



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Agriculture Bill: Department of Agriculture,
Environment and Rural Affairs

20 February 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr John Dallat
Mr Harry Harvey
Mr William Irwin

Witnesses:

Ms Rosemary Agnew	Department of Agriculture, Environment and Rural Affairs
Mr Norman Fulton	Department of Agriculture, Environment and Rural Affairs
Mr Mark McLean	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McAleer): I take the opportunity to welcome Norman Fulton, deputy secretary; Rosemary Agnew, grade 5, director of Brexit; and Mark McLean, principal agricultural economist, CAP reform. You are very welcome. I would like you to brief the Committee, and then there will be an opportunity for members to ask questions.

Mr Norman Fulton (Department of Agriculture, Environment and Rural Affairs): Thank you very much, Mr Chairman, and good morning, everyone.

I want to take a few moments to highlight key elements of the Bill and the underpinning rationale. The main body of the Bill is intended primarily to provide the legal basis for the future agriculture policy direction for England. It reflects the ideas that were shared with stakeholders a couple of years ago in the 'Health and Harmony' document from the Department for Environment, Food and Rural Affairs (DEFRA). There are also elements within the main body of the Bill that have a UK-wide reach, as they relate to reserved matters. I will come back to those in a few moments. Legislative consent is not being sought for either of these two components — matters that are England-only, or UK-wide reserved matters. There are four remaining elements within the main body of the Bill that are UK-wide in their remit, but they cover devolved matters. Again, I will come back to these. They are matters for which we will seek legislative consent.

Our primary interest in this Bill relates to schedule 6, the Northern Ireland schedule. This has three main objectives. First of all, it is to provide in domestic legislation the legal basis for the full suite of

CAP pillar 1 and pillar 2 options that we had prior to EU exit. Without this, we would not have a basis to continue direct support for farmers after this calendar year, nor would we have the option of continuing to make new commitments under pillar 2 schemes, either current or modified. We need to have those powers in place, and that is what schedule 6 will do. Secondly, the schedule will enable us to modify, simplify and correct the framework that we are carrying forward out of the old CAP, so it provides additional flexibility. Thirdly, it will give us certain keeping-pace powers to enable us to ensure that we can respond to changes that might be brought forward elsewhere in the UK that could cause difficulties if we did not have the option — and it is an option — of making similar changes to Northern Ireland. It is important to understand exactly what we are seeking to achieve here.

Schedule 6 is, therefore, not designed to set a new policy agenda. That is not its purpose. It is designed to provide certainty and stability whilst we develop our new policy framework. It is to provide a degree of flexibility in the implementation of the rolled-over regime that we will be carrying forward and to provide the ability to keep pace with changes needed to ensure the functioning of the UK internal market. The drafting of this was carried out in the absence of an Executive and an Assembly, but it was developed very specifically so as not to prejudice or constrain the ability of an incoming Minister, Executive or Assembly to decide the long-term direction and nature of agricultural support policy in Northern Ireland. That is a very important point as well: we did not set out to create a new policy agenda. We were trying to ensure that we maintain stability and flexibility to keep pace where we needed to. It was no more than that. That is important. This is not setting out our long-term policy vision.

Turning briefly to the specific provisions in the schedule, you will see that these relate to maintenance and modification of carried-over CAP direct payment schemes; modification of retained EU law relating to financing, management and monitoring of payments, so the technical aspects; provision of ongoing support for rural development; provision for the collection and sharing of data and appropriate data protection; provision for intervention in agriculture markets where necessary; and provision for the setting of standards in carcass classifications. The majority of the Northern Ireland provisions are subject to the affirmative resolution procedure. Therefore, their use is entirely a matter for the Minister and the Assembly.

In addition, I mentioned earlier that there were a small number of UK-wide provisions that, in part, deal with devolved matters. These relate to the Secretary of State's duty to report to Parliament on food security, as you have heard. National security is a reserved matter, and food is one of 13 UK critical national infrastructure sectors. However, within that and within this particular issue, food and drink supply is a devolved matter, as is the analysis of statistical data that falls to DAERA.

