RURAL DEVELOPMENT COMMITTEE

AGENDA

12th Meeting, 2002 (Session 1)

Tuesday 30 April 2002

The Committee will meet at 2.00 pm in The Hub, Castlehill, Edinburgh.

1. Integrated Rural Development: The Committee will take evidence on its inquiry into integrated rural development from the following—
   
   John Kinnaird (National Farmers Union of Scotland)
   
   Jonathan Hall (Scottish Landowners Federation)
   
   Ian Rideout (Scottish Crofting Foundation)
   
   David Henderson Howat (Forestry Commission)
   
   John Mayhew (The National Trust for Scotland)
   
   Fiona Newcombe (Royal Society for the Protection of Birds (Scotland))
   
   John Thomson (Scottish Natural Heritage)
   
   Adam Harrison (WWF Scotland).

2. Subordinate Legislation: The Committee will consider the following instruments under the negative procedure—

   The Less Favoured Area Support Scheme (Scotland) Regulations 2002 (SSI 2002/139)
   
   The Plant Health (Great Britain) Amendment (Scotland) Order 2002 (SSI 2002/164)
   
   The Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No.3) Amendment (No.2) Amendment Regulations 2002 (SSI 2002/169)
   

3. Petition PE480: The Committee will consider PE480 from Mr William R Campbell, calling for the Scottish Parliament to urge the Scottish Executive to review the current situation at Scottish Agricultural College Auchincruive as a matter of urgency.
4. **Petition PE187**: The Committee will consider PE187 from the Scottish Gamekeepers Association, calling for the Scottish Parliament to allow limited licensed culling of raptors under the terms of the 1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels.

5. **Budget Process 2003-04 (in private)**: The Committee will consider a draft report.

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Tracey Hawe  
Acting Clerk to the Committee
The following papers are attached or are relevant to this meeting:

**Agenda item 1: Integrated Rural Development**

Submissions from the following are attached:

Scottish Crofting Foundation
Scottish Landowners Federation
Forestry Commission
The National Trust for Scotland
Scottish Natural Heritage
WWF Scotland.

**Agenda item 2: Subordinate Legislation**

*The Less Favoured Area Support Scheme (Scotland) Regulations 2002 (SSI 2002/139)*

*The Plant Health (Great Britain) Amendment (Scotland) Order 2002 (SSI 2002/164)*

*The Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No.3) Amendment (No.2) Amendment Regulations 2002 (SSI 2002/169)*


Extracts from the Subordinate Legislation Committee’s 21st Report are attached

**Agenda item 3: Petition PE480**

Petition PE480

The *Official Report* of the members business debate on motion S1M-2637, 21 March 2002

The *Official Report* of the meeting of the Public Petitions Committee, 26 March 2002

Correspondence between the PPC and the Scottish Agricultural College and Scottish Executive.

**Agenda item 4: Petition PE187**

Petition PE187

Letter from Transport & Environment Committee (20 February 2002)

Letter from Scottish Natural Heritage (28 January 2002)

Letter from Scottish Executive

**Agenda item 5: Budget Process 2003-04**

A draft report is attached (for Members only)
Key points

- SNH believes that IRD would achieve better economic, social and environmental outcomes from rural policies.
- Existing policy instruments offer scope to adopt IRD approaches, and the longer term direction of EU policy is likely to allow even more possibilities.
- IRD also offers opportunities for greater community involvement, and community based development, if the necessary support structure and public sector attitudes can be developed.
- Prior to general adoption of the IRD approach, large scale pilot programmes should be set up to gain experience of implementation. National Parks are prime candidates for this.

SNH role and perspective on IRD

SNH's responsibilities for securing the conservation and enhancement of the natural heritage, and fostering understanding and facilitating enjoyment of it, are closely tied to the rest of the rural and urban economy and society. We believe that integrated approaches to rural development offer many advantages. In particular, they would reduce conflicts between different public policy objectives, offer efficiency gains in delivering rural support, and relate more clearly to the aspirations of both rural communities and visitors from urban areas.

In practical terms we believe this could result, for any given level of rural support, in better conservation and management of the natural heritage and improved opportunities for rural and urban people to enjoy it. It could also increase the contribution that the natural heritage makes to the rural economy.

The natural heritage can no longer be considered as simply the backdrop to the rural economy. It is closely tied in with it, in the following ways:

- it depends on the presence of rural land managers, who manage the natural heritage and the facilities to enjoy it.
- it is essential to the rural quality of life, which helps to retain population and encourage inward investment.
- It provides the basic natural processes which underpin agriculture and forestry and other primary industries.
- It is identified with enhanced quality, which provides marketing and value added opportunities.
- Rural tourism is particularly dependent on the natural heritage, and access to it.

A variety of recent research projects commissioned by SNH and others has highlighted the number of rural jobs associated with the natural heritage, the local economic benefit of businesses linked to the natural heritage, and the importance of the natural heritage to tourists.

We believe that long term trends in the rural economy, which have been highlighted by foot and mouth disease, are pointing inexorably to the need for more integration. The decline in employment in the land management sector, the increasing importance of service industries such as tourism, the need for added value through processing and marketing, and improved environmental standards, are all part of this picture. The direction of wider rural policy, and especially the continuing progress of Community Agricultural Policy (CAP) reform, is helping to drive a move to more integration.

The term integrated rural development has a number of possible meanings. We believe that, as a minimum, it must mean the integration of environmental objectives with other rural policies, and the integration of land use policies with wider aspects of rural development (including other business

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1 Scottish Natural Heritage (1999) Jobs and the Natural Heritage - the Natural Heritage in Rural Development, Scottish Natural Heritage: Battleby
2 details available shortly from http://www.snh.org.uk/strategy
sectors and public services). IRD approaches are unlikely to be credible unless they also encourage participation from local geographic communities (e.g. villages) and communities of interest (e.g. tourism associations). In line with Scottish, UK, and EU policies, IRD must also be based on the application of the principle of sustainable rural development, without which there will be no long term benefit of any kind. It would also ensure that social, economic, and environmental benefits are realised through rural policy, which from the natural heritage perspective must include the use of natural resources within their carrying capacity and ensuring that critical environmental systems and processes are maintained in good health. Finally IRD implies that there can be tailoring to local circumstances: in the development of local strategies, the implementation of wider policies, and the delivery of local programmes.

The advantages of integrated approaches have been tested through a number of small scale projects and programmes in which SNH has participated. We have played a formative role in many of these. We believe that the experience gained so far should be used to develop more ambitious IRD Programmes with full public sector participation, and that a number of policy instruments are already available to take the next steps.

The rest of our submission expands on these points, using the Committee’s subject headings.

**Funding for Programmes contributing to IRD**

Our comments here deal with how previous Programmes have been funded, and how future Programmes might be. We have based our views partly on the general advantages to the natural heritage from integration, as set out above. Where specific natural heritage advantages are likely they are referred to here.

**Past and current Programmes**

The clearest example of a widely adopted integrated approach was the **LEADER II Programme**, funded under the EU Structural Funds. This exemplified an approach that depended on participation by local people and communities, and made funding available for projects across a wide range of sectors.

The **Scottish EU Structural Funds** Programmes from 1994 have increasingly adopted an integrated approach to strategy development and planning, to comply with EU requirements. This has been important in demonstrating the way in which differing sectoral interests could work together to arrive at an agreed regional approach. The degree of integration at the operational level remains somewhat lacking, however. Projects which consist of elements related to more than one Programme Priority, or which relate to different Programme Measures, are still likely to encounter difficulties. In addition, the exclusion of large parts (or all) of the CAP support system from the Programmes has reduced their potential for delivering integration.

On a much smaller scale, the **Duthchas** project led by SNH and funded by the EU LIFE Programme, explored approaches to integrated community based rural development. Communities in 3 pilot areas in Skye, N Uist, and NW Sutherland were helped to analyse their needs and to set out their priorities for sustainable local development. The full range of public bodies participated in this process and many contributed funding.

On **Tiree** the natural heritage is of outstanding quality and sites designated under the EU Birds and Habitats Directives (Natura 2000) cover a significant proportion of the land. The quality of these sites is dependent on the continuation of traditional farming, the viability of which is more and more threatened. SNH is therefore developing an integrated land management Programme to secure the good management of Natura 2000 sites on Tiree. However on such a small and remote island the health of the environment, economy and community are inextricably linked and a wider approach is really required. So SNH has also participated in the development of plans for a local mart and linked community facilities. This approach has met difficulties in obtaining funding from national or EU sources, which perhaps illustrates the problems of pursuing integrated projects through more traditionally streamed funds.

The **Southern Uplands Partnership** operates across Borders, Dumfries, Galloway, South Lanarkshire, and South and East Ayrshire Local Authority areas, and aims to achieve the integration of environmental, social, and economic land use policies in the Southern Uplands. It is funded by a

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4 More information available at [www.duthchas.org.uk](http://www.duthchas.org.uk)
variety of sources, including public bodies, non-governmental organisations, European and Lottery funds, landowners and other businesses, and the Scottish Executive. The budget provides for secretariat support, strategic and project development, and research, but is not intended to provide significant levels of rural support or business investment funding. The Partnership is now looking for practical ways to demonstrate IRD at a local level, with natural heritage a core consideration.

The Mull and Iona Community Trust is an interesting example of a community led initiative that has drawn in the public agencies to address local needs across a range of issues, including business development, public services, housing, and environment. A significant funding element has been provided by Lottery funds, and other funding comes from the Community Land Fund and a charitable trust. There are difficulties with maintaining these types of funding, however.

In Dumfries and Galloway a novel grant scheme was initiated in response to the foot and mouth epidemic, drawing on funding from SNH, SEERAD, the LEC, and the Local Authority. It provided a variety of outputs, including employment, business development, environmental improvement, and agricultural support. The pooled funds were administered as one, and provide a good example of integration in practice. The keys to its success seem to be simplicity, targeting, quick delivery, and the achievement of a linkage between environmental work and business opportunities across the sectors.

The best examples of larger scale integrated approaches lie outwith Scotland. The English pilot programmes in the Peak District, Exmoor, and particularly in the Forest of Bowland are useful examples of what can be achieved when some of the major sources of rural support are planned and administered in an integrated way. These Programmes brought together funding from Objective 5b, Woodland Grant Scheme, Countryside Agency, and English Nature, although they could not include the major funding streams under the CAP. Participation by local people, cross-sectoral advice to businesses including farms, and a single process for allocation and management of funds were key advantages of the projects.

The future

For the future, a number of opportunities for more integrated programmes already exist, and further reform of CAP is likely to open further possibilities. The "second pillar" of CAP, defined by the Rural Development Regulation, provides scope for funding a range of rural activities including the primary land industries, but also going wider. Funding for agri-environment, forestry, processing and marketing, and other rural industries such as tourism, are all within the scope of the Regulation. In addition, Rural Development Plans have to be planned and managed as single entities, and the EU provides scope for them to be linked to Structural Funds Programmes. These possibilities provide considerable scope for an integrated approach to be adopted.

The direction of CAP reform in the future is widely expected to result in more resources and priority being attached to the RDR, as commodity support payments decline. Although the existing potential of the RDR for integrated approaches has not yet been realised in Scotland, we believe that its increasing importance warrants more preparation through pilot Programmes.

The most obvious places where integrated approaches could be tested are National Parks. Their management needs require this type of approach in order to safeguard the outstanding natural heritage qualities of these areas and bring together the objectives of conservation, public enjoyment, and rural development. There will also be places where extra resources are being targeted, a new type of framework for the planning and management of the area is being developed (the Park Plan) and new managing bodies are being established with a specific remit to integrate social, economic and environmental objectives.

In addition, Action 47 of the Agriculture Strategy states that the Scottish Executive will pursue the possibility of introducing Land Management Incentives, and research has recently been commissioned by Scottish Executive and ourselves which aims to develop this work further. Linked to a system of land management contracts, such incentives would offer a way of integrating land management support payments with other objectives, and might also offer scope for community participation. However, such measures alone would not necessarily provide cross-sectoral integration, and other measures might be required to ensure that support for tourism and other rural businesses is also tied in to a consistent approach. LMCs could provide a useful framework for achieving this wider integration, if their objectives are set in the right way.

