



OFFICIAL REPORT
AITHISG OIFIGEIL

Net Zero, Energy and Transport Committee

Tuesday 10 June 2025

Session 6



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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
LAND REFORM (SCOTLAND) BILL: STAGE 2.....	2

NET ZERO, ENERGY AND TRANSPORT COMMITTEE
21st Meeting 2025, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Michael Matheson (Falkirk West) (SNP)

COMMITTEE MEMBERS

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

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

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

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tim Eagle (Highlands and Islands) (Con)

Mairi Gougeon (Cabinet Secretary for Rural Affairs, Land Reform and Islands)

Rhoda Grant (Highlands and Islands) (Lab)

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 10 June 2025

[The Convener opened the meeting at 08:45]

Decision on Taking Business in Private

The Convener (Edward Mountain): Good morning, and welcome to the 21st meeting in 2025 of the Net Zero, Energy and Transport Committee. Our first item of business is to decide whether to take item 3, which is the consideration of our work programme, in private. Are we agreed?

Members *indicated agreement.*

Land Reform (Scotland) Bill: Stage 2

08:45

The Convener: The second item is stage 2 consideration of the Land Reform (Scotland) Bill. I welcome non-committee members to the meeting. This is our second stage 2 meeting; I remind people that the stage 2 deadline is 27 June. As ever, it is very hard to predict where we will get to today, but, given last week's progress, I am not proposing to go past section 6. That means that we will not go past the group on offers to buy and compensation and that we will not dispose of any amendments after those to section 6.

To recap, our main working documents are the bill, the marshalled list and the groupings of amendments. For anyone who is observing, I note that those are available on the Scottish Parliament's bill web page. I will call each amendment individually in the order of the marshalled list. The member who lodged the amendment should either move it or say, "Not moved", when it is called. If that member does not move the amendment, any other member present may do so.

The groupings of amendments set out the amendments in the order in which they will be debated. There will be one debate on each group of amendments, and the member who lodged the first amendment in the group will be called to speak and move that amendment, and to speak to any other amendments in the group. I will then call other members with amendments in that group to speak to but not move them, and to speak to any other amendments in that group. I will then call any other members who wish to speak in the debate. If you want to speak, either just catch my eye or let the clerks know. After that, I will call the cabinet secretary, if she has not already spoken. Finally, I will call the member who moved the first amendment in the group to wind up and press or withdraw the amendment. If the member wishes to withdraw the amendment after it has been moved, I will ask whether any member present objects. If there is an objection, I will put a question on the amendment.

Later amendments in the group are not debated again when they are reached in the marshalled list. If they are moved, I will put the question on them straight away, and only committee members may vote. Voting will be by a show of hands. Please keep your hands raised for as long as is required so that the clerks can see them and acknowledge your vote. I will also put a question on each section and schedule in the bill as we reach them. I hope that that was helpful—that was quite a canter through.

Before we start, I remind members of my entry in the register of members' interests. To repeat what I have said previously, I have an interest in a family farming partnership in Moray. Specifically, I declare an interest as an owner of around 500 acres, or 202 hectares, of farmland, of which 50 acres—about 20 hectares—is woodland. I also declare that I am a tenant of around 500 acres, or 202 hectares, in Moray under a non-agricultural tenancy, and that I have another farming tenancy under the Agricultural Holdings (Scotland) Act 1991. I also declare that I occasionally take on grass lets annually, should I need to.

I hope that that is all clear. I will now get this wee marshalled list bible out in front of me to help me to go through the session.

Section 1—Community-engagement obligations in relation to large land holding

The Convener: Amendment 14, in the name of Tim Eagle, is grouped with amendments 51, 52, 57, 59, 62 to 66, 68, 69, 71, 73 to 75, 78 to 81, 84 to 88, 92 to 96, 101 to 103, 463, 177, 464 and 178 to 180. I remind members that pre-emptions in this group are set out in the groupings of amendments document. I call Tim Eagle to move amendment 14 and speak to all amendments in the group.

Tim Eagle (Highlands and Islands) (Con): Good morning, convener. I note my entry in the register of members' interests as a small farmer in Buckie.

Amendment 14 and its consequential amendments seek to remove the land and communities commissioner from the bill; instead, any new duties and responsibilities are to be carried out by staff who are employed by the Scottish Land Commission.

I do not support the creation of a new commissioner, due to the associated costs. The financial memorandum sets out that, over six years, the commissioner alone is expected to cost more than £130,000, and staffing costs are expected to be £420,000 annually. I believe that the commissioner landscape in Scotland has become bloated over the past decade.

In its response to the financial memorandum, the Finance and Public Administration Committee warned:

"The Scottish Land Commission's submission emphasises the statement, in the FM, that the Commission will require ongoing resource funding to cover the costs for the new Land and Communities Commissioner and additional staffing costs. The FM proposes that these costs would be partially met through existing funding to the Commission by reducing their current activities, such as their policy work, while it also acknowledges that additional funding will be required in order to fully fund these new functions. In their submission, the Commission explains that meeting part of the additional costs through their

existing budget will mean cutting delivery of policy research and advice, with implications for existing functions. It further states that the staffing assumptions in the FM represent a minimum requirement and the Commission expects additional costs in relation to IT and professional advice".

I therefore do not support the creation of a new commissioner. I believe that it would be more efficient for any new duties and responsibilities to be carried out by the staff who are employed by the commission.

My amendment 463 seeks to add "agriculture" and "traditional land management" to the required expertise that the person who is appointed as the new commissioner should have.

My amendment 177 relates to our package of amendments that seek to delete the role of a new commissioner.

My amendment 179 seeks to restrict the powers that are proposed in new section 38B of the Land Reform (Scotland) Act 2016. That section allows for the commissioner to authorise certain others, including a committee, an employee of the commission and any other person, to carry out the commissioner's functions. Amendment 179 would delete "any other person" because I believe that provision to be too wide.

My amendment 180 seeks to delete the entirety of section 6. For reasons that I have already argued, I do not support the inclusion of a new commissioner.

I turn to other amendments in the group. I am interested in hearing the policy intent behind Ariane Burgess MSP's amendment 464, which seeks to add reference to

"problems in the operation of natural capital markets".

Also, I am content to support Michael Matheson's amendment 178.

I move amendment 14.

The Convener: I call Mark Ruskell to speak to Ariane Burgess's amendment 464 and any other amendments in the group.

Mark Ruskell (Mid Scotland and Fife) (Green): Unfortunately, Ariane Burgess is unable to attend due to her role as convener of the Local Government, Housing and Planning Committee, so I will be moving her amendments.

I will speak only to amendment 464, although I note that a number of amendments have been lodged and are being debated today about natural capital and what kind of framework we need for natural capital markets.

Amendment 464 reflects growing evidence, particularly from the Scottish Land Commission, that demand for carbon and natural capital projects is driving up rural land prices and, as a

result, an increasing number of sales are happening off market. There has also been a shift away from valuations that are based on agricultural and sporting values towards natural capital and forestry potential. There is a concern that that additional pressure on Scotland's rural land could, in effect, conflict with the efforts to address the concentration of Scotland's land ownership. It could also be argued that the fact that many of those sales happen in private undermines communities' ability to have a say in local land use.

The intention behind amendment 464 is that the Government could do more to get an overview of those markets and ensure that any schemes in carbon offset and natural capital deliver tangible benefits not just for the environment but for the local community. Therefore, in effect, amendment 464 would give the land and communities commissioner explicit responsibility for keeping under review emerging issues in natural capital markets. That would be a specific area for that commissioner to look at, ensuring that there is ongoing monitoring in relation to community justice and the important land reform principles that are at the heart of the bill.

I will leave it there.

The Convener: I call the deputy convener, Michael Matheson, to speak to amendment 178 and any other amendments in the group.

Michael Matheson (Falkirk West) (SNP): The principal purpose behind my amendments 178 and 181 is to help to clarify the way in which the land and communities commissioner will interact with the Scottish Land Commission. The powers that will be provided under this legislation by the new provisions very much rest on the individual who will hold the role as the land and communities commissioner, as opposed to the Scottish Land Commission itself. That will therefore make the process and the role dependent on the expertise, experience and knowledge that the individual commissioner would hold during their term in office.

The Government has sought to shape the role of the commissioner in a similar fashion to the way in which it shaped the tenant farming commissioner. However, a strength with the tenant farming commissioner has been the way in which the role has been driven by the individual postholder rather than the way in which the post has been designed and incorporated into the Scottish Land Commission.

I essentially lodged these amendments as probing amendments, to enable the Scottish Government to clarify how it intends to codify aspects of the process that will be progressed through the role of the land and communities

commissioner and how that will be embedded in the Scottish Land Commission.

On amendment 181, I recognise that the regulatory function of the Scottish Land Commission will expand under the bill. There is an opportunity to update some of the issues on which the Scottish Land Commission may work, given its new, broader remit, and to consider how we can help to support it in its policy development work in those areas.