The following are all devolved matters: identification and traceability of animals, clause 32; regulation of fertiliser products, clause 31; and regulation of organic products, clauses 36 and 37. In respect of the identification and traceability of animals and regulation of organic products, we are still in discussion with DEFRA. We are seeking alterations here so that any regulations that may be made under these clauses by the DEFRA Secretary of State can only be made with the express consent of Northern Ireland. We are seeking that additional element to be inserted.

The process of securing legislative consent will be initiated for those parts of the Bill that extend to Northern Ireland and that fall within the competence of the Northern Ireland Assembly. We plan to lay the legislative consent memorandum shortly.

Finally, as I mentioned earlier, the UK-wide provisions that do not require legislative consent because they are reserved matters but extend across into Northern Ireland are in relation to fair dealing with agricultural producers, clause 27; producer organisations, clauses 28 to 30; and World Trade Organization (WTO) agreement on agriculture, clauses 40 to 42.

That is a very brief overview. Hopefully, it supplements or complements what you heard earlier. I am very happy to take questions from the Committee.

The Chairperson (Mr McAleer): Thank you, Norman. We have received a lot of information from the last person to address the Committee, Mark Allen, and indeed from yourselves as well. I am sure that members have plenty of questions to ask. I want to raise the issue of migrant labour, because it is quite topical in light of the announcement from the British Home Office just yesterday that it wants to pursue a points-based immigration system. Some of the information that has been provided from Queen's University in today's tabled papers and from last week is that there are 22,000 people employed in the food and drink industry and 78,000 employed in farming and associated support services. We are heavily reliant on migrant workers coming here. What is your assessment of that

announcement from the Home Office? Will the Department make a very robust representation to the Home Office, given the reliance on people from outside this country? For example, I understand that there are over 10,000 people employed from outside this country in food processing, and obviously there is a reliance on seasonal workers. Indeed, I heard on the radio this morning representatives from the Ulster Farmers' Union (UFU) talking about Bramley apples and how, for example at harvest time, migrant workers are needed as part of the industry. Has the Department made any assessment of that? Are there plans to make robust representation to the Home Office in relation to that?

Mr Fulton: Yes, this is an issue of significant concern to the Department. We did a survey, which was published last year, on the importance of migrant labour within agri-food. I think the overall figure was that about 40% of workers in the agri-food processing sector are migrant labour. Obviously, that varies by sector and sub-sector and by individual business. Some businesses are much more heavily reliant on migrant labour than others. It is a hugely important issue for us. It is not a case of whether we will make robust representations; we have been very closely engaged with Whitehall on this and have been making representations; working with stakeholders, who have also been making representations; working with the Department for the Economy, which has a clear interest in this matter as well; and working with the migration advisory committee. We have had numerous representations and expressed our concerns to make sure that the migration policy of the UK, which is a reserved matter, meets our needs. The statement that was made yesterday was very clear that there will be no regional variation on the policy and that there is no specific provision for low-skilled workers in the policy. That is very disappointing and very concerning for the industry here.

The Chairperson (Mr McAleer): I agree with some of the commentary around this that it is actually insulting to refer to these people as "unskilled" or whatever, because their skills are very much valued by the industry here.

Mr Fulton: They are absolutely essential for the industry.

The Chairperson (Mr McAleer): Before I pass over to members, I want to ask another question. It is about the WTO issue that was raised during the last presentation, Norman. It is clauses 40 to 42 of the Agriculture Bill. What is the Department's position on the UK maintaining compliance with the WTO? What are the implications for here?

Mr Fulton: We do not have particular concerns about this issue. It is more a political issue than anything else in relation to the positions adopted by Scotland and Wales. The UK now has obligations, under WTO rules, to report on the nature of support within agriculture. That needs to be done. Any new measures coming forward in agriculture will have to be classified by where they fall within WTO classifications. The UK will inherit about €5.9 billion of amber box headroom, if you like, which is well in excess of any budget that the UK would ever spend on agriculture. This is amber box, which is the most trade-distorting element within WTO classification. There is no limit, under WTO rules, on blue box support or green box support. Therefore, in effect, there is virtually no circumstance that we can think of where the WTO will limit our room for manoeuvre on policy, and therefore we are not overly concerned about this issue. We do have certain constraints in terms of the nature of agricultural support arising out of the Northern Ireland protocol. That is an entirely separate matter. The WTO issue, as I say, is probably more a political matter rather than a practical matter, as far as we are concerned.

