



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 12 November 2024

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE

33rd Meeting 2024, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Michael Matheson (Falkirk West) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

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

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Lucy Beattie (Scottish Land Commissioner Nominee)

Robert Black (Tenant Farming Commissioner Nominee)

Stewart Cunningham (Scottish Government)

Kate Forbes (Deputy First Minister and Cabinet Secretary for Economy and Gaelic)

Dr Calum MacLeod (Scottish Land Commissioner Nominee)

Michael McLeod (Scottish Government)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament
Net Zero, Energy and Transport
Committee

Tuesday 12 November 2024

[The Convener opened the meeting at 09:26]

Interests

The Convener (Edward Mountain): Good morning, and welcome to the 33rd meeting in 2024 of the Net Zero, Energy and Transport Committee. I welcome our new member of the committee, Kevin Stewart, who replaces Jackie Dunbar. Jackie was one of the original members of the committee—she has been on it since it was formed in this parliamentary session. I know that all committee members would like me to put on the record our thanks for the way in which she has worked to help us to achieve our aim. As convener, I found her advice and her ability to work across parties extremely helpful.

As this is Kevin Stewart's first time at the committee, I invite him to declare any relevant interests.

Kevin Stewart (Aberdeen Central) (SNP): I have no relevant interests.

The Convener: Thank you. That was very simple.

Decision on Taking Business in
Private

09:27

The Convener: Our second item of business is a decision on taking items 7 and 8 in private. Item 7 is consideration of the evidence that we will hear on the appointment of the Scottish land commissioners and the tenant farming commissioner, and item 8 is consideration of the committee's work programme. Do we agree to take those items in private?

Members indicated agreement.

Subordinate Legislation

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2025 [Draft]

09:27

The Convener: Item 3 is consideration of a draft statutory instrument, on which the Delegated Powers and Law Reform Committee has made no comment in its report. I welcome Kate Forbes, the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, and the Scottish Government officials who join her: Michael McLeod, head of the marine nature enhancement programme and the joint environmental accelerator programme—that is a long title; and Stewart Cunningham, a solicitor in the marine planning and natural resources division of the legal directorate.

The draft instrument has been laid under the affirmative procedure, which means that it cannot come into force unless the Parliament approves it. Following the evidence session, the committee will be invited to consider the motion to recommend that the instrument be approved. I remind everyone that Scottish Government officials can speak under this item, but not under the next one.

I invite the Deputy First Minister to make a short opening statement.

The Deputy First Minister and Cabinet Secretary for Economy and Gaelic (Kate Forbes): Thank you, convener. I will take advantage of the opportunity to set out what the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2025 does and does not do, because I imagine that people will have quite a lot of strong views as soon as they see anything relating to electricity and energy. I am pleased to be here to present the draft order, which will transfer certain regulation-making functions to ministers under the Levelling-up and Regeneration Act 2023.

I think that it is quite important to provide the context before I get into the specifics of the draft order. Through the 2023 act, the United Kingdom Government created powers to introduce a new system of regulations on environmental outcomes reports to replace environmental impact assessments and strategic environmental assessments. Currently, environmental assessments for electricity works are undertaken under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, which are executively devolved to the Scottish ministers and are the basis on which they process, consult on, consider and determine applications for

renewable energy projects, generating stations and onshore transmission infrastructure.

09:30

However, as a consequence of the UK's exit from the European Union and the repeal of the European Communities Act 1972, the Scottish ministers no longer have the ability to amend or replace the 2017 regulations, nor can the Scottish Parliament pass primary legislation to reinstate, amend or change them. As such, the Government sought reinstatement of powers to amend the 2017 regulations under the 2023 act as part of our negotiations with the UK Government regarding environmental assessment provisions. However, the UK Government instead committed to this draft order and the transfer of powers to the Scottish ministers.

The UK Government has stated that environmental outcomes reports are intended to set the scope of assessments in a targeted way, with the focus predominantly on the outcomes that are relevant to a given project, plan or programme. That regime is likely to depart from the EU-derived procedural approach to some extent. To date, little information is available on how the new regime will operate, but we expect the UK Government to set out more detail on the proposed approach in 2025.

The Levelling-up and Regeneration Act 2023 gave the Scottish ministers powers to adopt environmental outcomes reports across a range of devolved areas in which environmental assessment is required. The draft order transfers the same powers to the Scottish ministers under the 2023 act in relation to electricity works. It transfers functions to the Scottish ministers to make environmental outcomes reports regulations relating to environmental assessment in connection with applications for consent or approval for offshore renewables projects in Scottish waters, onshore generating stations and associated overhead line infrastructure. Those functions may be exercised concurrently with the secretary of state.

Detailed policy consideration will be required for the environmental outcomes reports approach and how it may be used by the Scottish ministers in the future. Without clear information from the UK Government on how environmental outcomes reports will work in practice, we have stated our preference for retaining the existing well-understood environmental impact assessment regime in Scotland.

Although the existing regime could benefit from some improvements, the case for total replacement has not been made. Nevertheless, it is better that Scotland has the ability to choose a

path for ourselves, which is what the powers help to provide for.

I thank the committee for its scrutiny of the draft instrument, and I am happy to answer any questions.

The Convener: Thank you very much. The deputy convener will ask the first questions.

Michael Matheson (Falkirk West) (SNP): Good morning. It would be helpful to clarify the scope of the powers that the Scottish ministers can exercise under the regulations. The environmental outcomes reports regime is the mechanism that is being pursued to replace the environmental impact assessments that were previously provided for. What scope is there for the Scottish ministers to take their own approach to environmental outcomes reports? Is there scope for ministers to vary the powers that apply under the regulations at present?

Kate Forbes: That is a complicated question with a complicated answer, and I will rely on support from my colleagues.

The environmental impact assessment system continues to operate in relation to relevant projects and plans in Scotland, and we have no current plans to adopt an EOR approach to environmental assessment. However, the UK Government is considering such reporting as a new approach for environmental assessment to replace the EU-derived system, using powers in the 2023 act. The UK Government consultation document, which was provided in March 2023, implies that the new EOR system will result in more efficient and effective processes for environmental assessment, but it does not set out details of how that would be achieved in practice.

The new UK Government has yet to confirm—or reconfirm, as it were—a commitment to making the change to EOR. We expect it to set out its proposed approach in 2025, and we will then consider that new approach.

Transitioning to a system of environmental outcome reports would be a long-term and complex change, and a decision to contemplate such change would, therefore, require careful consideration.

There is still some uncertainty as to what differences there might be between the system that we currently use and the potential implementation of an EOR system. We await further information from the UK Government. We are here today because Mr Michael Gove, through the then Department for Levelling Up, Housing and Communities, made a commitment back in 2023 that when the bill that became the Levelling-up and Regeneration Act 2023 was passed, it would include essentially the return to the Scottish

ministers of a power that was equal to the original power that we had through the EU to make changes if we chose to do so.