One aspect of amendment 178 is the way in which the Scottish land and communities commissioner would have to consult the Scottish Land Commission prior to issuing guidance. I am keen to understand why the Government does not feel that the new commissioner should have to engage with the commission prior to issuing guidance, given the close nature of the working relationship that they will have with each other. I am keen to hear the Scottish Government's position on those matters in order to explore the issue further.

The Convener: I am looking around to see whether other members wish to speak to this group. Douglas Lumsden—you were looking perplexed.

Douglas Lumsden (North East Scotland) (Con): I cannot find amendment 181 in my documentation, so I am a bit confused. I cannot see it in the group of amendments on my sheet, but maybe new amendments have been lodged.

I want to pick up on a couple of things. In speaking about the impact that the commissioner will have on the Scottish Land Commission, Tim Eagle made reference to the commission having to cut the advice that it delivers. It would be interesting to hear from the cabinet secretary whether she feels that the commissioner will have an impact on that. If the commission will have to cut stuff that it is already doing, that begs the question why it is doing that stuff now if it is not needed. That seems a bit strange.

Amendment 464, which was spoken to by Mark Ruskell, is something that we can support. Natural capital markets is an emerging issue and it needs somebody to keep a close eye on it.

The Convener: Douglas, just to clarify, amendment 181 is under the group on functions and duties of the Scottish Land Commission, which is a later group. The amendment will be debated with that group—I am sure that we will get another crack at that later on.

As no other members wish to speak, I turn to the cabinet secretary.

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): I will try to address some of the points that have been raised

so far in the discussion. On the whole, we have listened to the views of stakeholders on the creation of a land and communities commissioner. I also note the committee's overall support for the creation of an LCC in its stage 1 report.

Putting the functions that relate to community engagement obligations and the transfer test with the LCC will allow the expertise of the Scottish Land Commission to be drawn on while ensuring that the LCC's functions do not impact the advisory role of the land commissioners.

09:00

It would not be right to impose new obligations on the existing commissioners, who were recruited for different roles and to do different things from what will be required of the land and communities commissioner. However, I emphasise that the LCC will not be a stand-alone commissioner; they will be a member of the Scottish Land Commission and its board of commissioners. Collectively, the board is responsible for ensuring that appropriate governance procedures and oversight are in place and that the commissioners are fulfilling their responsibilities and duties appropriately.

For those reasons, I ask the committee not to support Tim Eagle's amendments that would remove the position of a land and communities commissioner.

On amendment 463, the bill already requires the land and communities commissioner to have experience of land management and community empowerment, which reflect the role's functions, so I do not think that what is proposed in the amendment is necessary, given the role's functions. The amendment would restrict eligibility without any clear justification. Again, I ask the committee not to support it.

On amendment 177, although conflicts of interest would always be addressed through the appointments process, there is precedent for addressing specific conflicts in primary legislation. An example of that is in the Land Reform (Scotland) Act 2016, which sets out that a person may not be appointed as the tenant farming commissioner if they also own or tenant land that is subject to a relevant tenancy. On the LCC, because the conflict relates to ownership of or financial interest in an asset, it is appropriate to address that in the bill, as was done for the TFC role. I consider it appropriate to include the disqualification, given the nature of the conflict and the existing precedent. That is why I ask the committee not to support amendment 177.

Amendment 464 would be a departure from the proposed role of the land and communities commissioner, which is to support compliance with obligations and to support the transfer test

process. As Mark Ruskell outlined, it is important to monitor the impact on communities of the developing natural capital markets, but the LCC would not necessarily be best placed to undertake that function. I therefore ask Mark Ruskell, on behalf of Ariane Burgess, not to move amendment 464, although I am open to further discussions to see how we can best monitor that issue. I hope that we can have those discussions ahead of stage 3.

On Michael Matheson's amendment 178, I hope that I will be able to clarify the issues that he raised now. Ultimately, the amendment would put requirements on the LCC in relation to other commissioners at the Scottish Land Commission and functions around creating guidance on the community engagement obligations. I absolutely support the overall intent behind the amendment. However, the requirements in relation to other commissioners do not consider the existing governance processes that mean that further legislation is not necessarily required. The existing processes require the LCC to collaborate with the land commissioners where the LCC's functions relate to the functions of the land commissioners, and for the land commissioners to collaborate with the LCC and to have regard to their functions, too.

Ultimately, I ask Michael Matheson not to move amendment 178 so that I can work with him on the requirements for the development of guidance on the community engagement obligations. Again, I want us to have those conversations in advance of stage 3.

On amendment 179, the bill allows the LCC to delegate its powers to any committee, any employee of the commission or any other person. That is ultimately the same as other members of the Scottish Land Commission. *[Interruption.]*

Sorry, convener—would you like to come in?

The Convener: Yes. Thank you, cabinet secretary—I was trying to wait for an appropriate moment, so that I did not interrupt you mid-flow. One of the requirements in the bill for the land and communities commissioner is that they should not be a large landowner. No amendment has been lodged on that. I would like to hear your views on why it is appropriate to bar people who are large landowners from carrying out the functions of the commissioner.

Mairi Gougeon: I covered that in my comments on amendment 177. As I outlined, it is because of the nature of the conflict. I know that stakeholders expressed concern about that, which is why we have that disqualification in the bill. It mirrors what we have in place in relation to the tenant farming commissioner, which is why I think that it is appropriate to have that provision in the bill.

The Convener: Cabinet secretary, I wonder whether you would be so kind as to clarify what you believe the conflict is. Is it because they own land and so might not look at situations with clarity, or is it because they might know other people who own land? I cannot see the connection.

Mairi Gougeon: If they are a large landowner, that brings them into conflict with the measures that we are introducing through the bill, which is why we have that provision in place.

The Convener: Thank you for clarifying that.

Mairi Gougeon: Returning to amendment 179, as Tim Eagle outlined, it would remove the ability of the land and communities commissioner to delegate to “any other person”. However, preventing the land and communities commissioner from delegating work would restrict their ability to carry out their functions. For example, the amendment could prevent the commissioner from commissioning a land agent or third party to provide technical expertise when they are preparing a report to support an investigation in relation to a transfer test. For those reasons, I encourage the committee to reject amendment 179.

The Convener: I call Tim Eagle to wind up and press or withdraw amendment 14.

Tim Eagle: I have nothing to add, convener. I press amendment 14.

The Convener: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 5, Abstentions 1.

Amendment 14 disagreed to.

Amendment 15 moved—[Mairi Gougeon]—and agreed to.

The Convener: I point out that, if amendment 390 is agreed to, I will be unable to call amendments 16, 311 and 312, due to pre-emption.

Amendment 390 moved—[Tim Eagle].

The Convener: The question is, that amendment 390 be agreed to. Are we agreed?

Members: No.

The Convener: Those in favour—sorry. I have to get this right. There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 5, Abstentions 1.

Amendment 390 disagreed to.

Amendment 16 not moved.

Amendment 311 moved—[Mark Ruskell].

The Convener: The question is, that amendment 311 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 311 disagreed to.

Amendments 312 and 17 not moved.

The Convener: I point out that, if amendment 18 is agreed to, I will be unable to call amendments 391, 19 and 313, due to pre-emption.

Amendment 18 moved—[Tim Eagle].

The Convener: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 1, Against 5, Abstentions 1.

Amendment 18 disagreed to.

Amendment 391 moved—[Tim Eagle].

The Convener: The question is, that amendment 391 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 391 disagreed to.

Amendment 19 moved—[Tim Eagle].

The Convener: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 19 disagreed to.

Amendment 313 moved—[Mark Ruskell].

The Convener: The question is, that amendment 313 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 313 disagreed to.

Amendment 20 moved—[Bob Doris].

The Convener: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 20 agreed to.

The Convener: I remind members that amendments 21 and 315 are direct alternatives, which means that they can be moved and decided on. The text of whichever is last agreed to is what will appear in the bill.

Tim Eagle: In the light of the discussion, I will not move amendment 21.

Amendment 21 not moved.

Amendment 315 moved—[Rhoda Grant].

The Convener: The question is, that amendment 315 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 315 disagreed to.

The Convener: I am usually the one who is guilty of this, but somebody's telephone or computer keeps pinging. If you could just mute it, that would be really helpful.

Amendment 314 moved—[Mark Ruskell].

The Convener: The question is, that amendment 314 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 314 disagreed to.

Amendment 316 moved—[Mark Ruskell].

The Convener: The question is, that amendment 316 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 316 disagreed to.

Amendment 392 not moved.

Amendment 22 moved—[Bob Doris].

The Convener: The question is, that amendment 22 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)

Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 22 agreed to.

09:15

Amendment 23 moved—[Tim Eagle].

The Convener: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 23 disagreed to.

Amendment 317 not moved.

The Convener: The question is, that—no. We are going on to another group. I was jumping ahead of myself.

The next group is on land management plans. Amendment 24, in the name of Tim Eagle, is grouped with amendments 318, 25 to 28, 393, 394, 29, 2, 319 to 322, 30, 323 to 329, 395, 31, 32, 330 to 334 and 336. I remind members of the pre-emptions that are set out in the groupings paper. I call Tim Eagle to move amendment 24 and speak to all amendments in the group.