The Chairperson (Mr McAleer): Thank you for that, Norman. I will move swiftly around the members. I might want to come back in again on a few other bits.

Ms Bailey: Thank you very much. It is good to see you again. I want to come back to what I was asking before; you probably heard me. On schedule 6, you are very clearly stating that that it is not a policy direction but is about maintaining the status quo, and I imagine that that is because we had no Government at the time to do that. During that absence, while those discussions were going on and that was being done, was the Department and the sector coming up with your own vision or plan or having discussions about what you would like to happen?

Mr Fulton: Yes. We published a discussion document in August 2018 on a potential future agriculture framework, and it was co-designed with environment, food and agriculture stakeholders in the room. The four main pillars within the framework are productivity, resilience, environmental sustainability and supply chain functionality. We had 1,200 responses to that engagement exercise, and to a significant degree they were very supportive of that broad framework. Obviously, now we are moving forward we

need to flesh that out, but it was probably as much as we could do in the absence of the devolved Administration. At least it started the conversation, and we can move forward from there.

Ms Bailey: Can the discussion paper that you have produced be the very solid baseline if we decided to come up with our own agriculture policy? Is it sitting where it would not take too much longer to turn into a policy?

Mr Fulton: Obviously, we now have a Minister in place. The Minister will want to take time to consider it and see if that is the direction he wants to go in.

Ms Bailey: Is that being done?

Mr Fulton: Yes, and we will move forward from there. Over the next year, we will start to flesh out what the longer-term direction of agriculture policy will be and how it integrates with the environmental agenda, which is also very important. It may well be that our own primary legislation that we may want to bring forward evolves from that. Obviously, timing is slightly awkward in that you have two years left within this mandate, so it will probably split across the mandate just because of the timing. Nevertheless, we can now move forward. In the meantime, it is important that we have this legislation in place to provide for continued support to agriculture and rural development. It buys us breathing space.

Mrs Barton: My question is about traceability. You said that you were seeking alterations. Will that include the entry of the Northern Ireland Food Animal Information System (NIFAIS) data into the UK livestock information system (LIS)?

Mr Fulton: Yes. The Bill provides for the possibility of an overall UK framework. For England, it provides the ability to basically disapply the current approach to animal identification. Currently, that framework could extend across Northern Ireland, England, Scotland and Wales. We are asking that, if it were to be extended to Northern Ireland, it would only be done with our express consent. Therefore, we are happy that we could actually feed into that overall livestock information system. In doing so, before we would provide any consent, we would want to be assured that it works for us.

The independence that we have with the animal and public health information system (APHIS), which works, is that it has also been a very important marketing tool for our industry around the traceability, safety and provenance of our red meat sector. Having that flexibility has been extremely important. Obviously, we would not want to lose that within an overall UK framework, but these are the types of things that could be considered before necessarily signing up to a UK-wide information system. I believe that Scotland and Wales probably will have similar views on this one. We can see the logic of the concept of having a single system for the UK, but we would need to be assured, before we would sign up, that it actually works for us. That is the slight adjustment that we would ask for.

Mrs Barton: Can you see the concerns in relation to the Northern Ireland protocol?

Mr Fulton: Yes. Under protocol, we will be required to maintain the animal identification system. Therefore, we will have to maintain that alignment with EU systems. For example, England could change what they want to do. They have taken that option within the Bill. What Scotland or Wales might decide to do is separate again, but under protocol we have to maintain alignment with the EU on animal identification.

The Chairperson (Mr McAleer): On the back of what Rosemary said there, I want to stress the importance of traceability, not just within this Bill but in terms of accessing international markets. We see the issues that have arisen with the implementation of NIFAIS, and we are getting a report on that from the Department in the near future.