I make it clear, for the benefit of the committee, that if we were to begin the journey to EORs, which I imagine would depend in part on what the UK Government might do, there would be a huge amount of engagement and consultation with stakeholders in the development of such an approach.

After all that complexity, I guess the simple answer is that, with regard to the difference in approach, there are elements on which I cannot give an answer right now. The question that the committee could put to me, therefore, is this: why are we pursuing order under the Scotland Act 1998 when EORs are not yet fully developed?

First, the process needs to follow that sequence so that the discretionary power is available for the Scottish ministers to use, should they wish, once EORs are fully understood. Secondly, that is the design by which the UK Government and the Scottish Government decided to devolve and transfer those powers, and the new UK Government has essentially agreed to pursue that approach. There would have been some doubt as to whether the new UK Government would have followed in Michael Gove's footsteps.

I hope that that answer is not too long-winded, but I imagine that, to an extent, the committee might look at the order before it and ask what the implications are. The answer, I would say—unless my colleagues tell us otherwise—is that, at present, it essentially transfers the discretionary power, subject to extensive consultation if that power were ever to be used.

Michael Matheson: I will phrase my question in another way. This power is “to be exercisable concurrently” with UK ministers. What does “concurrently” mean in practice?

Stewart Cunningham (Scottish Government): Under the Scotland Act 1998, it is possible for the UK Government to transfer functions so that the Scottish ministers use the function “instead of” or “concurrently with” the secretary of state.

When the power to make regulations on environmental assessment for electricity works was first transferred, back in 1999, that was done concurrently. The rationale at that time was that the power was about implementing EU obligations. The UK was the member state of the EU, so UK ministers wanted to retain the ability to also make regulations—for example, if the Scottish ministers did something that was in breach of EU obligations. That was how the power was initially transferred.

Obviously, that situation no longer applies because we are no longer an EU member state, but the UK Government wanted to retain the ability to exercise the functions concurrently, and the Scottish Government has no legal power to challenge that. It was essentially a decision of the UK Government, and it simply means that the UK Government also has the power to make regulations in this area in the same way that the Scottish ministers do.

Michael Matheson: In exercising the function, if you were to take an approach that was in conflict with the UK Government's approach, where would the power reside to make the final decision on that?

Stewart Cunningham: If the Scottish ministers want to exercise the power, they must consult the secretary of state, but they do not require the consent of the secretary of state. We could still exercise the power, even if that was in conflict with the UK Government, but it could potentially use the power to cut across what the Scottish Government was doing. I imagine that there would have to be some degree of dialogue and negotiation.

Michael Matheson: In short, it is like saying, "Proceed until apprehended." The Scottish Government can exercise the function, but if you reach a point where that function is being exercised in a way that UK Government ministers do not agree with, they ultimately have the power to overrule on that matter. Is that correct?

Stewart Cunningham: I think that that is correct.

Michael Matheson: My final question is on the use of EORs. If the UK Government is keen on a UK-wide regime for the use of EORs, what scope is there for ministers to resist that and prevent it from happening in Scotland? Could you take a completely different approach? That goes back to my previous question. If the Scottish Government does not take the approach that the UK Government wants, the UK Government could ultimately decide to overrule the way in which regulations are being exercised. Is that correct?

Stewart Cunningham: Essentially, that is correct. We have the complication that the Scottish offshore area is reserved. Although the order gives us the power to make regulations in the Scottish offshore area, it is essentially a matter that is reserved to the UK Government. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 work in combination with the Marine Works (Environmental Impact Assessment) Regulations 2007, and the UK Government has full reserved power over the marine works regulations.

Therefore, the UK Government could introduce an environmental outcomes regime offshore, and it would then be a matter for the Scottish Government to decide how to respond to that. However, the Scottish Government certainly would not be able to completely override that decision. We would have to look at the regulations that apply in the inshore area and in Scotland to figure out how best the two systems could work together. We certainly would not be pushed into adopting an environmental outcomes regime wholesale, but there would have to be consideration about how to respond to that.

Michael Matheson: Okay—thanks.

The Convener: If I might be so bold, I suggest that there is a certain amount of confusion in the drafting of the SI—although my mother will be turning in her grave if I am picking somebody up on the use of English. Article 3(1) says that the function is to be exercisable "concurrently", and then article 3(2) says that that is "after consulting". I think that that is where the confusion has arisen.

I will leave it at that, as an observation, and move on to Kevin Stewart and then Bob Doris.

Kevin Stewart: Quite often, such instruments do not make much sense to the layman or woman. People might be watching this at home and listening to the complexity of your opening statement, Deputy First Minister, and of Mr Matheson's questions and the answers to them, and thinking, "What the hell is going on here?" We need to tease out some of the key elements.

This was a power that we had before, which was taken away and which we are getting back. One of the key things that you said in your opening statement, which I will ask about again, was that our intention is to retain the "well-understood"—your term—environmental impact assessments, and that if there is to be any change and a move to EORs, that would require a huge amount of consultation. Is that fair to say?

09:45

Kate Forbes: I am happy to repeat it once again. The order does not fundamentally change the underlying regulations, which, as I said in my opening remarks, are well understood. If we were to begin the journey to EORs, there would be significant engagement and consultation with stakeholders on the development of such an approach. That is not up for discussion in this meeting.

The Conservation (Natural Habitats, &c) Regulations 1994 and the legislation that forms the EIA regimes are key frameworks that underpin the important environmental protections and assessment processes in Scotland on land and

sea. Having lost enabling powers that were available to the Scottish ministers before EU exit, it is vital that we have a future-proof mechanism to ensure that those frameworks remain fit for purpose and can adapt to future circumstances. It is the issue of enabling us to be flexible in the future that is currently up for discussion.

Kevin Stewart: At the moment, in some quarters, there is some controversy about electricity as a whole. You have made it quite clear that the regaining of powers does not change how matters currently stand in relation to environmental impact assessments.

Kate Forbes: That is not up for debate in this conversation. Perhaps to prove the point, I do not have responsibility for electricity and energy. I am responsible for the economy and Gaelic, but I am here as Deputy First Minister because what we are discussing today is the Scotland Act 1998 and the transfer of powers to the Scottish ministers to right a wrong that took place on EU exit. If and when there is to be any change to the core consenting procedures, I would expect Gillian Martin to be here.

Kevin Stewart: Thank you. That is very clear.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I apologise, Deputy First Minister, as I think that we are scrutinising the hinterland of this order rather than its core, but it is important that the committee understands how it fits in.

My understanding is that the order deals with environmental considerations in the consenting of electricity generation and infrastructure and the requirements around that. You said that the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 allowed the Scottish Government to adapt and change that as appropriate. What happened before that?

Kate Forbes: Prior to—

Bob Doris: Prior to the 2017 regulations.

Kate Forbes: You are asking how it operated prior to 2017.

Bob Doris: Yes.

Stewart Cunningham: Prior to the 2017 regulations, there would have been other environmental impact assessment regulations. I cannot think of the precise title off the top of my head, but we have had environmental impact assessment regimes for a long time.

