



**ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

**AGENDA**

**10th Meeting, 2004 (Session 2)**

**Wednesday 31 March 2004**

The Committee will meet at 10.30 am in the Hub, Castlehill, Edinburgh

1. **Inquiry into the implementation of CAP Reform:** The Committee will take evidence from—

John McAllion, Trade Campaigner, Oxfam in Scotland;

Jim Walker, Chairman, Quality Meat Scotland; and

Fraser Scott, Operations Manager, Farmcare Ltd.

2. **Renewable energy in Scotland:** The Convener will report back to the Committee on the progress of the Enterprise and Culture Committee's inquiry into renewable energy in Scotland.

3. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Rural Stewardship Scheme (Scotland) Amendment Regulations 2004, (SSI 2004/109);

the Tribunals and Inquiries (Dairy Produce Quota Tribunal) (Scotland) Order 2004, (SSI 2004/119); and

the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2004, (SSSI 2004/128).

4. **Water Environment and Water Services (Scotland) Act 2003 - Annual report to the Parliament 2003:** The Committee will take evidence from Allan Wilson MSP, Deputy Minister for Environment and Rural Development, on this report.

5. **Annual report:** The Committee will consider its annual report for 2003 – 2004.

**Tracey Hawe**

Clerk to the Committee  
Direct Tel: 0131-348-5221

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Submission from Oxfam in Scotland</p> <p>Submission from Quality Meat Scotland</p> <p>Submission from Farmcare Ltd</p> <p>A paper from the Committee adviser and SPICe is attached (<i>for members only</i>)</p>	<p><a href="#">ERD/S2/04/10/1a</a></p> <p><a href="#">ERD/S2/04/10/1b</a></p> <p><a href="#">ERD/S2/04/10/1c</a></p> <p><a href="#">ERD/S2/04/10/1d</a></p>
<p><u>Agenda Item 3</u></p> <p>The Rural Stewardship Scheme (Scotland) Amendment Regulations 2004, (SSI 2004/109)</p> <p>Extract from the Subordinate Legislation's 11th report</p> <p><a href="#">The Tribunals and Inquiries (Dairy Produce Quota Tribunal) (Scotland) Order 2004, (SSI 2004/119);</a> and</p> <p><a href="#">The Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2004, (SSSI 2004/128).</a></p>	<p><a href="#">ERD/S2/04/10/3a</a></p> <p><a href="#">ERD/S2/04/10/3b</a></p> <p><a href="#">ERD/S2/04/10/3c</a></p> <p><a href="#">ERD/S2/04/10/3d</a></p>
<p><u>Agenda Item 4</u></p> <p>The Water Environment and Water Services (Scotland) Act 2003 - Annual report to the Parliament is attached (<i>for members only - the report will be published on Tuesday, 30 March 2004</i>).</p>	<p><a href="#">ERD/S2/04/10/4a</a></p>
<p><u>Agenda Item 5</u></p> <p>A draft annual report for 2003 – 2004 is attached</p>	<p><a href="#">ERD/S2/04/10/5a</a></p>

## **SUBMISSION FROM OXFAM IN SCOTLAND**

Oxfam welcomes this opportunity to present evidence to the Committee about the implementation of CAP reform in Scotland. Decisions about the CAP made at an international level have significant implications for Scotland's agricultural sector and rural communities, but they also have a major impact on people in developing countries, who have little say in how these decisions are made. By framing debate about CAP reform in its wider international context the intention is to promote sustainable, transparent and participative approaches to rural development in Scotland as an integral component of responsible global citizenship.

### **International context of CAP Reform**

Oxfam works with others to overcome poverty and suffering in over 80 countries worldwide. Globally, three-quarters of the 900 million people in the world surviving on less than US \$1 a day (two thirds of whom are women) live in rural areas, many of them working as smallholder farmers. OECD research shows that developing countries are, on the whole, far more dependent on agricultural production than industrialised countries, with the least-developed countries, those with deepest concentrations of poverty, most heavily dependent on agriculture and agricultural exports. Oxfam recognises that agricultural trade and the rules that govern it have a significant bearing on global poverty and stand in need of substantial reform.<sup>1</sup>

Agriculture is by far the most heavily subsidised and protected sector in international trade. In 2002 industrialised countries spent just under US \$1 billion a day supporting farm incomes – around six times the value of annual aid flows.<sup>2</sup> In spite of international commitments to phase out subsidies, negotiated during the WTO Uruguay and Doha rounds of trade talks (1994 and 2001), market-price supports, farm payments, and export subsidies continue to feed the cycle of over production, distortion of world markets and export dumping that has such devastating effects on the food security, health and education of the world's poorest people. Ending production and export subsidies is a key step towards creating more equitable international trade rules that would support genuine sustainable development.