5 See www.mict.co.uk
What assists communities to play a role and how can communities become more involved?

One essential element of LEADER II was the availability of funding to provide community animators, who assisted local people to develop plans and to access funds. The Duthchas project also illustrated that, with appropriate help, local communities could come up with strategies to deliver integrated development across a range of sectors. A report on developing the role of rural communities, commissioned by SNH on behalf of public sector partners, identified the need for sustained assistance in the form of community animators or agents. It also highlighted the need for public sector agencies to develop new cultural attitudes to participation, and to present a more joined-up approach, if rural communities are to play a stronger role.

Community Planning may offer one route by which participation and rural policy delivery can be linked, and SNH is playing a role in many such rural partnerships. The extent to which it will be possible to include the planning and management of the CAP programmes, the main rural funding source, in this process is still not clear to us.

What are the barriers and how might they be removed?

Duthchas showed that it is very difficult to progress integrated strategies in practice because of the non-integrated way in which rural agencies and their respective Departments within the Scottish Executive are required to set objectives and prioritise funding. LEADER II worked in parallel with mainstream policies and programmes, and so had a relatively small influence on local rural development as a whole. However it illustrated the way that partnerships of local funding bodies, including Local Authorities, Enterprise Companies, the Forestry Commission, and Scottish Natural Heritage, were able to work together to support locally important projects in whatever sector was appropriate.

Integrated programmes are inherently complex, and experience must be gained in planning and delivering them if progress is to be made. Two immediate problems have been identified in most of the pilot schemes we are aware of. The first is the difficulty of reconciling financial administration systems in different public bodies. Rules and procedures seem to vary quite widely, so pulling funding together from different public sources for a single project or programme is complex and difficult to manage.

The second concerns human resources. The professional training and experience of staff in different public bodies relates to their key areas of responsibility. They are not well equipped to deal with other rural development issues, and may be unsure about how to deal with them even though they recognise the advantages of integration. Partnership working has broadened their knowledge in many cases, but truly integrated delivery is likely to require the formation of new multi-disciplinary project or programme teams. This would allow personnel from different backgrounds to collaborate closely within a single administrative structure. Experience from the Countryside Agency and from pilot projects shows that this is an important element in delivering integrated rural support.

From the natural heritage perspective, it is important that IRD strategies are based on sound evidence about the local resources, economy, and society. SNH has recently undertaken a major programme to describe the natural heritage characteristics of the differing areas in Scotland, and to identify priorities and opportunities for the natural heritage and wider rural development: the Natural Heritage Futures programme. We are currently consulting with local partners on our findings, with a view to reaching consensus on ways forward. This type of approach would be an important starting point for any IRD scheme.

Impact of the review of EU policies

As we have mentioned, the direction of CAP reform is very likely to offer further opportunities for integration, though the scope of the existing measures has still to be realised. In particular, Article 33 of the RDR is important because of the scope it offers to assist non agricultural businesses within a

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6 Main points of study available shortly on [http://www.snh.or.uk/strategy](http://www.snh.or.uk/strategy)

context that includes the land management system. Reform of the RDR that lost this capacity would be a backward step. A more integrated approach will require a further re-balancing of the levels of support for commodity regimes and rural development, and further modulation of payments may have a role to play in this.

SNH is collaborating with other UK countryside agencies and WWF in reviewing the implementation of the RDR across Europe from an environmental perspective. One of the most important general constraints seems to be the financial procedures associated with the Agricultural Guarantee Fund, which provides most of the RDR money. Previous Objective 5b and 1 Programmes used the Agricultural Guidance Fund, which allows more flexibility. The Guarantee fund was designed for commodity support, and its rules are not suited to integrated development programmes. Further reform of the CAP should address this important issue.

In 2006 EU Structural Funds are likely to undergo radical adjustment to allow enlargement of the Union. This will have significant impacts for rural areas that have previously received Objective 1 and 2 funding. Where Structural Funds are no longer available the RDR will be the dominant funding source, and will also provide the criteria for State Aids approval of many national funding schemes. Under the existing rules most of rural Scotland would be unlikely to receive Structural Funds assistance after 2006, apart from transitional aid as current Programmes are run down. However the development of EU policies for Mountain, Maritime and Peripheral areas subject to “severe natural handicaps” may lead to special assistance being available in parts of rural Scotland. The scope of these funds, and the integrated plans required, may offer new opportunities to pursue integrated rural development, particularly if they can be brought together with the RDR Programmes.

Conclusions

SNH believes that IRD approaches would allow us to deliver our statutory responsibilities for the natural heritage more effectively, and that a more integrated approach to the delivery of public sector programmes and projects could reduce some of the inefficiencies of partnership working. IRD would also allow the people of Scotland, both rural and urban, to obtain more benefit from the undoubted quality of their natural heritage. These benefits would be seen in economic, social, and environmental terms.

In order to do so, there is a need to move faster on the development of integrated approaches to rural development. With Scottish Executive backing, SNH would be prepared to participate in demonstration schemes, and in the longer term to work towards mechanisms and policies that favour IRD. The following main points should be addressed:

- More streamlined administration and integrated delivery of rural support funds is required
- Rural communities need to be assisted with facilitation including training and advice, on a sustained basis
- Large scale integrated rural programmes should be tested in Scotland, particularly in National Parks
- Further redirection of CAP funds to the RDR is required, and increased modulation would contribute to this
- More fundamental reform of the CAP should be a longer term goal
- Measures under Article 33 of the RDR should be incorporated in the Scottish Rural Development Plan
- The opportunities that the RDR offers for integrated rural support planning should be taken up
- Land Management Contracts should be implemented, and their objectives should be broad enough to ensure integration of wider rural programmes.

Scottish Natural Heritage
14 March 2002
This paper summarises The National Trust for Scotland's views on integrated rural development, illustrated with three case studies from the Trust's own experience.

The Trust’s Role in Integrated Rural Development  Most of the Trust's 127 properties are rural, in total covering nearly 1% of the area of Scotland. These include eight major upland estates of over 2,000 hectares each, and 16% of the Munros. The millions of people who pay to visit the Trust’s buildings or who enjoy free access to walk the Trust’s hills bring indirect benefits to rural businesses through spending on accommodation, food and transport, and make the Trust a key player in the Scottish tourism industry. The Trust is a significant direct provider of employment in rural Scotland; over half of its 470 permanent and over 1,000 seasonal staff are employed in rural areas, a substantial proportion of the permanent posts at managerial level. This in turn generates social and economic spin-off benefits for local communities around Trust properties, as staff and their families buy goods in the local economy and support local services such as education and health. Two examples are the 17 permanent staff at Inverewe Estate near Gairloch in Wester Ross, and the 13 permanent staff at Mar Lodge Estate near Braemar in Aberdeenshire. The Trust provides rural housing, for example building new croft houses for tenants on Fair Isle, feuing land for affordable housing at Balmacara, or renting housing to local people in Culross in Fife or Dunkeld in Perthshire. Trust staff at its rural properties are involved in environmental education at all levels. The Trust’s evidence is therefore informed by its extensive experience gained through its lengthy involvement in this wide range of rural activities.

Integration rural development must meet sustainable development criteria, ie it must further environmental, social and economic objectives without favouring one at the expense of others. It must address its impacts upon all sectors and interests, and must involve and be supported by all those with a stake in it. A tourist development which damages the environment cannot be considered as integrated; neither can a community development which cuts employment or an environmental initiative which lacks local support.

Heritage Conservation  Much rural development, for example tourism, fishing or timber processing, is highly dependent upon Scotland's natural and cultural heritage. Environmental protection and enhancement are therefore essential components of successful integrated rural development rather than constraints.

Agriculture  The extensive Common Agricultural Policy (CAP) budget has the potential to become an important element in supporting integrated rural development in Scotland. There are recent signs that the CAP is gradually shifting from subsidising production to supporting forms of agriculture which benefit the environment, through the recent introduction of modulation and the Rural Development Regulation. A further shift in this direction through an increased percentage of modulation would provide significant opportunities for Scotland's heritage and its rural communities, by enabling greater expenditure throughout large areas of rural Scotland on the conservation and enjoyment of the natural and cultural heritage. These benefits would be greatest if the Rural Development Regulation budget were to be targeted on agri-environment measures, as these are the only schemes with specifically environmental objectives. An increase in funding for the Rural Stewardship Scheme would allow more land managers to benefit from its provisions.
Case Study 2 - Upland Path Repair
In the three years leading up to this International Year of Mountains, the Trust has spent about £600,000 repairing the paths on its hill properties including Glencoe in Lochaber, Goatfell on Arran and Mar Lodge Estate in the Cairngorms. This has been funded by a range of bodies including Scottish Natural Heritage, the Scottish Mountaineering Trust and EU Objective 5b, and by the Trust's own Sole Trading appeal, through which its members and other walkers commit regular payments to give something back to look after the hills which they enjoy. The Trust considers this to be integrated rural development because it generates:
- **economic benefits** - job creation and training for path workers
- **social benefits** - improved opportunities for healthy outdoor recreation
- **environmental benefits** - repair of damaged landscapes

Funding and Advice  Lack of funding and of integration between funders’ objectives are barriers to diversification from traditional rural industries. The EU funding which has supported many rural development schemes over recent years is likely to diminish with EU enlargement. Overlapping funding programmes and advice are available from a wide range of agencies including the Forestry Commission, local enterprise companies, the Heritage Lottery Fund and other lottery distributors, Scottish Natural Heritage, the Scottish Executive, and local tourist boards. This can be confusing for applicants and can result in a lack of integration. There should be a single point of contact in each area to co-ordinate advice from and grant applications to these and other agencies, as advocated in the *Forward Strategy for Agriculture.*

Housing  The lack of affordable housing is a common theme restricting rural development throughout Scotland. Pressure on the housing market can be particularly acute in areas with high proportions of second homes, holiday houses or empty properties. Practical ways to limit new housing to local occupation, for example through Section 75 agreements, have been pioneered by some local authorities, and there is scope for further development of such initiatives.

Transport  Transport is a key issue for any integrated rural development. Public transport provision is severely limited in large parts of rural Scotland, particularly more remote areas, increasing reliance on private cars in the very areas with the highest running costs and the longest distances to travel to work and to reach services such as education, shops and health facilities. A wide range of solutions can be deployed by public agencies to tackle this issue. The need to travel can be reduced through imaginative use of IT and mobile services; support for bus, train and ferry services is crucial, and national transport policies to tackle urban congestion and pollution should not have unfair impacts on people in remote rural areas.

Case Study 3 - Fair Isle
Fair Isle is Scotland's most remote inhabited island, midway between Shetland and Orkney. It has nationally important biodiversity, archaeological and marine resources, and is famous for its resident and migratory birds, knitwear and the shipping forecast. Its crofting-based way of life has been nurtured over the years through partnership between the Fair Isle community and the Trust. The protection and enhancement of the Isle's conservation value partly depends upon the maintenance of a viable community. Recent joint projects include:
- the Fair Isle Marine Partnership, seeking better protection and sustainable management of the seas around the Isle
- archaeological recording and protection
- sensitive repair of existing houses and new energy-efficient ones
- two wind turbines which supply electricity throughout the Isle
- the conversion of former lighthouse buildings into low-cost rented housing and craft workshops

The Trust considers its management of Fair Isle to be integrated rural development, because it generates economic, social and environmental benefits. The work of the Trust and the islanders has been recognised by a Council of Europe Diploma and by the Crofting Township of the Year.

Further information from:
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March 2002
INTEGRATED RURAL DEVELOPMENT  
SUBMISSION PREPARED BY FORESTRY COMMISSION FOR RURAL DEVELOPMENT COMMITTEE: APRIL 2002

The Rural Development Committee has asked the Forestry Commission to provide a written submission, and to give oral evidence, in relation to its enquiry into Integrated Rural Development.

Background

Forestry is devolved. Responsibility for forestry policy in Scotland lies with Scottish Ministers, who have formal powers of direction over the Commission. Funding for Forestry Commission activities in Scotland is voted by the Scottish Parliament. Scottish Ministers own Scotland’s national forests, which are managed by Forest Enterprise (an agency of the Forestry Commission).