Bob Doris: I am not trying to catch anyone out, but I am asking whether they sat at a European level or a Scottish level.

Stewart Cunningham: The environmental impact assessment regulations that we have

domestically implement the obligations that sat at EU level. There was an environmental impact assessment directive, and as a member state, we had to implement that directive through domestic legislation.

Bob Doris: Pre-2017, we implemented decisions made at a European level. We did not make our own decisions.

Stewart Cunningham: The EU directive sets the standards for environmental impact assessments, and we implement them. However, no decisions are made at the EU level about—

Bob Doris: There is an EU principle, and we build our framework for compliance around that.

Stewart Cunningham: Exactly.

Bob Doris: Thank you. That is helpful.

We know that the European Union (Withdrawal) Act 2018 meant that the 2017 powers failed to exist any more. What is the current situation? If a large wind farm developer was seeking consent right now and wanted to do all the right things in relation to environmental considerations, what regime would they be operating under?

Stewart Cunningham: The 2017 regulations are still in force. That is still domestic law. What we have lost is the power to amend those regulations, which came from the European Communities Act 1972. The current regime is the 2017 regulations.

Bob Doris: Okay. The policy intent, then, is by and large to stay compliant with those regulations but to take the power to amend them as appropriate to changing circumstances. Have I got that right, Deputy First Minister?

Kate Forbes: That is correct. Obviously, any decision to deploy that discretionary power would be subject to extensive consultation and engagement. For now, yesterday and tomorrow, irrespective of what the committee does, the 2017 regulations are in force.

Bob Doris: And my understanding is that there would be no lowering of the bar in relation to those consultation requirements, because we are sticking with the 2017 requirements, as previously outlined.

My only other question is about the concurrent operation of powers. It is quite reasonable for the Scottish Government to wait and see how environmental outcomes reports and regulations work in practice, and then decide whether to endure with environmental impact assessments for the longer term or to see whether there is better practice elsewhere and adopt that. However, the key point would be that the Scottish ministers would be in control of that decision. Would that be correct, Deputy First Minister?

Kate Forbes: To an extent. We would be in control, because that is the purpose of this instrument, but we are also watching carefully to see what the UK Government might do in terms of transitioning to EORs. If it were to transition, that would be a long-term and complex process. As far as I know, we do not have final confirmation from the UK Government on what it intends to do along the lines of EORs.

Bob Doris: Sorry, convener—I have one final, final question.

The Convener: I have given you a fair run, Mr Doris—one more question, and then I must move on to other committee members.

Bob Doris: I will just make the point that this can be quite simplistic when the legalese is taken out of it, so I appreciate the answers.

Is it possible that the UK Government could pivot to environmental outcomes reports, which then became requirements on the Scottish consenting regime, as would environmental impact assessments? Is it possible that the Scottish regime could have two sets of standards that developers would have to comply with? That would concern some developers.

Stewart Cunningham: That is a possible scenario, particularly in relation to the offshore and the inshore, because the Scottish ministers have devolved authority over the inshore region. We could maintain the environmental impact assessment regime inshore, which is 0 to 12 nautical miles, and the UK Government could impose an environmental outcomes report system covering 12 to 200 nautical miles. We would then essentially have two systems.

Mark Ruskell (Mid Scotland and Fife) (Green): Is it the view of the Scottish Government that the adoption of this kind of simpler environmental outcomes report regime knocks us out of alignment with the European Union, or is it too early to tell that at the moment?

Kate Forbes: The Scottish ministers have a settled position on seeking to align with the EU as far as possible. That is why I am stressing in this conversation that seeking the passage of the instrument is not a request for fundamental changes. For example, we have already set out that the 2017 regulations remain in place.

However, completely independently of this conversation, we have been consulting on how to ensure that, for example, the 1994 habitats regulations are fit for purpose in terms of ensuring that there is proper scrutiny of and accountability for those areas. As is set out in this year's programme for government, the powers will be included in a natural environment bill, which will be introduced in this parliamentary year.

It is not that there is a settled position and we are not constantly thinking about how to improve in order to ensure that our regulations remain fit for purpose, but it is the Scottish Government's default position to seek to align as closely as possible with the European Union.

Mark Ruskell: I see that Michael McLeod wants to come in.

Michael McLeod (Scottish Government): I just want to add that, in the absence of any clear information at this point from the UK Government, what we are talking about could be as simple as changing the name of the existing regime from an EIA regime to an EOR regime. If that is the case, there is no question but that you would still be largely in line with the EU. Clearly, however, if a more fundamental change were imposed, you would have to give consideration to how far the change would move you from alignment.

Mark Ruskell: Clearly, everything that we are talking about comes from EU law, which we have implemented into our own law. However, EU law does not stand still. What engagement will there be with the European Commission on the changes to environmental assessment? As the years go by, refinements will be made—for example, there are now enhanced commitments on nature at a European level. I am interested in what that conversation looks like. I understand why we have been focusing on the discussions between the Scottish Government and the UK Government, but the origin of what we are talking about is in European law, which is why I am interested in what the engagement with Europe will look like in future in relation to alignment and reform.

Kate Forbes: Independently of the process around this instrument, the Scottish Government keeps a close eye on what changes are happening at an EU level.

Stewart Cunningham will keep me right on this, but the non-regression clause in the Levelling-up and Regeneration Act 2023—the act that gives rise to this transfer of powers—includes a safeguard that means that any environmental outcomes report regulations must not result in a lower level of environmental protection than existed under environmental law when the 2023 act was passed. The 2023 act also says:

“EOR regulations may not contain provision that is inconsistent with the implementation of the international obligations of the United Kingdom relating to the assessment of the environmental impact of relevant plans and relevant consents.”

So, although the proposal does not represent a like-for-like replacement, it captures a moment in time—the 2023 point—and it is for the Scottish ministers to ensure that, where we have the power

to make changes, concurrently with the Secretary of State or otherwise, we can do so.

If this instrument does not pass—in other words, if the power is not transferred—we are, essentially, at the mercy of a situation in which we have to either accept or reject whatever EOR regulations the UK Government makes in future in relation to electricity works in the context of environmental assessments, and so on. There is more scope for divergence if this instrument passes than if it does not because, if it does not, we would have to accept whatever the UK Government does in terms of EOR regulations.

Mark Ruskell: Thanks. My last question is on strategic environmental assessment, which relates to plans and programmes. I know that, in its second session, the Parliament passed an act to establish SEA, on the back of EU directives. If EORs are adopted, will SEA continue to apply to plans and programmes in relation to energy developments under sections 36 and 37 of the 1989 act? If we are looking at a programme of offshore wind development, will the whole plan of multiple developments remain subject to SEA?

10:00

Michael McLeod: Yes. The act that applies SEA in Scotland would continue to apply. It does not apply in Scottish offshore waters. There are SEA regulations at a UK level that apply in the offshore region, and they are clearly included within the scope of the overall powers under the Levelling-up and Regeneration Act 2023. That means that the UK Government could change the approach that would apply for the Scottish offshore region. For Scotland's inshore waters and on land, however, the Environmental Assessment (Scotland) Act 2005 remains the approach to strategic environmental assessment.