Tim Eagle: Amendment 24 is concerned with the publication of data in the land management plans. As it is drafted, the bill provides that a land management plan should contain details of the land to which the plan relates and how the ownership is structured. Details of the structure of land ownership are already publicly available and therefore do not need to be included in a land management plan. There are concerns about the publication of commercially sensitive information, so amendment 24 would delete that requirement from the bill.

Amendment 25 is about information on the potential sale of land. As it is drafted, the bill

provides that a land management plan should contain the owner's long-term vision and objectives for managing the land, including its potential sale. Amendment 25 would delete the requirement for information on the land's potential sale to be included in the plan. I do not believe that it is possible or fair that plans for the sale of land should be in the land management plan in advance.

Amendment 27 seeks to delete reference to the Scottish outdoor access code and the Deer (Scotland) Act 1996. As it is drafted, the bill requires the owner to include in the land management plan details about how the owner of the land intends to comply with a selection of requirements, including the outdoor access code and the 1996 act. It also requires them to detail how they are following the requirements that are set out in regulation. The choice of those two pieces of legislation—the outdoor access code and the 1996 act—appears to be very selective, and the policy intent is unclear. It also seems contrary to the purpose of the bill, which is about community.

Scottish Land & Estates has said that the references to the code and the 1996 act need to be omitted because they muddy the extent of a private individual's legal duties and that, although landowners can be encouraged to maintain deer responsibly, they are not legally obliged to do so. In addition, of course, deer are not owned by the landowner.

The need to outline in the land management plan how the owner is complying with the obligations set out in the regulations, which include the creation of a plan, adds an unnecessary administrative burden. Therefore, amendment 27 would delete subsection (3)(c) of new section 44B of the Land Reform (Scotland) Act 2016, on how the owner is complying with the Scottish outdoor access code and the Deer (Scotland) Act 1996.

Amendment 28 takes a similar approach to that of amendment 27. The bill, as drafted, requires the owner of the land to set out in the land management plan how they are contributing or will contribute to various climate requirements. However, I do not understand the selection of legal requirements and consider the non-exhaustive list to be very restrictive, so the intention is much like that of amendment 27. I am also particularly concerned by the reference to

“achieving the net-zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009”.

As I understand it, that obligation is imposed on ministers, not private individuals, and is therefore not really within the control of landowners.

Continuing the theme, amendment 393 would move the priorities for the land management plan into guidance. As it is drafted, the bill will require the owner to include in their land management plan information about how they are managing or intend to manage their land in a way that contributes to a selection of legislative requirements. Rather than list only some of those priorities in the bill, it would be better to move them into guidance. That would allow more flexibility to take into consideration new and emerging national and local priorities, such as the housing emergency.

I am happy to support my colleague Douglas Lumsden's amendments in this group, but I am unable to support Ariane Burgess's amendment 26, which would add further requirements on what a land management plan should contain. My amendments aim to simplify the burden that the bill would place on landowners, not increase it, which I believe amendment 26 would do. I also cannot support Ariane Burgess's amendment 29, which would delete the words “or sustaining” biodiversity, as I prefer the bill as it is originally drafted.

I oppose Ariane Burgess's amendment 2, which seeks to add another undefined environmental requirement, “restoring natural processes”, which landowners would need to prove that they were contributing towards. The amendment cuts across our amendments, which seek to reduce and simplify the land management plan process. Similarly, I cannot support Ariane Burgess's amendments 320 and 395, which seek to add a further environmental requirement of “nature recovery” to public bodies, as it is undefined.

I cannot support Rhoda Grant's amendments 321, 322 and 325 to 329, which seek to add new requirements to land management plans, as they are undefined. As I have already argued, I do not believe that such a list should be included in the bill.

I cannot support Bob Doris's amendment 30, which seeks to add new requirements that a land management plan should contain, or his amendment 31, which proposes the publication of the plan and the sharing of commercial details in public.

I will not support Ariane Burgess's amendment 334, as I feel that it would make land management plans more onerous.

Finally, I prefer my amendment 24 to Rhoda Grant's amendment 336, as it sets out that no operational business information should be included in land management plans.

I move amendment 24.

The Convener: I call Douglas Lumsden to speak to amendment 318 and any other amendments in the group.

Douglas Lumsden: I intend to speak about only my amendments in the group. Amendment 318 seeks to identify high-quality agricultural land that would form part of a land management plan, and amendment 319 is about protecting our high-quality farmland from major electricity infrastructure. If we are serious about food security, we need good farmland. High-quality agricultural land that has been identified in land management plans should not be used for overindustrialisation by energy projects, as the loss of farmland is a real concern for those in my area. On the front page of today's *Press and Journal*, we have been told about a new substation that is to be developed to the west of Peterhead, which will be four times the size of Disneyland Paris. If there is any way that we can protect our farmland, I think that we should look at it seriously.

Amendment 323 is about increasing the openness and awareness of our local communities so that, if a landowner intends to allow pylons across their land, that should form part of their land management plan. Amendment 330 sets out that land management plans should set out how a landowner plans to mitigate the impact of pylon construction if they intend that their land will have pylons across it. Communities are fed up with local roads becoming impassable due to construction traffic, as well as noise and light pollution, so we are calling for planned pylon construction to be identified at the start of a process.

Amendment 331 sets out that, if pylons are going to be part of the land management plan, biosecurity must be considered. In the north-east of Scotland, there are concerns about the spread of potato cyst nematode—PCN—as contractors dig up land and move from field to field. If pylons are proposed, amendment 332 indicates that plans should set out why underground cables are not appropriate. We are not saying that pylons cannot be used, but we want there to be a conversation with local communities about why underground cables cannot be used, so that everybody has a better understanding of the issues.

Finally, amendment 383 brings into consideration the cumulative impact of energy infrastructure in the area, which is the biggest concern that I hear about. The concern is not just about the pylons that appear: substations and battery storage all seem to be clustered together, and their cumulative impact needs to be taken into consideration. I hope that everyone can agree on the amendments to ensure that that is considered.

The Convener: I call Mark Ruskell to speak to Ariane Burgess's amendment 26 and any other amendments in the group.

Mark Ruskell: Amendment 26 would require land management plans to include information about how landowners

"engage with communities in relation to the development of the plan"

and how that engagement

"influenced the development of the plan".

Including that information would support meaningful engagement between communities and the landowner, improve transparency about how that engagement impacted the plan and address a recommendation in the committee's stage 1 report. I ask committee members to support amendment 26.

I do not intend to move Ariane Burgess's amendment 334, which sought to do a similar thing by another route. Instead, I urge members to support amendment 26.

Amendments 29 and 2 seek to strengthen the obligations on landowners to increase biodiversity on their land and the restoration of beneficial ecosystem processes. Amendment 29 would remove the phrase "or sustaining" from section 1, leaving landowners to manage land in a way that contributes to improving biodiversity only. It would not create an inadvertent loophole whereby biodiversity levels would be sustained at the current levels, entrenching the status quo and the poor status of Scotland's environment. Removing the words "or sustaining" would help to ensure that LMPs are forward looking and ambitious. It would encourage landowners and managers to think about how their actions can improve soil health, restore habitats, bring back native species and support the dynamic self-will processes that make ecosystems resilient and productive. It would align with Scotland's broader commitments to a just transition, biodiversity targets and nature-based solutions to climate change.

Amendment 2 recognises that, given Scotland's high concentration of land ownership, a relatively small number of landholdings hold huge potential to contribute to the repair of Scotland's ecosystems. Figures from the Scottish Rewilding Alliance show that, of the 623 landholdings that cover more than 3,000 hectares, just 19 seek to restore natural processes at scale. On many large landholdings, natural processes have been interrupted and held back by human intervention, such as the straightening of river channels and habitat fragmentation.

Amendment 2 would ask large landowners to consider how their land could be managed to restore natural processes though, for example,

river re-meandering, native woodland regeneration and natural grazing patterns. Although other policies, legislation and funding levers exist to encourage large landowners to restore nature at scale, having that requirement in the Land Reform (Scotland) Bill would underline the importance of restoring natural processes in responding to the climate and nature emergencies. It would also underline the targets that will be set in the Natural Environment (Scotland) Bill. I thank the Scottish Rewilding Alliance for supporting amendments 29 and 2.

In a similar vein, amendment 320 seeks to place a duty on public bodies to set out in their LMPs how they will manage their land for nature recovery. Publicly owned land should lead by example in tackling the climate and nature emergencies, and the amendment would help to ensure that nature recovery is a core stated responsibility. Scotland's public land provides a major opportunity to restore natural processes at scale. Those areas can act as demonstration sites for rewilding and ecological restoration. Including nature recovery in land management plans would ensure that public land actively supports the return of functioning ecosystems. When it comes to land in public ownership, there is a particular responsibility to ensure that management decisions deliver the greatest possible benefit for the people of Scotland now and in the long term. The amendment would embed the public interest in land that is managed by public bodies. I am grateful to the Scottish Rewilding Alliance and Community Land Scotland for drafting amendment 320 on behalf of Ariane Burgess.