Oxfam, like other international development and environmental organisations, has welcomed commitments to reduce and phase out agricultural subsidies. The CAP compounds the detrimental effects of international trade rules and market access restrictions relating to agriculture. EU Member States spend a massive €115 million a day on agricultural subsidies, with around £750 million spent in Scotland each year through the CAP, less than half of which is affected by the current reforms. However, the agreed model of decoupling, while a departure from the subsidies linked to production in some products, does not go far enough towards a real break from subsidised production. While the MTR meets the letter of the WTO Agreement on Agriculture of 1994, we are concerned that in practice 'decoupling' will be more apparent than real.

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<sup>1</sup> See *Rigged Rules and Double Standards: trade, globalisation, and the fight against poverty*, Oxfam International 2002. <http://www.maketradefair.com/en/index.php?file=03042002121618.htm>

<sup>2</sup> This is based on the OECD's Total Support Estimate (TSE). See OECD 2002: Table 111.2, p159.

### **Implementation of the MTR in Scotland**

The Scottish Executive has put sustainable rural development, protection and enhancement of the environment, and a willingness to embrace change at the heart of *A Forward Strategy for Scottish Agriculture*. It is vital to recognise that all these laudable aims have international as well as Scottish dimensions. It is disappointing to note that in seeking to tailor implementation of the MTR to Scottish needs and priorities the Scottish Executive has, in contrast to other parts of the UK, opted to base Single Farm Payments on historical entitlements rather than an area-based or hybrid approach that might appear more in keeping with the Scottish Executive's strategic aspirations.

The Scottish Executive's decision to base Single Farm Payments on historical entitlements will perpetuate existing distributional imbalances whereby larger producers in certain geographical areas receive the bulk of subsidies, while smaller, less intensive producers, and/or those in remote areas receive more modest amounts.<sup>3</sup> Payments made on this 'business as usual' approach will provide little incentive for recipients to significantly change their existing practices towards more sustainable models of production. In other words, in practice subsidy payments will continue to influence production decisions, fuelling over-production, even though in theory the link between subsidy and production has been severed.

In the EU as a whole, direct payments have tended to be directed at sectors in persistent surplus, effectively supporting production for export, hence acting as 'hidden subsidies'. For example, in the wheat sector Oxfam estimates that that subsidies attached to exports reached approximately €1 billion during 2002/03, even though less than €20 million was recorded as an export subsidy. In 2001/02 – a production season for which no official export subsidies were recorded – exports were subsidised by around €614 million.<sup>4</sup>

While there is little evidence to suggest that decoupling can, on its own, resolve all the problems associated with over-production, we would argue that nominally decoupled support for agriculture in the EU will have minimal effect on production, and may in fact increase it, because it will mitigate 'risk' for producers, and includes an implicit 'hidden export subsidy'. In this light it is difficult to see how the Scottish Executive's proposals on Single Farm Payments will support its stated wider public policy objectives on sustainable rural development. In Oxfam's view the balance between providing stability during a period of transition to allow farmers to adapt to the changes initiated by the MTR, and meeting stated environmental and social policy objectives has not yet been struck.

### **Transparency and accountability**

The lack of transparency and accountability in the use of public money distributed under the CAP is an issue of pressing concern. In 2002 a total of £746 million was distributed in Scotland under the CAP, but information about how this public money is spent is exceptionally difficult to obtain. In affirming a legitimate role for agricultural subsidies that support the Scottish Executive's social and environmental policy objectives, we would argue that the failure to disclose how such large sums of taxpayers money is being spent is neither in the public interest, nor in keeping with the spirit of the Scottish Executive's Code of Practice on Access to Information. It is

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<sup>3</sup> See *Economic Report on Scottish Agriculture 2003 Edition SEERAD*

<sup>4</sup> *Set Aside the Dumping*, Oxfam Briefing, May 2003.

also hard to see how the lack of transparency can foster participative involvement and shared ownership of the rural development agenda. By making public the amount of CAP payments of over £20K to agri-businesses and individual farms, the Scottish Executive would significantly increase accountability, and increase incentives to demonstrate how CAP recipients are meeting legitimate environmental and social objectives.