The Forestry Commission’s National Office for Scotland (based in Edinburgh) acts as the Scottish Executive's forestry department. In addition, the Commission’s GB Headquarters are also based in Edinburgh.

An interdepartmental group chaired by the Cabinet Office, and including representatives from the Scottish Executive and the Forestry Commission, is currently reviewing administrative arrangements for forestry throughout Britain. The Group is due to report during the summer.

The role of forestry in contributing to integrated rural development

Forestry in Scotland contributes to integrated rural development:-

- by providing employment. Forestry provides over 10,500 direct jobs (including 3,000 in primary wood processing such as sawmills – mostly in rural areas);

- by encouraging tourism and leisure visits. The forests in the two proposed National Parks provide excellent examples of this, for example in the Trossachs, Speyside and Deeside;

- by enhancing the environment. Forests are an important wildlife habitat and play a part in restoring former industrial land and mineral workings, for example in central Scotland;

- by providing an opportunity for diversification by farmers and crofters. Forestry is a productive alternative land use, which can also be compatible with continued farming, offering benefits such as amenity and shelter.

As the Minister for Environment and Rural Development explained in his written evidence to the Committee, the Executive's Scottish Forestry Strategy was published in November 2000. It identifies 5 Strategic Directions:-

- maximising the value to the Scottish economy of the wood resource becoming available for harvesting over the next 20 years;
Timber production from existing forests is set to double over the next 15-20 years and Scottish Enterprise has, with the industry, established a Scottish Forest Industry Cluster to take advantage of the opportunities this provides.

- creating a diverse forest resource of high quality for the future;

The Woodland Grant Scheme and the Farm Woodland Premium Scheme are currently under review to ensure that they meet the priorities of the Scottish Forestry Strategy and the Forward Strategy for Scottish Agriculture.

- ensuring that forestry makes a positive contribution to the environment;

Scotland's woods and forests cover one-sixth of the land area and have an important part to play in, for example, meeting Biodiversity Action Plan targets. The Forestry Commission recently received WWF's Gift to the Earth Award for its work in promoting independent certification of sustainable forest management.

- creating opportunities for more people to enjoy trees, woods and forests;

Over 2 million people a year make recreational visits to forests. Their value for recreation was high-lighted during the foot and mouth crisis, and there is considerable scope to widen opportunities and create new facilities. Forestry is an important part of the landscape in many of Scotland's most popular tourist areas. In Scotland, Forest Enterprise alone has developed 236 carparks, 361 forest walks and 9 visitor centres; recent developments include specialist mountain bike trails. Treefest Scotland 2002 is being used to promote all these opportunities more widely.

- helping communities benefit from woods and forests.

Forestry Commissioners have established a Forestry for People Advisory Panel to help them develop further opportunities for communities to benefit from forestry.

Underlying the Scottish Forestry Strategy are five guiding principles, including that of integration. The others are sustainability, positive value, community support, and diversity in the local distinctiveness.

Ministers have established a Scottish Forestry Forum to help review progress in implementing the Strategy. The Forum’s Steering Group has a broadly-based membership incorporating economic, environmental and social interests.

Funding for Programmes Designed to Contribute to Integrated Rural Development

There are two main streams of funding for Forestry Commission programmes. These are:-

- the funding required by Forest Enterprise to manage Scotland's national forests for public benefit including the development of their recreation, conservation and heritage value. For 2002/03 the funding requirement is £61.7 million, of which £46.6 million represents the 6% charge on the capital investment in the forest
estate and £6.7 million represents expenditure on recreation, conservation and heritage activities. Currently, trading income - for Forest Enterprise and the private sector - is depressed due to historically low timber prices. Funding provided through the Woodland Grant Scheme to encourage private landowners to create and manage woods and forests to provide economic, environmental and social benefits for now and the future. Small amounts of funding can also help stimulate the development of partnership initiatives. For 2002/03, Woodland Grant Scheme funding amounts to £19.5 million, of which about £8 million is funded by the European Union, under the EU Rural Development Regulation.

Factors which assist communities to play an active an effective role in their sustainable development

Community involvement in forestry is central to the Scottish Forestry Strategy. Communities may become involved in a number of different ways. There is a planning hierarchy linking wider policies with local needs and interests. Thus, within the context of the Scottish Forestry Strategy, local authorities are responsible for developing Indicative Forestry Strategies for their areas, in co-operation with the Forestry Commission, industry, conservation and local community interests. Meanwhile, all planting and felling proposals are placed on a Public Register, which allows local communities to comment. Forest Enterprise actively seek the views of local communities in relation to plans for the management of Scotland's national forests; and woodland owners are also encouraged to engage actively with local communities.

Where local communities wish to be more closely involved in the management of national forests within their area, Forest Enterprise facilitates this, often through partnership agreements. The current review of the Woodland Grant Scheme is looking at ways to help support further community involvement in other woodland areas. Forestry has been an important feature of a number of community buy-outs. At present there is an estimated 20,000 hectares of woodland owned or managed by around 100 community groups.

Barriers to integrated rural development

Historically, there has undoubtedly been something of a divide between forestry and farming in Scotland. This is in marked contrast to other countries with similar geography and has probably developed for a variety reasons such as those associated with land tenure. For example, tenants have traditionally not had an interest in the trees on their holdings. Increasingly, a more integrated approach is being encouraged. Proposals for agricultural holdings legislation will help remove some of the legal barriers.

Many of the benefits that forestry can bring to rural development are non-market benefits. Thus, for example, landscape improvements, conservation work or recreation facilities give rise to public benefit, and are of value – for instance - to local tourism businesses; but they do not necessarily provide direct revenue for the woodland owner. Grants provide a mechanism for helping to address this problem of market failure in privately owned woodland. The review of the Woodland Grant Scheme and Farm Woodland Premium Scheme is being conducted jointly by the Forestry Commission and SEERAD to help ensure that it leads to further development of an integrated approach. At the same time, of
course, expenditure on recreation and conservation by Forest Enterprise contributes directly to providing non-market benefits in Scotland’s national forests.

Another type of barrier can be logistical. Transport infrastructure, in particular, can have a major impact on the economics of timber harvesting. Through the Timber Transport Forum, and regional timber transport groups, much is being done to bring together woodland owners, harvesting and haulage operators, and local authorities to seek to find solutions to timber transport problems.

EU Policies

With almost half the funding for Woodland Grant Scheme coming through the EU Rural Development Regulation, this Regulation has a major part to play in helping forestry to become more closely integrated with other aspects of rural development. As CAP reform continues, there is the prospect that the EU will increase the funds available for rural development under this measure. Such changes in the EU Rural Development Regulation would provide further opportunities for promoting forestry’s contribution to integrated rural development.

Forestry projects have also been taken forward using EU funding from other sources, including structural funds and the EU LIFE programme.

Involving Communities more closely in the Development of Integrated Rural Development Policies

The Commission's Forestry for People Advisory Panel is examining ways in which communities can become more closely involved in forestry. They are approaching this by examining legal obstacles; by looking at ways in which Forestry Commission staff can be more pro-active in helping communities; and by undertaking pilot studies to examine, in a practical way, ways in which rural development can be assisted through community-based initiatives. A number of existing case-studies were recorded in a publication on "Rural Development Forestry" jointly funded by SNH and the Forestry Commission. The Sunart Oakwood Project is a good example of what can be done. EU funds were made available to help restore Atlantic oakwoods around the loch. Through active community involvement, and appropriate training, the project was developed to maximise integrated rural development and local employment in this fragile area.
1. The Scottish Crofting Foundation as a non-government charitable organisation welcomes the opportunity to contribute to the deliberations of the Rural Development Committee and the Inquiry into Integrated Rural Development. The SCF and its predecessor have over a number of years been actively working towards formulating strategies to provide a vision of rural development that will be applicable and relevant to people and communities of the Highlands and Islands of Scotland. Much has been previously contributed on the subject to government organisations and agencies, highlighting the needs and aspirations of crofters and their communities.

2. In 1992 we entered into a joint collaboration with RSPB and produced the document, Crofting and the Environment – A New Approach. In the same year the Earth Summit in Rio De Janeiro agreed the basic principles for sustainable development which can be applied in the rural context, indeed it could be argued that crofting is an example of many of those principles in action. Three years later in 1995, again in collaboration with RSPB we produced another document, entitled Rural Development and the Environment, which set out 9 guiding principles, which both organisations believed, should be followed in promoting a strategy for integrated rural development. What these principles did was recognise the uniqueness of crofting economically, socially, agriculturally and environmentally, and its importance to the very fabric of the Highlands and Islands.

4. The concept of rural development relies on the fact that people exist within a region however remote or peripheral, and that populations have in some way been retained and sustained over time. Crofting has had an intrinsic part to play in achieving this, being a unique social system in which small-scale agriculture plays a unifying role. It has created independently sustainable communities with a commonality of vision & purpose in which interdependence among people is encouraged. Populations would simply not be there, nor townships exist if it was not for crofting and the efforts of generations of crofters to live, work and raise their families in the Highlands and Islands. It follows therefore that any integrated development should be based on the
social system and infrastructure that exists and involve the communities and people who already live on, work and manage the land in an environmentally sustainable way and contribute actively to the local economy, both generally and socially.

5. Crofting is an example of integration and rural development; it encourages diversity of people, enterprise, skills and expertise. It has adapted to meet the challenges of a modern world without ignoring or rejecting the cultural heritage from which it was born. Crofting encompasses the integration of social, environmental, economic and agricultural factors; in diversification it shows examples of co-operation and co-operative effort within communities, where initiative has been seized by the people for the benefit of those communities. In consideration of the need to enable integrated development, the nature and type of such development should be determined to meet the needs of these often remote, sometimes inaccessible and fragile rural areas with communities dispersed over a wide geographical area. More importantly such consideration must reflect the vision and have sought the agreement of those communities in order that any developmental solutions can be effective.

6. In order to obtain commitment to any process and the possibility of success it must involve a substantial mandate from those people who are indigenous to the region and who live and work there. Rural development solutions cannot be prescribed without consent from the communities locally, and need their active participation in the process. Perhaps then, the starting point in the process of rural development is to look at the development of crofting and ways in which it can contribute to regional social & economic growth. It must recognise that crofting has played and will continue to play a significant role in shaping the Highlands and Islands, helping to sustain and build rural populations, the rural economy and the environment. Crofting is in a position of strength, not just because so many are actively engaged in it, and despite the adverse factors, which have affected agriculture over recent years and months, but because it is more fundamental than these things. It is synonymous with people and land; people who belong to the land just as much as the land belongs to the people, indeed any separation of the two will lead to genuine rural development being frustrated. You simply cannot talk about land, or the utilisation of land without people. The people must be stakeholders in the any process of rural development, it must come from them and be led by them, facilitated through support mechanisms along with the capital funding of transport & distribution networks and other agricultural & social infrastructure from government.
7. Despite the resolve of crofters, their families and their communities, they consider that the very principle of crofting is under attack. Frequently we hear the statements that crofting agriculture is of little value or that crofting should be redefined to take into consideration the present state of agriculture, and that small-scale production is not viable and should be neglected. In accepting these assertions as fact, which they are not, we are in danger of fundamentally changing the nature of the rural economy and crofting, possibly irreparably. This short termism of wanting to find some more effective land use is coming from those who do not understand the bond that exists between people and their land, who do not appreciate the independence of spirit and commitment that exists within communities of crofters. Crofters are all too aware of the problems that have beset agriculture in Britain, but the Highlands and Islands have remained largely exempt from the ravages of BSE and Foot & Mouth, yet they have been as badly affected from the aftermath through an apparent inability to remove restrictions which have little or no justifiable basis. Just because agriculture nationally is under stress is no reason to abandon it locally or to devalue the small-scale production of quality products that an increasing number of consumers want, and that should be available to them locally through local markets. It is important to recognise the need to diversify production and to add value to the product, a factor which the current support system does not encourage.