Mr McGuigan: You raised a point about the migrant workforce. You clearly identified our concern and that of the industry and the business community. Essentially you said that the Westminster Government have totally ignored those concerns, even though they have clearly been identified as having a potential serious negative impact on all of those things. That, in the first instance, is very concerning. My questions and points cover some of the stuff that Clare has already raised about the conversation you may have had with the Minister about his views on whether we will have our own Bill in the North, and the time constraints. Does it have to happen within the two-year period, or does it

fall? In your answer to Clare you seemed to indicate that, if that is the direction of travel, there is potential to start it and then resume it in the new mandate. Am I right in saying that?

Mr Fulton: Yes. We need to have conversations about what is doable within the timeline. We have to build into all of this a significant period of stakeholder engagement, because this is setting a future direction and policy that could be with us for the next 10, 15, 20 years. We need to be assured that everybody has their say and is able to express their views in all of this. We will not jump straight into drafting a Bill. We will have to make sure that we have that process done properly, and it will take time to do that. Whether we can do all of that and squeeze it in before 2022, or whether we need to split it, is a conversation we still have to have. It is important that we do not simply stick with an increasingly dated framework — the CAP — because the rest of Europe will be moving on to the next iteration of CAP. Whilst we have taken flexibilities to adjust, amend and modify, it is still an old framework, and it is not a framework that has been designed for Northern Ireland. We want a framework that is designed for us and which works for us. That is where we need to get to. We will reflect that in due course in primary legislation that is taken through the Assembly.

The Chairperson (Mr McAleer): I note that the Welsh Assembly is attempting to lay a White Paper by the end of the calendar year for their future policy. Is that something the Department is minded to do?

Mr Fulton: Wales has had the benefit of an Assembly to work on this. In the first version of the Agriculture Bill, the Welsh schedule closely resembled the direction of English policy in respect of moving towards public money/public goods and away from direct support. They have now moved back to a position within the Bill that is very similar to Northern Ireland in terms of just rolling forward, but rather taking a more fundamental shift back to a Welsh legislative process and taking a bit more time to look at the issues. Yes, they plan to bring forward a White Paper by the end of the year, but they have had the benefit of political direction. For us to catch up would be challenging.

Mr Blair: Thanks, Norman, for the information so far. You probably heard before you came forward to the table my question to the Assembly researcher about the North/South, east-west balance. Can I ask you about the Department's thinking on that? Is there ministerial and departmental focus on ensuring that that balance is right and up for change, as it were, as the regulatory processes and the Bill, the protocol and other factors evolve? I ask that on the basis, of course, of North/South food production and processing and east-west trade.

I have asked already in the Chamber about the environmental farming scheme (EFS), which we have done under pillar 2 of CAP. Are we making progress on that and other additional factors such as the rural development fund? Can that still be developed by the Department, separate to or within the work being done around the Bill?

Also — and the Chair might have touched on this — has the Department explored the idea of memoranda of understanding with the GB Government on this Bill?

Mr Fulton: There are quite a number of issues in there.

Mr Blair: Apologies for that. I should have given prior warning.

Mr Fulton: Some of them are Bill-related, and some of them are clearly not Bill-related. North/South trade etc is effectively now addressed by protocol, so we operate within the same regulatory and customs framework as the South and the rest of Europe. Therefore, the trading patterns that you see at the minute will not be disturbed. The protocol preserves that. I suppose the migrant labour issue now introduces a new element into that in that, whilst you will have a completely open North/South trading environment, you may well have a restriction on labour availability in Northern Ireland that you will not have in Southern Ireland. How does that feed through into the structure of processing and how it moves forward? That is an open question, I suppose.

On the east-west side of things, again, that is effectively a protocol issue rather than an Agriculture Bill issue, although there are some elements that cut across. In one direction, there is the UK Government commitment to unfettered access, so that, effectively, is what we will be expecting from the UK Government. On east-west, the Northern Ireland implementation of European obligations will effectively be the key issue in terms of the movement of goods from east to west. The one thing you can say is that things will not be the same. That is a fact of Brexit, but we have to wait and see precisely how they will evolve. Certainly, things will change. That is for sure.