Lack of transparency relating to CAP payments also masks the extent to which the CAP regime is failing Scottish farmers. Although the agricultural sector is in receipt of massive public subsidies, SEERAD estimates that the average net farm income in Scotland in 2001/02 was only £10,438 (an average that may mask the depth of rural deprivation). This is a pattern evident in other parts of the EU where low income is one of the key factors driving smaller farmers from the land. If the CAP is manifestly failing in its objective of supporting farm incomes, there are legitimate questions to be asked about who actually benefits from the £750 million we spend each year, questions which are difficult to answer in a climate characterised by lack of openness.

Poverty reduction is an essential component of sustainable rural development. While rural poverty is relatively under-researched, recent rural-urban analysis of the Scottish Household Survey discovered that “Lower incomes are more common at both ends of the rural-urban continuum; i.e. in the large cities and in the remote rural areas.”<sup>5</sup> The same survey also noted compounding effects of poverty with other factors that might indicate social marginalisation. In moving towards the wider social and environmental objectives of Pillar II, it is important to address poverty as a barrier to sustainable rural development, and acknowledge the need to facilitate the meaningful involvement in the implementation process of people living in communities vulnerable to the potentially adverse effects of CAP reforms. Links between the Scottish Executive’s proposals for implementing CAP reforms and its programmes for economic development, social inclusion and sustainable development all merit further exploration in this respect.

The recipients of CAP subsidies may not in fact be the main beneficiaries. It could be argued that the existence of subsidies keeps farm-gate prices artificially low, and compounds the negative effects for producers and consumers of concentration in the food supply chain, concentration that disempowers producers in relation to processors and retailers who reap large profits under the current arrangements. Although issues related to such ‘bottlenecks’ in the food supply chain are outwith the remit of this enquiry, they are crucial to an understanding of why farmers in industrialised and developing countries alike are struggling to sustain their livelihoods. The CAP in its current form fails to deliver for the majority of people living in Scotland’s rural communities, directly or indirectly dependent on agriculture for their livelihoods.

### **Modulation and sustainable rural development**

The Scottish Executive’s announced increase of modulation levels to ‘at least 10%’ is to be welcomed. As a key lever in moving towards more sustainable models of support for rural communities and economies, modulation has the potential to support a variety of Pillar II initiatives related to environmental goals and rural

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<sup>5</sup> (Scottish Executive Social research, Land Use and Rural Policy research programme, Research Finding No. 4/2003) <http://www.scotland.gov.uk/cru/resfinds/raf4.pdf>

development, while mitigating some of the possible negative effects of change that may be felt in rural communities affected by reforms. Nevertheless, proposed levels of modulation still represent a small proportion of total CAP spending in Scotland and, as such, are unlikely to deliver the significant change needed to realise the Scottish Executive's strategic objectives. 20% modulation would be a more realistic figure in the short term, given the heightened public expectation that modulation will deliver real environmental and social benefits. The social and environmental benefits derived from modulated funds can be more easily demonstrated to a public increasingly sceptical about the level of public spending used to prop-up a largely discredited system of support for European agriculture. Modulated funds are also less likely to act as hidden subsidies that impact detrimentally on poorer farmers in the developing world. The effectiveness of implementation of the MTR in Scotland will depend to a large extent on the quality of cross-compliance measures, and the framework used to monitor and evaluate its impact. The *Custodians of Change* report presents viable proposals for increasing accountability and involving a range of key stakeholders in developing standards of good practice and cross-compliance.

### **Future developments**

The Mid-term Review is an interim step on a path towards further reform of the CAP, a process likely to be driven by further EU expansion bringing into sharp focus questions around the sustainability of the current CAP regime in the medium to longer term. In the meantime, pressure from developing countries in the south and civil society in the north for meaningful reform of agricultural trade is unlikely to recede. In this context it is unlikely that farmers in Scotland will be able to rely indefinitely on subsidies at current levels. Rather than adopt a reactive and defensive position to the likelihood of decreasing subsidy levels, the Scottish Parliament and Executive have opportunities to anticipate further reforms and put Scottish agriculture on a more sustainable footing in preparation for change.