8. Rather than trying to redefine or reinvent crofting as some sanitised, non-agricultural endeavour within the rural economy, which will somehow retain populations and provide other opportunities, we should be looking at ways to develop what we already have. By encouraging diversity of people, enterprise, skills and expertise both on and off croft, crofting can move forward with a positive future producing quality products for local markets. By supporting the development of marketing, local branding and distribution possibilities as part of an integrated process, crofters can be enabled to benefit from agricultural outputs, however part-time the input might be. It must be recognised that crofting is grounded in the principle of cultivating an agricultural holding and that its survival has resulted from creating complementary opportunities for on and off croft employment, with individuals contributing to all aspects of the local rural economy. It is this occupational diversity that has become an integral part of crofting both in concept and practice.

9. Crofting is intrinsic to the retention of populations in rural and often remote areas; it involves a community-based infrastructure that underpins a sustainable path to development. There are those cynics who say crofting is non-viable and that the recent
farm income studies show that crofters only earn a fraction of the minimum wage engaged in on croft activity, so if it does not pay why do it? How little they understand about crofting as a means of effective, low impact land utilisation and the concept of land management for which practitioners should be duly remunerated from a scheme that recognises the geographical, climatologically, and localised differences that exist within a mountainous and coastal island environment where accessibility is a difficulty.

10. In developing a strategy for integrated rural development, consideration must be given to the opportunities for young people to contribute to the economy, to encouraging the development and retention of skills in rural areas, the furtherance of the knowledge economy and acknowledgement of the value human capital to inward investors in a variety of sectors. The needs for housing must be addressed, not just social housing schemes but the opportunity to build houses linked to land utilisation and the needs of the rural economy; new crofts to encourage new entrants and the children of crofters who want to follow in the family tradition living and working locally rather than moving away from their home land.

11. Within the context of integrated rural development, crofting can provide a foundation from which to base local community led initiatives. Crofting has learnt from the past to inform the present and to build for the future. It is part of the very fabric of the Highlands and Islands both economically, socially and environmentally and not just a quaint element in heritage theme park. Crofting fulfils all the criteria for integrated rural sustainable development as ‘meeting the needs of the present without compromising the ability of future generations to meet their own needs’.

Ref: ‘Rural Development and The Environment – Opportunities in the Highlands & Islands
Published by the RSPB and SCU April 1995  Endorsed by Dr Winifred Ewing, Mrs Margaret Ewing, Sir Russell Johnston, Charles Kennedy, Calum Macdonald, Robert Maclellan and Jim Wallace
Dear Ms Hawe,

PARLIAMENTARY RURAL DEVELOPMENT COMMITTEE INQUIRY INTO INTEGRATED RURAL DEVELOPMENT

WWF welcomes the Scottish Parliament’s Rural Development Committee inquiry into Integrated Rural Development (IRD) to assess the factors that make for successful IRD and to identify the barriers that militate against effective rural development.

We agree that there is a need for such an inquiry to explore both the development and implementation of policies regarding integrated rural development.

Introduction

WWF believes that rural policy has failed to deliver on the sweeping promises and vision laid out for the new Scottish Executive by John Sewel in October 1997 when he launched ‘Towards a Development Strategy for Rural Scotland’. Far from ‘fostering and enabling the sustainable development of rural communities’ we believe that the subsequent roll-out of policies and programmes, strategies and statements by the Executive has continued the pattern of piece-meal and reactive political response to those who have been able to shout loudest for the biggest slice of the cake.

The result has been un-integrated rural development in which resources do little for public benefit rural or otherwise.

We believe rural policy must address the reality of rural lives and livelihoods that are made up of social, environmental and economic needs met from a full and integrated range of land use and development activities. To achieve these sorts of policies their development must be undertaken in more integrated, adaptable and open ways and in better partnerships than they are at the moment. An essential element of this is to recast sectoral and even crosscutting policy thinking within the context of area-based approaches to rural development. This is not to say that sectoral and cross-cutting approaches are not valuable or not needed but that they need to be better informed by what they mean on the ground and to real people who have to live within them.

Historically, policy formulation and to a degree delivery have been perceived as the role (sometimes exclusively) of central government. In rural areas this has been compounded by the totally centralised nature of many policies and programmes such as the Common Agriculture Policy (CAP). This ‘takes up’ a large...
slice of the Executive’s time in rural Scotland. Equally there is the perception that the role of the Executive
and SEERAD in particular is to respond to the needs of a narrow section of the farming industry.

An IRD approach to both policy formulation and delivery requires a better working balance between those
responsible for strategic ("top-down") concerns and those reflecting local ("bottom-up") interest or needs. The
issue is not one of top-down versus bottom-up processes, but one of balance. WWF recognises that
flexible strategic frameworks in terms of policy development are necessary for the harnessing of creativity
and enterprise at the local level.

We believe that community planning as a partnership process focussing on specific areas and involving all
local players and communities themselves offer us a new way of looking at rural development that must be
embraced by all parts of the Executive

The Committee specifically asked for evidence to be submitted on the following issues:

- the provision of funding for programmes designed to contribute to integrated rural development;

According to the Executive’s Spring Budget Revision published in January 2002 the budget of the
Environment and Rural Affairs Department (SEERAD) is greater than that of the Education Department. Of
course the Executive’s spend in rural Scotland is not just restricted to SEERAD’s – a portion of all
departmental expenditure must occur in rural areas but it is difficult to gauge that spend.

A lack of ready access to what is spent and by whom in rural areas is a key blockage to communities
participating effectively in their own development

SEERAD’s aims are: ‘To help the people of Scotland to secure a life of quality and prosperity through
sensitive stewardship and sustainable development of the natural resources of Scotland.’ Does it do that? If
we look at SEERAD’s budget about two thirds of it is made up of EU farming and rural development funding
and its first objective is: ‘To operate effective systems for paying support to farmers’. That is important and
farming is an important part of a sustainable rural Scotland – but it is not the only part and farm support as it
operates now is a very limiting way of achieving IRD.

Many rural interests can see little wider public benefit being derived from that spend which alongside EU
sanctioned market support to farming amounts to about £750 million a year. Most of this is injected directly
into intensive farming systems that are assumed to support local jobs, assumed to have environmental benefits
and are assumed to maintain rural economies. But where is the proof of that? In contrast there is increasing
evidence of the environmental damage caused by that spend on intensive agriculture and an increasing
disquiet about the social and economic impacts of these farming models on rural communities.

A distinct lack of clarity and openness about where and how much is spent alongside the fact that its
impacts beyond the farm gate are not evaluated make it very difficult to assess whether SEERAD are
spending the tax-payers money wisely.
The small slice of EU money that is directed at rural development is itself dominated by direct support to farming or farm incomes. The EU’s rural development regulation (RDR) was developed in 1999 as an attempt to draw together disparate streams of rural funding and try to get them to work in co-ordinated and integrated ways. The RDR accounts for about £110 million a year in Scotland – but 60% of that is directed to support for sheep farming – with only 10% of that specifically aimed at reaching environmental objectives. Recent changes to the Less Favoured Areas Support Scheme within the RDR and efforts to retain safety nets have been aimed at not seeing money moving from the relatively prosperous south and east of the country to the north and west. Whereas it is right to avoid overcompensation for very large holdings we believe that it is legitimate to see a redistribution of this money if it were clearly aimed at achieving social and environmental benefits where it was needed.

Programmes such as LEADER+ which are specifically designed to address grass-roots concerns in rural development are minuscule in comparison to the mainstream rural funding that continues to consider farming as the only important rural undertaking. And which continues to encourage farming to operate in isolation from wider rural society. Last year’s Foot and Mouth Disease outbreak graphically showed that farming has huge impacts on many equally significant rural economies – yet the policy response seemed willing to sacrifice those other livelihoods for the benefit of farming alone.

WWF is not arguing that money should not be spent on Scottish farming or that the majority of Scottish farming does not yield real benefits for us all. We would argue, however, that public money should be spent in much ‘smarter’ ways than it is now. It should be targeted at farmers who need support and should give clear signals to farming that it must play a full and productive role in wider rural development.

These ‘smarter’ ways might not only be designed to deliver public environmental benefits – but should also be aimed at using taxpayers’ money to achieve social objectives that the market cannot or will not pay for. Agricultural policy and spend should be about maintaining a form of farming and farming families that are at the heart of rural communities and local economies, it should legitimately be aimed at supporting agriculture in remote rural areas. Instead the current systems pour money into the eastern lowland industrial farming systems and through them into the pockets of fertiliser and pesticide producers. Under current patterns of CAP spend in Scotland 12,000 of the 23,000 farmers received less than £2500 whereas 27 received an average of £350,000. Is that a fair distribution of taxpayers’ money?

Does the fact that the Executive’s agricultural policies seem to be designed not to change the status quo reflect the narrowness of the range of stakeholders it chooses to engage with meaningfully?

- the impact which the review of European Union policies in relation to traditional rural activities might have on the future development of policies in this area;

There are several strands of debate going on at the moment that will have a profound influence on European rural policy and programmes. The process of expansion of the EU and plans for cohesion across the EU will likely mean that Scotland will no longer be at the top of the European list of Structural Fund recipients.
SUBMISSION TO THE PARLIAMENTARY RURAL DEVELOPMENT COMMITTEE INQUIRY INTO INTEGRATED RURAL DEVELOPMENT

If that is the case then the CAP will be the only major form of rural EU spend.

At the same time WTO, EU and national pressures on the CAP will demand that that money delivers greater public benefit and wider rural development than it does at present. If the Executive can be persuaded that this is not ‘farmers’ money’ but in fact the taxpayers’ then the prognosis might be good. We will not be able to argue after 2006 for as much money as we have now on the grounds of food production or even farm income support alone. Instead we need to justify that spend on the grounds of non-market public benefits – social and environmental if we are to have even a slim chance of winning it for Scotland. Those arguments will work equally with the UK Treasury.

Scotland because of its uniquely high value environment and because of its fragile, remote rural communities that are dependent on healthy primary industries should win out under these new arrangements – but only if we show now that we are willing to shift they way and the reasons we spend the money.

The Executive needs to be using the opportunities available now – the breathing space provide before 2006 – to prepare Scottish farming and rural communities for these likely changes.

- the barriers that may exist to achieving integrated rural development and the best means of removing these barriers;

There is a growing sense amongst civil society that policy and rural policy in particular responds to political power – those that hold political power make sure that policy is developed to benefit them.

Recent research by WWF1 indicates that a major constraint to achieving sustainable rural policies is the lack of participation in the process by those who should have a real say in policy formulation and planning. The problem is not only that the wrong people make decisions but also that they are made at the wrong level.

Policies and programmes need to be developed in more transparent partnerships and at scales within which stakeholders feel they can engage realistically. An essential element of this is to push policy decision-making further down and out from Edinburgh and central government. Rural people face real problems in their real lives. They need to be able to engage debate about the structural and policy reasons why they face those problems but can do so more effectively if the debate happens in the context of their experiences rather than the rarefied world of central government.

There have been area-based or territorial approaches to rural development such as those developed with EU 5b funding in England (e.g.: Boland and Bodmin) and those developed in the Highlands and Islands with Objective 1 funding. These have built on local partnerships that have a feel for local needs and capacities being able to pool funding sources and advice. This allows beneficiaries to develop their own solutions to their own problems – but with the government.

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In most of Scotland in contrast we seem to have halted the devolution process at the national level and certain parts of the Executive at least seem unwilling to share power any further.

Alongside this is an inadequate level of integration within the Executive. Policies seem to be developed in isolation from each other and in disjointed sequences. This is partly due to the gaps in policy but also the lack of joined up working.

For instance we have clear national frameworks for both economic and social development in the Framework for Economic Development in Scotland and Social Justice: a Scotland Where Everyone Matters, but we have no overarching environmental statement, policy or strategy to inform development and no sustainability strategy to work towards. How can we assess the effectiveness of any rural development initiatives or policies if we do not have a clear vision of where we are going?

Equally do we have a clear vision of where we are trying to reach for rural Scotland? We need to move beyond principles and engage in putting flesh on the bones but with rural communities and not for them. At the moment it is unclear if we are rural proofing national policies or developing separate rural policies.

- the factors which assist communities to play an active and effective role in their sustainable development;

The key to broadening civil participation in rural policies and programmes is to make sure that it is worth people participating. It cannot be forced to work through legislation but it can be facilitated through devolving real power and real budgets to levels at which real people feel they can have a say. Only if people feel they can make a difference to their lives can they be persuaded to spend their valuable time in policy development and project planning.

