



OFFICIAL REPORT
AITHISG OIFIGEIL

Net Zero, Energy and Transport Committee

Tuesday 14 March 2023

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
9th Meeting 2023, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Fiona Hyslop (Linlithgow) (SNP)

COMMITTEE MEMBERS

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Liam Kerr (North East Scotland) (Con)

Monica Lennon (Central Scotland) (Lab)

Ash Regan (Edinburgh Eastern) (SNP)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Matthew Bird (Scottish Government)

Lisa McCann (Scottish Government)

Euan Page (Scottish Government)

Kevin Quinlan (Scottish Government)

Lorna Slater (Minister for Green Skills, Circular Economy and Biodiversity)

Collette Stevenson (East Kilbride) (SNP) (Committee Substitute)

Mercedes Villalba (North East Scotland) (Lab) (Committee Substitute)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 14 March 2023

[The Convener opened the meeting at 09:03]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning and welcome to the ninth meeting of the Net Zero, Energy and Transport Committee in 2023. Today we have received apologies from Monica Lennon and Ash Regan. I welcome Collette Stevenson. Mercedes Villalba will also attend later, as a substitute. When she joins us I will have to pause to ask her whether she wants to declare interests before she asks any questions. Technically, that is the first item on the agenda, but it will come at the correct moment.

Therefore, we will move to agenda item 2, which is to make a decision on whether to take items 6, 7 and 8 in private. Items 6 and 7 are consideration of the evidence that we will hear today on the outcome of the 15th United Nations biodiversity conference of the parties—COP15—and Scotland's deposit return scheme. Item 8 is consideration of a draft report on the United Kingdom Energy Bill. Do members agree to take those items in private?

Members indicated agreement.

COP15 Outcomes

09:04

The Convener: Item 3 is an evidence session that forms part of our scrutiny of the outcomes of the 15th UN biodiversity conference of the parties, otherwise known as COP15. Members have received papers on the subject.

Last week, the committee heard from a panel of experts in biodiversity policy. This week we will hear from the Scottish Government on its views on the outcomes of COP15 and about how the targets that were agreed at the summit will be embedded in the new Scottish biodiversity strategy.

I welcome Lorna Slater, the Minister for Green Skills, Circular Economy and Biodiversity. Thank you for attending today. I also welcome Matthew Bird, who is biodiversity team leader, and Lisa McCann, who is head of biodiversity, from the Scottish Government. I believe that you wish to make a brief opening statement, minister.

The Minister for Green Skills, Circular Economy and Biodiversity (Lorna Slater): Thank you, convener, and thank you for inviting me here today to discuss the outcomes from COP15 and how we are integrating them into our biodiversity strategy. I know that you have already heard overwhelming evidence about the extent of the biodiversity crisis that we are facing here in Scotland and across the world, and about the importance of taking action now to tackle the decline in nature.

You have also heard about the historic Kunming-Montreal global biodiversity framework, which was agreed at the end of last year. That framework builds on a vision, which I hope you share, of a world that is living in harmony with nature and where, by 2050, biodiversity is valued, conserved, restored and wisely used, through maintaining ecosystem services.

As you are aware, I was honoured to attend COP15 with a small Scottish delegation, which culminated in our presenting the Edinburgh declaration to that conference's high-level segment, on behalf of subnational bodies. As well as calling for a high-ambition outcome from the meeting in Montreal, the Edinburgh declaration also called for the critical role that subnational bodies play in addressing the biodiversity crisis to be recognised and allocated the necessary resources and powers to help to tackle it. I am delighted that the declaration was adopted at the conference and now forms part of the new global biodiversity framework.

The Scottish Government led the Edinburgh process at the request of the Convention on Biological Diversity's secretariat, and I am very proud of the work that was done to promote it and to garner support for it. That work is demonstrated by the fact that, at the final count, the declaration had been signed by more than 300 subnational bodies from around the world.

Our draft biodiversity strategy was published to coincide with COP15, but it remained in draft form to allow us to take into account the new global biodiversity framework, thereby ensuring that we are meeting the global ambition. The strategy is where we set out our high-level vision for a nature-positive Scotland and our ambition to halt biodiversity loss by 2030 and reverse declines by 2045. I have often wondered whether that is ambitious enough; although there has been a huge amount of really positive activity across Scotland in recent years—for example our scaling up of peatland restoration and our groundbreaking nature restoration fund—it is clear that there is still a huge amount of work to do. The type of change that we need takes time, which is why it is even more important that we start taking action now.

We are currently refining the strategy and are now very much focused on developing the delivery plans that will sit underneath it. Those plans will be where we will set out how we are going to achieve our high-level vision and outcomes.

I was very grateful to the committee for the careful and detailed consideration that it gave to the draft biodiversity strategy last year. Your comments formed an important part of our consideration in developing the strategy and, as I set out when I wrote to the committee in December 2022, many of those points were incorporated in the final draft.

We are also starting to explore with our subnational partners the next steps on implementing the Edinburgh declaration and how best we can work together to really deliver on the new global framework. I welcome this discussion today and I appreciate the attention that the committee is giving to this important matter.

The Convener: Thank you very much, minister.

Interests

09:09

The Convener: I will now do a pivot—which politicians are sometimes quite capable of doing. I will pause that agenda item to return to agenda item 1. Mercedes Villalba, this is the first time that you have attended the committee, so I ask whether there are any declarations that you wish to make before you ask questions at the committee.

Mercedes Villalba (North East Scotland) (Lab): Thank you. I do not have any relevant interests to declare

COP15 Outcomes

09:09

The Convener: Thank you. I will now pivot back again to the subject at hand. Thank you again, minister, for your opening statement. The first questions are from Jackie Dunbar.

Jackie Dunbar (Aberdeen Donside) (SNP): Good morning, minister. The new global framework requires us to take urgent action to halt and reverse biodiversity loss. Last week, we heard that there is a need for speed, given that we now have ambitious targets for 2030, which is only seven years away—only seven growing seasons. How can that urgency be realised in Scotland? What do we need to do in this parliamentary session for the work to get on track and remain on track?

Lorna Slater: That is an excellent question. Jackie Dunbar is right that we need to start early to ensure that we make the impact that we need to make in the necessary timescale. I think of the work as being done in two streams. First, there is the stream of urgent actions that we are already taking and that we now need to scale up, including our nature restoration fund and the peatland restoration work that we have started and in which we are world leaders. Then there is the biodiversity strategy, which represents the longer-term vision to 2045 and the actions that we need to take on that. As, I am sure, Jackie Dunbar would agree, those actions need to be joined up across Government and all sectors of society and include land use, agriculture and so on.

I am happy to go through in detail some of the things that we are doing now urgently to tackle the nature crisis. We are scaling up our peatland restoration rates with the aim of restoring 250,000 hectares of degraded peatland by 2030. Our groundbreaking £65-million nature restoration fund is providing multiyear funding to drive restoration at scale. Recently approved grants include funding for Cairngorms Connect to restore natural rivers and flood plains in the Insh marshes, and funding for the Argyll and the Isles Coast and Countryside Trust to restore Argyll's Atlantic rainforest.

In October last year, we announced a new package of Scottish Government support totalling more than £2.9 million to focus on conservation, research and connecting people with nature. The aim is to accelerate the response to the biodiversity and climate crises. That includes £1.3 million to restore Scotland's rainforest, £500,000 for the five-year species on the edge partnership project and £200,000 to support the Green Action Trust's work with local communities to create and restore woodlands. We have created more than

10,000 hectares of new woodland in the past year, with 42 per cent of it being native species.

As well as that investment, we are ensuring that biodiversity is embedded in our policies. Our new vision for agriculture aims to make Scotland a global leader in sustainable and regenerative agriculture, with nature and climate at its heart. We have committed to highly protect 10 per cent of our marine areas, and our new national planning framework signals a turning point for planning, with responding to the global climate emergency and nature crisis being central to its objectives.

Jackie Dunbar: Will the Scottish biodiversity list be reviewed, moving forward?

Lorna Slater: Yes.

Jackie Dunbar: Who will take the lead on that, in Government and in its partners?

Lorna Slater: The matter of recovering and protecting vulnerable and important species is one of the five themes that the biodiversity strategy covers. The strategy has 26 actions that we are taking for nature, grouped into those five themes. Theme 4 is to recover and protect vulnerable species, and one of the actions there is to

"Revise the Scottish Biodiversity List of species and habitats that Scottish Ministers consider to be of principal importance for biodiversity conservation in Scotland".

Perhaps Matthew Bird or Lisa McCann can add some detail on that process.

Matthew Bird (Scottish Government): The process will be led by NatureScot, probably in consultation with our group of stakeholders with whom we worked closely in developing the strategy and delivery plan. NatureScot has a scientific advisory committee. Together with stakeholders, NatureScot will make recommendations on the relevant species, which will be put to the scientific advisory committee and, ultimately, to ministers for agreement.

The Convener: You mentioned stakeholders. Who are they? Are they statutory bodies, non-statutory bodies or charities?

Matthew Bird: There is a Scottish biodiversity programme, which oversees the work that we do to produce the strategy and the delivery plan. In support of that, there is both an advisory group, which comprises external academics from a wide range of sources, and a stakeholder engagement group, which includes about 75 representatives. There is a wide range of non-governmental organisations included, as well as academics and representatives from the statutory public bodies, and so on.

09:15

The Convener: Okay. It would be helpful to see who is on that list. I would be interested to see that, so maybe you could drop a line to the clerks after the committee meeting.

Jackie, are you finished? If so, I will bring in Liam Kerr.

Jackie Dunbar: Yes.

Liam Kerr (North East Scotland) (Con): Good morning, minister. You said that the Scottish biodiversity strategy was published in draft form so that it could be updated following COP15 and the GBF. Now that we are beyond them, what areas in the draft strategy need to be strengthened as a result of the COP15 outcomes?

Lorna Slater: Overall, there is clear alignment between the Kunming-Montreal global biodiversity framework and our draft Scottish biodiversity strategy, including the 30 by 30 protections. Our analysis is that the strategy either already matches or exceeds the ambition in the global framework.

The Scottish biodiversity strategy has more ambition than the global biodiversity framework, because the completion date is 2030 for our targets and 2045 for delivery of the vision, compared with 2050 with the global framework.

The goals and targets in the global biodiversity framework are global goals and not all of them can be directly translated to a national context. It is the job of our biodiversity strategy and delivery plan to set out what we need to do in Scotland to contribute to meeting the global goals. We will publish the comparison between our goals and the global goals in the final document.

Liam Kerr: When do you expect the strategy and delivery plans to be finalised?

Lorna Slater: The strategy will be finalised first and the delivery plan will come after it. Matthew Bird might have timelines for that.

Matthew Bird: We anticipate that there will be a further round of consultation in late spring and early summer, for the strategy and the delivery plan together. An analysis of the responses to the consultation will then be needed. We will look to publish both together as a package in late summer or early autumn.

Liam Kerr: It will be late summer, but the committee heard last week that we have less than seven years to meet the targets. We are obviously talking about delivery plans. Following Jackie Dunbar's questions, something that concerns me is that we surely cannot meaningfully make delivery plans unless the strategy is finalised.

Also, minister, you listed a huge number of impressive Scottish Government investments in

biodiversity. However, there is no strategy underlying the investment, and there will not be one for at least another six months. I could reflect back to you that that means that you are funding a load of things without a strategy for why you are funding them. Is that a fair criticism, minister?

Lorna Slater: Liam Kerr is maybe looking at this using a different framework to the one that I am looking at it in. The actions that we are taking now are well-evidenced actions. We know, for example, that restoration of peatland has excellent results for biodiversity as well as for carbon sequestration.

All the actions that we are taking are evidenced, and things such as the nature restoration fund are going towards very practical actions, including restoring rivers, restoring wetlands and managing rhododendron in the rainforest. We know that the actions that we are taking are effective. What we need to do with the strategy is join it up and mainstream it across agriculture and all the different sectors. Of course, that takes time and requires stakeholder engagement so that we make sure that we get the pieces right and bring everybody along with us on the journey.

However, that does not mean that we have not got started or that we have delayed taking action, and it does not mean that we are not using evidence to support the actions that we are deciding to take.

The Convener: Jackie, back to you.

Jackie Dunbar: On the need to join actions together to make them work, I heard about that just last Friday at a meeting with the John Muir Trust and the Scottish Wildlife Trust while going up the river Don—I declare an interest as the Parliament's nature champion for sea trout. They were explaining to me the problems that the sea trout has, because it goes from the sea right up the estuary and it needs the correct landscape to breed. What are the plans in holistic terms? How are we going to bring it all together?

I will ask a very cheeky question as well. We have a strategy for wild salmon. Brown trout and sea trout, which are two different species, have a life cycle that is very similar to, or the same as, that of wild salmon. Are you thinking of bringing those species into the same strategy so that they are protected as well?

The Convener: Minister, before you comment on that, I want to say that, last week, I made a voluntary declaration of my interests, in that I own and manage land through my farming partnership. As Jackie Dunbar has mentioned salmon, which is a subject that is close to my heart, it is right that I refer members to my interest in a wild salmon fishery on the River Spey, which I own jointly with my brother. I say that just so that there is no

dubiety, and note that I am not asking the question. Minister, I am sorry to interrupt your response, which was forthcoming.

Lorna Slater: That is no problem. I will tackle both of Jackie Dunbar's questions.

The Scottish biodiversity strategy ties in with other strategies. It is essential that biodiversity considerations are mainstreamed in all our policy development, and that is one of our key aims. Given the breadth of matters that the Government deals with, there is a wide range of strategies and plans to address issues in particular sectors. The biodiversity strategy provides a clear vision and set of outcomes that all of our policies must help to achieve. The environment strategy for Scotland presents a whole-of-Government approach to tackling the climate and nature crises by creating an overarching framework for Scotland as well as strategies and plans on the environment and climate change, and by strengthening the connections between environmental policies and policies across Government. It helps us to identify priorities and opportunities and to drive the transformative change that we need.