Amendment 395 continues the thread from the previous group about the growing pressures that are being exerted on Scotland's land market by the rise in natural capital investing. As more landowners might seek to enter that market in the coming years and convert land use to activities such as forestry planting to create carbon credits, we must make sure that that is done in a responsible manner. Both local communities and nature have to benefit from such schemes, and there is a real risk that, in landowners' hurry to enter the new market, natural capital schemes could deliver little ecosystem restoration or community benefit. The schemes must deliver genuine biodiversity improvements and be transparent and fair. The amendment would require landowners to set out in their LMP how they intend to comply with the Scottish Government's principles for responsible investment in natural capital, which have already been launched.

The Convener: I call Rhoda Grant to speak to amendment 321 and any other amendments in the group.

Rhoda Grant (Highlands and Islands) (Lab):

Amendment 321 would ensure that land management plans looked at increasing local food production and at the resilience of local food markets. That would cut down food miles, provide markets for local production and increase resilience in the local food system. Currently, the considerations that are deemed to be relevant in relation to the substantive content of land management plans cover outdoor access and deer management as well as climate mitigation and biodiversity. Amendment 321 would ensure that sustainable food production for local consumption was placed on an equal footing with the other aspects on which information will be required. That aligns with the high-level objectives of the Agriculture and Rural Communities (Scotland) Act 2024.

09:30

Amendment 322 seeks to ensure that land management plans show how they will protect and enhance natural capital.

Amendment 325 seeks to ensure that the International Covenant on Economic, Social and Cultural Rights is considered. Examples could include the promotion of the Gaelic language, traditional land use and other issues that are important to the local culture of the community.

Amendment 326 seeks to ensure that land management plans have regard to place plans. Place plans highlight issues and solutions for the local area. The way in which land is managed and made available is crucial to the implementation of place plans, so those plans need to dovetail in order to meet the public interest.

Amendment 327 would require land management plans to include deer management plans, when applicable. Deer management plans might already be drawn up, but it seems reasonable, for transparency, that they should be included in land management plans.

Amendment 328 would ensure the right of tenant farmers and crofters to manage their land as they see fit, within the confines of their lease and the laws pertaining thereto, to ensure that they are not inadvertently impacted by land management plans. Land management plans should not include the activities of crofters and tenant farmers other than to acknowledge that the land is tenanted in that way. That said, the way in which land that is contiguous to a farm or croft is managed could have a negative or positive impact on that enterprise. That means that tenant farmers and crofters need to be consulted and engaged with to ensure that there are no negative impacts from land management plans.

Amendment 329 seeks to ensure that farmers and crofters who have already developed a whole-farm plan to access support could use that for their land management plans. Very few farms will fall under the bill's scope, but it would make sense if those that do could use their whole-farm plan to fulfil their duties under land management plans. That would save them from having to prepare two plans that would hold largely the same information. I acknowledge that there is a drafting error in amendment 329, but I am keen to hear the cabinet secretary's thoughts on that general approach and to lodge a similar amendment at stage 3.

Amendment 336 seeks to ensure that those who hold tenancies do not have their rights infringed by landlords' land management plans. Those plans must indicate the part of land that is tenanted, but they cannot be used to influence or infringe on the tenant's business practice. Amendment 336 seeks to make that clear.

The Convener: I call Bob Doris to speak to amendment 30 and any other amendments in the group.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I will restrict my comments mainly to amendments in my name.

I start with amendment 30. I discussed various issues with Community Land Scotland, and I agreed with it that there could be greater structure and certainty as to how land management plans can be effectively and meaningfully monitored. That is important for the landowner, who needs a clear, fair and proportionate approach to monitoring, as well as for the land and communities commissioner—and, potentially, others.

Amendment 30 seeks to provide greater clarity for landowners on how plans will be delivered and monitored. I am confident that landowners will wish to ensure that land management plans deliver on the intended outcomes, but that must always be able to be demonstrated in a proportionate way. Therefore, amendment 30 would require details to be provided on

"how the plan will be implemented ... who is responsible for the implementation of the plan ... how the implementation of the plan will be monitored"

and

"how the actions and outcomes of the plan will be reported on."

Amendment 30 is linked to amendment 33, which we discussed in group 2 last week and which would have allowed the commissioner to publish guidance on how owners are to comply with the requirements that are mentioned in proposed new section 44B(3) of the 2016 act,

which sets out the information that the land management plan must contain.

I said that I would not move amendment 33 and that I would work with the Scottish Government on the policy intent, if not the detail, of that amendment, so I would like to hear the Government's views on the policy intent behind amendment 30.

Amendment 31 would allow for regulations made under proposed new section 44A of the 2016 act to make further provisions about the publication of plans by a public body, as mentioned in proposed new subsection (1)(aa). That is linked to amendment 17, which we discussed last week and would have required land management plans to be accessible and published online. Again, I agreed not to move amendment 17 to see whether we could deliver jointly on the policy intent ahead of stage 3. I would be inclined to take a similar view on amendment 31.

On amendment 31, I am genuinely interested in Mr Eagle's comments. I think that he made the same comments last week about it being inappropriate for the publication of land management plans to reveal commercial information. I could be wrong, but it was my understanding that land management plans had to be available to interested parties. How could an interested party report a potential breach to the land and communities commissioner unless the plans were published and accessible? That being the case, I do not understand why publishing the plans and making them accessible in an online format would be commercially inappropriate compared with publishing them and making them accessible in other ways. I am happy to take an intervention on that point, if Mr Eagle wants to elaborate. I think that there has been some muddled thinking on that, so he might want to think about that more and come back on that.

Amendment 32 would allow the Scottish Government to set out in regulations the detailed requirements with regard to how landowners must comply with their obligations in relation to land management plans. For example, when the ownership of land is transferred, one of the matters that the committee discussed during its stage 1 scrutiny was what the status of any land management plan should be if the land is subsequently sold. For instance, would the new owner simply inherit the obligations in the original plan? These regulations would set out the requirements for new owners and could cover other scenarios, such as when a landowner who owns an amount of land that is under the threshold purchases an adjacent holding, bringing them into the scope of the bill's provisions.

Future regulations could provide the owner with a grace period of, for instance, a year, within

which the landowner would have the option of either keeping the existing land management plan or consulting on a new one. That would appear to be a reasonable approach. I recognise that it would be best to set out a great deal of the detail in that regard in future regulations, which could be developed with the benefit of consultation. It is appropriate that the bill does not prescribe the detail of the manner in which the obligations in proposed new section 44B(1) on land management plans must be complied with.

Accordingly, I ask the committee to support amendment 32 and to give consideration to the other amendments in the group that are in my name.

The Convener: Thank you. I am looking around to see whether any other members wish to speak. As none do, I will make a couple of points.

I agree with amendment 27, which relates to the outdoor access code and deer management. The outdoor access code was introduced as a result of the Land Reform (Scotland) Act 2003 and published in 2005. To date, 20 years on, it has never been updated; it is probably the only code that I know that has lasted that long without any change. The problem with the outdoor access code is that it stands as it stands. When I have approached ministers to see whether it could be reformed, I was told, "No. It is a matter of fact and there will be no changes." On the basis that it is a matter of fact and cannot be changed, I do not see why it needs to be included in the bill. The outdoor access code stands as it is, so complying with it is a matter of law, not a matter of debate in a management plan.

In my experience, deer management plans cover large areas of land. I drew up a few in my previous existence as a land manager. There might be deer management for a holding that is surrounded by land for which there is a different policy. For example, Forestry and Land Scotland has a zero-tolerance policy on deer and will shoot every single deer that it sees on its land on the basis that it is trying to control them. That means that, whatever the person who is surrounded by such land does, it will have absolutely zero effect. Of course, it might have an effect on larger landholdings where deer management plans are appropriate, but I suggest that a deer management plan that is not supported as part of an area deer management plan is absolutely without value. I would be grateful to hear what the cabinet secretary has to say on that and about her experience of larger-scale deer management plans.

As far as amendment 25 on the sale of land is concerned, it is my experience that not many people plan sales in the future. Usually, a tragic event happens, such as a death in the family, a

disaster, a divorce or any other thing that causes land to be sold and split up. Trying to predict a future sale is pretty impossible.

It is possible to predict a sale when corporate landowners have a land management plan for a certain amount of land and wish to turn it over every certain number of years. For example, as has been previously discussed, Forestry and Land Scotland develops forests, works out that the forests are planted and then is prepared to sell the land on so that it can develop further forests. In most cases, however, sale is not predicted at the outset of land management. I certainly would not be in a position to say when I was going to sell my smallholding, because I hope that I never will. I cannot see why the Government should ask me to include that information in a land management plan.

I look forward to the cabinet secretary telling me in her summary, which she is coming to now, why those reasons should be ignored.