You mentioned pillar 2 progress on EFS. We are progressing that and trying to move that on as quickly as possible. We will make announcements on that as quickly as we can. On the rural development programme, the Bill, as I said, will enable us, if the Minister so desires, to continue to make RDP commitments beyond this year. As it stands, the current rural development programme commitments cannot be made after 31 December this year. That is the programme effectively complete as far as commitments are concerned. Obviously, there will be a roll-out of those commitments and funding of commitments made that may be multi-annual, for example on agri-environment, on forestry or even on capital measures where the commitment is made this year but the money does not flow until next year. With the modifications that we could make under the schedule, we could then think about rolling forward those existing schemes beyond this year for new commitments. That is the flexibility that that would provide. Indeed, the schemes could be modified.

A memorandum of understanding (MOU) with —?

Mr Blair: The Welsh model. They have a memorandum of understanding with the Government if they want to change.

Mr Fulton: Yes. I think that the MOU might have been specifically in relation to the World Trade Organization (WTO). It is a very specific issue; it is largely a political issue rather than a practical one.

Mr Blair: It is something that we can look at, Chair.

I come back to the rural development programme. Am I reading into that that there are no plans to definitely extend that? There may not, therefore, be budgetary provision for either the first quarter of the next calendar year — the last quarter of the financial year — or the period after 31 December. Are preparations being made to build that into the 2021-22 financial year?

Mr Fulton: The Bill is a framework; it is there to permit and enable. There are then subsequent decisions to be made about whether to make use of those powers. The Bill is there to create that enabling framework. All the decisions on what we carry forward and whether to amend them are yet to come. The run-out of the existing rural development programme (RDP) is covered. The European moneys that were committed to RDP will continue until 2023, when that funding stream will end.

We have, I think, a one-year Budget this year and then a more fundamental spending review in the autumn. That is probably the pattern. We will make our bids on budgetary provision in all of that. Remember that that covers not just rural development but pillar 1. That is all now national moneys; therefore it has to be built in to the forward budget period. We have a manifesto commitment on agriculture support that needs to be translated into a budgetary process. We expect that to be built in to the spending review process.

Mr Dallat: Thanks, Norman, for your presentation. I am trying to sort the fantasy world from the real world, and it is increasingly difficult. I refer in particular to the statement:

"Give, or agree to give, financial assistance to agricultural producers whose incomes are being, or are likely to be, adversely affected by disturbance in agricultural markets".

I would be extremely grateful if you expanded on that and explained what is meant by "disturbance". I have in mind what we spoke about earlier: the potential for a hike in the price of retail food in Northern Ireland, where poverty is extremely prevalent. I am also mindful that, on Monday, when I asked a question about ammonia and nitrates, the Minister told me that I should use my influence with the Minister of Finance. I do not think that I have much influence with the Minister of Finance, but the people who may be listening to this want to know what is in the future and whether they are going to live in the real world or the fantasy one.

Mr Fulton: Again, it is an enabling power for the Department; it would enable the Department to respond to a market emergency. An example is the BSE crisis, where, overnight, we lost all export markets.

Mr Dallat: Or the Chinese ban on pig products, perhaps. Is that one?

Mr Fulton: If a global event created a local market crisis, this would enable us to take action and move quickly to put in place a measure to support farmers' incomes. That is the purpose of this. It is an emergency response capability. The BSE crisis is probably the one that —.

Mr Dallat: Is it like the ammonia and everything else? Is it dependent and subject to the availability of money?

Mr Fulton: Absolutely. It is an enabling power, but it does not provide us with any funding cover.

Mr Dallat: No.

Mr Fulton: However, it gets us to the point of "Can we do it? Yes, we could", but then we would have to find the funding to put it in place. Without the power, we could not move at all.

Mr Dallat: I will ask about clauses 27 to 30: "Fair Dealing with Agricultural Producers and Others in the Supply Chain" and "Producer Organisations". I would certainly welcome that, and I would be grateful if you would expand a little on what exactly that means, because it seems something that we would be enormously interested in.