We know that healthy biodiversity underpins our prosperity, wellbeing and ability to reach net zero. I know that all the committee members are aware, because of the evidence that you have taken, that we need to mainstream this piece. Tackling biodiversity cannot be done in a silo; it needs to be done across all of society.

Specifically on wild salmon, they are an indicator species, so things that we do to protect wild salmon will also protect other species that have similar life cycles or share their natural environment, such as those that Jackie Dunbar mentioned.

As members will know, wild salmon are in decline. In response to the decline of those populations, in January 2022 we published Scotland's wild salmon strategy, which is a collective vision for flourishing populations of wild Atlantic salmon. In that, we set a high level of ambition and a direction of travel. We followed up the strategy with an implementation plan, which was published last month, and which sets out more than 60 actions that we will take over the next five years to protect and restore salmon populations. The strategy and plan were developed in close collaboration with stakeholder groups, including representatives from Government, NGOs and agencies. We are clear that positive outcomes can be achieved only through a co-ordinated and collaborative approach.

I have been lucky enough to visit some of the nature restoration work that is being done along some of the rivers, such as removing weirs and,

where the weirs cannot be removed, putting in passes to allow the salmon past, and of course those will apply to other species as well.

I want to mention another great river restoration project. One problem that some rivers in Scotland have is that they are too clean—there are no trees along the banks, there is nothing in the water, and they run too fast, too clear and too hot, because the sun shines on them all the time. This particular project takes fallen trees and embeds them in the riverbed. That not only slows the water but creates shaded spots and eddies where fish can spawn and invertebrates can breed. That is the kind of practical on-the-ground action on which the nature restoration fund is having an impact and that specifically targets those important species.

Jackie Dunbar: Two notable targets for the global framework agreement are the 30 by 30 target and, as you mentioned, the restoration target, which call for restoration to be completed or under way on at least 30 per cent of degraded terrestrial inland waters and coastal and marine ecosystems. What scale of challenge do those targets present for us in Scotland? What kind of programmes—one of which you have just mentioned—will we need in future?

Lorna Slater: That is an interesting question. When I was in Montreal speaking with people from other subnational Governments around the world, it was interesting to see how different the challenge in Scotland is from the challenge in large countries in South America or parts of Canada. For those places, to meet the 30 by 30 target, they can more or less draw a line on a map and say, "Right! That is our 30 per cent—we're done. No people or only people who live traditional indigenous lifestyles live in this space." That makes their job relatively easy.

We have a different challenge. All our managed landscapes in Scotland are inhabited, so we cannot and would not be able to remove or separate people from the land in that way. Our challenge is therefore interesting. We need to find a way of carrying out all our current economic activities, such as farming, fishing and activities in our towns and national parks, but within a framework that allows us to be nature positive, and allows nature regeneration. If we can do that, we will set a model for the whole world, because we will show how people and nature can live side by side and thrive.

That is why land reform and agricultural schemes, for example, all need to be looked at within a framework of restoring biodiversity, replacing what is lost and making sure that we create abundant biodiversity. It is an interesting challenge and one that is unique to Europe and to Scotland, where we have such highly managed landscapes, but it is an exciting one.

I hope that our national parks can play a particular role in all this. Because of their unique position in the Scottish landscape and because they contain commercial forestry and farming, they can provide places where we can pilot ideas about humans and nature living alongside one another. Other countries do not have those kinds of activities in their national parks. We have an interesting challenge ahead of us and it is quite unique, because it means that we can show the world how people and nature can live together.

Jackie Dunbar: Local authorities can also help. I heard that Aberdeen City Council has a plan to plant 1 million trees in the next five years. It was also interesting to hear about the Denburn, which runs through the city centre. Many years ago, it was straightened and flooding has occurred because of that, but plans are now in place to get it back to what it was originally.

I am sorry, convener, but I am rambling a bit.

The Convener: I was wondering when the question was coming.

Jackie Dunbar: I have no further questions.

The Convener: That might have been a statement.

Jackie Dunbar: It was a comment.

The Convener: Thank you. The next question will come from the deputy convener, Fiona Hyslop.

Fiona Hyslop (Linlithgow) (SNP): Good morning, minister. You have talked about the need for mainstreaming, and we have heard from other witnesses that there are a number of areas in which biodiversity needs to be mainstreamed. There are opportunities in agricultural payments, the proposed land reform bill and circular economy bill, and the reviews of forestry policy, to name but a few. Are you satisfied that the opportunities for nature recovery are being given the right level of priority in those areas?

Lorna Slater: I would always say that they need more. Of course I would say that, because I am the minister for biodiversity. However, I can certainly outline some of our vision in this area.

The biodiversity strategy is a starting point. It sets out clearly what we need to achieve to halt and reverse biodiversity loss. It also provides us with the evidence that human activity has accelerated biodiversity decline. The member is therefore quite right: biodiversity needs to be mainstreamed across all our policy developments, our business practice and wider society. The Government cannot do this on its own. Nature does not belong to us, it belongs to everybody, every business and every person.

I am therefore working closely with other ministers to make sure that our collective policies

will deliver the positive outcomes that we need. Some good examples of that are our national strategy for economic transformation, which, for the first time, recognises the importance of our natural capital as an asset to the country that we need to maintain.

Our vision for agriculture puts nature restoration at its heart, alongside climate mitigation and food security. It also recognises the importance of that sector in delivering for biodiversity, and that farmers and land managers are stewards of our land.

Interestingly, our national planning framework 4 and its supporting guidance have significantly greater emphasis on the importance of conserving our natural environment. I actually have an excerpt here, entitled "Developing with Nature guidance". This is for anyone who is making a planning application, and it sets out very clear and quite practical steps by which people can take account of nature in a planning application. They can, for example,

"Apply the mitigation hierarchy ... Consider biodiversity from the outset"

and

"Take a place-based and inclusive approach."

09:30

The guidance covers other practical things such as what plants are suitable as pollinators, how to plant a wildflower meadow and how to incorporate trees, scrub and woodland into developments. It is a really good example of mainstreaming, and anyone applying for planning permission for a development in Scotland has access to all that information. It even sets out how to incorporate homes for bees and bugs into development planning, how to manage water with nature and so on. It is an excellent example of mainstreaming that will make a difference as we go forward.

Fiona Hyslop: The first time that natural capital was included in an economic recovery plan, it was not the national strategy for economic transformation, but the Covid economic recovery plan, which was published almost three years ago in 2020. I am interested in the action that has been taken in those—dare I say it—two and a half years rather than what has happened in the national strategy for economic transformation.

Moving on, we have talked about the more obvious areas with regard to mainstreaming. As we know, most Government agencies and departments understand the need to embed net zero, as that is one of the crises that we are seeking to address, but what about biodiversity, which is the other crisis that we are dealing with? Have you compared the extent to which it and net

zero have been embedded as mainstream activities in other agencies? Do you have forums for bringing together public agencies to discuss what they are doing to tackle nature loss and biodiversity? How does this work in the not-so-obvious areas?

Lorna Slater: The member is quite right. Globally, there seems to be—and has been for a long time—a good understanding of the climate crisis with regard to carbon emissions and reaching net zero, but people might have been slower to grasp that the nature crisis goes hand in hand with that and, indeed, is part of how we are going to tackle it. The Scottish Government has made some really good progress in understanding how biodiversity and natural capital fit in across the piece.

Indeed, you can see that not only in the things that I have outlined already with regard to the national strategy for economic transformation, our national planning framework and the vision for Scottish agriculture but in our circular economy bill and the other work that we are doing in that respect. Of course, much of that is the answer to the how question, but what if your problem is the plastics in your oceans? Last week, I met a stakeholder who said that they had evidence that the otter kits in the Water of Leith consume plastics with their first ever meal, because the food has plastic in it. If that is your problem, your solution is to take that plastic waste out of the environment and make things more circular.

In everything that we are doing, from the deposit return scheme right through to our national planning framework, we are considering biodiversity, and I am really pleased that we are taking those steps. I think that we are going in the right direction but, as minister for biodiversity, I will always say that we can do more.

Fiona Hyslop: Finally, is there some forum in which you bring all ministers together to discuss biodiversity, nature loss and so on? Has that happened at any point?

Lorna Slater: The two things—the climate and nature emergencies—have now been incorporated and are being considered together, and there is a variety of forums in which that work is happening. There is, for example, the sub-committee on the climate emergency, which is meeting this morning, unfortunately—obviously, I am here and not there—and there is also the First Minister's environmental council, which is another good forum that is attended not only by ministers but by experts from the field.

Fiona Hyslop: Thank you.

The Convener: Mercedes, you are up next. Fiona, if you want to come in on the back of this question, we will see if we have time.

Mercedes Villalba: I had a supplementary to Fiona Hyslop's question on mainstreaming. Is it okay for me to ask that first?

The Convener: Absolutely.

Mercedes Villalba: On the land reform bill, which has been mentioned, it is accepted that Scotland has an unusually concentrated pattern of land ownership. I know that the Scottish Government has expressed a desire for more diverse patterns of rural land ownership, but can you explain how addressing such a concentration of land ownership can improve biodiversity and nature restoration? Do you have any examples that you can share of best practice with regard to nature restoration on publicly owned land, whether that be land owned by councils or other public bodies?

Lorna Slater: Absolutely. On the second point, regional land use partnerships and the national parks incorporate that approach of having different land managers under different business and ownership models working together on nature restoration and land management. The best example of that is the globally recognised Cairngorms Connect, which covers a mix of public and private land and involves people working together to achieve regeneration in the national park.

The member is right that land reform is part of the toolkit for addressing ownership patterns, which is part of the Scottish Government's policy. Some good work is being done, as we move towards our land reform bill, on how it can work for nature. I went with Ms McAllan on her road show on the land reform bill, so I got to hear from stakeholders at first hand about land reform and about their hopes and dreams in supporting biodiversity. The purpose of the land reform bill is to help land go into community ownership where there is a public interest, particularly where it is for the common good and the benefit of nature.

The key aspect is the land management plans, which I hope we can use as a tool to ensure that land is managed well. Biodiversity is absolutely intended to be part of that, so that we can help to move the dial toward responsible land ownership around the country. There are already some really good examples of that.

Mercedes Villalba: The new global framework agreement requires all land to be

“under participatory integrated biodiversity inclusive spatial planning and/or effective management processes addressing land and sea use change”.

I am interested in how the Scottish Government is interpreting that requirement. What does that requirement mean in practice in terms of land use spatial planning?

Lorna Slater: Spatial planning, both terrestrial and marine, is about balancing competing interests so that we have a thriving economy and thriving nature alongside it. It is clear that, in the past, the balance between competing interests has been wrong, to the serious detriment of our natural environment. Our strategy is clear that our high-level goals of being nature positive by 2030 and substantially restoring nature by 2045 will require that whole-of-society approach.

As regards spatial planning in the marine space, Scotland's national marine plan provides the guiding framework for decision making in the sustainable management of marine activities and resources in Scotland's waters. I might ask Lisa McCann and Matthew Bird to provide more detail on spatial planning in both those spaces.

Lisa McCann (Scottish Government): NPF4 provides the overarching framework for how we use our land. As the minister just outlined, it provides high-level ambition for biodiversity. I am not a marine expert but, as the minister has outlined, the marine plan is where we set out the overarching framework. The "Blue Economy Vision for Scotland", which has recently been published, provides a synergy with the marine plan, which helps ensure that planning in marine areas provides the outcomes that we are seeking for biodiversity.

Mercedes Villalba: When it comes to balancing those interests on land and at sea, there is the requirement for food as well as energy; on land, there is also the requirement for housing. What practical steps are you taking to ensure that all those interests are balanced and that no one misses out in order for us to reach our targets?

Lorna Slater: You have identified three very important areas—food, energy and housing—and that is exactly the kind of mainstreaming that we are considering. Reform of the agriculture subsidies is to do with environmental matters as well as food security. The different interests are not necessarily competing—agriculture is part of the solution to the climate crisis, and regenerative farming and crofting have an important role to play in how we do this while ensuring that the sector thrives. Those matters are dealt with under land reform and agricultural reform.

Energy and housing will come under the national planning framework, which contains clear guidance on having biodiversity built in as well as specific guidance on national development and the development guidance that I have just outlined. I think that we are well covered for biodiversity in those areas.

Fiona Hyslop: Clearly, NPF4, with its hierarchy, puts biodiversity in a far stronger place than it has been in previously. That is in relation to land use

change for planning purposes, but land use management has been happening on some land for generations. In many places, the stewardship of that land has been done very well. It concerns me when I hear about the idea of competing interests.

I was interested in what you said about shared interests, because that must be the solution—if it is a mixed market solution. Yes, there will be some public or community land, but most of this land is in private hands. Therefore, how will that work in practice? You talked about Cairngorms Connect, which was showcased at the Arctic Circle assembly in Iceland as a really good example of how that can be done. Is that the model that you hope will be used elsewhere, or will there be different solutions in different parts of the country, depending on land ownership but also the use of the land? Can you explain a bit more how you see that working in practice?

Lorna Slater: Yes, absolutely. Our land is such a mosaic that there is not one solution that would be suitable everywhere. Cairngorms Connect is a very successful project, but it is only one project. Of course, private land is owned for many uses, including farming, forestry and all the businesses that we have in Scotland, which is why we need to look at solutions across the piece.

We are looking at how agriculture subsidies can be reformed to support agriculture. We are looking at minor adjustments to grouse moor legislation to ensure that that land is managed well. We are looking at how we can improve public transport. We are looking at all the pieces across the board. There is no one-size-fits-all solution for managing land. It is about ensuring that each individual farmer, crofter and land manager has the tools available to them, so that they know how to apply for the right grants and support in order that they can manage their land in the way that is right for it.