Mark Ruskell: So, there remains consistency across the UK for the strategic assessment of plans and programmes, regardless of where the constitutional boundaries are drawn.

Michael McLeod: Yes, but if the UK transitions SEA to some kind of environmental outcomes approach, we will clearly have a split system between inshore and offshore waters. That would be rather like what Stewart Cunningham described for the marine works regulations: there would potentially be the same risk of having different approaches.

Douglas Lumsden (North East Scotland) (Con): I wish to follow on from Bob Doris's questions and to work out how things could work in practice, Deputy First Minister.

Let us say that either the present Government or a future Government wanted to have a policy of

having all power lines offshored or put underground, for instance. Would what we are putting in place through the SI make it easier for a Government to change the regulations to put that policy in place?

Kate Forbes: We get into tricky territory when using specific examples, because of a number of points. I cannot argue whether the draft order would make it easier or harder, because it really depends, first, on what the UK Government might do in introducing EORs. What we know about EORs so far is based on what the previous UK Government initiated on consultation. It published a consultation seeking views on a new system of environmental assessment to replace what had previously been an EU-derived environmental assessment processes. We have no information beyond that as to when or how the UK Government might move to an EOR system, or what that would look like. As my colleague said, it might be EIA by another name. It is impossible to say at this point whether the order will make a certain outcome easier or more difficult, as you have outlined, because we do not know what changes will be made at a UK Government level.

Turning to a second element, I have stated openly in this meeting that we have no intention in the short term of making any changes to the well-understood environmental impact assessment system. If the instrument passes, there is an opportunity to consider how we future-proof and improve the consenting processes. Of course, environmental impact assessment is only one element of the much broader consenting regime.

In your question, you talked about the sea and whether that would make some things easier or harder.

Douglas Lumsden: No—I was actually just talking about onshore.

Kate Forbes: Onshore—sorry. If we are talking about onshore, that is easier to answer, because it does not have the issue of the 12 nautical mile cut-off.

If we ever wanted to change to EORs once we have seen what the UK Government might do and what information is forthcoming, because of the concurrent point, which is very relevant, we would engage and consult. At that point, however, it is a question of what is coming back to us by way of suggestions for improvements that need to be made. Your question whether the instrument would make things easier or not is almost redundant, because we are talking about changes to who controls the process, not what is included in the process.

Douglas Lumsden: Would bringing back that power not allow you to have a separate

assessment, to align with the Government's political priorities?

Kate Forbes: As I said, we are already consulting on the 1994 habitats regulations. We consult on the most effective regulations within the current powers. However, the example that you put to me is a significant change, which would be subject to heavy engagement and consultation before we got to that point.

As I said, the move to EORs would be long term and complex. If you are asking whether the Scottish ministers will be back here next week to suggest substantial and widespread changes to the consenting scheme, the instrument does not enable that to a greater extent than would otherwise be the case.

Douglas Lumsden: But does it enable a route to having separate policies from the rest of the UK?

Kate Forbes: Essentially, it means that the Scottish ministers do not have a like-for-like replacement of the lost function of making EIA regulations. The order does not reinstate the Scottish ministers' ability to amend the 2017 regulations but transfers EOR regulation-making functions to ministers, to replace the lost function of making EIA regulations in the same respect. Sorry—that paragraph from my notes was confusing.

The order does not completely reinstate what we had previously, because the UK Government does not have the power to do that—because we are out of the EU. Instead, it follows through on the consultation that Michael Gove initiated to look at how a new system of environmental assessment, which would not result in a lower level of environmental protection, might replace the EU-derived environmental assessment process. It is one of the many mop-up things that are required to deal with lost functions post-Brexit.

I was going to say, "It's as simple as that," but I have made it sound quite complicated. *[Laughter.]*

Douglas Lumsden: Thanks, convener. I will leave it there.

The Convener: "Clear as mud," is the expression, I am sure, Douglas. Monica Lennon wants to come in.

Monica Lennon (Central Scotland) (Lab): I will try to keep it simple. I was interested in Mark Ruskell's line of questioning, particularly around EU alignment. I would be interested to know whether the Scottish Government has had discussions with, or taken advice from, Environmental Standards Scotland in relation to these matters.

Kate Forbes: Which organisation did you say? I did not quite catch it.

Monica Lennon: It was ESS—Environment, Environmental—oh no, now I have got it wrong! *[Laughter.]*

The Convener: It is Environmental Standards Scotland.

Monica Lennon: Yes, it is Environmental Standards Scotland. There are so many acronyms.

Michael McLeod: In the drafting of this order, we have not done so. If we were ever going to utilise the powers that come with the order, we would absolutely consult and discuss with Environmental Standards Scotland.

Kate Forbes: I emphasise that this is a Scotland Act 1998 order, so it is very much about where powers lie. It has nothing to do with the substance of those powers, which would be the point at which we would consult widely on what environmental assessment should look like.

Monica Lennon: You have explained that distinction well. However, as we know, things sometimes move at a fast pace. A lot has happened in the EU space on nature and environmental protection—one example is ecocide law. I shamelessly plug my intention for a member's bill on that. ESS has been a useful advisory body for the committee.

Deputy First Minister, I understand that you do not want to reach into other colleagues' portfolios, but the EIA regime is of national interest—Scotland's marine environment is a crucial part of our biodiversity, and how well those systems operate has an impact on our economy. I was interested to hear that you—I do not want to put words in your mouth—seemed to be defending the status quo, if I picked you up right. You seemed to be saying that the EIA process is well understood and that people know what they are getting.

I am interested to hear what discussions the Government is having about where potential improvements could be made. It was interesting to read the commentary on the situation in England, in which practitioners and communities have identified some of the shortcomings of the current regime. There are concerns that the data is not always complete and robust, and that the non-technical summaries are not always easy for communities to understand. If there are opportunities to inject some clarity and improve confidence, would the Government be open to that? Where do you see potential improvements being made?

Kate Forbes: Yes. The reason why I have been at pains to distinguish between the substance and the transfer is that I was concerned that there

might be confusion about what was up for discussion today.

I mentioned to Bob Doris that we recently consulted on proposed powers that would allow the Scottish ministers to make future amendments to the 1994 habitats regulations and to the various EIA regimes in Scotland. We are carefully considering the responses to the consultation in order to identify the best way to proceed with those powers.

Nothing stands still. We want to ensure that the regulations and the legislation that form the EIA regimes, which are the key frameworks that underpin the important environmental protections and assessment processes in Scotland on land and sea, are fit for purpose and are achieving ministers' aims of protecting the environment, reducing biodiversity loss and meeting our climate change targets. We want all those to be fit for purpose.

I have already referred to the fact that this year's programme for government set out our intention to include those powers in a natural environment bill, which is to be introduced in this parliamentary year. Therefore, you are absolutely right—that work is on-going.

