R in the chat box.

I see no comments, so members are content to note the instrument.

That brings us to the end of our public session and we will now move into private session.

11:46

Meeting continued in private until 12:23.

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