Landowners know what they need and what to do, so I see our role as facilitating and signposting people by saying, for example, "Here's the nature restoration fund. Here's how you get the agricultural subsidies that will allow you to do what you need to do. Here's how you apply for forestry grant schemes." All those things together incentivise land use for biodiversity. They also mean that land managers have those choices, so they can look at their land and decide what is best for them and what will work for them.

Fiona Hyslop: What is the biggest challenge to making that work effectively?

Lorna Slater: There are quite a lot of challenges involved. Some of it is about helping people to understand what their options are, because there may be an attitude of, "This is how I've always managed my land. I don't want to

change.” That is fine, but it is also about saying, “Here’s what’s available to you if you want to manage your land differently.”

The head of the Association of Deer Management Groups told me that the way that things are set up means that he cannot have fewer than 12,000 sheep and can have no more than 1,400 deer. He said that that does not make sense to him and that it is not necessarily how he would like to manage his land but that the current system means that that is how he needs to manage his land. Part of it is about putting different tools in place so that land managers like him do not feel obliged to overstock with sheep, for example, but are able to have more of a mosaic even on their own land.

The Convener: I will follow up on that. It was not many years ago that vast tracts of Aberdeenshire countryside that was good arable land were bought up and planted in trees. That was done because the grants were such that they encouraged tree planting and discouraged agriculture. We have seen bits of Scotland planted in wind turbines, if that is the right description. I looked at the figures for 2021, I think, for the deaths of birds of prey, and, if I remember rightly, something like four buzzards, four sea eagles and eight ospreys had been chopped up by wind turbines.

Therefore, we cannot use land for all purposes; there must be more of a zonal approach. As you have indicated, what works in the Cairngorms might not work elsewhere. Has the Government considered taking a more zonal approach to land use? Land resource is finite, but the uses are not.

09:45

Lorna Slater: In relation to the convener’s comment, it is important to remember that the biggest threat to wildlife and to birds is climate change. When you get colony collapse, whereby a colony of tens of thousands of individual birds collapses down to only a few members, that is due to climate change. That is the biggest threat to birds, and our energy transition is an important part of how we protect all species, including birds.

The Convener: Before you go on, minister, I note that some people might argue that one of the biggest threats to birds at the moment is avian flu. However, I understand that, in the long term, it may be climate change. I just wanted to put that on the record.

Lorna Slater: As the convener knows, the pattern of land ownership in Scotland is such that it is largely in private hands, and private landowners have the right to manage their land as they see fit. It is for the Scottish Government to use incentives and guidelines to try to ensure that

land is managed in the best way possible and in pursuit of Scottish Government goals, but the use of privately owned land is, of course, the concern of the person who owns it.

The Convener: I was suggesting a zonal approach. I was not talking about land ownership. A zonal approach is not limited by who owns the land; it is about directing the support and grants to encourage people to carry out activities on that land. That is something that the Scottish Government can do, is it not?

Lorna Slater: I do not know whether we have any comment on that.

Matthew Bird: The convener is absolutely right. One of the key commitments that the Scottish Government has made is to deliver nature networks. We are clear that those need to be driven by local agreements and through the development of local forums. It is also for local authorities to use their convening powers to bring those partnerships together and identify the proper land uses in the proper places. The concept of the right tree in the right place is a key part of the UK forestry strategy and the Scottish forestry strategy. It is a shame to hear about that experience in Aberdeenshire.

The Convener: I will push back on that, minister. The concepts of the right tree in the right place and the right crop in the right place indicate a zonal approach. Are you in favour of a zonal approach?

Lorna Slater: The phrase “zonal approach” has not come across my desk. However, ensuring that local communities are involved is important. With any investment in natural capital, we have to empower local communities. We cannot have a just transition through imposing things on communities; it needs to come from them. The convener is right in saying that we need to consider who is benefiting from land and how we invest in it. I am happy to take that away and consider it.

The Convener: I am happy to meet with you to discuss that, minister, if you wish.

Liam Kerr: I would like to take on some of the questions that we have just heard about funding and investment. In particular, the deputy convener brought up farming. I note that there is a commitment in the draft strategy to shifting half of all funding for farming and crofting from unconditional to conditional support by 2025. Minister, how much is half of all funding and what are the likely new conditions that farmers will have to meet? Is a lead time of presumably fewer than 18 months from finalisation long enough to allow farmers and crofters to adjust?

Lorna Slater: As Liam Kerr knows, implementing that commitment to a 50 per cent shift and the conditionality around it is on-going work in agricultural reform. I believe that the cabinet secretary made an initial announcement on the direction of travel a couple of weeks ago to the national annual meeting of the NFUS. However, it is a matter of on-going consultation with stakeholders to make sure that we get it right.

The number 1 priority is to make sure that that 50 per cent is not only delivering for biodiversity but is practical, workable and accessible for farmers and land managers, so that they can get that money in a way that supports their business models.

Liam Kerr: I understand that, and I understand that it is a complex question, but it is part of the draft strategy, which I think is under your remit, minister. I therefore wonder, again, whether you are able—although perhaps it would be fairer to ask whether you are unable—to tell the committee at this stage what half of the funding is, what the conditions are, and whether there will be a substantial lead time despite the fact that it is in the draft biodiversity strategy. Is that the case?

Lorna Slater: Biodiversity colleagues are feeding in to that process. The process of agricultural reform is on-going and addressing biodiversity is one part of it. We are feeding in to that, and officials and NGOs in that area are feeding in to that process, but, of course, other stakeholders in that space, such as farming stakeholders, are working together as part of the on-going process to define what that 50 per cent is and how that will work for farmers.

Liam Kerr: I will stick with funding. Framework target 19 requires a significant upscaling of finance for biodiversity, and it talks about “leveraging private finance”. Part of the draft strategy is an investment plan. Will that plan be produced, consulted on and finalised in the timeframe that we heard about earlier in which the delivery plan and the strategy will be finalised? Matthew Bird might answer that question.

Matthew Bird: Broadly, yes, that is the intention, although there are a lot of moving parts in relation to the investment plan.

Liam Kerr: Mr Bird, I will press you on “broadly”. Earlier, you told me—I cannot remember your precise words—that the delivery plan and the strategy are being consulted on in the spring and summer and will be finalised around the autumn. The investment plan is very much a part of the strategy, so will it be concluded in the same timeframe or is it likely to slip?

Matthew Bird: Going back to one of your earlier points, one of the reasons that we published a draft of the high-level strategy in December was

so that the sector and the people who are delivering for biodiversity on the ground have that indication of the direction of travel and the steer that they need to start delivering for biodiversity.

Both the strategy and the delivery plan are being delivered out of our team, and I can make that commitment. The biodiversity investment plan involves bringing in a range of different partners to deliver it. I am happy to say that, broadly, it is being delivered along the same lines, but I cannot be more specific than that.

Lorna Slater: However, in line with my earlier answer to the question that Jackie Dunbar raised, that does not mean that we have not got started. As with the rest of the biodiversity matters, there are two streams—the urgent, evidenced actions that we are already taking and the long-term strategy to join them up—and so it is for the finance. We absolutely will deliver that finance plan along with the strategy, but that does not mean that we have not got started.

For example, we know about our finance gap in natural capital. In 2021, a report from the Green Finance Institute assessed our finance gap for nature in the UK, which is defined as the difference between the required spending and the committed, planned spending. Central estimates of our finance gap for the next decade are £20 billion for Scotland, which is about £8 billion for biodiversity protection enhancement and £9 billion towards climate change mitigation. That information is already with us.

We have already spoken about our nature restoration fund, which is public money that is being put directly into nature restoration—the member will be aware of the pilot agreement between NatureScot and Hampden & Co to invest in natural capital. We all know that we need to bring private investment into the sector to fill the finance gap, and that pilot is the first step. Again, we have not waited to get started; we have already started, but that strategy will still be forthcoming.

Liam Kerr: The particular private finance deal that NatureScot has signed—I think that it is around woodland and is worth up to £2 billion—is a very interesting model. Quite rightly, the minister talks about the need for £20 billion of private investment for forestry and woodlands. Can we leverage private investment for what we need for heat in buildings? Given the interest in that model, when does the minister intend to publish the full detail that underlies the deal, so that we can see exactly what private investors are getting out of the deal and whether it is applicable at scale and in other areas?

Lorna Slater: That project is a partnership between NatureScot and Hampden & Co, and the

Scottish Government is not directly involved in it, so I do not have the information on when the details around that project might be published. That is an on-going partnership, so we can see how that works.

Liam Kerr: Will you commit to publishing it, minister? Alternatively, could you come back to me with an answer as to whether it will be published and, if so, when?

Lorna Slater: We certainly hope to gain learnings from that project, and I am happy to write to the member to let him know the timescale for sharing those learnings.

Liam Kerr: I am not asking about the learnings; I am asking about what investors will get out of it and the detail underlying it. Will that information be published, minister?

Lorna Slater: As it is a partnership between NatureScot and private companies, I do not know which aspects of that information will be in the commercial, confidential space and which aspects will be in the public space, so I am unable to commit to the member exactly how much will be shared publicly. However, I am happy to commit to sharing the learnings from that project, so that we can take those forward into what I hope will be other, similarly successful projects.

The Convener: Minister, I understand your reticence about committing to doing that, but I believe that it would be helpful for the committee to receive correspondence from you that clarifies what you can share.

Lorna Slater: Absolutely.

The Convener: I note that the learnings are part of that, but I think that the member was specifically asking about what the deal involved. We would be grateful to hear that detail if you can share it. A written letter to the committee would be absolutely perfect.

Lorna Slater: Absolutely. I can provide a little bit more detail now, but I am also happy to correspond.

The investment model that is being looked at is based on a bridging loan provided by Hampden & Co to the landowner to create woodland, both through planting and through natural regeneration. That loan bridges the gap between the initial investment and the flow of carbon revenue. The carbon credits that are generated can then be retired—so, that is offset to collect those carbon credits. That is the general model, but I am happy to write to the committee with more detail on what is available.

The Convener: I think that Liam Kerr wants to come back in briefly.

Liam Kerr: Very briefly, what interest rate will that bridging loan be subject to?

Lorna Slater: I do not have that information.

The Convener: Truthfully, Mr Kerr, I have allowed you to push that quite a long way. I have asked the minister to write to the committee, because I think that the subject is of interest to us, as will be understanding who will shoulder the obligations. It will be a short-term loan to allow something to happen, but it will have long-term consequences and costs relating to managing the environment beyond that. The committee would like to know more about that. So, the more you can share with us, minister, the more grateful we will be.

I will bring in Collette Stevenson, who lost her question in the cut and thrust of that exchange.

Collette Stevenson (East Kilbride) (SNP): Good morning from a snowy East Kilbride, and a warm welcome to the minister and her team.

During the evidence session last week, the committee heard about a decision that was adopted at COP15 that takes forward aspects of the Edinburgh declaration, which sets out areas for action for local authorities, as well as subnational governments, and recommends that the management of biodiversity be decentralised. What role will local authorities need to play in the delivery of biodiversity targets? In practice, how will local authorities and communities be more empowered in that area?

Lorna Slater: That was a really interesting aspect of the Edinburgh process. Members might recall that, during the 26th UN climate change conference of the parties—COP26—subnational actors such as Scotland, some American states and some European regions were frustrated that members of the United Nations might not have been as ambitious as subnational actors wanted them to be. The same concern was expressed in the biodiversity space during COP15, which is why the secretariat asked Scotland to lead the process for subnational bodies. In Montreal, I met the mayor of Kunming, the deputy mayor of Paris and some amazing people from Sao Paulo, Quebec, California and other parts of America, and it was interesting to talk to them about what they were doing in that ambitious space.

The member is absolutely right that regional governments can do so much, because they are on the ground and are at the coalface of how things happen. I am happy to outline some of the things that we are doing. A lot of stuff will need to be delivered by local authorities, so I meet the Convention of Scottish Local Authorities regularly, and NatureScot works closely with a network of local authority biodiversity officers on those matters.

10:00

The nature restoration fund has a specific Edinburgh process stream, which is for local authorities to use to take on projects. We are providing direct funding to local authorities—£5 million was allocated during 2021-22 and £6 million was allocated during 2022-23.

Another interesting initiative for local authorities in Scotland is our nature networks. In October 2022, we announced an additional £200,000 for the expansion of nature networks in Scotland. The vision is that each local authority will have a nature network, which will address the problem of habitat fragmentation. As human activity has encroached on nature, nature has retreated to sort of islands. That is a problem for resilience because it means that species cannot move between those islands and, therefore, cannot keep their genetics healthy by intermingling. It also means that species are less able to adapt to climate because they cannot relocate or move as the climate changes around them. We can tackle habitat fragmentation through nature networks, which will be delivered by local authorities in Scotland. That is very exciting because it means that each local authority can decide what will work for it and what is right for it. I am interested in how we join up those networks across boundaries so that we have a continuous network of nature throughout Scotland. Some really interesting work is happening in that regard.

Collette Stevenson: Can I come back in, convener?

The Convener: Yes—keep going. I will stop you when we run out of time.

Collette Stevenson: Thank you. I am proud and honoured that my constituency is home to Langlands Moss, which is one of the biggest peatland mosses in Scotland. The volunteers there have done remarkable work, but a lot of biodiversity is at risk if we do not take action. That includes indigenous species, particularly some newt species. Can you drill down into those issues and tell us what action is being taken? It is a beautiful nature reserve on the outskirts of East Kilbride.

Lorna Slater: You are right to recognise the work of volunteers in protecting and restoring nature. Indeed, Matthew Bird and I went to the launch of the UK's plant atlas, after an estimated 8,500 volunteers went around the UK, over a 20-year period, counting every flowering plant. It is an incredible achievement, and that is exactly the kind of data that we need in order to understand the challenges that native species—such as those at Langlands Moss—face and how at risk they are. Unfortunately, the plant atlas shows that our native species numbers have declined significantly, but introduced species numbers have increased

significantly. You are absolutely right that the challenge is enormous, and protected areas make such a difference.