Mr Fulton: That is a reserved matter. Producer organisations, or anything that deals with competition, is a reserved matter. When it comes to producer organisations, that cuts across competition policy because you are saying to a group of operators in the market that they can cooperate — collude, in effect — together. This permits that, and, therefore, producer organisations can come together to improve their position in the marketplace. It is not just about, necessarily, market power per se but cooperation. We have seen that, for example, with Northway Mushrooms and what a difference that has made to the production of mushrooms in Northern Ireland. A coming together of —.

Mr Dallat: Norman, you have used the word "cooperate" a number of times, and I am encouraged to believe that you might be suggesting the setting up of cooperatives where these people, collectively, would have a stronger voice. Am I right? Is that possible?

Mr Fulton: Yes. This will allow the recognition of formal producer organisations.

Mr Dallat: I would welcome that.

Mr Irwin: I would like to thank Norman and his team. In the past, Northern Ireland has availed of private storage and private state aid. We are big exporters and would be one of the first affected if there were an issue. Is that a devolved matter, or is that up to the Department to finance? What is the story?

Mr Fulton: It is a devolved matter. Therefore, having private storage aid, or even intervention purchasing, would come within devolved agricultural powers and responsibilities. That is a market measure, because you are stepping into a market. This is where we have taken the power to keep pace with what is happening in GB. We would not want to be left in a situation, in a weak market, say, where, for example, GB — Scotland and Wales — decided not to use those powers but we still had intervention open, and what you have then is product moving into Northern Ireland from elsewhere and using our agricultural budget to support markets and to benefit farmers elsewhere in the UK. We need to have the ability to adjust what we have in Northern Ireland with whatever is happening in GB. Therefore, the keeping-pace powers are important to avoid distortions emerging in the internal UK market.

Mr Irwin: The last time intervention was used, a number of years back, it was not the full responsibility of Northern Ireland at that stage.

Mr Fulton: It is an EU measure; it comes out of the EU budget.

Mr Irwin: That is what I thought. It would be a totally different ball game if it was needed in future.

Mr Fulton: Yes.

Mr Irwin: All right. I want to ask about cross-compliance penalties and fines. Once outside Europe, do we set our own guidelines on that?

Mr Fulton: Yes. Again, this is a fully devolved matter, and it fits within whatever policy framework we wish to set.

Mr Irwin: I was very critical of some of those measures in the past. It is not that I do not believe that there should be cross-compliance; I absolutely do. However, with intentional and negligent error, in many cases the punishment was much more than fitting the crime, in my eyes.

Mr Fulton: Those are all issues that we can look at, and, indeed, we are actively looking at them.

Mr Irwin: I welcome that.

The Chairperson (Mr McAleer): William touched on something that I was going to raise with you. Given the fact that we are dealing now with national money now that we are out of the EU, in the past, we had a situation where farmers who applied for funding were grossly penalised for making a clerical error, and the Department, rightly or wrongly, pointed to the fact that you were dealing with EU funds and subject to EU regulations. Without prejudice, will there be greater scope for recognising those types of genuine errors now, such as making a mistake on a form? In the past, farmers' entire funding was delayed if they inserted an incorrect field or ticked the wrong box on an application form.

Mr Fulton: Again, it comes back to the issue: agricultural policy is fully devolved. It fully comes back to Northern Ireland. The nature of the schemes, the controls, the monitoring, all those issues are within the design of the policy and the schemes that come out of that policy. What we have implemented up to this point is an EU control regime; we now move beyond that. It is back to designing what is proportionate and appropriate for us but, at the end of the day, safeguarding taxpayers' money.

Mr Mark McLean (Department of Agriculture, Environment and Rural Affairs): I will just add to that. Since 2016, the EU introduced the possibility of doing what they call preliminary checks, which we in the Department have done since 2016 and have picked a lot of those issues up and enabled the Department to write to people at an early stage to say, "There is a possible error here. If you respond within a certain time ...", and that has been very successful in resolving a lot of the issues that you raised.