A new devolved and participatory process of rural development will need support both from the Executive but also for the Executive. All stakeholders will need to understand the limits of partnership working and be supported in developing new skills and capacities to work in new ways. WWF is currently working with the Forestry for People Panel of the Forestry Commission to explore these issues from their perspective. What are the institutional and individual capacity needs of civil servants that work in partnerships and in response to community needs? What is it about a government agency that helps them to work with communities rather than against them?

Such questions are being explored across the board by partners involved in community planning partnerships – but not by all. Some branches of government are not engaging at these levels and in these processes.

- how communities can become more involved in the development of IRD policies.

WWF believe that given the political will from the Executive to break out of its existing dis-integrated and funnelled way of thinking there are a number of processes which could contribute to a more equitable, adaptable and integrated model of rural development.
Community planning partnerships could and should become more than ways of government co-ordinating public service delivery. They should be the way through which the Executive reconnects with communities – and plans together at a more sensible and understandable level. They must not be allowed to develop in isolation from rural issues. When can we expect a clear message from each and every Executive department that their staff are expected to engage in community planning? We cannot afford to have some policies – such as agriculture – failing to enter the process.

In the same light the forthcoming Water Framework Directive could be used to establish devolved strategies for integrating land use and development at sub-national levels. There would be a great advantage in tying these to existing partnerships such as community planning that can address issues holistically – but the proposals for the Water Environment and Water Services Bill look set to require national level river planning alone.

However policy development cannot happen at the ‘bottom’ alone. There is a role for national strategies and there is a role for the Executive in facilitating their development. However this must be done transparently and in partnership – not just with politically powerful single interests.

It is ironic that John Sewel’s speech that we mentioned at the beginning of this submission was made, in 1997, to Rural Forum. That venue for rural civil society no longer exists. There is currently no way for the diversity of rural voices to be heard together. An Executive sponsored study last year into the need for such an institution seems to have come to a standstill with no response forthcoming.

There is a growing demand by rural civil society for it to be heard in its rich diversity and to be seen as an equal partner at the decision making table. We need a wide ranging and inclusive debate now – by the people themselves – about what it is we want for rural Scotland. If government, in its widest sense, cannot or will not respond to that then we will never achieve integrated rural development.

I hope that this submission has been of some interest to you and would be willing to discuss any points raise further with the committee.

Yours sincerely,

Adam Harrison
Rural Development Policy Officer
WWF Scotland.
Rural Development Committee

Inquiry into Integrated Rural Development

A Statement By the Scottish Landowners' Federation

1. It is evident that 'Integrated Rural Development' (IRD) has no single definition and in infinite number of interpretations. The perception of IRD depends entirely on which pair of spectacles one happens to be looking through. Indeed, rural communities and rural society have multiple dimensions. 'Traditional' activity and 'new' rural stakeholders are neither conflicting nor complementary. Perhaps agriculture and land use, whatever its visual and environmental impact, is losing its economic and social primacy in many areas. However, the pivotal role of land-based business activity remains undiminished.

2. It is inevitable that, for many areas in Scotland, rural development activity cannot solely revolve around agriculture and land management. Yet such sectors of the rural economy continue to attract the lion's share of public support and occupy the focus of many rural policies. In the pursuit of IRD, the baby must not be thrown out with the bath water. Indeed there is an absolute need to focus attention on viability of land-based businesses as the engines of rural prosperity. Rural development will not be advanced by broad common denominators of policy, which do not fit the realities and priorities of particular sectors or locations. Now is the time for the Scottish Executive to reconsider the integration of rural inputs, activities and outputs.

3. In that respect, the Scottish Executive must implement policy initiatives which do not contradict one another and which collectively add up to a greater sum than the individual parts. It is necessary that policies relating to agriculture, forestry and field sports sit alongside positions on biodiversity, tourism, SME development, waste management and 'community' involvement.

4. Rural development policies have to address the issues of jobs and incomes. This means providing the right economic conditions for businesses to start and develop - with a pre-requisite of adequate and appropriate infrastructure. The development of alternative and diversified economic activity should not be obstructed by either incomplete services or inadequate transport and IT networks in rural areas. A corollary to this is that the planning system must also accommodate economic development, so that controlled development takes place, via proportionate cost-benefit analysis.

5. Measures are also required to ensure that training and innovation handicaps can be overcome. And perhaps, above all, difficulties in accessing appropriate capital investment (finance) also need to be addressed.
6. If employment opportunities are not created in rural areas, the prospects of many locations will be constricted and the impact on communities severe. The relative decline of agriculture and forestry could create a reservoir of labour which if not gainfully employed in situ with either move to other areas or will suffer from economic depravation.

7. The natural environment constitutes a tremendous asset for rural areas. Its maintenance and enhancement is dependant on the continuation or resumption of viable land management. At the same time, in many less favoured areas, farming is becoming less and less profitable by the year. Forestry and field sports face their own uncertainties, with consequences for local incomes and employment, rural communities and their environment.

8. This raises the prospect of, all other things being equal, seeing such areas reverting to extensive land use with declining management (labour) inputs and diminishing investment. This may prove to be economically profitable, but it is unlikely to yield a comparable level of environmental benefits or local multiplier effects as current or traditional practices do.

9. The quest for sustainable forms of land use and farming, respectful of the environment, must be an integral part of any rural development policy, and would be entirely consistent with IRD objectives. Diverse land-based businesses are a necessary condition for IRD, through robust economic activity which sustains rural communities and their service needs.

10. IRD must also allow forms of land use whose primary purpose could be leisure or environmental. In some marginal areas where agricultural activity is essential to the maintenance of certain landscapes or eco-systems, farmers and crofters require positive incentives beyond market returns to deliver current public expectations. Measures should constitute an extension of some existing agri-environmental schemes, or even evoke the SLF's own Supporting the Countryside (1995) policy document and its obvious parallels with current thinking on Land Management Contracts (LMCs).

11. The social dimension of rural development policies is crucial and has increased in importance in the current political climate. Rural communities have been hit by a decline in employment levels and a decline in the level of service provision. Rural communities, no matter how defined, need an increased level of service provision if they are to thrive. Public services, such as education and health care, must all be reasonably accessible if the community is not to enter a spiral of decline. Adequate and affordable housing provision, especially for those on lower incomes, is also essential to preserve integrated rural communities. Affordable housing is also the essential lubricant of labour mobility and is highly significant to restructuring local economies.

12. In short, the Scottish Executive must consider an IRD strategy that covers the economic, environmental and social requirements of maintaining and enhancing rural locations. Objectives need to be set, and these could be along the following lines.
13. The **Economic Objective**: to enable diversity of economic activity and the development of sustainable employment opportunity, through

- adequate infrastructure provision
- sympathetic planning
- training and innovation
- financing and capital access
- simplification of regulation

14. The **Land Use Objective**: the preservation and enhancement of the economic and environmental value of rural areas through the continued use of positive land management, with

- environmental management through profitable agriculture and forestry
- viable alternative forms of land use, including specifically environmental and recreational land management

15. The **Social Objective**: creating rural communities that prosper, with

- sufficient community service provision, including schools, public transport, healthcare and shops
- ample housing that is adequate and affordable through the private sector, as well as public sectors.

16. If the above is to be achieved, the SLF regards it as crucial that the rural economy is underpinned by sustainable land use. **Land use is inextricably linked to wider rural development.** Policies to achieve combined benefits that will ensure the continuation of rural life and rural communities must be put into effect. 'Additionally' can be achieved through the integration of existing agricultural and rural development measures. It is clear that land use will remain critical to IRD in much of rural Scotland. Consequently, it will be important to address the questions of commercial viability in the context of the delivery of multiple outputs and benefits.

17. The implementation of the Rural Development Regulation (RDR) (EC 1257/1999) offers a distinct opportunity to begin to address the need for change in the way support is directed into land-based activities. The RDR could provide the platform on which to create comprehensive and complementary rural development measures, with a vibrant rural businesses generating incomes and employment, as well as environmental, amenity and recreational services. The SLF believes that there is an urgent need to develop elements of the RDR in order that all land uses contribute to the delivery of multiple outputs and benefits.

18. The SLF considers that it will be politically necessary to move away from the traditional support of farming activity to **policies more directly associated with rural development**. However, whilst agriculture and rural development may not be synonymous, they **must not be considered mutually exclusive**. Rural sustainability continues to rely on sustainable land use and **vice versa**. The degree of interdependence between farming and rural development is impossible to quantify, but it has been graphically illustrated by the Foot and Mouth disease outbreak of 2001.
19. Rural Scotland finds itself in an era of immense change driven by force majeure and political will. At this time of change, IRD must clearly define and incorporate the vital importance of land management. It will be necessary, that land based continue to contribute to rural development and safeguard the countryside. In order to maximise the role and function of such businesses in securing a sustainable future for rural Scotland, land managers must be afforded the opportunity to remain viable, thereby allowing them to enhance the environment, protect scarce resources and foster the welfare of communities.

20. The SLF has consistently lobbied Government to take a sensible approach to reforming agricultural support payments, as witnessed by Supporting the Countryside, as part of a move to a redefined and broader rural policy. In order to address the fundamental issues and realities of IRD in Scotland an integrated policy must stress:

- the importance of the rural economy and its society in the national context that agriculture must continue to develop and that rural development requires discerning non-agricultural activity
- the need to broaden and integrate agricultural and rural objectives and to co-ordinate this rural dimension with other areas of national policy
- the need to recognise the similarities and differences of the rural and urban sectors and the strengths and weaknesses within the rural economy
- the need for competitive, forward-looking and modernised agricultural and land-based industries

21. There remains no over-arching policy to solve the problems of land use businesses and the rural economies they underpin. Even with the CAP's second ‘pillar’ and modulation principles in place, there is a danger that the policy vacuum will continue. Therefore, the SLF firmly believes that the Scottish Executive must utilise to maximum advantage the existing opportunities available as a result of the Agenda 2000 package, namely the Rural Development Regulation, concentrating on the art of the possible.

22. No matter what the final shape of any policy, it must ensure to the creation of a productive and sustainable rural economy, with prosperous and dynamic land use at its core. This in turn will bring out the protection and enhancement of the rural environment, thereby providing a source of economic opportunity to help sustain those that live, work and visit the countryside.

23. In short, the SLF is seeking the full integration of existing agricultural policies with policies that relate to development, planning and service provision, thereby enabling realistic and constructive rural development.

Jonathan R Hall
Rural Policy Adviser

April 2002
Subordinate Legislation Committee

Extracts from 21st Report, 2002

Subordinate Legislation

The Committee reports to the Parliament as follows—

1. The Committee has determined that the attention of the Parliament need not be drawn to the instruments listed at Annexe A.

2. The report is also addressed to the following committees as the lead committees for the instruments specified:

   Rural Development
   SSI 2002/139
   SSI 2002/164
   SSI 2002/191
Instruments subject to annulment

The Less Favoured Area Support Scheme (Scotland) Regulations 2002, (SSI 2002/139)

Background
1. The Committee raised a range of points with the Executive.

Question 1
2. “Usual good farming practices” is defined in regulation 2(1) as meaning those practices on a holding as determined in accordance with Schedule 5 to the Less Favoured Area Support Scheme (Scotland) Regulations 2001. The phrase defined appears to occur in three places in the Regulations, regulation 4(1)(b), 13(3)(e) and 15(c), the last two regulations being concerned with enforcement.

3. Regulation 4(1)(b) provides that payment of Less Favoured Area (LFA) support may be made to an applicant only if “subject to paragraph (4), that applicant applies usual good farming practices on the eligible land of the applicant”.

4. Regulation 4(4) contains its own definition of “usual good farming practices” which also refers to Schedule 5 to the 2001 Regulations but differs from the definition in regulation 2(1). The definition is stated to be for the purposes of regulation 4(1)(b) only.

5. Regulation 26 revokes the 2001 Regulations referred to for the definition except for certain savings not relevant to this matter.