As I outlined to Jackie Dunbar, one of the streams in the biodiversity strategy, under actions, is to

“recover and protect vulnerable and important species.”

That is exactly the focus that we need. We need to manage existing and emerging pressures so that species can continue their recovery, and we should reintroduce species when that is needed.

Lisa McCann or Matthew Bird might have some specific information on newts.

The Convener: It does not look like you are going to get an answer on newts, Collette. Perhaps the minister could write to you about that afterwards, or you could write to her about that constituency-specific issue.

Lorna Slater: We have no specific newt knowledge, but we are happy to write to the member on that issue.

Collette Stevenson: Thank you.

Mark Ruskell (Mid Scotland and Fife) (Green): Minister, I want to ask about an issue that cuts across to the other side of your portfolio: consumption. Last week, we heard about some of the global impacts that consumption and supply chains have on biodiversity. We recognise that that is reflected in the new global biodiversity framework, but it is not reflected in our environment strategy. How will the new biodiversity strategy and delivery plan start to address our understanding of the twin issues of the impact of consumption on biodiversity and what we do about it, given that there is a mixture of reserved and devolved competences around the issue?

Lorna Slater: That is a serious matter and a really big question. You are right that one of the outcomes detailed in the Scottish Government's environment strategy is that we need to be responsible global citizens and have a sustainable international footprint. If everyone on earth consumed resources as we do in Scotland, we would need three planets. Our consumption relies on resources—including water, land and biological and mineral resources—that are extracted or used in other parts of the world.

Our environmental impact is so significant that it does not just impact our own country; the impact extends far beyond it. The impacts from how much we overconsume are complex. Some of the commodities that we import are associated with deforestation, water stress and other ecological pressures.

To be good global citizens, we need to make sure that we manage our own consumption here. A big part of that relates to the circular economy, which, as the member rightly points out, is the other part of my portfolio. We need to move to an economy in which we do not tolerate waste of energy or materials, so that we reduce to the bare minimum our extraction from the natural environment. Where possible, we should re-use materials over and over again and use materials that have a long life. That is how we can reduce our impact.

As I touched on earlier, in relation to the impact of plastics on wildlife species, for example, we need to look at how we manage plastics, how we reduce their use and how we make sure that we recycle them when we do need them. We can tackle a lot of our problems in this area by looking at the “how”.

Mark Ruskell: In the biodiversity strategy and delivery plan, should we expect to see something specific on consumption?

Lorna Slater: It is part of the cross-Government work that we do. Addressing consumption, which relates to the other part of my portfolio, will be covered largely through the circular economy bill and the route map for waste in Scotland. It is about bending that route around. However, that does not mean that the issue of consumption does not relate to biodiversity. These things are always artificially put into categories, but the member is quite right to point out that our work on the circular economy will be important in relation to biodiversity, too. I am absolutely confident that we will reference consumption in the strategy, because it is an important part of how we deal with the issue.

Mark Ruskell: I will pick out one specific area in relation to consumption: food waste. There is a particular target around consumption and reducing waste in the global framework, and we have an important target to reduce our food waste in Scotland. How is that going? How can we make more progress on that?

Lorna Slater: Conversations on food waste are continuing as we work towards the target of a 33 per cent reduction by 2025. Action so far has included running a school food waste reduction pilot with Glasgow City Council and conducting food waste audits of more than 100 hospitality and food service sector businesses. NHS Scotland has also been working with Zero Waste Scotland to tackle food waste in healthcare settings. We have published our consultation on our route map for our ambitious waste and recycling targets, one of which relates to food waste prevention.

Food waste reduction is a global effort, and we are signatories to WRAP’s world-leading

Courtauld commitment to reduce food waste. Through that forum, we engage with the UK’s biggest food and drink businesses and other devolved Administrations, and we have access to best practice, research and interventions.

A full review of progress against the commitments on food waste will be published this year. There has been a bit of a delay due to Covid. Since 2019, we have run two consumer and household-focused food waste reduction media campaigns, and we are providing £100,000 of funding support for FareShare’s surplus with purpose scheme, which follows on from £200,000 of funding in 2021-22. Scottish potato supplier Albert Bartlett recently announced that it has redistributed the equivalent of 5 million meals through its FareShare partnership, so that is a great success story.

Mark Ruskell: When exactly do you anticipate the review on food waste being published? Will it be this year?

Lorna Slater: Yes. We expect it to be published this year.

Mark Ruskell: Okay. The committee will obviously take a great deal of interest in that.

The Convener: We have another question from the deputy convener.

Fiona Hyslop: Is the Scottish Government looking to other international developments in finalising the biodiversity strategy? Are there implications arising from the recently agreed UN high seas treaty? If Màiri McAllan is the lead minister on marine issues, how is she influencing the biodiversity strategy? How is the development of the European Union’s nature restoration law being factored into the final version of the strategy or into the version that will go out for consultation with the delivery plan?

Lorna Slater: Okay—I was taking some quick notes. I will go through the UN high seas treaty and the EU law aspects.

The Scottish Government welcomes the UN high seas treaty. A historic agreement has been reached after more than a decade of multilateral negotiations. We have been at the forefront of ensuring protection for the high seas throughout the UK’s membership of the OSPAR Commission—it is responsible for implementing the Convention for the Protection of the Marine Environment of the North-East Atlantic—which has been adopting a series of high-seas marine protected areas in the mid-Atlantic since 2010. Scotland has designated MPAs covering 37 per cent of our national waters, and 10 per cent of our waters will be highly protected marine areas by 2026.

We are already doing some excellent work in the marine space, and I absolutely welcome the work that is being done outside our territorial waters. As the treaty has just been agreed to, we have not yet incorporated it, but our strategy is still in draft, which gives us the opportunity to incorporate that new bit of work into our strategy.

Fiona Hyslop: Is that Màiri McAllan's area of responsibility, or is it yours?

Lorna Slater: We are very much working together. The biodiversity strategy covers many types of land use, including forestry and agriculture, so it is not just me contributing to or working on it; other ministers with relevant portfolios are contributing, too. Indeed, officials in that space, including those at Marine Scotland and NatureScot, are working with all of us together; they are not separated in that work. That is one of the nice things about having overlapping portfolios between me, Ms McAllan and Ms Gougeon: we are very much able to work together on these matters.

Fiona Hyslop: The UN treaty covers the 30 by 30 pledge for both land and sea. My understanding is that Scotland already has 37 per cent of its marine area covered. The sensitivity of ensuring that we live with local economies while addressing marine protection—certainly in inshore areas—is therefore of particular concern, and we know of, for example, Western Isles Council's concerns on the proposed HMPAs.

I am not expecting you to deal with that today, as that topic is for another minister, but we should register the point that marine spatial planning must be very sensitive and sensible. We would be looking for a commonsense view to be taken. That will be a key aspect of what we will be looking for in the biodiversity strategy. There must be a balance and a sharing of responsibility, so that what we heard must apply to the land must apply very much to the sea, too. Is that an approach that you would welcome?

Lorna Slater: That is absolutely an approach that I would welcome. It is not necessarily a question of competing interests, particularly in the sea space. One of the groups that I met at COP15 was the representatives from California. They have had no-take zones for many years, which is the equivalent of our highly protected marine areas. When they implemented those zones, there were concerns from fishers about how they would impact on their work and business, but they have found that the no-take zones allow for species to breed and thrive uninterrupted, which improves their yields as fishers.

This is not necessarily an either/or thing. The member is absolutely right that we need to consult, to ensure that we put such areas in the

right places and to ensure that stakeholders and communities are absolutely engaged.

It is not necessarily part of the vision that such things are in conflict. Highly protected marine areas, with a no-take zone, give fish a place to breed, thrive and increase their numbers. As they move out from those zones, they are then available to fishers. Such areas can be an advantage that works for everyone.

Fiona Hyslop: I would suggest that, from what we have been hearing, the Western Isles situation is a bit of a conflict zone just now, but I will leave that there for now.

I also referred to the proposed EU nature restoration law. Is that something that you would be looking to keep pace with to ensure that the biodiversity strategy embraces some of that thinking?

10:15

Lorna Slater: Absolutely. The Scottish Government has already committed to maintaining broad alignment with EU environmental standards, and we have been monitoring with interest the development of the EU's ambitious nature restoration law. In fact, our strategy sets out the metrics that we would use to measure against the targets that the EU has set out.

At the moment, the EU law and the targets are proposals, and they are subject to negotiation between member states and amendment by the European Parliament. Our approach is not to wait for them but to develop our own targets and delivery proposals; however, we will take account of what is going on in Europe as those developments emerge.

The Convener: I am looking round the table to see whether anyone has any other questions. As no one else does at the moment, I have a couple of questions for the minister.

Are you happy with the use of carbon credits and their being attached to land across Scotland?

Lorna Slater: As the member will know and the committee will have heard in the evidence session last week, there absolutely need to be mechanisms for bringing private finance and investment into this space. Carbon credits are an established tool, and work is being done on biodiversity credits and so on. They are under development, but the finance that they bring in is absolutely needed. There is no question but that we must have private finance to develop those areas, and that is one of the tools for bringing in that finance.

The Convener: Would you be happy to see parts of the land and estate that are owned by the

Scottish people through the Scottish Government being used to generate carbon credits and finance for the Scottish Government?

Lorna Slater: I do not have any particular comment on that. I am not aware of any particular work in that policy space.

The Convener: You do not have a view on it. Has it been discussed at all? It seems quite fundamental, given the forestry estate that we have, that the Government should be considering or discounting the use of that.

Lorna Slater: I am very happy to take that under consideration. I can write to the member on that point.

The Convener: The issue has not been discussed.

Lorna Slater: That might not be the case. I am not aware of those discussions, but I can certainly find out and write to the member on that matter.

The Convener: Before I bring in Mark Ruskell, I will ask one more question on that issue. My concern is that carbon credits come with a sting in the tail, because we do not know what their ultimate cost will be. If firms are buying up or giving bridging loans, that might be for carbon credits, which is an interesting concept. Therefore, I find it odd that the Government has not discussed their use and discounted it or agreed that they should be used.

Lorna Slater: The member is referring to the NatureScot agreement with Hampden & Co. As he suggests, that is an investment model that is based on a bridging loan from Hampden & Co to a private land owner to support that private land owner in creating woodland. The loan bridges the gap between the initial investment and the flow of carbon revenue. That is a way of helping private land owners do that woodland generation.

The Convener: I absolutely understand that, but that help comes at a cost. I am trying to identify whether the help is attached to carbon credits.

I will bring in Mark Ruskell, and then I might follow that up a little more.

Mark Ruskell: I actually want to go back to the issue of marine protected area designation.

The Convener: Can I finish on my carbon credits question, then come back to you on marine protected areas?

Mark Ruskell: Yes. I would be very grateful for that, convener.

The Convener: I will push the issue a little bit more. We have seen large tracts of Scotland change hands, at very high prices, to allow firms to

attach their carbon output to that land by getting a carbon credit. That has caused some concern. Does it cause you concern, minister?

Lorna Slater: The matter of green lairds does cause concern, to me and to my ministerial colleagues. It is really important that we balance the need for investment in our natural capital with work that we are doing to empower local communities, so that we do not have the situation of problematic green lairds.

A suite of existing measures are in place to mitigate the impact of that rapidly evolving market. For example, in the last session of Parliament, we implemented legislation to extend community right to buy, including the right to buy land in order to further sustainable development. We also introduced a new register of persons holding a controlled interest in land.

Fears were raised at the time that our measures would deter inward investment but, as the member knows, that has not been the case, as we can see from substantial rises in land values over the past few years.

I share the member's concern around so-called green lairds on the land concerned, and that is why we are putting in place frameworks for ethical investment in land and nature restoration, with private finance.

The Convener: Just for the record, I am surprised and concerned that the Government does not have a policy on carbon credits and its land, or on whether that should be the right way of generating capital. I am not expressing a view on that either way; I am just concerned that there is not a policy on that.

Mark Ruskell: On the issue of MPA designation, environmental NGOs and communities have a long-standing concern that, although we might designate areas as such, they might end up as paper parks because of a lack of enforcement and monitoring.

What is your response to that? How might we ensure that highly protected marine areas are adequately monitored in future, with the right management measures associated with them and with enforcement in place?

Lorna Slater: The development of highly protected marine areas is still under way. We are carrying out a consultation to get the areas in the right places—which was rightly pointed out as being important. There is certainly a challenge in ensuring that we have engaged stakeholders at all the key stages when locating and selecting the sites for those areas.

I turn to the enforcement of HPMAAs. MPAs and HPMAAs are different beasts. MPAs will have marine management plans in place, which say

how the areas are to be used, while HPAs are much stricter as no-take zones, given the restrictions on commercial activities in those spaces.

I might have to get Lisa McCann or Matthew Bird to support me on the detail of how exactly those restrictions would be enforced.

Lisa McCann: It is recognised that there are a number of enforcement challenges, because of the significant areas that are covered and the large number of fishing vessels. My understanding is that effective compliance will be carried out by extending the requirement for vessel tracking and monitoring systems across the whole commercial fishing fleet by the end of the current session of Parliament.

We recognise that illegal activity in MPAs is caused by a small number of operations that cast a shadow over most of the law-abiding fishing community. If further detail is required, I am happy to obtain that from the relevant officials and to provide it to the committee.

Mark Ruskell: Thank you.

The Convener: I think that Mercedes Villalba wishes to ask a question.

Mercedes Villalba: Yes. It is in response to your point, minister, about the need to address the issue of green lairds. You seem to suggest that part of the work to do that involves expanding community right to buy. However, the carbon credit model has the inadvertent consequence of increasing the price of land, so communities are then priced out and they are even more reliant on Government funding to buy land. It strikes me as quite a short-term solution to go down the route of a private financing model. In the long term, that increasingly prices out communities and the public from land.