Mairi Gougeon: I do not intend to respond individually to every amendment in the group. Ultimately, we are trying to strike a balance between the bill and the detail that we will bring forward in the regulations on a land management plan. What is in the bill is not, by any means, intended to be an exhaustive list. We include in the bill high-level statements, which, following consultation, will be developed into more detail in the subsequent regulations. I restate that land management plans are not a requirement for landowners to take specific measures, but are intended to encourage landowners to consider what steps they may be able to take, and to provide more transparency on those plans.

I will turn to the different groups of amendments that we have just discussed. Tim Eagle's amendments would remove most of the high-level statements of content and leave everything to guidance. On the other hand, Douglas Lumsden is taking the opposite approach and is, instead, requiring more detail on land management plans to be included in the bill. Some of what Douglas Lumsden is proposing can form part of the consultation and development with stakeholders that I talked about, and consideration of the impact of requirements will be key to ensuring that. I therefore recommend that the amendments from Tim Eagle and Douglas Lumsden are not supported.

Ariane Burgess's amendment 26 requires information that I think it is right to have in the bill.

Douglas Lumsden: I will go back to the point that the convener raised about potential sale. If you ask any landowner, they will say that everything is potentially for sale if the price is right.

How do you see that working? Would it be about whether the land is up for sale?

Mairi Gougeon: I am sorry, what do you mean?

Douglas Lumsden: How would the requirement to include in the land management plan information about a potential sale work? I would think that everything is potentially for sale if there is a proper price. Do you mean that, if negotiations on a potential sale are taking place, that information must be included? What would constitute a potential sale?

Mairi Gougeon: Again, if that is something that the landowner is considering, it is all very well to be open and transparent about it. Ultimately, through land management plans and the community engagement process, we hope that there will be discussion with communities and transparency and engagement throughout the process, so that we improve relationships. That can facilitate some of the other measures that the bill is introducing.

I return to amendment 26. Including that information in the plan will support meaningful engagement between communities and the landowner and improve transparency over how engagement has impacted the plan. The amendment addresses the recommendation that the committee made in its stage 1 report, so I support amendment 26.

I am not sure how Ariane Burgess's amendment 2 would add to what we have already set out in relation to that matter. I am happy to have a further conversation with either Mark Ruskell or Ariane Burgess in relation to amendment 2. The remainder of Ariane Burgess's amendments would add more detail to the bill. Although I acknowledge the approach that is being taken, it is important that certain requirements can be updated in future regulations to ensure that they remain relevant, so they are better placed in secondary legislation.

Mark Ruskell: Just to be clear, cabinet secretary, will the kind of detail on ecological restoration that I laid out earlier be expected to be in a land management plan, as appropriate to the holding?

Mairi Gougeon: That could well be. What is important is the consultation that we will undertake in relation to the land management plan, which I think would get into that in more detail. It is about having in the bill only higher-level statements about what we expect land management plans to contain.

Mark Ruskell: Okay.

09:45

Mairi Gougeon: Turning to Bob Doris's amendments, I want to provide some reassurance in relation to amendment 30. We intend, of course, for there to be monitoring and reporting, but rather than that being required within individual land management plans, it will be set at a higher level by the Scottish Land Commission. For that reason, I ask Mr Doris not to move the amendment.

I support the intent behind amendment 31 of ensuring that the plans are published in a single and accessible location. However, I ask Bob Doris not to move the amendment, so that I can work with him ahead of stage 3 to ensure that the amendment is drafted in a way that will not pose any implementation issues further down the line.

Douglas Lumsden: We heard some discussion between Bob Doris and Tim Eagle about the details of the plans and that some people are concerned that there will be commercially sensitive information in the plans. How could that issue be addressed? Could the plans be made at a high enough level that they would not include commercially sensitive detail?

Mairi Gougeon: I believe that that would be the case. I cannot imagine that we would want to be in a position where we are publishing information that is commercially sensitive for a business. I would want to provide assurance on that front.

Bob Doris: Cabinet secretary, I hope that you can give further clarity in relation to amendment 31. I am pleased to work with you ahead of stage 3 to make sure that it is drafted accurately and appropriately, but I do not think that my amendment, which seeks to make it easier to access a land management plan that the Parliament has so far agreed should be accessible anyway, will have any implications for commercial sensitivity whatsoever. The amendment does not require additional information to be published in the plan; it simply requires that the plan is published in an accessible way. I am still not sure where commercial confidentiality or sensitivity comes in with this amendment.

Mairi Gougeon: I agree with your point. The plans need to be accessible and, ultimately, that is what we are trying to achieve. I would not expect those plans to include commercially sensitive information.

I will comment briefly on Bob Doris's amendment 32, which we covered in some detail last week, in a debate on another grouping. I will just encourage members to support the amendment.

Finally, I turn to Rhoda Grant's amendments. I fully recognise the aims that Rhoda Grant is trying

to achieve. For example, amendment 326 would ensure that there is

“regard to ... any local place plan”.

I can only restate that local place plans will be fully considered in the regulations and in the consultation that we will undertake on them, to ensure that the content of the land management plans is fit for purpose, proportionate and deliverable.

With regard to amendment 328, however, I support Rhoda Grant's intention and I support the amendment.

On her amendment 329, the regulations that it refers to ceased to have effect in March 1993, so I do not see value in collecting that information. It would also be a burden on island businesses. Therefore, I recommend that amendments 326 and 329 be opposed.

The Convener: I ask Tim Eagle to wind up and to press or withdraw amendment 24.

Tim Eagle: I do not have much to add, so I will reiterate the points that I have made. I do not support land management plans, as has become obvious. I am trying to ensure that they are as unprescriptive as possible and that we are careful that there is no chance that businesses will have to put commercially sensitive information in them.

I am happy to press amendment 24.

The Convener: There will now be a fairly lengthy sequence of voting before we move on to the next debating slot. Depending on how it goes, my plan is to take a short break after the divisions. How quickly they go and how many amendments are moved will help us to decide whether we need that break.

Tim Eagle has pressed amendment 24. The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the vote is: For 2, Against 5, Abstentions 0.

Amendment 24 disagreed to.

Amendment 318 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 318 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Matheson, Michael (Falkirk West) (SNP)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 318 disagreed to.

Amendment 25 moved—[Tim Eagle].

The Convener: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 25 disagreed to.

Amendment 26 moved—[Mark Ruskell].

The Convener: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 26 agreed to.

Amendment 27 moved—[Tim Eagle].

The Convener: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 27 disagreed to.

The Convener: I remind members that, if amendment 28 is agreed to, amendments 393, 394 and 29 will be pre-empted.

Amendment 28 moved—[Tim Eagle].

The Convener: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 28 disagreed to.

Amendment 393 moved—[Tim Eagle].

The Convener: The question is, that amendment 393 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 393 disagreed to.

Amendment 394 moved—[Tim Eagle].

The Convener: The question is, that amendment 394 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 394 disagreed to.

Amendment 29 moved—[Mark Ruskell].

The Convener: The question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.
[Interruption.]

Douglas Lumsden: I was voting against, convener.

The Convener: Those voting against, please raise your hands again.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 29 disagreed to.

The Convener: I call—is it amendment 2? Yes. I am sorry, Mr Lumsden, but you completely put me off and got me out of sequence. I am going to blame you.

Amendments 2 and 319 not moved.

Amendment 320 moved—[Mark Ruskell].

The Convener: The question is, that amendment 320 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 320 disagreed to.

Amendment 321 moved—[Rhoda Grant].

The Convener: The question is, that amendment 321 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 321 disagreed to.

Amendments 322 and 30 not moved.

Amendment 323 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 323 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 323 disagreed to.

Amendment 324 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 324 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 324 disagreed to.

Amendment 325 moved—[Rhoda Grant].

The Convener: The question is, that amendment 325 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 325 disagreed to.

Amendment 326 moved—[Rhoda Grant].

The Convener: The question is, that amendment 326 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division. *[Interruption.]* There is some confusion about the result, so I will run that division again, to make sure that we have got it right. Just to be entirely sure, we are on amendment 326.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 326 agreed to.

10:00

Amendment 327 not moved.

Amendment 328 moved—[Rhoda Grant].

The Convener: The question is, that amendment 328 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 328 agreed to.

Amendment 329 not moved.

Amendment 395 moved—[Mark Ruskell].

The Convener: The question is, that amendment 395 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 395 disagreed to.

Amendment 31 not moved.

Amendment 32 moved—[Bob Doris].

The Convener: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.
[Interruption.]

I am sorry, but there is more confusion—I probably did the vote too quickly. I therefore call the division on amendment 32 again.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 32 agreed to.

Amendment 330 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 330 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 330 disagreed to.

Amendment 331 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 331 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 331 disagreed to.

Amendment 332 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 332 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 332 disagreed to.

Amendment 333 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 333 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 333 disagreed to.

Amendment 334 not moved.

Amendment 335 moved—[Rhoda Grant].

The Convener: The question is, that amendment 335 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

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

The Convener: The result of the division is: For 3, Against 3, Abstentions 1.