Monica Lennon: As you mentioned the natural environment bill, I will turn to that. Clearly, the Government has to do a lot of things at the same time, so it is great to hear about the on-going consultation in relation to EIAs and the habitats regulations. Will that inform some of your thinking on the natural environment bill? How will the Government ensure that a joined-up approach is taken to the environmental regime, as we understand it, and the forthcoming legislation, so that, when it comes to national outcomes, we get the best that we can achieve?

Kate Forbes: Those issues dominate the Scottish ministers' discussions, and I know that they feature high on the agendas of Gillian Martin and Alasdair Allan. The fact that we constantly consider those issues is partly why I made the point in my opening remarks that the regulations process is tried, tested and well understood. There is an argument that we should ensure that the substance of the regulations is in line with ministers' objectives, rather than going back to the beginning and completely changing the process. What we are discussing today is whether ministers have the power to fundamentally change the regulations.

The argument that I made in my opening comments was that we will consult on what the substance should be, but we have no intention, in the short term, of making fundamental changes to the processes.

The Convener: It is always the short ones that cause the problem when it comes to legislation. I think that I am right in saying that, basically, the Scottish Government is reserving its right to use EIAs if the UK goes with EORs, that there is no intention of dumbing down the process or making it easier, and that the standards will remain the same. That is what I take away from what you have said. Have I got that right?

10:15

Kate Forbes: Yes. I go one step further and say that, although it is not for me to defend the UK Government, the 2023 act, which I referenced in my answer to somebody, stated that EOR regulations must not result in a lower level of environmental protection than existed under environmental law at the time of the 2023 act being passed. It is not the Scottish Government's intention to lower protections. Either way, the 2023 act is quite clear.

The Convener: Okay. I will not dwell on that any more. However, the matter is quite complex and intricate, and I am not sure that I would have used the words "concurrently" and "after consultation" to make it easier to understand. I have made my point.

The next item on the agenda is a debate on motion S6M-15261, which calls on the committee to recommend the approval of the draft order. I remind the committee that only the cabinet secretary and members may speak in the debate.

Deputy First Minister, I invite you to move the motion and to speak further to it if you feel that you would like to.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2025 be approved.—[*Kate Forbes*]

The Convener: As no member wishes to make a contribution, I will move straight on and ask whether the committee agrees to motion S6M-15261, in the name of Kate Forbes.

Motion agreed to.

The Convener: The committee will report on the outcome of the instrument in due course. I invite committee members to delegate authority to me, as convener, to approve the draft report for publication. Are you all happy?

Members indicated agreement.

The Convener: Thank you, First Minister, and thank you to your officials for attending for a somewhat longer—[*Interruption.*] Did I say First Minister?

Kate Forbes: Yes. [*Laughter.*]

The Convener: Oh, well, there you go. I must correct the record. Thank you, Deputy First Minister, and thank you to your officials. In the interest of time, I ask you to leave quietly while we move to our next item.

Road Traffic (Permitted Parking Area and Special Parking Area) (West Dunbartonshire Council) Designation Order 2024 (SSI 2024/270)

Parking Attendants (Wearing of Uniforms) (West Dunbartonshire Council) Regulations 2024 (SSI 2024/271)

The Convener: We move to item 5, which is consideration of two negative instruments.

The purpose of the two SSIs is to jointly introduce a decriminalised parking regime in the West Dunbartonshire council area. They are laid under the negative procedure, which means that they could come into force unless the Parliament agrees to a motion to annul them. No motions to annul have been lodged, and the Delegated Powers and Law Reform Committee had no comment on either of those instruments in its report.

No member has any comments on either instrument. I note that the policy note that goes with the instruments could have been simpler and easier to read.

I invite the committee to agree that it does not wish to make any recommendations in relation to the Road Traffic (Permitted Parking Area and Special Parking Area) (West Dunbartonshire Council) Designation Order 2024 (SSI 2024/270). Are we agreed?

Members *indicated agreement.*

The Convener: I now invite the committee to agree that it does not wish to make any recommendation in relation to Parking Attendants (Wearing of Uniforms) (West Dunbartonshire Council) Regulations 2024 (SSI 2024/271). Are we agreed?

Members *indicated agreement.*

The Convener: That concludes the item. I briefly suspend the meeting.

10:18

Meeting suspended.

10:25

On resuming—

Appointment of the Scottish Land Commissioners and the Tenant Farming Commissioner

The Convener: Agenda item 6 is consideration of the recommended candidates for appointment to the board of the Scottish Land Commission, including the tenant farming commissioner.

Last week, the committee agreed to hold a formal evidence session with the prospective candidates. Parliament has been given a role in approving Land Commission appointments, which in practice means that the committee will make a recommendation to Parliament. We have agreed to have this session to assist us in making an informed recommendation, taking into account the recommendations set out in the Land Reform (Scotland) Act 2016.

I am pleased to welcome Dr Lucy Beattie and Dr Calum MacLeod, who have been nominated as land commissioners, and Robert Black, who has been nominated as tenant farming commissioner. I am grateful to you all for coming along today, and I commend you for putting yourselves forward for these important roles. We have before us information about you and your relevant skills and experience.

We will be going into questions, but first of all, as I will be asking about agriculture—which will not surprise you, Robert—I remind members of my entry in the register of members' interests as a member of a family farming partnership in Moray. I have an old-style tenancy for a small bit of land as well as a non-agricultural tenancy for another bit of land, and I was also a surveyor for 12 years, doing agricultural land letting. I hope that that is a full enough declaration.

I also say at the outset that I was hugely impressed with the way in which Bob McIntosh took on the role of tenant farming commissioner and what he did in that role. I am glad to put that on the record, because I think that he made a huge step forward in a difficult area and his careful and considered judgment has made it easier for all sides to work together. That probably suggests the importance of the roles that we are addressing here.

My first question is for Robert Black. Can you explain what agricultural experience you would bring to the role of tenant farming commissioner?

Robert Black (Tenant Farming Commissioner Nominee): I have worked in agriculture for the better part of 20 years, since leaving school. I started off as a farmhand, in

various enterprises, building practical experience and understanding of the differences between such things as dairy, poultry, arable, livestock and mixed arable.

From there, I went on to progress academically with a bachelor of science degree in applied animal science. Following that, I spent some time abroad as an assistant farm manager in Australia, purely to gain experience in different facets of farming. The more academic I got, the closer to a desk I got, as it turned out. From there, I took on a role as an agricultural consultant, primarily in Stornoway. That was back in 2016, and I was there for a number of years before shifting to the Oban office.

Since then, I have progressed. I am now a development manager for the Isle of Luing Community Trust, but I still operate my own consultancy business, too, purely to keep the personal development plan going and the relevant skills and information in my head.

The consultancy element is where the bulk of my agricultural knowledge and experience comes from. It has given me a platform to interact with a number of different farmers and crofters in various capacities, so I have a holistic view of the bigger picture of farming in Scotland and the challenges that farmers face. That has been probably the most important facet of my agricultural experience.