In 2005 the UK will hold the Presidency of the EU and will host the G8, presenting a unique opportunity for the UK to set a new agenda for development that tackles structural imbalances in international trade. Agriculture reform remains a critical priority for many developing countries and will be integral to a more equitable and sustainable system of world trade. In urging the Committee to consider the global social and environmental impact of the CAP, as well as its effects in Scotland, we would highlight the opportunities that exist for the Scottish Parliament and Executive to influence and inform the emerging international agenda via the UK Government, through its links to the EU institutions, and through other international networks. In advancing the case for sustainable approaches to rural development and agriculture here in Scotland and developing good practice, we would ask Scotland's elected representatives to consider the bigger global picture, and seek to influence the debate about the future of agricultural support in the EU, with a view to phasing out direct and hidden export subsidies.

## **SUBMISSION FROM QUALITY MEAT SCOTLAND**

1. Quality Meat Scotland (QMS) is a private non-profit making company limited by guarantee and owned by the Scottish red meat industry. It is responsible to Scottish Ministers and the Scottish Parliament for delivery of functions set out in the Agriculture Act 1967 and for the spending of the parafiscal levy collected under that Act from producers and processors of beef, lamb and pork in Scotland. The business aim of QMS is to help the industry improve its competitiveness and profitability.

### **2. Scottish Red Meat Industry – Background**

The Scottish red meat industry consists of over 17,000 cattle, sheep and pig farm businesses, 117 processing companies and over 400 ancillary businesses such as feed companies, auction markets and haulage companies. Most businesses are relatively small and almost all are family run; the sector contributes some £1,500 million to the annual GDP of Scotland and supports over 30,000 jobs. Livestock production represents around half of total agricultural output in Scotland.

The majority of Scottish production of beef, lamb and pork is sold to UK consumers through supermarkets and butchers, often labelled as Scotch Beef, Scotch Lamb or Specially Selected Pork. Most of the remainder is sold into the catering and foodservice sector. Scotch Beef is recognised throughout the UK, and abroad, as a market leader. It is estimated that around £25m of lamb is exported to Europe, increasingly to higher value markets. Virtually no pork is exported at present and, since the export ban following BSE in 1996, the industry has been unable to export beef. The lack of export markets for Scotch beef has had a major financial impact on the industry. Before 1996, beef was Scotland's biggest food export and the trade, which was mainly to Europe, was valued at around £150m in today's prices.

The UK Government hopes the ban on beef exports will be lifted by the European Commission within the next year as the UK incidence of BSE cases in cattle is now below some other EU countries. The reduction in BSE cases may also allow older cattle (over 30 months of age) to return to the human food chain within the next year as long as they test negative for BSE. This is the recommendation of the UK Food Standards Agency and will result in supplies of beef from the Scottish industry increasing by 12% in the first year.

### **3. Global Markets**

The fortunes of the Scottish industry are affected directly by what happens in world markets and world market prices determine how much we receive for our product. The UK can supply only 60% of the beef it consumes, 85% of lamb, 74% of pork and 41% of bacon. The rest comes from other parts of the world at global prices. The main suppliers of red meat to the UK are New Zealand (lamb); Ireland, Argentina and Brazil (beef) and Denmark and the Netherlands (pigmeat). Our main non-EU competitors often have much bigger farms, helping them to have lower costs of production. For example the average farm in Argentina has 400 hectares, compared with 173 hectares in Scotland.

The use of imported meat carries the risk of disruption to supplies for a number of reasons, not least of which are concerns over the safety of the food imported and the risk of importing animal disease. A recent report from the Food and Agricultural Organisation of the United Nations highlighted that one-third of global meat trade (6m

tonnes of meat) is currently affected by restrictions imposed as a result of disease outbreaks. For example 12 countries are currently affected by trade bans imposed as a result of avian flu or BSE.

The EU as a whole is a net importer of lamb, pork and, more recently, beef. The days of unwanted 'food mountains' produced by the subsidy system are long gone. In world terms, the EU is not a big exporter of red meat; it accounts for just 8% of world beef exports, less than one percent of world lamb exports and 25% of global pigmeat exports.

Looking ahead, the main issue for the Scottish industry is how it can use its high quality grass fed and hill reared branded image to compete at home and abroad against the lower cost, higher volume production of South America, Asia, Africa and Australia/New Zealand.