The Chairperson (Mr McAleer): I will not go into individual cases, but I am aware of a number of issues in the EFA where the wrong box has been ticked and that has resulted in people losing out through genuine mistakes and clerical errors.

Ms Bailey: I have come back. If we are saying that there is potential for a framework document, and it will take a few years to get it up and going, we are going to cross mandates with it, but what we have is a schedule that maintains the status quo, yet we have international obligations and UK-wide obligations on climate and pollution levels here. We know that the agri-sector is a huge contributor to that in Northern Ireland. Where is the Department on looking at maintaining the status quo for the next set number of years? How will we contribute to missing our targets on that? Again, it comes down to compliance issues, because compliance is very weak in the schedule on accountability mechanisms, pollution, water pollution, rivers, fish kills. I could go on. The list is long. How are we to be compliant and not miss our targets by maintaining the status quo?

Mr Fulton: Schedule 6 carries forward the architecture, but it also gives us the ability to modify and amend the architecture. Within that, we can decide to roll forward existing measures and schemes or to modify and change the existing schemes, for example, in agri-environment. The existing rural development programme has a significant climate change component to it. That was one of the cross-cutting themes in the design of the programme. It is already there, but it can be strengthened as we move forward.

Cutting across then into the regulatory framework, that is all still in place. That does not change. All the EU regulatory framework has now been brought back into UK law and retained EU legislation. That is all still in place; it has not changed and is still there. There has been no weakening in that respect.

Ms Bailey: Is that just for this calendar year?

Mr Fulton: No. It is brought back into retained law.

Ms Bailey: I could meet you outside.

The Chairperson (Mr McAleer): Before we let you go, Norman, Mark and Rosemary, I want to ask a question on finance and funding, which are crucial. In the rural community, there has always been a heavy reliance on the LEADER programme — administered through local action groups (LAGs) — and the priority 6 measures — formerly the axis 3 measures — of the rural development programme. That has been a mainstay for community-based organisations, particularly on capital projects, crèches, community halls and other such projects.

I engage with the community sector quite a bit, and a lot of groups that I have spoken to are very nervous about what will follow this rural development programme. They are conscious that, in other parts of the EU, consultation and planning has begun for the 2021-27 rural development programme. What will be the future here? Has the Department been making any bids to the UK prosperity fund to get programmes here for the community sector? This is a crucial piece of the social and economic fibre of our rural communities.

Mr Fulton: You will be aware of the policy development work being carried out on Fiona McCandless's side of the Department on the future of rural policy. There has been quite a bit of work done on that so far, and it continues apace; it will set whatever the new policy framework and agenda will be.

I do not know how developed the shared prosperity fund is at this stage; it is not something that we are directly involved with. However, a few months ago it was still unclear what exactly it would cover, how it would operate, and how it would be administered. It is a UK fund, but how that might translate into on-the-ground operation was not clear. It may have moved on from then, but it is not an area that I am directly involved with.

Mr Harvey: I have a wee concern. Twenty-eight point five per cent of Northern Ireland's agricultural land is rented. I am a bit concerned about the farmers renting the land still being able to make a profit with the new rise.

Mr Fulton: Yes. There are a couple of issues there. Picking up on a point on conacre more generally, and this was raised in the earlier presentation, there is nothing that prevents a movement towards longer-term lease in Northern Ireland. There is no bar to that. It is largely an issue of tradition, misinformation and a failure to move. There is nothing to stop the industry moving towards longer-term leases. Trying to overcome inertia can be very difficult, but there is no legislative problem.

The profitability of agriculture goes back to the framework. A key element in that is improving productivity. If you look at the UK performance against that of other international comparators, you will see that the UK has been falling behind; it has flatlined over the past 20 years. If you do not keep up with productivity, you will struggle with profitability. Productivity generally reflects reduced prices. That is a simple law of economics. Therefore, if your productivity is not keeping up with that of your competitors, you will face reducing profitability. That is where we need to make real gains: we need to catch up and try to run faster than our competitors to close the gap.