Having been a committee convener for eight or nine years—however long it has been—my policy,

which I have always followed, is that I use my casting vote in the way that I voted originally. I originally voted in favour of the amendment, so that means that the amendment is carried, by majority, on my casting vote.

Amendment 335 agreed to.

Amendment 336 moved—[Rhoda Grant].

The Convener: The question is, that amendment 336 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 336 disagreed to.

Amendment 337 moved—[Mark Ruskell].

The Convener: The question is, that amendment 337 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 337 disagreed to.

Amendment 396 moved—[Tim Eagle].

The Convener: The question is, that amendment 396 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)

Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 396 disagreed to.

Amendments 33 and 338 not moved.

Amendment 339 moved—[Rhoda Grant].

The Convener: The question is, that amendment 339 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 339 disagreed to.

The Convener: I call amendment 340, in the name of Rhoda Grant—

Rhoda Grant: Moved.

The Convener: Sorry?

Rhoda Grant: Moved.

The Convener: I had not got there yet. [Laughter.] Sorry—that slight pause was just to catch you out, Ms Grant.

I call amendment 340, in the name of Rhoda Grant, which has already been debated with amendment 10.

Amendment 340 moved—[Rhoda Grant].

The Convener: The question is, that amendment 340 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 340 agreed to.

Amendment 397 moved—[Tim Eagle].

The Convener: The question is, that amendment 397 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 397 disagreed to.

The Convener: I call amendment 341, in the name of Rhoda Grant. Rhoda Grant to move—sorry. The amendment has already been debated with amendment 389. I almost caught myself out that time, Rhoda.

Amendment 341 moved—[Rhoda Grant].

The Convener: The question is, that amendment 341 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 341 disagreed to.

The Convener: I point out that, if amendment 34 is agreed to, I will be unable to call amendments 398, 399, 400 and 35 due to pre-emption.

Amendment 34 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

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

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 34 agreed to.

Amendment 36 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 36 be agreed to. Are we agreed? We are. *[Interruption.]* Sorry—we are not agreed. Could you speak up a bit, Mark? I did not catch what you said.

There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

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

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 36 agreed to.

Amendment 37 not moved.

The Convener: I remind members that amendments 38, 3 and 39 are direct alternatives, which means that they can all be moved and decided on. The text of the last of those amendments to be agreed will appear in the bill.

Amendment 38 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Abstentions

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

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 38 agreed to.

Amendment 3 moved—[Mark Ruskell].

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 3 disagreed to.

Amendment 39 moved—[Tim Eagle].

10:15

The Convener: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 39 disagreed to.

The Convener: I call amendment 40 in the name of the cabinet secretary, which has already been debated with amendment 11. I point out that, if amendment 40 is agreed to, I cannot call amendments 41, 4 and 401, due to pre-emption.

Amendment 40 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Abstentions

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

The Convener: The result of the division is: For 4, Against 2, Abstentions 1.

Amendment 40 agreed to.

Amendment 42 not moved.

Amendment 342 moved—[Rhoda Grant].

The Convener: The question is, that amendment 342 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 342 disagreed to.

Amendment 402 moved—[Tim Eagle].

The Convener: The question is, that amendment 402 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 402 disagreed to.

Amendment 403 moved—[Tim Eagle].

The Convener: The question is, that amendment 403 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 403 disagreed to.

Amendment 404 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 404 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 404 disagreed to.

Amendment 43 moved—[Rhoda Grant].

The Convener: The question is, that amendment 43 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 43 disagreed to.

The Convener: I call amendment 44, in the name of Tim Eagle. I point out that if amendment 44 is agreed to, I cannot call amendments 45, 343, 46 to 49, 49A and 49B due to pre-emption.

Amendment 44 not moved.

Amendment 45 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 45 agreed to.

Amendment 343 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 343 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 343 disagreed to.

Amendment 46 moved—[Mairi Gougeon]—and agreed to.

Amendment 47 not moved.

Amendment 48 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 48 agreed to.

Amendment 49 moved—[Mairi Gougeon].

Amendments 49A and 49B not moved.

The Convener: The question is, that amendment 49 be agreed to. Are we agreed? *[Interruption.]* No, 49A and 49B have not been moved—I confused myself there for a moment. We are now looking at the cabinet secretary's original amendment 49. Are we agreed?

Douglas Lumsden: No.

The Convener: Thank you, Mr Lumsden—that extra time gave you a chance to make your mind up. We are not agreed, so there will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 49 agreed to.

Amendment 405 moved—[Tim Eagle].

The Convener: The question is, that amendment 405 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 405 disagreed to.

Amendment 50 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 50 agreed to.

Amendment 406 moved—[Tim Eagle].

The Convener: The question is, that amendment 406 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 406 disagreed to.

The Convener: I call amendment 50, in the name of—[*Interruption.*]

Hold on. We will pause. There is nothing like the convener confusing himself. I apologise to those present.

I call amendment 344, in the name of Douglas Lumsden, already debated with amendment 11.

Amendment 344 not moved.

Amendment 51 moved—[Tim Eagle].

The Convener: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 51 disagreed to.

Amendment 52 not moved.

The Convener: As I confused myself, and probably one or two others, now seems the apposite moment to take a 10-minute break to allow people to stretch their legs. I ask members to be back here by just before 10:40.

10:27

Meeting suspended.

10:40

On resuming—

The Convener: Welcome back. We move to the group on the enforcement of community engagement obligations. Amendment 53, in the name of Ariane Burgess, is grouped with amendments 345, 346, 54 to 56, 58, 60, 61, 407, 67, 70, 72, 76, 77, 82, 83, 408 to 411, 89, 90, 347, 412, 413, 91, 414 to 416, 97, 97A, 98 to 100, and 107. I remind members of the pre-emptions and direct alternatives in this group that are set out in the groupings. I ask Mark Ruskell to speak to and move Ariane Burgess's amendment 53 and to speak to any other amendments in the group.

Mark Ruskell: I will speak to amendments 53 to 56, in the name of Ariane Burgess, and to my amendments 412, 413 and 97A. I will briefly mention other amendments in the group, too.

In relation to amendment 53, the community engagement obligations in the bill are important, and we need to have appropriate routes for any breaches of those obligations to be reported to the land and communities commissioner, who can then take appropriate action. As introduced, the bill allows only local authorities, Historic Environment Scotland, the Scottish Environment Protection Agency, NatureScot and community bodies—as defined in the community right to buy legislation—to report breaches. It is right that there are some limits on who can submit a statutory report of a breach in order to ensure that the land and communities commissioner does not need to investigate vexatious or spurious complaints. However, additional bodies should have the ability to report a breach. Amendments 53 to 56 would allow community councils, the Crofting Commission, the enterprise agencies and national park authorities to report a breach. I therefore ask the committee to accept those amendments.

Amendments 412 and 413 seek to ensure that there is cross-compliance on entitlements to public subsidies where a landowner breaches their obligations under this legislation. That would

ensure that a landowner who is in breach and is being fined by the state cannot simultaneously access public money for other land management or land use.

The Convener: It is interesting that Highlands and Islands Enterprise is included under amendment 53 as a body that can report a breach of a land management obligation. In the early stages of the bill, the cabinet secretary said that large landowners should not be allowed to act as the land commissioner. HIE is a fairly large landowner in its own right. Do you see it having a conflict of interest where it might have to report itself for failing to manage land properly, for example in the Cairngorms, where it owns the Cairngorm mountain?

Mark Ruskell: That would be an interesting example of whistleblowing within the structure of HIE. Those bodies have a role to play in working with other stakeholders and being able to report a potential breach if they see one. Ultimately, it is up to the land and communities commissioner to make that judgment. All that my amendments would do is say that those bodies can make a complaint where they perceive a breach. It is then up to the commissioner to gather the evidence and decide.

Going back to amendments 412 and 413, I think that cross-compliance on subsidy and statutory consents is essential—the Scottish Land Commission has identified that in its work. A fixed penalty of £40,000, as proposed by Bob Doris, is a useful starting point, but there would need to be meaningful points of escalation to ensure compliance. Landowners frequently access public money for agriculture, forestry or other forms of land management. Granting the land and communities commissioner a means of impacting landowners' access to that funding will be far more impactful than a fixed financial penalty in more egregious cases. I thank Community Land Scotland for its support in developing the ideas for those amendments.

I support Bob Doris's amendment 97, but my amendment 97A, which amends it, looks to strengthen the language that is used in one key regard. My understanding is that amendment 97 would allow the land and communities commissioner to follow up in cases of an on-going breach, and proposed section 44IA(3)(d) of the 2016 act would give the commissioner an option to impose a further fine if the breach is not remedied in a specified time. Amendment 97A proposes that the commissioner must issue subsequent fines if breaches are on-going. If we are at the point where fines are being issued and we are at the end of a process, I think that there should be a duty on the commissioner to issue those fines.