#### **4. Consumer Attitudes**

Quality Meat Scotland commissions a lot of consumer research on behalf of the Scottish industry so that we can understand what the consumer wants from the beef, lamb and pork they purchase. Some of this is used to determine the animal health, welfare and hygiene standards offered by the Scottish industry through its voluntary Quality Assurance Schemes that underpins all Specially Selected beef, lamb and pork products.

Consumer research indicates that there is a growing global opportunity for branded, higher priced produce as the world's consumers become more affluent. Within the UK too there are opportunities to build on Scotland's reputation for quality. Research consistently shows for example that 72% of consumers in Scotland believe that Scotch beef is reared to the highest standards and 57% say they are prepared to pay more for it. The equivalent figures for Scotch beef in England, with its potential market of 50million consumers, are 35% and 31%. Until now, the Common Agricultural Policy has constrained the amount of beef that could be produced, limiting the ability of our industry to supply these markets.

CAP reform, by taking away constraints on what can be produced offers our industry a real opportunity to take advantage of global consumer trends but individual businesses throughout the chain, not just farmers, will take time to adjust and no-one should underestimate the challenge of doing so. This is especially difficult when the industry has been effectively banned from beef export markets for over 8 years and now faces the prospect of CAP reform, reopening of export markets and the possible return of some 20,000 tonnes of older beef into the food chain - all at the same time. Government policy must assist the industry through that transition and to make the most of opportunities available.

#### **5. Future Supply of Cattle**

One of the main concerns about CAP reform has been that it may lead to farmers being paid for effectively 'doing nothing' as they are no longer required to produce food except where this is needed to keep the land in good environmental and agricultural condition. Research conducted by QMS last summer showed that while 62% of people in Scotland are content for farmers to receive subsidy, this support falls to 45% if it is no longer in return for quality food production.



There is no evidence to suggest that farmers will stop farming in general but there is a particular problem with cattle farming where the cost of actually breeding the traditional, grass fed, hill reared beef for which Scotland is famous is greater than the return currently provided by the market. Suckler beef breeding (so called because calves are reared naturally by their mothers for 9 months) is the engine room of the Scotch beef industry but also the most expensive part. The subsidy is partly needed to cover its costs. Thus if a farmer stops breeding cattle but still receives subsidy, he could actually be better off in the short term. It is likely that market returns for Scotch beef will increase over time as export markets reopen and the industry gains higher priced markets but there is a need to encourage farmers to continue the expensive task of breeding calves in the meantime to maintain, and hopefully increase, current levels of supply.

QMS therefore fully supports the decision by the Scottish Executive to introduce a National Envelope for beef production. This will not only reward the farmers who incur the high costs of breeding these quality animals, it will also benefit other farmers, processing companies, auction markets and haulage companies further down the production chain who rely on this cattle supply to satisfy existing customers. By protecting supply it will give Scotland time to find new profitable markets for its world renowned Scotch beef. It is highly significant that most other EU Member States with significant beef industries have also taken steps to protect supplies as part of CAP reform.

## **6. Pillar One Payments**

QMS supports the Executive's decision to pay Pillar 1 payments on a historic basis. This pattern of payments means that it is closely linked to the productive capacity of the land and its ability to provide us all with food. The main alternative, basing payments on the size of a farm, was tried in Scotland 2 or 3 years ago on a much more limited scale and led to so much political and economic problems it was dropped. It would have led to large infertile tracts of land receiving windfall payments while hardworking farmers on relatively small pieces of land would have seen their income decimated.

QMS also supports the Executive's intention to leave a large proportion of the subsidy in Pillar One, rather than moving it to the Rural Development Regulation. While the environmental and social roles of farming are very important, quality food production remains the core purpose of farming and the main source of its income. Under EU regulations, Pillar One is the principal vehicle available to encourage quality food production, while the Rural Development Regulation is more suited to encouraging environmental benefits and for assisting social development, especially in the remoter areas.

## **7. Modulation and the Rural Development Regulation**

QMS does not wish to comment on levels of modulation except to ask that consideration be given to what is happening in other parts of the EU, especially those countries like France and Ireland who are our direct competitors. Substantially differing levels of modulation, and so of subsidy, could have a significant impact on the ability of Scottish businesses to compete.

Looking to the longer term we would also ask that efforts be made with the European Commission to broaden the scope of the Rural Development Regulation so that it offers better opportunities to encourage quality food production.