Would it not be more prudent to adopt a community wealth building model that uses public funding but that locks that into the local area, so that the whole community and, by extension, the country benefit rather than overseas private finance companies, potentially?

Lorna Slater: As the member will know—or she might not have been present for the committee's evidence session—

Mercedes Villalba: I was.

Lorna Slater: —the need for private finance for nature restoration is unquestioned.

Mercedes Villalba: That is debatable.

Lorna Slater: There is absolute consensus on that.

Mercedes Villalba: It is ideological.

Lorna Slater: The finance gap is £20 billion. There is absolutely no way that that can be fully funded from the public purse; that simply is not possible. What we need to do, and what we are working on doing, is to put in place the framework for ethical investment in the places concerned for nature restoration. That means managing the different interests and incorporating community wealth building and local input into the schemes. However, we absolutely cannot meet our targets for the climate and nature restoration without private finance. That simply would not be possible. We have to find a way of doing that ethically that supports communities.

The Convener: This is an interesting subject, which will continue to vex us. The problem is that short-term gain could come at a long-term cost, whether for individuals, communities or whoever is sold the obligation and takes it on. That was a very interesting question.

We have come to the end of this evidence session, and I suggest that we have a pause until 10.35 before starting the next one, which I am sure will be equally interesting.

10:25

Meeting suspended.

10:35

On resuming—

Deposit Return Scheme

The Convener: Welcome back. Our next item is an evidence session on Scotland's deposit return scheme. I refer members to the papers for this item.

At the committee's last meeting on 7 March, we agreed to take evidence from the Scottish Government on the DRS, and to hear from Circularity Scotland, the scheme administrator, at a meeting in the near future. The purpose of these sessions is to ascertain key information about the scheme's readiness for launch on 16 August this year.

I am pleased to welcome back Lorna Slater, Minister for Green Skills, Circular Economy and Biodiversity. I also welcome Kevin Quinlan, director, environment and forestry, Scottish Government; and Euan Page, head of UK frameworks, Scottish Government.

Minister, before we begin, I believe that you would like to make a brief opening statement.

Lorna Slater: I welcome the opportunity to address the committee on Scotland's deposit return scheme. When we launch the DRS on 16 August, the scheme will be among the most environmentally ambitious and accessible in Europe. It will increase recycling rates from 50 per cent to 90 per cent, reduce littering on our streets by one third, and reduce carbon dioxide emissions by 4 million tonnes over 25 years.

We are at an advanced stage of preparation for launch, with much of the infrastructure for the scheme already in place. Approximately £300 million of private investment has been made, counting and sorting centres are being created, vehicle fleets have been ordered and recruitment is under way.

As at 10 March, 671 producers, across the full range of drink producers—from global brands to small craft breweries and distilleries—representing 95 per cent of the total volume of drinks containers sold in Scotland each year, have completed registration for the DRS with Circularity Scotland. I am delighted that so many producers have already stepped up to the challenge to take responsibility for the waste that they produce.

The scheme will also create 500 jobs across the country, with 140 new jobs at a recycling plant in Motherwell and 70 jobs in Aberdeen already announced. This month, we have also seen the launch of registration for return point operators. That includes supermarkets, local shops and other

outlets where customers can return their empty containers and reclaim their deposit.

We previously updated guidance and support to make it easier and quicker for retailers that wish to apply for an exemption from being a return point to do so. That was in response to direct feedback from retailers—particularly smaller retailers. Exemptions can be sought on the grounds of proximity, where agreement has been made with other nearby return points, and on environmental health grounds—for example, if there is not space to store returned containers.

I recently wrote to the convener of the committee to provide an update on the work that has been undertaken to secure an exclusion from the United Kingdom Internal Market Act 2020. As set out in that letter, UK Government ministers acknowledged that the Scottish Government has followed the agreed process at all times.

I take this opportunity to again confirm that we have been following the agreed and established process between the UK Government and devolved Governments for excluding certain areas from the internal market act since 2021. We expect a decision from the UK Government as soon as possible, and I will continue to keep the committee updated.

I will continue to work collaboratively with Circularity Scotland and businesses as they finalise their operational delivery plans and as we move closer to the launch of the DRS in August. I welcome the opportunity to assist the committee in its considerations, and I look forward to questions.

The Convener: Thank you, minister. The first question is from me. In my six years in the Parliament, I do not think that I have ever come across legislation that caused so many problems as it was being introduced. What is the problem, as you see it? I am then going to ask you how you will solve it.

Lorna Slater: I actually think that the problem is largely because of misunderstanding of what the scheme is and how it operates. The scheme is moving toward launch, and we have that big milestone of 95 per cent of the market, by volume, being signed up to the scheme.

The scheme is a producer responsibility scheme. That means that producers of the materials that we are collecting—the people who profit from those materials—need to ante up. They need to put it on the line and say, "Yes, we are now going to be responsible for collecting the materials, sorting them, and making sure that they are recycled properly." That is a big shift, from using public money to do that work to putting it back on the producers. Producers that produce an enormous market volume—as I have said, it represents 95 per cent of the market—have

signed on the dotted line and said, “Yes, we’re stepping up.” That is a huge milestone.

The next significant milestone is getting the return points signed up. Once Circularity Scotland and Biffa know where the return points are and how many items they expect from each return point, they can finalise their collection schedules. Circularity Scotland and Biffa are working towards the 16 August launch date.

All those pieces of the puzzle are under way. That is what we need to get the scheme launched. I know that there are still concerns among some small producers about how they participate in the scheme. We are working with them, the Scottish Environment Protection Agency and Circularity Scotland to bring them on board so that they can continue to supply the Scottish market.

The Convener: Okay. If the biggest problem is “misunderstanding”, to use your word, somebody has failed to explain the scheme to the people concerned. Do you have enough time to explain it to those people before the launch in August?

Lorna Slater: The communications between Circularity Scotland, SEPA and businesses are under way and on-going. I think that some of the frustration results from things that are being reported in the media, including the press, which are simply not accurate. The correct way to get the right information that businesses need is to go directly to Circularity Scotland, and we are signposting people to that organisation.

Circularity Scotland is employing a communications expert to support the communications with businesses. It has held workshops throughout the country with businesses to help them to understand their role in the scheme, it has an excellent website, and it has call handlers who can answer phone calls and emails at all hours of the day and night. I recommend that any businesses that are not clear about their role should, instead of reading something on Twitter, get in contact with Circularity Scotland to get the right information that they need.

The Convener: I am not sure that businesses base their decisions on what is on Twitter.

On the misunderstanding at the business level, I think that the public have signed up to getting deposit returns working. However, when I go to a supermarket—as I did on Saturday—to buy some bottled water, 24 small bottles of water cost £3. That will become £7.80, which is quite a change to my or to anyone else’s shopping basket. Do you think that the public misunderstand the scheme or that they fully understand what is coming down to them?

Lorna Slater: Whenever the public are asked about such schemes, they are always very

enthusiastic about them. Generally, such schemes have broad public support. Schemes like ours work very well in other countries. They are very straightforward and well understood. In fact, people in this country are often nostalgic. They have memories of similar schemes that ran when they were young in which they returned their bottles to get their money back.

When someone buys bottles or cans, the cost of 20p is added to each bottle or can. People can, of course, get that money back when they return those materials. Therefore, there is a net neutral cost to the consumer when they purchase those materials.

The Convener: I am nostalgic about returning other people’s bottles, as well, although that might have been fraud. I am sure that somebody will come on to that in the questions.

Mercedes Villalba: I have questions about producer registration. The initial deadline was 1 March. Is it correct that extending that would require a change in the regulations?

Lorna Slater: That would be required to extend the deadline. However, late applications are being accepted. That has not been a hard cut-off. Businesses can still apply, and they continue to do so.

Mercedes Villalba: When will that continue until?

Lorna Slater: That is indefinite, in that any business that wants to sell in Scotland in any particular year needs to be signed up by 1 March of that year. For the first year of the scheme, we are allowing late applications to support businesses to come online with it.

Any businesses that are not registered in time for the scheme launch will not be able to supply in Scotland, so we encourage them to get going. However, in future years, when new start-up businesses in Scotland wish to sell in the Scottish market, they will also need to apply for the scheme. As new businesses come into the Scottish market, they can sign up for the scheme, on an on-going basis, so that they can sell in Scotland.

10:45

Mercedes Villalba: Is 1 March next year a hard deadline, or will there be a deadline every year?

Lorna Slater: I believe that the regulations have that March deadline every year. That is to allow time for businesses to be operationally included. However, for this year, I believe that late applications will still be accepted.

The intention is not to be punitive to businesses. Businesses need to sign up for the scheme. They

need to give the information about how many products they have and the labelling, so that there is time to programme the reverse-vending machines. When you take your bottle or can back, the machine will scan the barcode and say, “Yes, you bought this in Scotland, it is a scheme article, so here’s your 20p back.” The point of registration is for businesses to say, “Here are my barcodes and here are my products,” so that we can then programme all the vending machines in Scotland to be able to take those back. The reason why there is a deadline is to allow time for that work to be done. That is why businesses need to register as soon as possible—so that their barcodes can be registered with the machines.

Mercedes Villalba: I understand that there was consideration of a potential grace period for small producers. Are we now in that period, or are you still considering that?

Lorna Slater: We are looking at a variety of measures to support small producers. As I outlined in my answer to the convener, although hundreds of producers are signed up, there are some who have not yet signed up. We are digging into the detail of what the challenges are there. In response to conversation with those producers, Circularity Scotland has already put in place considerable cash flow measures—£22 million-worth of measures have been put in to reduce up-front costs and help with cash flow, because that was identified as a barrier.

Another identified barrier for small producers was labelling. Getting their bottles redesigned with a different barcode requires minimum order quantities and it takes a long time. To remove that barrier, Circularity Scotland will be issuing sticky labels to producers. When they have fewer than 25,000 of any particular product, they can get those labels from Circularity Scotland. They will kind of already be pre-registered, because the labels will have been issued to them.

Those are two—

Mercedes Villalba: So getting those sticky labels will be instead of the producer being required to register, or would they need to register to get the labels?

Lorna Slater: They need to register, but they can go through the process to get those labels. It was identified that redesigning packaging on the timescale given was a barrier to businesses, and Circularity Scotland came up with that really practical labelling solution so that that is no longer a barrier.

We are looking at what else we need to do with regard to the producers who have not signed up. Do they understand the package of measures that are on the table? I know that the committee took evidence from—

Mercedes Villalba: I am sorry to interrupt. I think that there will be questions later in the meeting about labelling, particularly for small producers so, if you would not mind, let us stick with the questions on registration.

Lorna Slater: That is what we are looking at—understanding the barriers to registration.

Some small producers have asked us to consider a grace period. That would not be a grace period for registration, so they still need to register but, hypothetically, a grace period for implementation. There are some big challenges with that. It might not be fair to medium-sized producers or the small producers that have signed up. Therefore, we need to take a step back again. We know that hundreds of small producers have signed up, so this barrier is clearly not universal. For the businesses that have not signed up, we need to look at what their challenges are and make sure that we are putting in place the right measures to help them get on board.

Mercedes Villalba: The deadline to register has passed, but registrations are still being accepted. Does that mean that producers who have not registered by 16 August, which is the launch date, will not be permitted to sell their items in the Scottish market?

Lorna Slater: That is correct. That is normal for such schemes.

Mercedes Villalba: Are you considering a grace period from that point—from 16 August—or is that the hard cut-off? Is there still time to register up until 16 August, or would you allow registrations after 16 August? Can producers sell their products if they are in the middle of the registration process after 16 August?

Lorna Slater: The final date by which SEPA needs to receive completed registrations is 30 June 2023—registrations must be completed by that date.

I encourage all producers to start their registration before then, because the registration process is reasonably detailed. Producers have to enter all their products, the details of their barcodes and so on, and SEPA needs time to process the applications and publish the register of producers before the scheme goes live on 16 August. Retailers need to know which products they can continue to carry by 16 August. Therefore, SEPA needs to publish a list that shows all the producers that can continue to sell in Scotland, to ensure that retailers comply with the legislation.

SEPA has said that it will be very pragmatic in how it implements that, and I support that, because we want to ensure that businesses are on a pathway to compliance. I said that we are

looking at how we can bring on board small producers who have not yet registered, and one thing that we are in discussions about in relation to that is working out what the pathway to compliance will look like for each business.

Each business is quite different and has different requirements and barriers, and we do not intend to be punitive or come after businesses—that is not the idea. The idea is to support businesses to comply with the scheme, because we want businesses to continue to be able to sell in Scotland, and we want them to understand their obligations under the scheme, and, in fact, to take advantage of it. Clearly, for businesses that are registered with the scheme and can continue to be stocked, that will be a competitive advantage.

Mercedes Villalba: Finally on that topic, if a producer registers after 30 June, would its registration be considered for the following year—because you said that the deadline is 1 March each year—or could the registration be processed to get their products on to the market in the current year?

Lorna Slater: We would have to consider exactly what would happen in that situation. I am happy to write to the member with details on exactly how that would work.

Clearly, the business registrations process has to be on-going, because new businesses start up all the time, so that is necessary, but I am happy to write to the member with detail on exactly how that will work and on what the delay will be between being registered and being able to sell on the Scottish market.

The Convener: Minister, I just remind you to write to the committee, if you would not mind.

Lorna Slater: Sorry—I will write to the committee.

The Convener: That issue is critical because, if there are hard deadlines and producers can join only at a certain stage during the year, that might stifle business, so we would be grateful for an answer to that question.

Fiona Hyslop: I would like to address the issues with return points. Small businesses in particular have concerns about limited space and lack of capital revenue to invest. You have addressed that to an extent, but there are two other issues: one relates to health and safety; the other relates to the distance to another return point. What engagement has there been with different organisations and groups on that? What are their concerns? In addition, when will you know whether convenience retailers are choosing either to establish a return point in their premises or to opt out?