10:45

Turning to other amendments in the group, I support the cabinet secretary's amendments that strengthen the commissioner's role to initiate investigations into potential breaches. Unfortunately, I do not support Tim Eagle's amendments that would reduce the maximum fine that the commissioner can impose, as that is moving in the other direction from the amendments that Ariane Burgess and I have proposed. We need strong enforcement in the legislation, so the Scottish Greens will be supporting Bob Doris's amendments, which deliver that. Our amendments will strengthen what he has proposed and go a little further.

On Rhoda Grant's amendments, I am supportive of amendment 347, which would add a provision for the land and communities commissioner to recommend that ministers issue a compulsory sales order in the event of an on-going breach that continues across a five-year period.

All the amendments in the group look to put in place a proper framework of penalties, as there is concern about compliance going forward.

I move amendment 53.

The Convener: I call Rhoda Grant to speak to amendment 345 and other amendments in the group.

Rhoda Grant: Amendment 345 would expand the bodies that can report breaches to include community bodies, such as community controlled bodies as defined in the Community Empowerment (Scotland) Act 2015, and community councils. Amendment 346 includes the Crofting Commission and grazing committees as bodies that would be able to report breaches of land management obligations.

Amendment 347 pertains to breaches in land management plans. The bill allows for fines to be imposed for breaches of obligations. A large landowner could choose to pay the fines and continue to breach their obligations. The bill does not include further sanctions in that situation. Amendment 347 sets out the parameters for the process of compulsory purchase after five successive years of breaches.

Douglas Lumsden: Will the member take an intervention?

Rhoda Grant: I was finished, but I will.

Douglas Lumsden: My intervention is about amendment 347 and the compulsory purchase orders. I am trying to understand the situation. A bank may have lent money and have a standard security for the land. How would compulsory

purchase orders work if a bank or another third party was involved?

Rhoda Grant: Compulsory purchase will always come with a price; it is a purchase. Money would be exchanged, and the rights of whoever held a standard security would be met—there would be money to repay a loan for a piece of land.

The Convener: I turn to the cabinet secretary to speak to amendment 58 and any other amendments in the group.

Mairi Gurgeon: I will speak to my amendments first, before covering other amendments in the group. During the stage 1 debate, I committed to strengthening the bill, including by ensuring that the enforcement options that are available to the land and communities commissioner would act as a sufficient deterrent. I believe that my amendments, together with those that Bob Doris is proposing, as well as the amendments that Mark Russell has spoken to on behalf of Ariane Burgess, will all work together to achieve that.

Amendments 58, 60, 61, 67, 72 and 76 will enable the land and communities commissioner to investigate a possible breach without first receiving a report, if they consider it is appropriate to do so. That change will deliver the recommendation that both the committee and the Scottish Land Commissioner made at stage 1. The breach investigation process as set out in the bill is designed to support the collaborative and positive environment that has been created by the SLC's long-standing work to support landowners to implement the land rights and responsibilities principles and deliver best practice. If a breach is found, the focus is on supporting the landowner to remedy the breach, with enforcement used only as a last resort.

Amendment 77 will allow the land and communities commissioner to redact personal information before sharing with the landowner information about a breach. I have listened to some of the concerns that have been expressed by stakeholders, including directly to the committee, and the committee's recommendation on the issue, and I recognise that there might well be circumstances in which it would be appropriate to remove certain identifying details before reports are shared, in order to mitigate the risks to individuals. The approach that we have taken balances addressing those risks with the need to have a fair and transparent process. I ask the committee to support the amendments in my name in the group.

I welcome the intention of the amendments from Ariane Burgess, as well as some of the amendments from Rhoda Grant—in particular, amendments 345 and 346—as all of those aim to expand further the bodies that can report a

breach. All the bodies in the list that would be added by Ariane Burgess's amendments—community councils, national park authorities, the Crofting Commission and enterprise agencies—were recommended to be added by the SLC in its advice at stage 1. The bill as drafted includes the power to modify the list by regulations, to ensure that it remains fit for purpose, but widening the list at this point ensures that it will be fit for purpose from the point at which the bill is enacted. I therefore recommend that the committee support the amendments from Ariane Burgess.

Rhoda Grant's amendments 345 and 346 overlap with Ariane Burgess's amendments, particularly as they relate to community councils and the Crofting Commission. However, they also include grazing committees, community-controlled bodies and development trusts. I am open to the possibility of further bodies being able to report breaches. Bodies that have registered or are eligible to register an interest under part 2 of the Land Reform (Scotland) Act 2003, which deals with community right to buy, are already able to report a breach under the bill. In many cases, that will cover community-controlled bodies in the vicinity of the landholding. However, I offer to work with Rhoda Grant to better understand the reasons for including the bodies in her amendments and to develop an appropriate expansion of the list, potentially by way of an alternative amendment at stage 3. I therefore ask her not to press her amendments at this stage.

Amendment 89 from Bob Doris would raise the maximum fine for breaches of community engagement obligations to £40,000. The rest of Bob Doris's amendments would introduce enforcement notices that would give the land and communities commissioner a tool to deal with cases of continued non-compliance. Together, those amendments would ensure that fines are a sufficient deterrent for non-compliance. I therefore recommend that all those amendments are supported.

Mark Ruskell's amendment 97A would remove flexibility from the land and communities commissioner to work co-operatively with a landowner to resolve a breach without applying a fine. It is important to make sure that the enforcement tools that we have are robust, but it is also important to remember that the aim is not to apply fines but, ultimately, to encourage the landowner to resolve their breaches of their obligations. There could well be times at which it is not appropriate to impose a further fine. For example, there could be mitigating circumstances. The legislation needs to have the flexibility to enable the land and communities commissioner to consider such cases, so I ask the committee not to support amendment 97A.

Staying on that theme, I recommend that the committee support Tim Eagle's amendments 408 to 410 and 414 to 416, because, although they do not change the effect of the bill, they emphasise that the land and communities commissioner will take a collaborative approach to their enforcement role.

However, I cannot recommend that the committee support Tim Eagle's other proposed amendments. Amendments 82 and 90 would reduce fines to just £500. Those amendments are contrary to the recommendations in the committee's report and to the evidence that was provided by a number of different stakeholders.

Douglas Lumsden: If we are looking at putting the fines up to, potentially, £40,000, will guidance be issued about the range of fines between zero and £40,000? I would not want everyone to think that it is either nothing or the maximum amount.

Mairi Gougeon: I imagine that, as you have just outlined, a scale would be implemented. We have that in other pieces of legislation. Flexibility exists. That would all be covered. There will be engagement with the land and communities commissioner when they take up their role, to ensure that they are adequately equipped to implement that enforcement regime.

The Convener: I guess that that will be some consolation, but the fact is that the income for a relatively small landowner with 1,000 hectares, if we are talking about a hill farm, could be less than £20,000 a year. If you get hit by a £40,000 fine first off, because you have been struggling to do everything, you might be left with absolutely no income. Even with a £20,000 income, once tax and suchlike are taken into account, your disposable income will be relatively small. If the cabinet secretary is going to support the amendment, will she consider putting a bit more information on these fines into the bill at stage 3 to include, say, options to allow repayment over a period of time, as happens in court cases when fines are imposed, instead of requiring a one-off payment?

Mairi Gougeon: I do not think that it would be for me to set that out on the face of any legislation. I appreciate the example that the convener has highlighted, but we have also had examples at the opposite end of the scale, which is why we have decided to introduce the ability for fines of up to £40,000 to be imposed. Of course, I am happy to have further engagement ahead of stage 3 to see what more detail can be provided, but I am hesitant to commit to putting anything in the bill at this stage, especially when similar provisions exist in other pieces of legislation.

Amendment 407 does not set out how the proposed timescale would impact on an

investigation by the land and communities commissioner, and I think that the current approach of allowing the LCC to set the period at the time when they require further information on a breach is proportionate. It allows the period to be set on the basis of the kind of information that is being requested and the time that one might expect it to take to prepare it.

Amendment 411 would delay the LCC's ability to apply a fine in cases of continued non-compliance. Therefore, I recommend that the committee not support amendments 82, 90, 407 and 411.

Rhoda Grant's amendment 347 seeks to introduce a significant new compulsory purchase power. This is, of course, not a matter on which we have consulted; in any case, I do not think that the bill is the right vehicle for new compulsory purchase powers, particularly when a substantial consultation on proposed reforms to Scotland's compulsory purchase system is planned for the coming months. On that basis, I ask the committee not to support that amendment.

Lastly, I want to make it clear overall that I absolutely support the intent behind amendments 412 and 413, in the name of Mark Ruskell, which is that we should not be giving public money to those who are not living up to their obligations. However, I do not think that the amendments are the best way of achieving that aim.

With regard to agricultural support, we as a Government have made commitments to co-develop that funding with rural partners through the agricultural reform programme, and if we started to reduce requirements outside of the programme, without considering the totality—that is, the broader issue of refusal or recovery of support—it would cut across and ultimately undermine our approach in that respect. The issue raised in Mark Ruskell's amendment will form part of future considerations and allow any requirements to be brought forward as a package at the right time and through the appropriate legislation—in other words, the Agriculture and Rural Communities (Scotland) Act 2024.