## 8. **Conclusion**

Quality Meat Scotland welcomes the overall balance of the package announced by the Scottish Executive. We especially support the Executive's decision to take advantage of the subsidiarity offered by the European Commission to tailor the package to the particular needs of the Scottish industry. The red meat industry in particular and the agri-food sector as a whole are important contributors to the Scottish economy and, if this change is handled correctly, it could offer considerable opportunities for Scotland. The challenges facing individual businesses are immense and it will take time for them to adapt but the new structure of support offered by the Scottish Executive should ease that complex process.

It would also be helpful if other parts of the Executive were to assist with this process through the services provided by Scottish Enterprise and HIE and through the work of the new Promotion of Scotland Division. Scotland has rightly gained a world wide reputation for the quality of its food and drink over the years. Let's hope that the changes now taking place can be harnessed to allow us to build on that success for the future.

**SUBMISSION FROM FARMCARE LTD  
(part of the Co-operative Group)**

**1. Introduction**

For over forty years the agricultural sector has struggled to make its case to the consumer. In light of changing EU agricultural policy and support mechanisms, it is clear that the farming industry needs both to modernise and to become more responsive to consumer needs. This changing environment provides the farming industry with unique challenges and opportunities.

Farmcare currently manages through various agreements in Scotland over 20,000 acres of land and the Co-operative group owns 1650 acres in Perthshire and Aberdeenshire. Cropping is predominantly combinable based with potatoes and soft fruit also being important.

**2. Scotland's Vision**

The vision put forward in the "Forward Strategy for Scottish Agriculture" in June 2001 states that its vision is one of Scotland wanting to be a prosperous farming industry. Through this vision it should:

- a) Be focused on producing food and other products that the consumer wants.
- b) Play a major role in sustainable rural development and help maintain the prosperity of our rural communities.
- c) Be a leading player in the protection and enhancement of our environment.
- d) Embrace change and new opportunities.

**3. Historic Profitability Combinable Crops**

The majority of arable farm profits over the last five years post rent have been less than the subsidy farmers have received. Even at prices that have been at a five-year high in 2003 profits have still not been higher on the average farm than that of the payment received through SEERAD. Reliance therefore on a decoupled payment in the future will be debatable as farm businesses should be making decisions for their farms based on the market available for their crops rather than a reliance on a production based payment.

**4. Future Profitability**

Future profitability in arable production will rely on the correct implementation of CAP reform at the individual farm level. Farmers will need to grow for the market, be sustainable and efficient and be seen to be giving taxpayers value for money both in terms of providing consumers with higher quality products as well as protecting and enhancing the environment.

The EU want to combine the principle of decoupled support with reinforced rural development support. Producers will therefore no longer be bound by production related payments but rather be driven by the market within a framework of good agricultural practice and social rural support.

The development of a historically based support scheme should only be a short term measure in order to give Scotland's farmers time to develop the grow-to-order mentality. The determination of farm policy in ten years time should not be based on what a farm business farmed in 2000 to 2002 but what the market requires in any one marketing period.

Total cost management-including variable costs, fixed costs or rental levels will be the key driver of future profitability of Scottish arable farms. It is only through world class management, which provides optimum margins through high yield and rigorous cost control, that farmers in Scotland will be able to compete within the global market and develop sustainable profits.

Risk management will be important going forward in order that farmers know they can sell at a price they can be profitable at. They will need to co-operate in order to get the lowest cost of production and they will need to link with retailers and maltsters for example to contract known crops required for the market.

Farmers need to plan their businesses and within that they need certainty of government policy going forward. Whether the farmer plans to grow arable crops, ostriches, sunflowers or get out they need to know how they stand regarding support over the next decade.

Farmers need to buy into the environmental schemes in order to retain payments through modulation of the single farm payment. To incentivise farmers to adopt environmental and sensitive practices the system in place needs to be simple and a level that farmers feel they do get a return from investing in these schemes. The payment should ensure that in practice no farmer could not afford not to participate in a system designed to deliver public good.

## **5. Conclusions**

Cost of production, whether for wheat, barley, oilseed rape or any other crop we grow, will and should be the key driver to decisions on whether a farmer grows a crop or not. Decoupling payments from production will allow businesses to decide whether they continue to produce depending on the true costs of their businesses. Co-operation, managing risk, environmental management, cultivation management and growing for a market are all factors that ultimately decide whether the farmer grows a crop, continues farming or lets others farm. The farmer does however require clarity of vision and certainty of policy in order for them to make the correct decision going forward.