Lorna Slater: The member has asked some really good questions. Circularity Scotland is a membership-based not-for-profit company. Its members include trade associations that are associated with small convenience stores, such as the Association of Convenience Stores, the National Federation of Retail Newsagents and the Scottish Grocers Federation—so they not only have a direct line to the information; they are also influencing Circularity Scotland's decision making. The mechanism by which Circularity Scotland interacts with convenience stores is through their membership of those trade associations.

I meet those associations—and the Scottish Grocers Federation in particular—regularly and they have flagged up two categories of concern. First, they have emphasised that they want their members to participate in the scheme. They consider it a matter of footfall: where small grocers participate in the scheme, people will come through their doors, which is exactly what they want. They have asked me to help them to be involved in the scheme, and they are very supportive of it.

Secondly, some small businesses, particularly tiny ones, were concerned about their lack of storage space. Bakeries that sell bottled juice were also concerned, as you cannot have broken glass in a bakery. As the member pointed out, there are exemptions for such situations.

Let me give the high-level picture so that everybody understands. If you sell bottles and/or cans of juice, wine or anything else in Scotland, you have three options: you can choose to be a manual return point; you can choose to have an automated return point, which means installing a reverse vending machine; or, if it is applicable to you, you can choose to be exempt.

The grounds for exemption are proximity. For example, if several small stores are close together but a big store is nearby, the small stores might decide that they are not up for being return points and they can ask the big store to take their returns. Equally, they might decide that they want to work together to be a return point so they might pull together and get one reverse vending machine between them.

There are different models and it is up to each business to decide how it wants to proceed. If a business wants to be a return point, it can be a manual return point. That is the most cost-effective model if the business is collecting small amounts. That is probably what a convenience store would do. If a store has a small floor area, it might not have room for a reverse vending machine and it might not have high sale numbers of those products, so it would take them back as returns. In that case, customers would hand their bottles and cans over the counter.

The reverse vending machine infrastructure is probably most appropriate for bigger stores that not only have the space for them but the capital to do the up-front installations and the resource to do the administration of getting planning permission and all the things that go with that.

It is likely that big stores will have the reverse vending machines, small stores will have manual return points and other businesses that apply for an exemption—that is, small businesses or businesses with bakeries in them and so on—will be exempt.

On how we will know, we are the point at which it is with businesses to make their applications. Return point applications are open, so businesses can look at the evidence and decide what to do. Once the period of applications for return points is complete, we will have a picture of how many we have in Scotland and will know the mix—how many are manual and how many are RVMs. Then, knowing how much volume of material there is, we will be able to estimate how many will go to each point.

That will allow Biffa to work out its logistics. If there are more return points, that means fewer items per return point, whereas fewer return points means more items. Working out the logistics depends on exactly how many businesses sign up, where they are and what their volumes are, so it is an iterative process whereby we see what businesses have signed up.

I hope that I have answered the question. I might have drifted off a bit.

Fiona Hyslop: When will we know?

Lorna Slater: When does retail registration close?

Kevin Quinlan (Scottish Government): It is actually—*[Interruption.]*—pardon me.

The Convener: Do not touch a button. The microphone will come on for you.

Kevin Quinlan: Thank you, convener.

Registration is an on-going rolling process.

Lorna Slater: You can register at any time. However, that also means that, if businesses are not sure that they will be ready for 16 August or they have not decided, they can apply for an exemption, if that is applicable to them. For example, if the owner of a small cafe thinks that they cannot deal with the scheme this year and they apply for an exemption, they could reapply later to be a return point. It is not a permanent decision.

Fiona Hyslop: Scotland has vast rural and island areas and it has small convenience stores in villages and small towns. There is also concern

about whether such communities will have return points. I understand that registration is an iterative process and that there are logistical considerations, not least for Biffa on collection. People might fear that collections will be few and far between.

What assurances can you give? Is that a matter for Circularity Scotland, or can you, as a minister, make it clear that you want the scheme to work for all parts of Scotland—not just for urban areas but for semi-rural, island and remote communities?

Lorna Slater: The member is absolutely right. The scheme has to work for every person in Scotland because every person in Scotland will pay their 20p and so they need to be able to get it back easily and conveniently. That is how the scheme is intended to work.

At the moment, exemption is an opt-out process. By default, all businesses that sell the containers are obliged to be return points. Therefore, any convenience store in a small town or on an island where you can buy drinks also has to be a return point unless it is exempt.

It is absolutely the intention that that will be the mechanism in small rural and remote areas. The place where someone buys their juice should also be the place where they return the item. The proximity exemptions are much more likely to apply in urban areas where a group of shops are close together. They will not apply in rural areas where there is only one shop, for example.

11:00

Circularity Scotland and Biffa are very conscious of “black spots”, which is the industry term. As the registrations for return points come in, they will monitor the situation very closely and engage with any businesses that appear to be in a black spot to ensure that there are adequate return points. I believe that Biffa is also looking at the possibility of mobile return points to collect from very rural areas.

Fiona Hyslop: We should probably pursue the issue of practicalities in rural areas with Circularity Scotland.

Lorna Slater: Absolutely. It will be able to get into the nitty-gritty of that.

The Convener: A lot of members would like to ask supplementary questions. I will bring in Liam Kerr first.

Liam Kerr: The deputy convener’s questions are really pertinent. According to an ACS graphic that I saw recently, the suggestion seems to be that, if a retail outlet cannot afford a reverse vending machine or it has no space for one, it should put the returns in bins behind the counter.

What if it has no space for that? What if it is in a rural area and therefore cannot apply for the exemptions that have been mentioned? Would that approach be right for the health and safety of staff?

Lorna Slater: That is how such schemes normally work. It is the case that return points need to take bottles back and store them until they are collected. I understand that, when a retailer registers to be a return point, it enters information on how many returns it expects to receive and how much storage space it has. That allows Biffa to put in its schedule how often materials need to be collected. That is normal for retailers. They will need to be able to store materials until they can be collected.

Liam Kerr: It might be normal, but what if a retailer does not have space for bins behind the counter? In any event, from a staff perspective, is that what we should be doing?

Lorna Slater: When items are returned, they need to be stored until they can be collected. Businesses already have storage space for various recycling materials and packaging materials. What is proposed is very similar to that. It is up to each business to figure out how it can store the materials. Unless they are exempt, businesses have an obligation to be a return point if they sell the materials. Biffa and Circularity Scotland are very happy to work with businesses to find out how that will work for them.

There is no particular rule about how businesses must store the returns. They could adapt to store them behind the counter, and I have seen versions that involve having designated wheelie bins in a secure area. There is a variety of ways to adapt storage space, and businesses can make the right decisions for them.

Liam Kerr: In relation to security, the bins will have value. Is there a risk of crime if open bins are stored behind counters?

Lorna Slater: The member is correct that the items will have value. They will have to be stored securely, because shops need to return the items to get back their fees. The items will be only 20p each, so they will represent only a small proportion of the value within a shop, which might sell bottles of alcohol, tobacco and so on. However, the member is quite right that the items will need to be secured until they can be picked up, because they will have value.

Jackie Dunbar: You said that businesses can apply to be exempt from being a return point. You also said that businesses can change their mind later. If they do not, how long will the exemption last? Will businesses have to reapply every year?

Lorna Slater: As far as I know, the exemption will last until a business wishes it to end. I am not aware of there being a certain timeframe, but I will be very happy to come back to the committee to provide clarity if that is not the case.

Jackie Dunbar: Thank you.

Mercedes Villalba: Minister, I have a couple of questions about return point operators. On the adjustments that have been made, can you confirm that the exemption process for operators is an opt-out process. Is that correct?

Lorna Slater: [*Inaudible.*] A return point must be registered in order for it to be a return point; anyone who sells these materials has an obligation to register. That is so they can enter exactly the detail that Mr Kerr was pointing out in terms of how much storage they have and the volume of returns that they expect to receive so that the logistics can be organised. If a business wishes to be exempt, it needs to apply for an exemption. Zero Waste Scotland is managing the exemption process.

Mercedes Villalba: Return point operators might be eligible for an exemption, which they can opt out of. If that was to change to an opt-in process, that would require a change in regulations. Is that right?

Lorna Slater: No. They just need to then apply to be a return point operator. That is fine.

Mercedes Villalba: I thought that you said that everybody was under an obligation to be a return point operator and they would have to opt out if they were not eligible for exemptions.

Lorna Slater: Those exemptions were built into the regulations. That is not new; they were already in there. We streamlined the process to make it more straightforward for businesses to apply for exemption. We have brought in Zero Waste Scotland as our partner on that. There is no change to the regulations. We are just implementing them in what we hope is an easier and more practical way.

Mercedes Villalba: Some parts of industry have called for you to make it an opt-in process, so that a business opts in to become a return point operator rather than opting out if it is eligible for exemption. I am just trying to establish that, were that change to be made, that would require a change in the regulations. Is that correct?

Lorna Slater: Yes, it would, but I do not think that we need that. When I speak to the Small Grocers Federation, for example, they ask us to help to facilitate their members to do that. They want their members to be in and they want the footfall—

Mercedes Villalba: The rationale for that is to have that footfall.

Lorna Slater: I am not hearing strong calls for the system to be an opt-in system. The obligation remains for anyone who sells these materials to be a return point for them, unless they are exempt and have applied for an exemption.

We have made the exemption process as simple and as streamlined as we can. Now that businesses are starting to use that process—registration for return points is open—I am sure that they will give us feedback and we can continue to make the system simpler and more straightforward, although it is already fairly straightforward for businesses. They can say that they are exempt for health and safety reasons and they are not that comfortable with handling glass on their premises. They can apply for an exemption and that can be done in a straightforward way.

Mercedes Villalba: I presume that the rationale behind that is that, if you are a retailer, you would want to be part of the scheme because shoppers looking to make purchases will, for the sake of ease and simplicity, choose to shop with a retailer where they can also return their empties. It is just easier not to have to go to one place to shop and another place to return. I can see the rationale for that.

Will you explain the rationale for having that same opt-out system of exemptions for the hospitality sector? That seems to be a different case. I am not sure that the ability to return an empty item will influence customers when they are choosing a hospitality venue in the same way that it would when they are choosing a retail business. Can you explain the rationale for extending that opt-out to hospitality rather than making it opt-in?

Lorna Slater: All return points use the same process. Hospitality falls into two categories. I am sorry, but this is about to get horribly technical. There is closed-loop hospitality and open-loop hospitality. If you go to a small cafe, such as the local Greggs, for your sausage roll and bottled juice, you will take that bottle away. That is an open loop. Under the scheme, because customers take bottles away from that business, it is an open loop and it is obliged to be a return point unless it is exempt. A small cafe or Greggs bakery, for example, have probably got very clear grounds for exemption because it cannot have broken glass on the premises. It would probably apply for exemption on health and safety grounds, meaning that it would not operate as a return point.

Equally, it might be that the small bakery is in a parade of shops that has a larger convenience store at the end, so it might decide to ask the convenience store to take its returns. It would then

get an exemption on the basis that there is a return point within the same parade of shops. It is for those businesses to make the right choice for themselves.

Closed-loop venues are the other type of hospitality venue. For example, you might be at a restaurant and order a bottle of wine with your dinner. You would not take that bottle away with you when you leave the venue, however much you might wish to. That bottle will not incur a deposit, because you will not take it away. However, the venue will have paid a deposit when buying the bottle from its wholesaler, so it will need to get its deposit back. It will do that through a closed-loop system. For that system, Biffa will collect materials separately. That process does not affect the consumer.

We are starting to get into technical matters, but those are two different ways in which hospitality venues can manage the process.

Mercedes Villalba: Am I right in thinking that closed-loop hospitality venues are obliged to be return point operators unless they opt out?

Lorna Slater: No, that is not right. Closed-loop hospitality venues are not return points. A restaurant that serves drinks to customers at their table and does not give them the bottles to take away is not obliged to be a return point, whereas a cafe or small bakery—

Mercedes Villalba: But could they opt in if they wanted to?

Lorna Slater: They are not obliged to, but a cafe or a small bakery where customers might get a sandwich and a drink and leave the venue with them is obliged to. However, as I say, those venues are likely to have grounds for an exemption.

Mercedes Villalba: So, a bar or a cafe that operates in a closed-loop system is not obliged to be a return point.

Lorna Slater: That is correct.

Mercedes Villalba: That is clear. Thank you.

I understand that a couple of adjustments have been made to the guidance on return points. There is new guidance on exemptions and there are increased handling fees, and amendments have been proposed on online sales. It would be helpful to hear to what extent those changes have addressed industry concerns. Is the Scottish Government still hearing concerns from businesses? To what extent have the adjustments helped?

Lorna Slater: Can you repeat your second point?

Mercedes Villalba: I referred to increased handling fees.

Lorna Slater: Okay.

All the work has been done in response to industry requests. One of the interesting things about the project is that the legislation, as passed by the Scottish Parliament, was relatively broad in order to allow the industry to come up with a solution that it wanted; the scheme is industry led.

There are two major parts: the producers who have to pay into the scheme and the retailers who have to implement the scheme, who will be selling bottles to customers and taking them back. You can imagine that there is a push-and-pull factor in that relationship: the producers want to pay as little as possible, and the retailers want to be paid as much as possible for the work that they do. Circularity Scotland is managing that internal negotiation and the tensions within the industry.

Specifically, the exemptions relate to the small businesses that saw the exemptions in the regulations and asked what that means for them. We have, with Zero Waste Scotland, put in place a process that is on the website and is now active. Handling fees and producer fees have also been addressed in the past few months. Circularity Scotland made calculations based on initial estimates of what fees might be, and the industry came back to say, "Please think again", so it did.