I also hold a master's degree in agricultural professional practice.

The Convener: Thank you. I would say that the agricultural law in Scotland is quite cluttered with numerous acts that have been amended. Some of those acts still relate to old-style tenancies, for lack of a better description, while others relate to newer-style tenancies and reviewed tenancies—and some will relate to even newer newer-style tenancies, if the Land Reform (Scotland) Bill goes through.

Can you tell me a little bit about your experience in that regard? Do you feel comfortable working under the Agricultural Holdings (Scotland) Act 1991 and the Agriculture (Scotland) Act 1948, and subsequent acts? It is quite a role, which involves not quite mediation, but working between landlords and tenants.

10:30

Robert Black: It is a lot to digest—all the acts encompass a comprehensive amount of information. I am familiar with them all, purely from a consultancy side, and I understand the implications and what the legislation means for farmers and crofters on the ground.

I have certainly had to be aware of what the laws require to be implemented. The tenants

amnesty was a big part of my consultancy work some years ago, so I was aware of the legislation on agricultural holdings and how that applied to the schedules that we drafted. Up until now, however, I have never needed to have as in-depth a level of knowledge as is required for this role. It will be a big challenge, and it is a matter of priority to get us up to speed and up to date with that as much as possible.

The Convener: I think that I have forgotten more than you probably know, in the sense that the legislation changes so quickly that it is hard to keep on top of it.

Monica Lennon has some questions.

Monica Lennon: Good morning, and thank you all for coming to the Parliament today.

Robert Black, my questions are still for you. You talked about mediation, so I want to hear a little more about that. What approach will you take to promote good relations between agricultural landlords and tenants? When it comes to new ideas and practices, what do you think that you will bring to the role? As you mentioned mediation, how would you approach the role of land agents?

Robert Black: Dr McIntosh has done a tremendous amount of work in that area, and it has been the foundation for my understanding of how to approach it. In fact, that is how I will approach it—his ethos is very much mine.

Before having to bring down the hammer of the law, I think that steps can certainly be taken. From a consultancy point of view, I have had to mediate in the past. My approach is to understand the human element—I come at it from an empathetic point of view. Not everybody who is in breach is so out of badness; there will be nuances and reasons for it. Bob McIntosh's approach involves mediation, mitigation, arbitration or negotiation—whatever version applies. More often than not, having a conversation at the very beginning, understanding both individual points of view and then bringing them together to come to an understanding is enough to avoid or resolve a conflict. That will be my initial approach.

At present, I have no preconceived notions about how I am going to deploy or improve things; I will understand the role more as I take it on. I am very fortunate that Dr McIntosh is going to stick around to help with the transition, as that will help me better understand how I am going to approach the role.

Monica Lennon: It sounds like there will be a good handover, which is reassuring.

As far as your approach is concerned, I take it from what you have said that you are quite open-minded about what would work in practice.

Robert Black: Very.

The Convener: I think that Bob Doris has the next question.

Bob Doris: I do, convener.

Good morning, everyone. I promise that there are questions for the other witnesses, too, but I will stick with Robert Black for the moment. I should say that I am conscious that we are not running an interview process here, Mr Black. This is an opportunity for you to put some stuff on the public record in the Parliament, as part of our role in this area.

What do you consider to be the key objectives and priorities for the post that you are possibly about to take on, and what will the key challenges be? I know that that sounds very much like an interview question.

Robert Black: The big challenge just now is the Land Reform (Scotland) Bill as introduced, and relaying information to people who might have concerns. The new version of tenancy that the bill involves, and what format that takes, will be an interesting aspect. I think that there is potential there, although I am not entirely sure how that will be delivered or what the implications will be.

The challenge would be getting a perception of what farmers on the ground feel about that and understanding what the stakeholders think about what it means. Continuing the work on breaches and so on—the core work—will be a personal challenge and something that I will have to get to grips with quickly.

Bob Doris: That is helpful.

Are there any particular complexities? You mentioned land reform and the potential for a new tenancy, but we are currently scrutinising the first part of the Land Reform (Scotland) Bill, which does not include that. We consider it to be a much more complex area that we will be coming on to soon. Do you want to say more about it at this stage?

Robert Black: There is nothing more to say at this stage. As the nominee tenant farming commissioner, that is the thing that I am focused on at the moment.

Bob Doris: Thank you.

Mark Ruskell: Thanks for coming along. How do you see the Scottish Land Commission developing? Do you have a collective view on that? I am interested in your working relationships. I do not know whether you have had working relationships in the past or whether you have thoughts collectively about how you will work together with the other commissioners, and I am interested in exploring that. It is not a trick question—it is just an open question about how

you see yourselves working collectively and how you think that that will change.

Robert Black: I will give somebody else the chance to speak.

The Convener: Usually, I say that if people do not look away fast enough, I will nominate them. Calum, you can start off, and I think that Lucy will get a chance after that.

Dr Calum MacLeod (Scottish Land Commissioner Nominee): I thank the committee for the welcome invitation to speak to you today.

I think that the Scottish Land Commission was one of the most important things to emerge from the Land Reform (Scotland) Act 2016. It has been really important in keeping land reform on the public policy agenda, because, since devolution, the issue has occasionally slipped off, and having the commission in place has been significant in that regard. It has taken a proactive and progressive approach that looks to build consensus among the wide range of stakeholders that are involved and which have an interest in land reform—which is pretty much everybody. The commission is an important organisation and has an important role to play in that regard.

On where the commission will go next, clearly, we are nominees, and we are not in position at the moment—that is for some other decision making. There is a huge agenda in terms of the very large-scale, almost existential issues of the climate crisis and the biodiversity crisis. There are issues around the empowerment of communities and addressing inequalities, and land and land reform, as an area of public policy, have an important part to play in that regard. The commission has a significant agenda ahead of it in relation to working with other stakeholders and partners. From a personal perspective, that is one thing—probably the main thing, actually—that attracted me to go through the application process in the first place to become a commissioner. It is a really important agenda.

As for how we work together, speaking personally, I hope that we will take a consensus-based approach across the range of stakeholders who are involved in and have an interest in land reform, so that people's voices are heard, whoever they are, wherever they come from geographically or whoever they represent. That is really important, too.

Broadly, that is how I see that agenda being taken forward and the commission's role in that.

Dr Lucy Beattie (Scottish Land Commissioner Nominee): Thank you for having me here today. It is great to see Calum MacLeod and Rob Black here. The landscape of agriculture, land management and community development in

Scotland is quite small, really, and I know both of them from previous work that I have done over the years. When I worked as a training and development manager with the Scottish Crofting Federation, Rob delivered fantastic training to new entrant crofters on the Isle of Lewis, and Calum has worked for the Lochbroom and Ullapool Community Trust, of which I was formerly a volunteer director. He did some great feasibility work and so on.