6. The Committee therefore asked—

(a) why it was thought necessary to have a different definition for regulations 13 and 15 than for regulation 4(1)(b) since these regulations appear to be for the purposes of enforcing the obligations imposed by regulation 4(1)(b);

(b) why regulation 4(1)(b) is stated to be “subject to paragraph (4)” when paragraph (4) does not appear to qualify paragraph 1)(b);

(c) why the definition of “usual good farming practices” is defined with reference to the 2001 Regulations, revoked by regulation 26 of these Regulations;

(d) what effect the revocation has on the definition.

Answer 1
7. Point (a). In its response, reproduced at Appendix 1, the Scottish Executive Environment and Rural Affairs Department did not agree that the definition in regulation 4 is different from that elsewhere in the Regulations. Regulation 4(1)(b) refers the reader to regulation 4(4). Paragraph 4(4) explains what an applicant has to do to apply the definition of “usual good farming practices”.

8. Point (b). The reference to “subject to paragraph 4(4)” was considered necessary to ensure that the reader of the SSI is directed to the explanation of what applying usual good farming practices means.

9. Point (c). The Department accepts that an alternative approach would have been to write out Schedule 5 to the 2001 Regulations again in the 2002 Regulations. It maintains, however, that it is acceptable to refer in the definition to the text of a revoked instrument.

10. Point (d). The Department considers that the revocation has no effect on the definition.

Comment 1

11. Point (a). With respect to the Department, the wording in regulation 2(1) does differ from that in regulation 4(4) although the Committee accepts that it may well be that the legal effect is the same. However, the Committee does not understand the Executive’s response. Regulation 4(4) does indeed refer to applying usual good farming practices but the purpose of this provision appears to be to describe what is meant in regulation 4(1) by the reference to these practices. The use of the word “apply” in regulation 4(4) does not seem material in this respect. It is, therefore, not at all clear why regulation 4(4) was thought necessary given the definition in regulation 2(1) if, as the Executive states, the two provisions though, differently worded, have the same legal effect.

12. The Committee considers that, for the general purposes of the Regulations, a definition of “usual good farming practices” is clearly desirable. Furthermore the Committee would see no difficulties in including a definition in regulation 2(1) as well as in regulation 4(4) by, for example, providing a cross-reference in regulation 2(1) to the meaning assigned to the phrase by regulation 4(4). Consistency in the Regulations would then have been assured. As it is, the Regulations are doubly confusing in that, not only does the wording of the two definitions differ, but the definition in regulation 4(4) is stated to be for the purpose of that regulation only. This then leaves open the meaning that the words in question are to have elsewhere in the Regulations.

13. Point (b). The words “subject to” in a provision mean that that provision is qualified in some way by the provision to which it is said to be subject. As the Department itself explains, regulation 4(4) does not in fact qualify or restrict regulation 4(1). Rather, it is intended as an interpretative provision. In the context of these Regulations, it seems to the Committee that the words are again misleading in that they reinforce the impression that the term “usual good farming practices” in regulation 4 is intended to carry a different meaning than elsewhere in the Regulations.

14. Point (c). The Committee does not agree with the Department that it is acceptable to refer for a definition in an instrument to legislation that has been repealed or revoked, particularly where the legislation referred to is revoked by the instrument itself without relevant savings. The Committee refers to the 18th Report of the Joint Committee on Statutory Instruments (JCSI) for the Session 1998-9 and the 30th Report of that Committee for the Session 2000-1. Attention was drawn in those Reports to similar errors made by English Departments in relation to the Magistrates’ Courts Committees (Greater Manchester) Amalgamation Order 1999 (SI 1999/2426).
and the Misuse of Drugs Regulations 2001 (SI 2001/3998) respectively. In both cases, however, the Departments concerned acknowledged their mistake and undertook to remedy the defect at the earliest opportunity. The Committee also notes that, in the case of the latter instrument, the interpretation of the provision in question was not in doubt. The legislation referred to for the definition was repealed and re-enacted as part of a consolidation and thus covered by section 17(2) of the Interpretation Act 1978.

15. The Department states that it would have been possible to write out Schedule 5 again as a Schedule to these Regulations. The Committee, like its counterparts elsewhere in the UK, has always counselled against legislation by reference as a general rule. There are occasions when the practice is acceptable, indeed necessary, but as well as being less than user-friendly there are risks. These arise, for example, where the legislation referred to is subsequently changed in some way. Unless a specific consequential amendment is made to the legislation containing the reference any changes in the provision referred to will not be incorporated in legislation containing the reference. Over time interpretation of a term defined by reference to other legislation can become very difficult.

16. In the present circumstances, in the Committee’s view, it might indeed have been better to re-enact Schedule 5. This might have had the additional advantage of avoiding the problem discussed at question 2 below. In the circumstances, the failure so to do represents an unduly limited use of the power.

17. Point (d). The Department claims that the revocation has no effect on the definition but gives no reasons for its view. The Committee expresses no opinion on the matter. However, as it appears that criminal sanctions may be involved for breach of requirements to which the definition relates, any degree of uncertainly may have implications for the enforcement of the Regulations. The Committee remains mindful of the presumption against doubtful penalisation.

18. Therefore, the Committee, for the above reasons, draws the attention of the lead committee and the Parliament to the instrument on the ground of defective drafting and on the ground that the drafting of the definition of “usual good farming practices” is unnecessarily referential and an unduly limited use of the power.

Question 2

19. With reference to regulation 4(4)(b) a number of the “verifiable standards” set out in Part II of Schedule 5 to the 2001 Regulations, in particular paragraphs 1, 3, and 5, do not appear to be standards at all. Instead they confer powers of entry and inspection on approved persons for the purposes of checking certain documentation. It is not clear how the applicant can “apply” a function conferred on another person. The Executive was asked to explain.

Answer 2

20. The Department repeats that regulation 4(4) is intended to explain to an applicant what applying the usual good farming practices means. The Executive has noted the point in respect of the paragraphs under the heading of “verifiable standards”. It is intended that compliance be met in so far as an applicant does not hinder a third party.
Comment 2
21. It appears to the Committee that the wording of regulation 4(4) does not achieve the stated intention. Paragraphs 1, 3 and 5 simply empower “authorised persons” to inspect certain records. This does not seem to be something that a farmer can “apply”. **The Committee therefore draws the attention of the Parliament and the lead committee to regulation 4(4) on the ground of defective drafting in this respect.**

Question 3
22. The Committee was also unclear how the provisions in paragraphs 1, 3 and 5 of Schedule 5 to the 2001 Regulations interact with the powers of entry and inspection conferred under regulation 13. Would, for example, a person who failed to allow an authorised person access to records that the authorised person has power to inspect under Schedule 5 be guilty of failure to comply with usual good farming practices (loss of subsidy) or obstruction under regulation 13 (criminal penalty)? The Executive was asked for an explanation.

Answer 3
23. Failure to comply with usual good farming practices results in loss of subsidy. Regulation 13 gives an authorised person power to inspect and verify that an applicant has complied with usual good farming practices. In the example provided by the Committee, a person who failed to allow an inspector access to records would be guilty of an offence under regulation 18(2).

Comment 3
24. Regulation 18 provides for offences to be committed in 3 situations namely—

(a) making false statements for the purposes of receiving payments under the Regulations (paragraph (1));

(b) obstructing a person exercising powers conferred by regulation 13 (paragraph (2)); and

(c) failing to comply with a requirement made under regulation 13(paragraph (3)).

25. Regulation 13 confers powers on entry for the purposes of —

(a) “verification of an application by carrying out administrative checks which a member State is required to carry out under Article 47 of Commission Regulations 1750/1999”; and

(b) ascertaining whether an offence under the Regulations has been or is being committed.

26. Regulation 13(3) then goes on to confer powers of inspection including inspection of records including power to “(e) inspect and verify that the applicant [emphasis added] has complied with usual good farming practices”. 

27. As pointed out above, the provisions of paragraphs 1,3 and 5 of Schedule 5 to the 2001 Regulations do not seem to be matters with which the applicant can “comply” or indeed “apply”. The specific reference to “usual good farming practices”,
however, seems to imply that the provisions of Schedule 5 are to be treated differently from the other powers to inspect records. It is, therefore, far from clear that obstructing an authorised person from carrying out inspections under the powers conferred by Schedule 5 would be a criminal offence as the Department apparently intends.

28. Also, it is far from clear for similar reasons whether given the terms of regulation 15, the Scottish Ministers would be able to withhold or recover grant if an applicant obstructed an authorised person from exercising powers under Schedule 5.

29. Bearing in mind the presumption against doubtful penalisation, the Committee therefore draws the attention of the lead committee and the Parliament to the above provisions on the grounds of defective drafting in this respect also.

Question 4
30. The Committee has already expressed its doubts on previous occasions about the vires of provisions such as Schedule 5 paragraphs 1 to 3. The Committee is of the view that agency arrangements for functions to be carried out on behalf of the Scottish Ministers by UK Ministers may require to be specified by Order in Council under section 93 of the Scotland Act. The Committee is aware of the views of the Executive on this subject but asked if there is anything that the Executive wished to add to its previous observations.

Answer 4
31. The Department had nothing substantial to add to earlier explanations given as to the Executive’s position in this regard, although it considered that it may be worth noting that what is done by way of paragraphs 1 to 3 of Schedule 5 goes wider than what could be done by way of an Order in Council under section 93 of the Scotland Act. Both the National Assembly for Wales and the Northern Ireland Department of Agriculture and Rural Development are “competent authorities” (as that expression is used in Schedule 5) whereas section 93 empowers only agency arrangements with a Minister of the Crown.

Comment 4
32. The Executive is quite right about the limitations of section 93 of the Scotland Act. The answer may be for UK Ministers to confer the necessary functions by way of section 2(2) ECA. The Committee has never doubted that it is competent for the UK Ministers to use section 2(2) ECA powers as regards Scotland notwithstanding devolution. Specific provision is made in this respect by section 57(1). Where the Committee has difficulty is in accepting that the Scottish Ministers can, by making section 2(2) Regulations, disregard the provisions of the Scotland Act, for example, by conferring functions on UK Ministers or indeed on other devolved assemblies.

33. There is also the subsidiary issue of democratic control. Section 2(2) instruments made by the Scottish Ministers are laid and subject to control only in the Scottish Parliament. There is no means by which Westminster can approve the conferral of functions on UK Ministers as there is with Orders under section 93 of the Scotland Act. There are similar difficulties with the other assemblies. The Committee has already expressed its concerns about lack of consultation in the
The converse situation where section 2(2) instruments that are made for UK/GB by UK Ministers and are not subject to approval in the Scottish Parliament.

34. The Committee therefore draws the attention of the lead committee and the Parliament to its lingering concerns about the *vires* of these provisions and whether they are within devolved competence.

**Question 5**

35. The Committee also noted, in connection with question 4 above, that there appears to be a difference of approach to the problem between Departments of the Scottish Executive. The Committee referred, by way of example, to SI 2002/800 before it on 16th April but noted that there have been many similar examples in the past both in relation to implementation of Community obligations as well as in relation to purely domestic legislation. The Committee therefore said that it would welcome an explanation of the Executive’s policy regarding the choice of enabling powers for the purpose in question.

**Answer 5**

36. The Executive takes the view that what may be done by way of section 93 of the Scotland Act may also be done in relevant circumstances by utilising the powers in section 2(2) of the European Communities Act 1972. Which route is followed in a particular case will be decided by reference to all the relevant facts and circumstances. The Executive does not consider the situations dealt with by SSI 2002/139 and SI 2002/800 respectively to be directly comparable. The former deals with conferring new functions on Scottish Ministers and simultaneously providing that agency arrangements can be made for the carrying out of these functions. The latter deals with empowering agency arrangements in respect of various statutory functions which Scottish Ministers already have (and, in some cases, have had since devolution took effect).

**Comment 5**

37. The Executive has not fully answered the Committee’s question. The alleged difference in legislative background does not appear to be relevant to the point at issue. If section 2(2) ECA is a competent alternative to section 93 of the Scotland Act then, it seems to the Committee, it would surely have been possible to have proceeded in this way rather than by way of section 93 Order, whether or not the related legislation was new or already in existence. Regulations under section 2(2) are, after all, far less cumbersome than Order in Council under section 93 and do not require to be laid at Westminster.