The exemption process meant that Circularity Scotland could change its modelling about how many return points there would be and was able to adjust the figures: the producer fees have gone down and the return point handling fees have gone up. Circularity Scotland is a not-for-profit organisation, so it will not keep any of that money, which will go into reducing the cost of the scheme. The idea is that, as the scheme beds in and becomes more efficient and as we get past the day 1 costs and so on, the fees can be revisited in line with the efficiencies that will be built as the scheme goes forward.

Mercedes Villalba's last point was about online sales, which are covered in the regulations. However, it was flagged up strongly to me and my colleagues that the online obligation as it was written in the regs was simply not deliverable. Businesses said that they could get on and deliver a more traditional scheme, such as other countries have, based on reverse vending machines and manual return points, but that the online take-back, which no other country implements to the extent that we had put into our regs, was simply not going to be possible within the timescale.

That is one area where I have listened to business and said, "Do you know what? You're right. I can see that that will not be possible within the timescales." As a result, we have committed to

removing that obligation from the regulations. In other words, when the regulations come for amendment to Parliament, the obligation on online take-back will be removed, then phased in for larger retailers, starting from 2025.

11:15

The Convener: Before we move on, I want to ask a quick question, just so that I understand this. Many rural areas have only one small store selling convenience goods; most people will use it on an ad hoc basis then go to bigger towns and settlements at the weekend to get their messages. Because there is no other shop in the village, there can be no proximity exemption, so the shop cannot get away from being part of the deposit return scheme, and it cannot argue for an environmental health exemption, because all it is doing is selling these things. It will therefore be forced to have a deposit return scheme and forced to take containers from the big shops where most people get their shopping at the weekend. As a result, it will probably end up with a storage yard as big as the shop itself. Is that how you see it, or have I completely misunderstood the situation?

Lorna Slater: We have yet to see consumer patterns. Will people do as they do with bags since the 5p charge was brought in and just keep them in the back of the car and take them back with them when they do their shopping at the weekend? One concern that has been raised with me by small retailers is that people will take all their bottles back to the big shop so, as a result, small shops will get less footfall. We have yet to see exactly how that will work out and thereby to understand the volumes that businesses will get. Consumer behaviour is something that we will need to observe and adapt the system for.

However, I point out that the regulations contain a proportionality provision under which small and especially manual return points can refuse to take containers. If someone rocks up with a van full of cans to a small shop that does not have the space to take them, the shop can turn the person away; it is not obliged to take the cans.

The Convener: I think that I understand that, but my point is that people will not take their cans and containers on the bus when they do their shopping at the weekend. It will be much easier to pop them into the local shop before they go. I think that that will be a problem, so I am interested in it.

Lorna Slater: The issue is common to how schemes around the world work.

The Convener: So, it is common to replicate problems.

Lorna Slater: It is common for both local shops and the big shops to take returns, so that

consumers can decide where they want to make returns.

The Convener: The next questions are from Liam Kerr.

Liam Kerr: I would like to follow up both an earlier question from the convener and the one that he has just asked. The convener talked earlier about the cost of a basket—that is, the cost of shopping. We know that the DRS could add up to, let us say, 40p per unit. Given the cost of living crisis and the increase in the cost of the weekly shopping, has the Government investigated or done any research on the impact that the scheme might have on inflation?

Lorna Slater: The research that we have done has looked at similar schemes around the world. Because the deposit itself is fully refundable, it does not add to inflation; when you pay your 20p, you get your 20p back.

Liam Kerr: I said that it would add up to 40p per unit. You have talked about the scheme being cost neutral, but we know that other costs that are not recoverable could—or perhaps will—be factored in. I therefore want to ask again a very clear question. Has the Government got anything that I can read and which has been published that shows the scheme's impact on inflation?

Lorna Slater: Are you asking about what costs business might add?

Liam Kerr: I am asking about—

Lorna Slater: The deposit itself—the 20p—is paid and then the customer gets it back again, so it will be cost neutral. What businesses charge for their products is not a matter for the Scottish Government.

Liam Kerr: Has the Scottish Government done any research on the impact of the DRS scheme in Scotland on inflation? Yes or no.

Lorna Slater: The member will recall that, before the legislation was passed, a business and regulatory impact assessment was done to assess the economic impact. That work was fully documented at the time.

Liam Kerr: That was in 2019.

I am also quite concerned by your response to the question that the convener has just asked. Let me ask you a direct question. Does the Government have any data on, or has it investigated, the impact of adding up to 40p per container on consumer purchasing behaviours? By that, I mean the types and formats of the products that they buy and the like. Have you or have you not modelled the scheme's impact on consumer behaviour?

Lorna Slater: I do not recognise the member's assertion about the cost being 40p. That is not a number that I recognise. Under the scheme, the cost is 20p, and people will get that 20p back.

With regard to consumer behaviour, we do not think that there will be extensive format switching from small units to large units in order to reduce any perceived mark-up in the deposit. As I have noted repeatedly, the deposit is fully refundable. Retailers are required to display information that tells people that the deposit is refundable.

There are many other deciding factors for consumers, including practicality, convenience, brand preference and the presentation of the product. Evidence suggests that, where product or format switching has occurred in other countries that have a DRS, it is rare that it can be attributed only to the DRS. Therefore, we think that there will be only a limited impact in that respect.

Liam Kerr: Will you publish the evidence that you have collated that has led you to come to that conclusion?

Lorna Slater: I am happy to share with the member whatever information we have on format switching.

Liam Kerr: I am very grateful.

My final question in this area is about the fact that many small independent businesses have suggested that the scheme will have a disproportionate impact on them. Some have suggested that the viability of their businesses might be at risk when the scheme comes in. Were those concerns factored into the Scottish Government's initial impact assessments so that it knew about them, or are they new to the Government?

Lorna Slater: Are you referring to concerns of small retailers or concerns of small producers? One group will be in receipt of fees and the other will pay the fees.

Liam Kerr: I am concerned about both. The point that I am making is that many small businesses—producers and retailers—have suggested that they are at risk from the DRS. Were those risks known about and factored in by the Scottish Government when it was putting the scheme together, or have the concerns come as a surprise to the Government, following publication of details of the scheme?

Lorna Slater: The Scottish scheme, as set out in the regulations that the Scottish Parliament passed back in 2020, is very much in line with schemes around the world. Nothing here is a surprise. What we are doing is exactly along the lines of what has been done in other countries.

I will address the position of producers and retailers separately. On the producer side, the intention is to be fair to all producers, but it is absolutely a proportionate scheme. Producer fees are charged for each individual container. Therefore, the scheme will be inherently proportionate to the size of the business. A small business such as a craft brewery will pay significantly less than a larger producer will pay.

The additional cash flow measures that Circularity Scotland announced two weeks ago—maybe it was three weeks ago—benefit all producers but, proportionally, they benefit small producers more. When we passed the regulations, we passed a scheme that is similar to schemes in other countries. As I discussed in an earlier answer, it will be up to businesses themselves to manage the push and pull between the producers who pay in and the retailers who take the fees.

Liam Kerr: I want to be clear, because I asked you a very direct question. From what you are saying—you looked around the world at what was happening elsewhere—the Scottish Government knew that small retailers would be disproportionately impacted and that some businesses' viability would be threatened.

Lorna Slater: That is not what I said at all.

Liam Kerr: So you did not do that.

Lorna Slater: What I said we are doing—

Liam Kerr: I know what you are doing, minister. I am asking you a direct question. Did you know that small retailers would be disproportionately impacted and that their businesses would be threatened, or did the Scottish Government not know that?

Lorna Slater: I do not agree with the member's representation that small businesses will be disproportionately impacted. The measures that we have put in place have been designed to support small producers in particular. I can go through them again. One of the measures that we have put in place to support small producers is proportionate producer fees, so that small producers will pay the same as large producers, proportionally, because the fee is charged per container. There are, similarly, cash flow measures specifically to help small producers.

When it comes to our small retailers, the fees that will be paid for operating manual return points are the highest in the world for small retailers: our small retailers who operate manual return points will be better off than their compatriots around the world. With our scheme, we are doing more for small businesses than other highly successful schemes around the world are doing. Therefore, I do not agree at all with the member's representation of the scheme.

The Convener: I think that we have taken that point as far as we can. We move to further questions from our deputy convener.

Fiona Hyslop: I want to ask about the March gateway review. Is that taking place currently? Who is conducting it?

Lorna Slater: We have had several gateway reviews of the project. One is under way this week, and we will receive the results from it imminently.

The gateway review teams usually speak with 12 to 15 interviewees, including relevant commercial and external stakeholders such as prime contractors and consultants—the people who are actually doing the work. They will give their assessment and then we will find out exactly how they think we are getting on.

Fiona Hyslop: Who does the gateway review?

Kevin Quinlan: The gateway review is conducted by a panel of independent people. The person who currently leads the panel has led on previous reviews. He is supplemented by an expert on information technology systems and another expert who examines finance and governance issues.

Fiona Hyslop: There has previously been criticism that there has been no international input into such reviews. My understanding, which is from Government gateway reviews, is that that would not be normal in any case and that any international research or comparisons would have happened at the very start of development of the legislation and the regulations. Is that correct?

Lorna Slater: That is correct.

Fiona Hyslop: The March gateway review will be fairly critical to our understanding of how fit for purpose and how ready the scheme will be. Will the findings of the review be published, to enable scrutiny to take place? If so, when will they be published? How will progress be monitored, and how will decisions be taken in the run-up?

Lorna Slater: I agree that we await with interest the results of the review. We will consider the panel's recommendations carefully and will share those and our response with the committee in due course.

Fiona Hyslop: Can you give us an advance on "in due course"? In what timeframe can we expect to see that happen?

Lorna Slater: I do not have any further information on the timeframe. I am not sure whether we can commit to a timeframe, but I will ask my officials to confirm.

Kevin Quinlan: That is probably not a matter for me, but I can address the second part of the

deputy convener's question, which was about how progress will be monitored. A range of measures exists. A system-wide assurance group that brings together CSL, SEPA and the Scottish Government meets monthly. We also have an executive oversight group that meets monthly. The minister meets the chief executive officer of CSL monthly and others as needed. Every Monday, I sit down with the CEOs of SEPA and CSL and their teams to monitor progress.

Fiona Hyslop: It would be helpful for the committee's planning of scrutiny and accountability matters during this parliamentary session if you could agree that, at some point soon, we could have an indication of when we might expect to see publication of the results of the gateway review.

Lorna Slater: We will do what we can on that.

Fiona Hyslop: Finally, will the gateway review identify whether there are sufficient and adequate resources—in particular, for SEPA and Zero Waste Scotland, which are key parts of the scheme?

Lorna Slater: We will have to wait and see what the gateway review comes up with. For example, previous reviews have given us a steer towards streamlining the exemption process. That was a bit of advice that came to us straight out of a gateway review, which we were then able to implement along with our guidance. Such reviews are constructive and detailed in saying where we have challenges, what is going well and what we can work on. That enables us to take points away, which, as I said, we have done following previous reviews. We all look forward to seeing the results of the review, and we hope that the panel will have constructive input for us.

Fiona Hyslop: As will the committee.

The Convener: It would be helpful to have some idea of the timescales for the gateway review. Mark Ruskell has questions on other areas.

Mark Ruskell: It has been useful for us to get clarification on a number of areas this morning, but now I want to look forward. The scheme is ambitious, which is what the Parliament voted for. It would be unthinkable for there not to be some teething issues with the scheme's operation after the August start. Has any thought been given to what those issues might be? Earlier, the minister mentioned that there will need to be continual analysis to ensure that there will be an adequate number of return points and that CSL will carry out that role. Can we anticipate any issues that might arise—in particular, on the basis of international comparisons—and how CSL might deal with them?

11:30

Lorna Slater: Absolutely. The scheme, as it will look on 16 August, will probably look quite different 18 months down the line. When these sorts of schemes launch, there is a first stage—what we call the cut-over period—that is always challenging. In this case, most of what you have in your house, most of the litter in the streets and so on will not at that point be scheme articles. If, after 16 August, you do your citizen's duty by picking up a can at the side of the road and taking it to a return point, the can will be rejected. It will not be a scheme article because it was sold before the date.

During the cut-over period, some scheme articles will be in circulation; however, quite a lot of material that is not scheme articles will be in circulation, too, and it will take a number of weeks for scheme articles to become predominant. A big part of what we have to manage, therefore, is the ramp-up into the scheme. There are tried and tested ways of doing that, and there are learnings that we can take from other countries. It will be a challenging period, and our communications to consumers must be clear so that customers understand why the bottle that they bought on 17 August can be returned whereas the one that they bought on 15 August cannot.

That is definitely challenging for us to manage, because we all want people's first experience of the scheme to be a positive one. We want them to have their bottle accepted, to get their 20p back and to spend that on their shopping or whatever they wish. The cut-over period will be absolutely critical.

Moreover, as those materials gradually ramp up, we will be able to see consumer behaviour. It goes back to the convener's earlier point: does the consumer tend to bring things back to the big shops, or do they use a mix of small and large shops? How does it work? Biffa and Circularity Scotland will have to be very reactive and dynamic, and we will be working with them on processes and mechanisms that will allow them to deal with any small business that says, "Oh my goodness—my bins are full! Biffa, come and get them," and to be able to update things so that people can say, "Do you know what? I thought that we were going to get 10,000 items a week back, but we're getting only 3,000. We need to adjust our schedule."

There will have to be a period of adjustment and optimisation as the scheme settles in, and, as a result, I would expect what you have suggested to be the case. I expect that communities will tell us, "We have no return point that's convenient for us. How can we get things collected?" We will have to be dynamic in addressing those sorts of issues. It is my intention, therefore, to facilitate some sort of

reaction force so that people and businesses know whom to call when their bins are overflowing or they cannot return things and so that there is a process by which people can find out how to get their 20p back.