The development of a grow-to-order mentality for what the market requires and the understanding of the true costs of production on different land types will be key to profitability on farm.

Risk management of the business through using currency hedging, selling forward, having a budget that allows risks to be managed and the increasing importance of increased co-operation and collaboration amongst farmers are all important factors in ensuring a long term profitable business for farmers in Scotland.

**Subordinate Legislation Committee  
Extract of 11<sup>th</sup> Report, 2004**

1. At its meeting on 23<sup>rd</sup> March the Committee determined that it did not need to draw the attention of the Parliament to the instruments listed in the Annexe to this report on any of the grounds within its remit.

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

Environment and Rural Development

SSI 2004/109

**Instruments subject to annulment**

The Rural Stewardship Scheme (Scotland) Amendment Regulations 2004 (**SSI 2004/109**)

*Question*

1. The Committee noted that sub-paragraphs (a)(i) and (d) of regulation 2(2) specify a start date of 15 March for periods during which certain management activities cannot be undertaken. As the Regulations do not come into force until 31 March of this year it would seem that in the absence of any transitional provision they may have retrospective effect in relation to some current agreements which does not seem to be authorised under the enabling power. The Committee invited the Executive to comment.

2. The Executive agrees that the enabling powers used to make the Regulations do not provide the *vires* to include provisions in the Regulations which have retrospective effect but considers that the Regulations do not in fact have retrospective effect. It also explained that it is not in any event its intention to apply the provisions retrospectively and that it will make the position clear administratively to the holders of existing agreements. The Executive's reply is reproduced at Appendix 10.

*Report*

3. Although the Executive considers that the Regulations do not have retrospective effect, unlike most similar schemes there is nothing in the Regulations to indicate that some if not all dates specified in the Regulations are intended to refer to dates in 2005 or to future Scheme years rather than to dates in 2004. Moreover, the Regulations contain no transitional provisions to protect the position of existing on-going agreements. Accordingly, as drafted the Regulations appear capable of having retrospective effect even although this is not authorised by the enabling Act, as the Executive concedes.

4. Nevertheless, it appears that the Executive is taking action administratively to ensure that no one is disadvantaged by the change to 15 March from the date previously specified in the principal Regulations. But this does not alter the fact that the Regulations are technically defectively drafted in this respect and appear to have retrospective effect not authorised by the enabling Act. **The Committee therefore reports them to the lead committee and the Parliament on that ground.**

## Appendix 10

### THE RURAL STEWARDSHIP SCHEME (SCOTLAND) AMENDMENT REGULATIONS 2004, (SSI 2004/109)

1. On 16<sup>th</sup> March 2003 the Subordinate Legislation Committee considered the above instrument and requested an explanation of the following matter -

*“The Committee notes that sub-paragraphs (a)(i) and (d) of regulation 2(2) specify a start date of 15 March for periods during which certain management activities cannot be undertaken. As the Regulations do not come into force until 31 March of this year it would seem that in the absence of any transitional provision they have retrospective effect in relation to some current agreements which does not seem to be authorised under the enabling power. The Executive is invited to comment on this matter.”*

#### **The Scottish Executive responds as follows:**

2. The Executive agrees that the enabling powers used to make the Regulations do not provide the vires to include provisions in the Regulations which have retrospective effect. There is, no intention for the Regulations to have retrospective effect in relation to agreements which existed before the date the Regulations came into force and in the Executive's view they do not have retrospective effect.

3. For existing agreements the Executive intends that the start date of 15<sup>th</sup> March in sub-paragraphs (a) (i) and (d) of regulation 2 (2) will apply from 15<sup>th</sup> March 2005. If a scheme participant has agreed to carry out the management requirements in question as part of an existing agreement the previous start date of 1<sup>st</sup> April will still apply to that agreement.

4. The Department intends to write to those with existing agreements advising them that the changes in question will apply from 15<sup>th</sup> March 2005. The Executive has no intention of taking any action against a participant for a breach of the Scheme rules for any action taken between 15<sup>th</sup> and 31<sup>st</sup> March this year in relation to provisions (a) (i) and (d) of regulation 2 (2).

**Scottish Executive Environment and Rural Affairs Department**

18 March 2004

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