I hope that there is already an understanding that we are here to achieve practical solutions to practical problems, with the legislation there in the background. It would be our duty to support the legislation so that the legislators can make appropriate decisions in the best interests of the public. Ultimately, the role of the Scottish Land Commission is to be the safety valve or stopgap between people and the legislation, and to make things move towards the outcomes that are best for Scotland.

It is clear that we face two crises—the climate crisis and the biodiversity crisis. When you have wicked problems, there are many solutions and many viewpoints. I hope that we can be there to give our opinion when it is needed or to seek expert guidance and work together on that basis.

Mark Ruskell: Robert, the farming commissioner role is embedded in the Land Commission, but how do you interpret that role within the commission's wider work? Will you be following Bob McIntosh's example, or will there be changes?

Robert Black: There certainly will be changes, but I do not know what their format will be. Once I get into the role, I might find that things have been mooted but have not taken effect, because they might not be feasible. That is why it is very important that Dr McIntosh is sticking around to cover that.

As an entity, certainly from the tenant farming commissioner's point of view, the Land Commission is a very valuable source of information. From a consultancy point of view, I have relied on the commission on many occasions for information, which was made available and was particularly concise and digestible. That is important for farmers and crofters—the people on the ground who need access to that sort of information—to give them peace of mind about what is happening.

Dr McIntosh has done a tremendous amount of work with the codes of practice, with various guides and that sort of thing. That is another point that needs to be built on. Data collection, the commissioning of reports and investigative work are massively important in making informed

decisions as we move forward and in adding value to the Land Commission as a whole.

Douglas Lumsden: Hello, everyone. Do your existing roles represent any potential conflicts of interest, and if so, how might those be mitigated so that you can maintain an objective approach to your work and cross-sectoral support? Was that discussed at the interview panel?

Dr Beattie: First and foremost, like the convener, I am part of a family farming partnership. I took on a farm 26 years ago, when both my parents died. I have had a lifelong interest in working on and managing the land, and I have had various other roles. In my very recent past, I had a political role: I stood as a candidate in the Westminster elections, but when that was over and I decided to apply for this role, I stepped back from my political activity. I no longer have political party membership, which was discussed with the ethical standards representative at my interview.

First and foremost, what drives me is my passion, my deep relationship with land and farming and being part of a community in the north-west Highlands. I also work part time as a teaching fellow in science communication at the University of Edinburgh. I am certainly interested in how that shapes my perspectives, having had on-the-ground, hands-on experience as a livestock farmer for many years but moving into, as Rob said, a more desk-based life. As you become more academic, you become more tied to a desk than to a sheep fank. Those are my other conflicts.

I am also a trustee of the Clachan Lochbroom Heritage Trust, which is a former Church of Scotland premises at the head of Loch Broom. That is a very small role.

Dr MacLeod: I am glad that Mr Lumsden asked that question, because it is fundamentally important. I raised during my interview where potential conflicts of interest might be, and I wanted to be clear about my position with regard to them. I will go through a couple. As some of you may be aware, I have advocated for land reform. I have commented on land reform policy and written about it extensively over a number of years. Clearly, I have had particular positions and expressed particular views in regard to land reform.

10:45

I said this at the time of my interview, and it is in your notes, but I will say it again here. I do not think that it is compatible for me as a land commissioner, if nominated and approved, to advocate on policy issues outwith the commission. I will absolutely be plugged in to the commission's positions and, I hope, will play a full part in the discussions that come through on whatever the

issues are. I want to put that point absolutely fair and square on the record.

I am also a freelance sustainable development consultant. As Lucy Beattie alluded to in her previous answer, that work predominantly relates to doing feasibility studies for communities that are looking to buy land and/or built assets. I have done that for 10 or more years as part of larger teams.

I do not see that as a conflict of interest, because the work that I do in relation to that is not policy orientated. It is very much about the community consultation dimensions and about looking at the feasibility or otherwise of specific projects that communities wish to take forward. My view—it was also the interview panel's view—is that that would not cause a conflict of interest.

The other thing that I will put on the record is that I have a land interest, in the sense that I am the registered tenant of a croft in Ardvey on the isle of Harris, where I am from originally. The croft is now being sublet to a local crofter there.

Robert Black: I do not own any land or tenant any land, so there is no conflict there. In my current role, I am a development manager for the Isle of Luing Community Trust. There would probably be some overlap there but, depending on the decision that is made here today, I would no longer hold that position.

As an independent consultant, running my own firm, I am conscious that there could be crossover there as well, but I would abstain from any of that type of work. It is rare that I ever get something through my door that relates to a tenancy. It tends to be more technical issues about soils, animal health and that sort of thing. However, I have colleagues that I can pass any tenancy work on to.

I am also on the board of directors for the Scottish Crofting Federation. There is nothing there that really crosses over. The tenant farming element is very different from crofting. The Crofting Commission handles the crofting element. We do not foresee anything that would create a conflict but, if there is a conflict, the board is aware that I am here and that I am up for this role, and we would manage such a conflict in whatever capacity. It would all be transparent and clear. If anything did cross over, it would be on the table and we would manage it accordingly.

Douglas Lumsden: Thank you.

The Convener: Monica Lennon is next.

Monica Lennon: I have almost forgotten what I was going to ask, as I was very interested to hear about all your experience and knowledge, including your experience of working together.

What do you consider to be the key objectives and priorities for the commission and what do you think the key challenges are? Dr Lucy Beattie talked about “wicked problems”. I would be interested to hear what problems you were thinking of when you said that, Lucy, but I will put the same question to everyone. What are the key objectives and priorities and what are the key challenges?

I do not know who wants to go first, but Robert, you are still maintaining eye contact.

Robert Black: That was my first mistake.

Monica Lennon: You will learn.

Robert Black: Strictly from the tenant farming point of view, maintaining relationships is the key important priority. From that point of view, it is about making sure that people are aware of me and that I am aware of them. For the tenant farming element, it is about continuing the work that has been done so far.

Dr MacLeod: I touched on this in my response earlier, as did Lucy Beattie. I think that the key objectives are broadly the same ones that reflect the functions of the commission as set out in the 2016 act. There are various ones, but essentially they are to provide informed policy advice in relation to particular issues, conduct research and bring people together.

In that sense, I do not think that the commission has changed and I do not think that it will change. In some respects, the issues have been exacerbated over time and addressing them has become more pressing. It is about how we use all of Scotland's land in ways that will deliver contributions and solutions to the climate and biodiversity crises and more locally. We are talking about macro issues but there are more specific practical local issues, such as the role of land in housing, rural repopulation and sustainability. How do we connect the issues of land, which is as important in the urban context as it is in the rural context? It is as important in Aberdeen as it is in Ardvey, frankly. It is important to make sure that those connections are made.

The committee is considering the Land Reform (Scotland) Bill, which is of course important. It is one piece of legislation and lots of other elements connect to it, some of which are legislative and some of which are non-legislative, but they all matter and they all connect. It is about how we make those connections in ways that make land, as a resource, an asset and something that is of value to all the people of Scotland, resonate with them and something that all the people of Scotland can benefit from. That is complicated.