It also ties in very well with the environmental agenda, because productivity is largely about using resource efficiently. If you are using resource efficiently, you are cutting costs, but you are also cutting your environmental footprint. There is a lot of interaction and integration between productivity, resilience and the environmental performance pillars in the framework that we talked about. It is something that we need to move forward on.

The Chairperson (Mr McAleer): I want to talk about competition, Norman. We share a land border with the South of Ireland. Agricultural processing across the island is highly integrated. Dairy is a very good example: produce might cross the border five times before it is finished. To manage our competitiveness, and to keep competitive here, is it important that we track and keep up to speed with the levels of support in the South of Ireland? After all, they have a well-funded areas of natural constraint (ANC) scheme, and they have sheep, beef and genomic schemes, as well as others. Is it important that we keep track of those to manage our competitiveness and to compete on a level playing field?

Mr Fulton: There are two elements to that. First, it is having the funding stream. That is important. We are mindful of tracking, in broad terms, the overall level of funding that is available south of the border, because we will be operating in that competitive environment.

Secondly, it is about how you use the funding to drive, encourage and support productivity, competitiveness and environmental performance. We will have flexibility and scope, as a fully devolved matter, to ensure that we use the funding wisely and achieve real impact. It is almost like a virtuous circle. If we can show impact and show that we are making a difference, it makes it easier to argue for the funding. The two elements have to be integrated.

The Chairperson (Mr McAleer): Do you see any tension or contradiction between moving away from an area-based scheme towards a production model? Would that force farmers to focus more on production? Under the current area-based scheme, they are incentivised to engage in cross-compliance and maintain the area that they manage in a good agricultural and environmental condition.

Mr Fulton: Cross-compliance is not just an area-based concept. It will apply under the current model, regardless of whether it is coupled haylage payment, an area-based payment or any of the area-based payments that exist in pillar 2. Therefore it is not just an area-based issue. It goes back to these questions: where do you want to move to as an industry? What are the best tools for moving forward if you are looking across those pillars of productivity and resilience, etc? It is about designing an overall framework that moves you forward. In doing so, we do not necessarily have to constrain ourselves to what we have done before, but we have the flexibility and freedom to consider what will work for us.

Mr Irwin: I would like an assurance that the industry is made aware of any new guidelines on cross-compliance. In the past, there have been hefty cross-compliance fines, which, in my eyes, and in the eyes of many in the industry, were very unfair. Many farmers and many in the industry did not fully realise the consequences of late testing, for instance. I realise that it is important to test on time; I have no issue with that whatsoever. However, there were fines for intentional breaches of up to 50% of single farm payments. Some farmers lost as much as £25,000. If those farmers had known about it, that absolutely would not have happened. They did not fully understand or realise. When new guidelines are put in place, the situation should be made very clear to the farmer. If it is made clear, there is no excuse.

Mr Fulton: Absolutely. Communication will always be very important, yes.

Mr Irwin: In the past, it has not happened.

Mr Fulton: Well, I suppose we could get into that debate, but, by the time that somebody has incurred a breach on TB testing, for example, they will have received seven or nine letters.

Mr Irwin: A lot of them would deny getting all those letters.

Mr Fulton: Anyway, that is sort of looking back: the focus here is on looking forward —

Mr Irwin: Absolutely, yes.

Mr Fulton: — to ensure that we have a proportionate and effective regime. We are looking at cross-compliance. It should not be seen as a mechanism for punishment. It should be seen as part of an overall framework that actually delivers positive outcomes.

Mr Irwin: It was an argument that I had with many people at the time. The letter stated that late testing may affect your basic farm payment. It was not "may"; it did actually affect it.

Mr Fulton: I would argue that that was fair warning [*Laughter.*]

Mr Irwin: I will say this to you: the wording on that was changed significantly and pressure was put on. If it was fair, it was changed. I can assure you. I am sure that you are fully aware of that.

Mr Fulton: Yes.

The Chairperson (Mr McAleer): Folks, we need to move on. We have a few witnesses to come before the Committee. I thank Mark, Norman and Rosemary for coming. It was very informative. Thanks very much for taking a very wide range of questions over the past hour. You are free to retreat.

Mr Fulton: Thank you, Chair.