The scheme will ramp up and adapt to things over the first year. In fact, the recycling targets that we have set will come into effect after a year—or perhaps two years; I will see whether that needs to be corrected—in recognition of the fact that we will not have 90 per cent recycling on day 1. As the scheme beds in, we will work towards that 90 per cent recycling target.

Mark Ruskell: That is a clear driver and target for CSL to be aiming at—is that right?

Lorna Slater: That is right. It is obliged under statute to return that level of recycling. As far as the black spots for collections and such are concerned, CSL needs to put in place a comprehensive network of return points to allow it to hit the target, because, as an organisation, it can be penalised if it does not meet its statutory obligations.

The Convener: Have you finished with the teething issues, Mark? I see that someone has a supplementary on that issue.

Mark Ruskell: I realise that we are about to move on to a different area, convener, but I just want to make the point that it is important that we have the opportunity to question Circularity Scotland in the weeks ahead, because there is some real nitty-gritty stuff in here that it would be good to get some evidence on.

Did you say that there is a supplementary, convener?

The Convener: Liam Kerr wants to ask about teething issues, Mark, and then we will come back to you.

Liam Kerr: I am very grateful to you, convener, and to Mark Ruskell for letting me in.

One trade association has warned that around 40 per cent of products could disappear from shelves in Scotland. Does the Scottish Government recognise that as a possibility? Did that happen in other countries that you looked at? If so, is the Scottish Government making any moves, or can it do something to counteract that?

Lorna Slater: We already know that 95 per cent of materials, by volume, are signed up to the scheme. The way to counteract any risk is to bring all producers online so that they can continue to sell in Scotland. All the measures that we are using to support producers to sign up to the scheme, including cash-flow measures, labelling measures and any further measures that we agree with them, are meant to do exactly that—to allow

that variety of producers to continue to sell in Scotland.

The labelling measure is of particular interest when it comes to the importation of wines. It was a specific ask from our wine importers, because you can imagine the difficulty if they were importing only 500 bottles of wine from a winery in France. They would not want to have to put a Scottish label on that number of bottles, which is quite reasonable. That is exactly the kind of situation for which the labelling measure was designed. Our estimate is that about 15,000 products will use the sticky label solution.

It is absolutely not the vision that our products will be restricted. We are working to continue to have a wide variety of products on the market.

Liam Kerr: For absolute clarity: you do not recognise the warning that 40 per cent of products could disappear.

Lorna Slater: I do not.

The Convener: Thank you, minister. Back to you, Mark.

Mark Ruskell: I will ask some questions around the UK Internal Market Act 2020 exclusion, and other members may want to come in on that issue as well. There are questions about process and who asked what and when, but I will start by asking the minister about scenario planning. If there is no exclusion under the internal market act, what will be the consequence? Have you planned for that?

Lorna Slater: That is premature. The Scottish Government has been following, and continues to follow, the agreed process for excluding the DRS regulations from the internal market act.

Euan Page is the expert on that issue, so I will give you what I know on it and then he can add some detail.

Whether there is an exclusion is not at the whim of the UK Government. The exclusions from the internal market act are agreed under common frameworks. The frameworks are an agreed process by which the devolved Administrations in the UK protect their powers in respect of devolved matters. The resources and waste framework is there to protect the Scottish Government's ability to legislate in devolved areas. Under that framework, we have put together the evidence and the case that the matter that we are considering—our deposit return scheme—is fully a devolved matter, which it is. It clearly is a fully devolved matter, and we have presented that evidence through the agreed process to the UK Government. Those are the stages that we have gone through to get an exclusion.

Euan Page will be able to add much more detail.

Euan Page (Scottish Government): I think that the minister has set it out very well. It is probably important for the committee to keep in mind that the exclusions process that was agreed between the UK Government and the devolved Administrations was expressly designed to avoid a rather binary model in which the Scottish Government would ask and the UK Government would decide, which is how the situation has been characterised in some recent comments.

The common frameworks are agreed intergovernmental structures that predate the 2020 act and were designed to move this into a more collaborative, evidence-based space. One of the many issues with the 2020 act was the threat that it posed to the viability of the operation of Government frameworks. The fact that, late in the day, the UK Government tabled an amendment to allow policy divergence that was agreed through a common framework not to be subject to the market access provisions in the act was very welcome.

We are nearing the end of the common frameworks process, and it has indicated that an exclusion should be granted. That recommendation is now under consideration by ministers in all the UK Administrations.

The other point to make clear is that UK ministers alone are the only actors in the system who have the powers to give effect to an exclusion, as the act confers the necessary powers only on UK ministers. The matter will be under active consideration by the lead minister, the secretary of state at the Department for Environment, Food and Rural Affairs, and we expect an answer very soon.

However, it should not be looked at as a situation in which we submit an application and it is either approved or rejected. We expect things to move in a predictable, transparent and evidence-based way. We are confident that the case has been made clearly and collaboratively with the UK Government through the common frameworks process.

Mark Ruskell: Okay. I am getting words of reassurance about how the common frameworks process has been working and continues to work. However, there is still a potential threat that the exclusion will not be granted. What would happen then?

Euan Page: As the minister has pointed out, we are not thinking in that way at the moment. Were that to be the case—without any further reasoning or reference to the evidence that has been gathered through the common frameworks process—it would represent a very significant threat to the agreed common frameworks process, through which we collaborate as equals with the

UK Government and the other devolved Administrations. The repercussions would be significant for a key plank of intergovernmental structures that have been put in place since EU exit.

It is one of the frankly rare examples of things progressing quite well. The frameworks have created a space for more collaboration. Therefore, were we to see a situation arise in which UK ministers declined to use their powers to give effect to an exclusion, we would need to understand with urgency how they came to that view in the light of the common frameworks process recommending that an exclusion should be implemented to remove the confusion and uncertainty that the internal market act is causing.

Lorna Slater: I will clarify that point. The recommendation for the exclusion would have been made on the basis of evidence, and rejecting that evidence would be outwith the way in which the frameworks process is intended to work. As Euan suggests, if that were to happen, it would represent a very significant breakdown in the collaborative working between the two Governments—in fact, between all the devolved Governments. If that were that to happen, given what a big deal that would be, the Scottish ministers would set out next steps at that point.

The Convener: Collette, you are sitting very quietly. Do you want to ask your questions now?

Collette Stevenson: Thank you, convener. Mark Ruskell has touched on this already. Does the minister consider that the resources and waste common framework and the process for agreeing new exclusions from the United Kingdom Internal Market Act 2020 are fit for purpose, based on the lessons learned to date in relation to the DRS and single-use plastics, including how the provisional common framework might need to be amended to reflect much more recent developments that we have heard about today?

Lorna Slater: I will give my view and then hand over to Euan, who is the expert on this.

The resources and waste common framework has worked well. For example, we used it last year to get the exclusion that we needed for the single-use plastics ban. Provided that the framework is used as intended, I think that it works well. The question on the table is whether UK ministers will break that agreement.

Euan Page: I have a couple of observations. As I noted, common frameworks predate the internal market act. There was agreement at the joint ministerial committee (European negotiations) in October 2017 to embark on work to agree these intergovernmental structures to manage by agreement some of the practical regulatory effects of the devolution settlements no longer operating

in the context of EU membership, including the UK Government's legislating in devolved matters for England.

The frameworks process is underpinned by a set of ministerially agreed principles, which include an agreement that common frameworks will be used to ensure the functioning of the UK's internal market while acknowledging policy divergence. That is a very important point—a recognition that, in any internal market, there is always a balance to be struck between market efficiencies, trade flows and the preservation of the rights and responsibilities to make rules locally that are fit for local circumstances.

11:45

The introduction of the internal market act was unfortunate. There was a great deal of concern from the Scottish Government, the Welsh Government and parties in the Northern Ireland Assembly, as well as wide agreement among academic and legal commentators in many sectors, that the act posed problems, not least in how it would interact with the intended operation of common frameworks. In effect, the act's automatic application of market access provisions in most relevant cases removes the incentive to manage the process by agreement. The act is very unusual and is not like internal market regimes elsewhere in that it is rigid in its application and there are no countervailing proportionality principles underlying it. That is partly why there is a propensity for confusion and a lack of clarity, because there is little that you can do to temper and balance the broad requirement to maintain mutual recognition and non-discrimination in all cases.

Common frameworks have started operating in not the most auspicious of circumstances. As I say, a late amendment to the act created a little bit of space for common frameworks to operate as intended, and UK ministers made some welcome commitments on how that provision will be used. That presupposes a degree of automatic flow from an agreement being reached on a common framework to agreeing policy divisions and managing those, then to seeking an exclusion from the internal market act as required and UK ministers subsequently using the powers that only they have to give effect to that exclusion.

It is important not to chuck the baby out with the bath water here. There are lessons to be learned about the operation of common frameworks, which have been made more complex and challenging by how we manage the interaction between common frameworks and the act. In many ways, those approaches are, if not incompatible, very difficult to reconcile. However, we have the opportunity to do that, which is an added reason why it is important that the process runs as

intended through to the granting of an exclusion, in order to give greater confidence that the common frameworks programme has the space to operate as intended.

The Convener: That is a very detailed statement. Rather than go back to the minister, I will see whether Collette Stevenson wants to come in with a supplementary based on what she has just heard.

Collette Stevenson: I thank Mr Page for his detailed response. Minister, do you think that there needs to be a clearer definition of what form a request for a new exclusion under the internal market act should take? How should that look?

Lorna Slater: There is no request—that is not part of the process. As Euan outlined, the common frameworks process has been agreed. It is not a question of making a request that is then accepted or rejected; it is a question of working through the framework in order to present evidence and then working with that evidence. It is unfortunate that Alister Jack has presented it in that way in the media, as it is not accurate. It is not how the process works. For the record, Alister Jack has not attended any of the interministerial group meetings at which we have discussed the matter, nor has he corresponded with me on the matter. He does not know how the frameworks process works, so his comments about it are, unfortunately, not very helpful.

The Convener: Minister, with the greatest respect, we have been trying to keep the discussion apolitical and I do not think that this is the right place to call someone out. We have been trying to understand the mechanics of the operation. I am happy to let you conclude, but I would urge you to take the personalities out of it and avoid criticising people, as the committee has agreed to do.

Lorna Slater: I understand, convener. As Euan has said, the resources and waste common framework has the right structure, and it is not helpful to frame the process as involving a request that needs to be accepted or declined. That is not how the process works. The decision-making process is evidence based.

The Convener: Liam Kerr has a supplementary question, and I will ask a quick question at the end.

Liam Kerr: It is a brief question on the practicalities. Mercedes Villalba asked what I thought was a salient question on hospitality. As I understand it, Biffa is the only logistics operator in the scheme, so hospitality venues will be required to work with Biffa. Can you tell the committee why the contract was not put out to tender? In any event—and perhaps more crucially—what will happen to existing contracts that venues have with

other waste management companies when Biffa takes over?

Lorna Slater: On the contract with Biffa, Circularity Scotland is a private, not-for-profit organisation and, as such, its procurement procedures are entirely its business and are not for the Government to be involved in. It is not a public company, so public procurement procedures do not apply to it.

On existing hospitality logistics, I know that CSL and Biffa are keen to use existing infrastructure where possible and that they are encouraging providers that wish to be involved in the scheme to contact them to discuss that.

The overall goal of the scheme is to produce more and better-quality recycle. That means collecting the scheme articles separately—they need to be separate because, as the member has noted, they have separate values. That does not mean that the scheme encompasses all the recycling materials that hospitality venues deal with. There will be other containers, such as other glass and plastic containers, that are not scheme articles, and those materials will still require to be collected.

Once the scheme articles are taken out of the system, that will open up the bandwidth and capacity for local authorities and private providers to collect other materials. For example, I think that we can all see that more work could be done on the collection of materials such as soft plastics and pots, tubs and trays. The scheme should therefore broaden our ability to recycle across the spectrum as well as increasing recycling specifically in relation to scheme article materials.

The Convener: We are running short of time, on our agenda and yours, minister. However, I have a quick question. I am interested in your comment about small producers from outwith Scotland that sell some, but not many, goods in Scotland. You gave the example of wine coming in and said that, if one of the big multiples wants to get products from a small producer, Circularity Scotland will give it labels to stick on. I do not understand the process of sticking on the labels. Will that be done by the retailer just before the product goes out the door, or will it be at the point when the products are imported into Scotland? How will that work? Surely, it will add cost and reduce choice.

Lorna Slater: The labels will be provided free of charge by Circularity Scotland to businesses to which that circumstance applies. That means that people who are importing or producing small quantities will not have to come up with bespoke labelling. The labels will bridge the gap.

On the organisational detail about the point at which the labels are put on, given that materials

often pass through multiple wholesalers and retailers, I would have to come back to the member on that. Alternatively, when the committee has David Harris here in, I think, two weeks' time, it would be good to ask him about that sort of operational detail.

The Convener: I am sure that we will ask that question, because I am sure that some of the big multiples will not want to get down to sticking on labels in normal convenience stores for small quantities of products.

The session has been interesting, minister. Thank you very much for your time. I am sure that the committee will have further questions for the Circularity Scotland representatives, who are coming on, I think, 28 March to answer our questions.

I will just continue with our agenda, as we have one further item in public. I am sure that you will be able to slip away quietly, minister, as we move on to that.

Subordinate Legislation

Road Works (Reinstatement Quality Plans, Qualifications of Supervisors and Operatives and Miscellaneous Amendments) (Scotland) Regulations 2023 (SSI 2023/33)

11:54

The Convener: The next agenda item is consideration of a Scottish statutory instrument. The instrument is laid under the negative procedure, which means that the provisions will come into force unless the Parliament agrees to a motion to annul them. At this stage, no motion to annul has been lodged.

As members have no comments, are we agreed that we do not want to make any further recommendations in relation to the instrument?

Members *indicated agreement.*

The Convener: That concludes the public part of our meeting.

11:54

Meeting continued in private until 12:25.

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