38. SI 2002/800 was cited only as a current example of the use of section 93. There have been, as the Committee has observed, many other similar examples in the past. Many of these cases involved a situation where new functions have been conferred on the Scottish Ministers by Regulations made by Scottish Ministers, which functions have thereafter been specified by an Order under section 93 enabling them to be exercised on behalf of the Scottish Ministers by UK Departments.

39. The Committee notes the further explanation from the Executive without, for the above reasons, finding it wholly persuasive.
Question 6
40. Regulation 23(2) requires an applicant for a review of a decision of the Scottish Ministers under regulation 6(1) to make application within 60 days of the date of the decision. There does not, however, appear to be anything in either regulation that obliges the Ministers to communicate their decision to the applicant within a particular time. In addition, there is no obligation on the Ministers to inform a potential appellant of the right of appeal. The Committee therefore asked the Executive how it could be ensured that an appellant would be informed of the right of appeal in sufficient time for that right to be exercised.

Answer 6
41. An application to have a holding classified as being within the less favoured area boundary would be covered by the Department’s normal service standards. These standards, currently being updated under the “Service First” initiative, are published widely and give an undertaking that correspondence is answered fully within 10 working days or an interim reply is provided giving a deadline when the final response can be expected. The Department has no evidence that any applicant under the 2001 Regulations has been disadvantaged by these arrangements and so it was thought unnecessary to impose a legal requirement in respect of the timescale for delivering the decision.

Comment 6
42. The Committee has in the past considered it very important that the rights of an individual in matters relating to appeals should be clear on the face of the legislation and should not be left to administrative arrangements only. The Executive does not appear to have addressed the difficulty troubling the Committee. It is not clear that communication of a decision is the same thing as a reply to correspondence. Furthermore, the undertaking is not a legal requirement, although the Committee accepts that the Executive applies its best endeavours to ensure compliance.

43. The difficulty for the Committee remains that a potential appellant is required to appeal within 60 days of the date of a Ministerial decision but there is no obligation on the Ministers to communicate their decision within any particular time. Obviously, delays in communicating a decision could have a material effect on the exercise of a right of appeal. Whilst it is to be hoped that no difficulties will arise in practice, the Committee considers the absence of a requirement in the Regulations to communicate a decision to an applicant within a set time limit may represent an unduly limited use of the power.

44. The Committee therefore draws regulations 23 and 6 to the attention of the Parliament and lead committee on the grounds that, in failing to place an obligation on the Scottish Ministers to inform a potential appellant of the right of appeal nor obliging them to communicate their decision to the applicant within a set time limit, the Regulations make unduly limited use of the power.
The Plant Health (Great Britain) Amendment (Scotland) Order 2002, (SSI 2002/164)

Background
59. The Committee raised two points with the Executive on the instrument.

Question 1
60. The Executive was asked why, when the enabling power states that instruments made under it are to be made by Order in Council or by Regulations, it chose to make the instrument in the form of an Order.

Answer 1
61. In its reply, reproduced at Appendix 5, the Environment and Rural Affairs Department agrees that the enabling power, section 2(2) of the European Communities Act 1972, makes provision for instruments made under it to be made only by Order in Council or by Regulations. The Executive regrets the error that has occurred in relation to this Order and is grateful to the Committee for pointing out the error.

Comment 1
62. The Committee therefore draws the instrument to the attention of the lead committee and the Parliament on the grounds of defective drafting acknowledged by the Department.

Question 2
63. The Committee noted that the Executive had chosen to proceed by way of an instrument under section 2(2) of the European Communities Act rather than under the powers under which the principal Order was made namely the Plant Health Act 1967. It therefore asked for explanation as to the choice of powers in relation to this instrument.

Answer 2
64. The Department accepts that section 2(2) was not an appropriate power to use in relation to the Order. The Department also pointed out that, in addition to the Plant Health (Great Britain) Amendment (Scotland) Order 2002, there are another three orders which amend the Plant Health (Great Britain) Order 1993 ("the 1993 Order") which also cite section 2(2) as the enabling power under which the orders were made. These orders are The Plant Health (Amendment) (Scotland) Order 1999 (S.S.I. 1999/22), The Plant Health (Scotland) Amendment (No.2) Order 1999 (S.S.I. 1999/129) and The Plant Health (Great Britain) Amendment (Scotland) Order 2001 (S.S.I. 2001/249).

65. The Department, therefore, intends to prepare an amending instrument as soon as possible, which will consolidate the amendments made to the 1993 Order by the four orders referred to above.

Comment 2
66. Although the Department has acknowledged that it would have been better to have used powers under the 1967 Act in this instance, it appears to the Committee that there may in fact be a case for the use of section 2(2) ECA in this instance. It is
doubtful whether the wording of the relevant enabling order-making power in the Plant Health Act 1967 provides sufficient *vires* for an order revoking or amending another order made under it. As this Act pre-dated the Interpretation Act 1978, such a power is not implied.

75. The Committee therefore draws the attention of the lead committee and the Parliament to the Department’s response but accepts that, notwithstanding the Department’s admission, the use of section 2(2) ECA may in fact be appropriate in this instance.

76. The Committee also welcomes the Department's undertaking to consolidate the Plant Health Orders, which it draws to the attention of the lead committee and the Parliament.
Annexe A

Instruments subject to annulment


Appendix 1

THE LESS FAVOURED AREA SUPPORT SCHEME (SCOTLAND) REGULATIONS 2002, (SSI 2002/139)

On 16 April 2002, the Subordinate Legislation Committee asked the Executive for an explanation of the following matters:

(1) The Executive is asked to explain-

(i) why it was thought necessary to have a different definition for regulations 13 and 15 than for regulation 4(1)(b) since these regulations appear to be for the purposes of enforcing the obligations imposed by regulation 4(1)(b);

(ii) why regulation 4(1)(b) is stated to be “subject to paragraph (4)” when paragraph (4) does not appear to qualify paragraph 1)(b);

(iii) why the definition of “usual good farming practices” is defined with reference to the 2001 Regulations revoked by regulation 26 of these Regulations;

(iv) what effect the revocation has on the definition.

(2) With reference to regulation 4(4)(b) a number of the “verifiable standards” set out in Part II of Schedule 5 to the 2001 Regulations, in particular paragraphs 1, 3, and 5, do not appear to be standards at all. Instead they confer powers of entry and inspection on approved persons for the purposes of checking certain documentation. It is not clear how the applicant can comply with a function conferred on another person. The Executive is asked to explain.

(3) It is also unclear how these provisions interact with the powers of entry and inspection conferred under regulation 13. Would for example a person who failed to allow an inspector access to records as required by Schedule 5 be guilty of failure to comply with usual good farming practices (loss of subsidy) or obstruction under regulation 13 (criminal penalty)? The Executive is asked for an explanation.

(4) The Committee has already expressed its doubts about the vires of provisions such as Schedule 5 paragraphs 1 to 3. The Committee is of the view that agency arrangements for functions to be carried out on behalf of the Scottish Ministers by UK Ministers may require to be specified by Order in Council under section 93 of the Scotland Act. The Committee is aware of the views of the Executive on this subject but asks if there is anything that the Executive wishes to add to its previous observations.
(5) The Committee notes in this connection that there appears to be difference of approach to this problem between Departments. The Committee refers by way of example to SI 2002/800 before it this week but there have been many similar examples in the past both in relation to implementation of Community obligations as well as domestic legislation. The Committee would therefore welcome an explanation of the Executive’s policy regarding the choice of enabling powers for the purpose in question.

(6) Regulation 23(2) requires an applicant for a review of a decision of the Scottish Ministers under regulation 6(1) to make application within 60 days of the date of the decision. There does not however appear to be anything in either regulation that obliges the Ministers to communicate their decision to the applicant within a particular time. In addition there is no obligation on the Ministers to inform a potential appellant of the right of appeal. The Committee therefore asks the Executive how it can be ensured that an appellant will be informed of the right of appeal in sufficient time for that right to be exercised.

The Scottish Executive responds as follows:

First question
(i) The Scottish Executive Environment and Rural Affairs Department do not agree that the definition in regulation 4 is different from that elsewhere in the Regulations. Regulation 4(1)(b) refers the reader to regulation 4(4). Paragraph 4(4) explains what an applicant has to do to apply the definition of “usual good farming practices”.

(ii) The reference to “subject to paragraph (4)” was considered necessary to ensure that the reader of the SSI is directed to the explanation of what applying usual good farming practices means.

(iii) It is accepted that an alternate approach would have been to write out Schedule 5 to the 2001 Regulations again in the 2002 Regulations. It is, however, acceptable to refer to the text of a definition in a revoked instrument.

(iv) It is considered that the revocation has no effect on the definition.

Second question
Regulation 4(4), as explained above, is intended to explain to an applicant what applying the usual good farming practices means. The point is noted in respect of the paragraphs under the heading of “verifiable standards”. It is intended that compliance is met in so far as an applicant does not hinder a third party.

Third question
Failure to comply with usual good farming practices results in loss of subsidy. Regulation 13 gives an authorised person power to inspect and verify that an applicant has complied with usual good farming practices. In the example provided by the Committee, a person who failed to allow an inspector access to records would be guilty of an offence under regulation 18(2).

Fourth question
The Scottish Executive Environment and Rural Affairs Department is grateful for being given the opportunity to comment but has nothing substantial to add to earlier explanations given as to the Executive’s position in this regard, although it may be worth noting that what is done by way of paragraphs 1 to 3 of Schedule 5 goes wider than what could be done by way of an Order in Council under section 93 of the Scotland Act. Both the National Assembly for Wales and the Northern Ireland Department of Agriculture and Rural Development are “competent authorities” (as that expression is used in Schedule 5) whereas section 93 empowers only agency arrangements with a Minister of the Crown.

**Fifth question**

As the Committee will be aware, the Executive is of the view that what may be done by way of section 93 of the Scotland Act may also be done in relevant circumstances by utilising the powers in section 2(2) of the European Communities Act 1972. Which route is followed in a particular case will be decided by reference to all the relevant facts and circumstances. The Executive does not consider the situations dealt with by SSI 2002/139 and SI 2002/800 respectively to be directly comparable. The former deals with conferring new functions on Scottish Ministers and simultaneously providing that agency arrangements can be made for the carrying out of these functions. The latter deals with empowering agency arrangements in respect of various statutory functions which Scottish Ministers already have (and in some cases have had since devolution took effect).

**Sixth question**

An application to have a holding classified as being within the less favoured area boundary would be covered by the Department’s normal service standards. These standards, currently being updated under the “Service First” initiative, are published widely and give an undertaking that correspondence is answered fully within 10 working days or an interim reply is provided giving a deadline when the final response can be expected. The Department has no evidence that any applicant under the 2001 Regulations has been disadvantaged by these arrangements and so it was thought unnecessary to impose a legal requirement in respect of the timescale for delivering the decision.

*J.R. Wildgoose*
Scottish Executive Environment and Rural Affairs Department

18th April 2002
Appendix 5

THE PLANT HEALTH (GREAT BRITAIN) AMENDMENT (SCOTLAND) ORDER 2002, (SSI 2002/164)

1. On 16 April the Committee asked the Executive for an explanation of the following matters-

"The Executive is asked to clarify why, when the enabling power states that instruments made under it are to be made by Order in Council or by Regulations, it has chosen to make the instrument in the form of an Order.

The Committee notes that once again the Executive has chosen to proceed by way of an instrument under section 2(2) ECA rather than under powers in the Plant Health Act 1967 and asks for explanation as to the choice of powers in relation to this instrument."

The Scottish Executive responds as follows:

1. As the Committee states, section 2(2) of the European Communities Act 1972 makes provision for instruments made under it to be made only by Order in Council or by Regulations. The Executive regrets the error that has occurred in relation to this Order and is grateful to the Committee for pointing out the error. The Executive accepts that section 2(2) was not an appropriate power to use in relation to the Order.

2. The Executive notes that, in addition to the Plant Health (Great Britain) Amendment (Scotland) Order 2002, there are another three orders which amend the Plant Health (Great Britain) Order 1993 ("the 1993 Order") which also cite section 2(2) as the enabling power under which the orders were made. These orders are The Plant Health (Amendment) (Scotland) Order 1999 (S.S.I. 1999/22), The Plant Health (Scotland) Amendment (No.2) Order 1999 (S.S.I. 1999/129) and The Plant Health (Great Britain) Amendment (Scotland) Order 2001 (S.S.I. 2001/249).