I have a PhD in public policy implementation, and I took 80,000 words to basically say, “It

depends on the factors that make policies work or not." It is a real challenge to bring different people and stakeholders together, but I look forward to contributing to that.

The Convener: Lucy Beattie, it is not complicated, is it? You are going to give your answer now.

Dr Beattie: I suppose that the essential elements—land, labour and capital, which are the basis of economics—need to be considered. Land is a finite resource and it should be managed effectively to achieve outcomes. In relation to wicked problems, we have global problems, but in Scotland we also have problems such as the housing crisis and persistent poverty in our urban areas. It is not just about rural areas. Certainly, in the rural area where I come from, there is depopulation, an ageing population, lack of labour and so on. It is about looking at all those issues to see how they interlink and how they can work with other parts of the Government's work and remit, and hopefully create the best outcomes so that people have a right to a good, healthy, happy life with clean air, clean water and good soil. That is the way that I would come at it.

Monica Lennon: Thank you.

The Convener: Kevin Stewart, this is your chance.

Kevin Stewart: Thank you, convener. One of the priority criteria for the role is stakeholder engagement and community empowerment. Dr MacLeod has given some commentary about stakeholder engagement, so I would like to hear from Dr Beattie and Mr Black on how they see community empowerment as part of the role.

As we have been sitting here this morning, there has been some commentary that shows that, first of all, some people are not listening and some do not want to empower people. John McTernan, a former Labour political adviser, said this morning:

"we don't need the small farmers",

which shows me that he has not been listening at all. It would therefore be useful to hear about the community empowerment aspect with commentary about stakeholder engagement from Dr Beattie and Mr Black. Mr Black could go first.

Robert Black: Again, I fall back on work that Dr McIntosh has done in the creation of the tenant farming forum, which brings in all the key stakeholders such as NFU Scotland, the Royal Institution of Chartered Surveyors and various individuals. That is a fantastic bit of work that keeps the conversation co-ordinated and people engaged.

Given my experience, I would like to apply an approach involving engagement with individuals

and perhaps tenant farmer groups on the ground, rather than just the big agencies and entities. I would like to bring in more on-the-ground commentary, too. I think that the tenant farming forum is the benchmark that we can take forward.

Dr MacLeod: Community empowerment is absolutely fundamental to the land reform agenda. I have been involved in that, working with communities and doing feasibility work with colleagues, and I have seen what a difference it has made to communities when they can gain ownership, in some instances, and when they use assets in ways that actually fit what they need for their places, directly and clearly. Having that responsiveness is fundamental. The legislation and other policy tools have an important role in facilitating that as much as possible.

Kevin Stewart: I want to follow up on something else that you said, Dr MacLeod, before we come to Dr Beattie. You mentioned Aberdeen, which is always guaranteed to get you in my good books. However, my constituency, Aberdeen Central, is the only constituency in the north-east of Scotland that does not have a farm in it. You expressed the importance of views about land from an urban perspective as well as a rural one. How do we help folk from urban areas to understand the rural aspects? How do we get folk in rural areas to understand the urban aspects of land? How do you see your role there?

Dr MacLeod: I mentioned Aberdeen partly because I spent many happy years in Aberdeen as a student and beyond, so I am familiar with it.

On the significance of the issues from an urban context and a rural context, although there are some things that divide, there is a lot that unites. This is obviously a personal view, but I think that it would be a mistake to delineate excessively between urban and rural contexts when we are thinking about land reform and the role that land has. As Lucy Beattie said, a lot of this is about how we address the fundamental issues and problems that affect people's everyday lives. There can be macro problems and wicked problems such as poverty, and we can try to alleviate those. There may be opportunities to use land in ways that will provide more green space and help people's quality of life.

My first point is that there is more that unites than divides. Raising people's awareness of the possibilities and opportunities is very important. I therefore suggest that the Scottish Land Commission continues to do what it has been doing since it was established: holding events that bring people together, encouraging debate, enabling a recognition and inspiring confidence that people's voices will actually be listened to, so that they have agency and opportunity to engage

in land-use decision making, whether that is with regard to the planning system or other areas.

That is fundamentally important when it comes to connecting up urban and rural and illustrating to people, wherever they are geographically, that the issues transcend geography while also being specifically located in a given geography. It is about giving people the means, the voice and the opportunity to express their views with the confidence that things will actually change, and with the mechanisms in place to enable them to do that.

Kevin Stewart: They can express their views and empower themselves, maybe.

Dr MacLeod: That is what I was saying—where they have that opportunity. They also need to have the means to empower themselves, if that is not a paradox.

Dr Beattie: I have worked with a community as a community development officer. I have also been a volunteer director of a community trust. I have been involved in community initiatives, from running a Gaelic toddler group to running a consultation about cycle paths—all sorts of things. I have also been a member of a community.

It is important to ground your inquiries in the experience of the community. The Napier commission, for example, set out to uncover the experiences of people. It went out and about and sought the opinions of people and observed things. That is very important. If you do not ground yourself in the lived experience of the people who you are trying to deliver for, then you have forgotten the whole layer that is driving that legislation.

Land reform has always interested me. When I was writing my dissertation as an undergraduate doing a bachelor of science in rural land management at Harper Adams University in 2000, Scotland had the concordat on access, which inspired me. Because I came from Scotland, when I was told not to walk—very responsibly, down a track—on farmland in England, I almost could not understand it. Scotland had the right to access enshrined in our ethos and our very way of being. Then, we moved towards the Scottish Parliament, where the right would be enshrined in law.

That is very important to remember. We are sitting in the Scottish Parliament building today, and one of the primary features of the Parliament was the collaborative cross-party efforts to deliver that for the people of Scotland. I hope that, as a progressive nation, we can continue to do so.

11:00

Kevin Stewart: You talked about listening and lived experience. How do we move forward from

not only listening to people and taking their views to also empowering them to do more to help shape their future?

Dr Beattie: Empowerment is knowledge of potential and possibility. It is about knowing that something is there and is yours to take if you want it, and knowing that you do not have to ask permission because some kind of framework is in place that supports you in that way. In science communication, people talk about knowing your audience. It is the same when you are working with any community group, be it urban, rural or peri-urban—somewhere in between. You need to understand who you are working with and the approach that will empower them, which might be digital, face to face discussion or action—that is, doing something. Then, it is about building on that through a pilot programme or something like that.

The Convener: In Mr Stewart's first question, he referred to a comment about family farms. I thought, Lucy, that you might have taken the opportunity to say that you disagree with John McTernan, but I will not put words into your mouth.

Dr Beattie: Where will he be eating tonight, I wonder? Will it involve farm produce?

The Convener: Well, that is a good question—it will not be at my table. Anyway, we will leave it there.

Thank you very much for coming down to Edinburgh and giving your time to the committee.

We now move into private session.

11:03

Meeting continued in private until 13:05.

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