3. The Executive, therefore, intends to prepare an amending instrument as soon as possible, which will consolidate the amendments made to the 1993 Order by the four orders referred to above.

John Speirs

for the Scottish Executive Environment and Rural Affairs Department
Introduction

1. Petition PE 480, from Mr William R Campbell, calls for the Scottish Parliament to urge the Scottish Executive to review the current situation at Scottish Agricultural College Auchincruive (SAC) as a matter of urgency. The petition has over 3500 signatories. The petitioner is a farmer, and has been involved in a broad-based ‘Support Auchincruive Campus’ steering group, which has met with SAC management, MSPs and the Minister.

2. The following papers are attached for members’ information:
   - The petition
   - An Official Report extract of Member’s Business Debate on motion S1M-2637, 21 March 2002
   - An Official Report extract of the meeting of the Public Petitions Committee, 26 March 2002
   - A letter from the Public Petitions Committee to the SAC and the reply from the SAC
   - A letter from the Public Petitions Committee to the Minister for Environment and Rural Development and the Minister’s reply.

Background

3. The petitioner is concerned about the future of the Auchincruive campus due to the potential restructuring of the SAC. The petitioner is concerned that the SAC may have formed an intention to close the campus and transfer the majority of courses offered by Auchincruive to Aberdeen. In submissions to the Public Petitions Committee the petitioner has emphasised:
   - the importance of the facilities at Auchincruive campus for research and development, which attract the bulk of the SAC’s students, and the proximity of the campus to other facilities and the significant local agriculture industry;
   - concern that the SAC’s business plan will mean the transfer of the bulk of its education courses to Aberdeen, with the likely long-term closure of Auchincruive and sale of its assets;
   - the lack of evidence available to support the SAC’s arguments that education is more expensive at Auchincruive than at its other campuses in Edinburgh and Aberdeen;
   - concern that the proposed action is inappropriate and disproportionate in response to the acknowledged financial pressures faced by the SAC;
   - concern that the SAC has decided on its intended action and will not revise its intention as a result of the current agreed ‘pause’ (this point is discussed further below).
Members Business Debate

4. A Member's Business Debate (on motion S1M-2637 in the name of Adam Ingram) on the subject of SAC Auchincruive took place on 21 March 2002. The motion received wide cross party support.

5. During the debate the Minister for Environment and Rural Development advised that he had asked the SAC to ‘pause’ in the preparation of its business plan and consider more carefully its aims and objectives. The Minister hopes that this will provide those who wish to press the case for Auchincruive an opportunity to do so. The SAC business plan will then be considered by the Minister, who outlined three key criteria that he would be using when examining SAC’s final proposals, namely whether the SAC:

- has agreed with its major stakeholders a clear view of its objectives which meet their needs;
- has examined the range of options that are open to it and set out a convincing case for any preferred option; and
- has demonstrated value for money, whilst ensuring quality and relevance to the Scottish agricultural strategy.

6. The Minister also highlighted that this ‘pause’ would ensure that a clear and agreed view of the SAC’s objectives throughout the rural and agricultural community could be achieved, in order to ensure that it is fit for purpose for the next 50 or 60 years. This would also allow those who wish to make a case for Auchincruive, highlighting its merits, and potential development, to have an opportunity to do so in a properly structured context.

7. The Minister rejected calls during the debate to transfer responsibility for Auchincruive to the educational funding councils, because of the historic link between the functions of the SAC and the Scottish agricultural and biological research institutes. The Minister also rejected calls for an independent audit of the SAC, from which a new plan and role could be developed, and the potential of Auchincruive campus examined. He stated that he would consider the need for such independent input after the SAC had pursued full discussion of its objectives.

Action by the Public Petitions Committee

8. The Public Petitions Committee took evidence from the petitioner on 26 March 2002, with several MSPs also attending to provide supporting statements. The Committee agreed to refer the petition to the Rural Development Committee for further consideration. As the Easter recess was approaching the Committee agreed to write to the Minister and the SAC without delay, and pass the replies to the Rural Development Committee.

9. The Public Petitions Committee wrote to the SAC, seeking formal comment on the issues raised by the petition and the petitioner’s evidence, and an assurance that the views of those who are concerned about the future of Auchincruive will be fully taken into account. The SAC indicates in its reply that:

- it has agreed to the Minister’s request for a delay in the proposals to allow for further consideration;
- it is exploring how to seek stakeholders’ comments;
it would not be opposed to independent audit of the organisation; and
that cost reductions across the SAC (including Auchincruive) would continue in the meantime.

10. The Committee also wrote to the Minister for Environment and Rural Development seeking formal comment on the petitioner’s request for an independent audit of the SAC and a moratorium on the downsizing of Auchincruive campus while a full business plan is developed. The Minister indicates in his reply that:
- he had asked the SAC to pause to consider its objectives;
- the SAC has been asked to take account of the criteria he will apply in judging the proposals, and of wider Executive policies such as job dispersal etc.;
- the SAC will have to examine a range of options for its structure and be able to argue convincingly for the preferred option;
- the SAC will be using independent consultants in this process and therefore an independent audit is not required at present, but remains an option later in the process;
- any economies by the SAC in the meantime should not prejudice the outcome of the current review.

Options for consideration by the Rural Development Committee

11. The Committee is asked to consider how it wishes to take forward consideration of this petition.

Option A

12. Following the Minister’s response to the Member’s Business Debate and his (and SAC’s) reply to the Public Petitions Committee, the Committee may wish to consider whether the issues raised by the petition will be adequately examined in the current review of the SAC’s proposed business plan. If so, the Committee may wish to note the petition and formally conclude consideration of it. Should the Committee have outstanding concerns, the Committee may also wish to write to the Minister to highlight these.

Option B

13. Alternatively, the Committee may wish to note and formally conclude consideration of the petition, but also to appoint a reporter to meet with the relevant parties (eg, the petitioner, the SAC, and the Scottish Executive), and report back to the Committee. The planned meetings on 7 June or 11 June may be suitable dates for the Committee to receive such a report. While formally closing consideration of the petition, the Committee would however maintain the ability to take forward the issues raised at a later stage.

Option C

14. Alternatively, the Committee may wish to take evidence from the petitioner and the SAC at this stage. During the Public Petitions Committee’s consideration of the petition, several MSPs called on the Rural Development Committee to undertake its own urgent investigation of the situation. In considering this option the Committee may wish to bear in mind that most planned meetings up
until the summer recess are occupied by evidence-taking for the integrated rural development inquiry. A decision to take formal evidence in connection with PE480 may therefore require a meeting being arranged on a day when the Committee would not otherwise have met. If it is considered that such evidence should be taken urgently it may be possible (subject to availability of witnesses at very short notice) to arrange this for a meeting on 7 May. Given that the next two scheduled meetings are outwith Edinburgh (13 May in Lochgilphead and 7 June in Huntly) the next available meeting date in Edinburgh would be 11 June.

Mark Brough
Senior Assistant Clerk
Rural Development Committee
25 April 2002
RURAL DEVELOPMENT COMMITTEE

Petition PE187 – Petition by the Scottish Gamekeepers Association

Note from the Clerk

Introduction

1. This paper invites the Committee to give further consideration to Petition PE187 by the Scottish Gamekeepers Association (SGA), calling for the Scottish Parliament to allow limited licensed culling of raptors under the terms of the 1981 Wildlife and Countryside Act in areas where local populations have increased beyond normal levels.

2. The following papers are attached with this cover note:
   
   - A copy of the petition
   - Letter from the Transport & Environment Committee dated 20 February 2002
   - Letter from Scottish Natural Heritage dated 28 January 2002
   - Letter from Allan Wilson, Deputy Minister for Environment & Rural Development, dated 16 April 2002, responding to the report of the UK Raptor Working Group

Progress of Petition

3. On 9 May 2000, the Public Petitions Committee agreed to refer the petition to the Rural Affairs Committee and the Transport and Environment Committee to be taken into account as part of their consideration of Petition PE8 by the Scottish Homing Union (on the impact of the increasing numbers of birds of prey on the sport of pigeon racing).

4. The Transport and the Environment Committee took the lead role in pursuing both petitions. It considered PE187 at a meeting on 7 March 2001, and agreed that Maureen Macmillan MSP should be appointed as a reporter to take forward consideration of the petition. On 26 June 2001 the Transport and the Environment Committee considered a report by Maureen Macmillan. The Committee agreed to write to the Scottish Executive and Scottish Natural Heritage (SNH) to request clarification on various issues set out in the report, in order to clarify whether the petitioner’s request was possible within the current legal framework. The Committee agreed that the nature of the SGA’s involvement in the production of the report of the UK Raptor Working Group should be confirmed and the report amended as necessary.

5. At its meeting on 11 December 2001 the Rural Development Committee considered the progress made by the Transport and the Environment Committee. On PE8 the Rural Development Committee agreed to conclude its consideration by noting the actions taken by the Transport & Environment Committee. On PE187 the Committee agreed to await the conclusion of the
Transport and the Environment Committee before deciding on whether any further action was required by the Rural Development Committee.

6. Maureen Macmillan reported back to the Transport and the Environment Committee on PE187 again on 12 December 2001. She reported that there was no straightforward means of satisfying the petitioner’s request within the current legal framework. She also noted that a Moorland Working Group had been established, with membership including the Scottish Executive, RSPB, Scottish Landowners’ Federation, and the Game Conservancy Trust. SNH considered that habitat management was the best method to deal with the challenges highlighted by the petition. While the petitioners did not agree with this approach, the Transport and the Environment Committee agreed to conclude consideration of the petition by writing to the Scottish Gamekeepers Association (SGA), the Scottish Executive, and Scottish Natural Heritage to recommend that the SGA becomes a member of the Moorland Working Group, and that the views of the SGA are, where possible, taken into account in the work of the Group. On all the issues related to this petition the Transport and the Environment Committee considered that dialogue between the various parties involved was important, and that the Moorland Working Group was the best forum for this dialogue.

Developments since the Transport & the Environment Committee concluded consideration of the petition

7. On 14 January 2002 a petition (PE449) on a related matter was submitted by the SGA, calling for the Scottish Parliament to initiate an independent investigation into the impact of predatory birds on waders, songbirds, fish stocks and gamebirds. On 26 March 2002 the Public Petitions Committee considered responses from Scottish Natural Heritage and the Scottish Homing Union in relation to the issues raised. The Committee also agreed to pass a copy of the petition and related correspondence to the Clerks to the Rural Development and Transport and Environment Committees for information only at this stage.

8. In a letter dated 28 January 2002, SNH indicated that the Moorland Working Group (referred to at paragraph 6 above) had now been replaced by a Moorland Forum. SNH confirmed that the SGA would be invited to join this Forum.

9. On 16 April 2002, the Deputy Minister for Environment and Rural Development announced the Executive’s response to the UK Raptor Working Group Report. The responses to recommendations 12 and 15-18 are particularly relevant to PE187, and confirm the progress being proposed by SNH.
Options for the Rural Development Committee’s further consideration of the Petition

10. The Committee is asked to consider how it wishes to take forward or conclude consideration of this petition.

Option A

11. The Committee may consider that the issues raised by the petition have been sufficiently examined, and that dialogue by the various expert bodies on the Moorland Forum is the appropriate means by which to tackle the detailed concerns of the petitioner. In this case, the Committee is invited to conclude the petition by noting it, and passing to the petitioner a copy of the *Official Report* of the Committee discussion.

Option B

12. The Committee could note and close the petition, but write to the Minister or Scottish Natural Heritage expressing any relevant concerns.

Option C

13. Alternatively, the Committee can take any other competent action it deems appropriate, (including taking further written evidence from the main parties involved (namely the SGA, SNH and the Scottish Executive)). In considering the scope of any other suggested action on the petition, members may wish to take account of the Committee’s other agreed work commitments, especially in relation to the Integrated Rural Development inquiry, over the next few months.

Jake Thomas
Assistant Clerk
Rural Development Committee
24 April 2002