Amendment 413 is incredibly broad and it would block, ultimately, any financial support. As a result, it could have quite extreme unintended consequences. For example—and I hope that this will not be the case—if a public body were in breach, the amendment would result in its being cut off from all the public sector funding that it might need to remain operational. The same would potentially be true of charities that own large areas of land.

We already have the ability to set conditions for funding and, indeed, do so in many cases. Given that, I ask Mark Ruskell not to move his

amendment, because I do not believe that it is the right way to meet this aim.

The Convener: I call Tim Eagle to speak to amendment 407 and any other amendments in the group.

Tim Eagle: Most of the amendments in this group relate to fines and periods of time with regard to the enforcement of community engagement obligations. Amendment 407 considers the commissioner's decision to investigate; as drafted, the commissioner is able to investigate an alleged breach that is reported to them. If the commissioner is not satisfied that the report of the breach is enough to constitute an investigation, they can request more information to be provided by the end of a period that they have specified.

Amendment 407 seeks to replace that undefined period with a set period of 90 days. As landowners, particularly farmers, need to have clarity and assurances with regard to any deadlines that are set forth by the Scottish Government, it is important that that period be specified in the bill.

Amendment 82 seeks to reduce the level of a fine. I do not favour the stick approach. As the bill is drafted, the commissioner can impose a fine no greater than £1,000 on someone who does not provide information as requested by them. I believe that that is too high, and instead I have suggested a maximum of no more than £500.

11:00

I believe that I heard the cabinet secretary say that she supported amendments 408 to 410, 414 and 415, and I thank her very much for that. The bill sets out the conditions for when the commissioner can impose a fine for a breach of an obligation, with the individual

"given an opportunity to make an agreement with the Commissioner".

My amendment changes the wording from "make" to "reach" an agreement, because I believe that, just because an agreement has not been made, that does not mean that the willingness to reach an agreement is not there, and it should be clear that parties will be penalised only if they do not actively participate with the process.

The bill currently allows the commissioner to judge it not appropriate to give the person who committed a breach the opportunity to remedy it, which is one of the conditions that will allow them to impose a fine. Amendment 411 seeks to remove that part. I believe that everyone should be given the opportunity to explain and engage, and previous misdemeanours should not be used

as a reason why a party cannot be given the opportunity to remedy a potential breach.

My amendment 90 also seeks to reduce the level of fines. As drafted, the bill allows the commissioner to impose a fine on someone for breaching their obligations, with the maximum amount that can be imposed currently standing at £5,000. I believe that that is far too high, given that farmers who will come into the bill's scope are often cash poor, and the figure should be limited to £500.

I do not feel that I could support Bob Doris's amendments 83, 89, 91 and 97 to 100, which impose fines of up to £40,000. That is a massive fine, and it could bankrupt farmers and landowners who might fall foul of these provisions. I would be interested to know how the member can justify such a very large sum.

The Convener: Thank you. I call Bob Doris to speak to amendment 70 and any other amendments in the group.

Bob Doris: I start by saying the policy intent behind these amendments followed from not just the very strong committee evidence that we had at stage 1 but discussions with the Scottish Government and Community Land Scotland. I thank the Scottish Government for working with me—I acknowledge the expertise that its bill team brought to the drafting of this suite of amendments, and I thank them for their efforts. I absolutely agreed with the policy intent, and our discussions around that were quite clear.

During our stage 1 scrutiny, several committee members felt that the maximum penalty of £5,000 for non-compliance in relation to land management plans was woefully insufficient, and my purpose in lodging these amendments is, therefore, to strengthen the provisions. It is important that fines that are imposed for breaches are meaningful and that the cost of a fine is not a cheaper alternative to fulfilling the obligations under the bill. For instance, the business and regulatory impact assessment suggested that producing a land management plan could cost up to £15,000. I note that that figure was at the higher end of the modelling that was done. Moreover, the evidence that we got from various witnesses was very confused about how much land management plans would cost to produce. Some landowners said that they did that work already, but they did not call it a land management plan, while others thought that it would be a huge cost to them. The evidence that we heard from the landowners on that was, I thought, unclear.

In any case, any maximum fine must be suitable and appropriate to ensure that there is no incentive to simply not produce a land management plan or comply with the provisions.

As a result, I have lodged amendment 89, which, as Mr Eagle indicated in his contribution, seeks to increase the maximum fine that the land and communities commissioner can impose from £5,000 to £40,000. In doing so, I stress that that will be the maximum element of any fine. Indeed, the land and communities commissioner can enter into discussions with or issue compliance notices to landowners where appropriate, instead of rushing to fine them for non-compliance.

I wanted to lodge this suite of amendments, because, as I made clear during my questioning at stage 1, I am keen to see a constructive relationship between the new land and communities commissioner and landowners. That is vital; indeed, Tim Eagle himself has lodged amendments to reinforce the collaborative approach that is required. Earlier, the convener made an interesting point about ensuring affordability for some landowners, and I would welcome the discussions on the matter that might take place with the cabinet secretary following stage 2.

Amendment 107 seeks to allow ministers to adjust a fine through secondary legislation. That will be important to prevent the value of fines being eroded by inflation, for example, and it is important to point out that an affirmative instrument will be required in order to make that change, which will ensure robust parliamentary scrutiny.

Amendments 70, 83, 91 and 97 to 100 will together allow the land and communities commissioner to serve enforcement notices when original breaches have not been remedied. If those enforcement notices are not complied with, the commissioner can introduce a further fine with the same maximum level as the original fines—that is a may, not a must.

I appreciate the points that Mr Ruskell made about amendment 97A, but I said earlier that this is about collaboration between the land and communities commissioner and landowners, and giving the commissioner the flexibility that they require to develop those relationships, promote best practice and work collegiately. Constraining that flexibility by saying that they must implement another fine for non-compliance would not be in that spirit. That is why I do not support “must” as opposed to “may” and, therefore, do not support amendment 97A. In that way, continued non-compliance might lead to multiple fines and further strengthen the enforcement and compliance regime.

Together, the amendments will support a robust enforcement regime to deter poor behaviour. In closing—

Douglas Lumsden: Will the member take an intervention?

Bob Doris: Before I close, I will take an intervention.

Douglas Lumsden: I heard that word, so I thought that I would jump in quickly.

I understand that the intention behind the amendments is to increase the fines. I have listened carefully to what Bob Doris said about the fact that the proposal is not about going straight to a £40,000 fine but is about working with landowners to make sure that they comply with what they are meant to do. Does he agree that there should be guidance on the fines, so that everyone is clear that multiple breaches will result in them going up, and what the fines could be for repeated non-compliance with the land management plan?

Bob Doris: Mr Lumsden’s idea of guidance on when fines can be imposed or escalated is an interesting one. I am conscious that we also want to give the new land and communities commissioner as much flexibility as possible, and I would not want to constrain them. It is important to note that a £40,000 fine might never be imposed on landowners for repeated non-compliance. That flexibility sits with the commissioner. I am, however, open to Mr Lumsden’s suggestion, even if I am not wholly convinced by it, and I thank him for putting it on the record.

In closing, although my group of amendments is about ensuring compliance to deter poor behaviour, I am genuinely confident that the vast majority of landowners will strike up a positive relationship with the new commissioner. They will comply, there will be a collaborative approach, and the new commissioner will not rush to fine any landowner. This is about partnership working, but a robust enforcement regime must underpin that. I will leave it there.

The Convener: It appears that Mark Ruskell is going to get another bite of the cherry at this stage to speak to amendment 412, unless he has done so already.

Mark Ruskell: I will make a couple of brief comments to close this group. First, on who can report a breach, there is a danger that, if that provision is drawn too widely, it will end up with individuals lodging vexatious complaints. Having a list is, therefore, important.

I appreciate the point that the cabinet secretary made to Rhoda Grant about the list that Ariane Burgess proposed, and perhaps there is a way to expand that further, particularly for bodies that are genuinely representative of a community. Rhoda Grant mentioned grazing committees. There might be some possible tweaks to be made at stage 3,

but I would certainly be concerned about individuals who have a particular view on pylons, for example, just putting in endless vexatious complaints. There is a balance to be struck there.

Listening to contributions on enforcement, it feels as though most people, apart from Bob Doris, are saying that they expect fines to be pretty regular. I do not really think that that is the case. This is ultimately about a deterrent. Amendment 97A is about saying, "This is a strong deterrent. If you do not comply with this, you will get a fine at some point, eventually."

Bob Doris: Will the member give way?

Mark Ruskell: Yes, but let me continue a little bit further. There is a need for flexibility and up-front collaborative working. It is good that Tim Eagle has reflected on that with some of his amendments. Ultimately, we are talking about a backstop and saying that the law is the law.

We have seen that, with the register of controlling interests, which is a minor requirement on landowners that was brought in several years ago, there are issues with compliance—we will return to that issue in later amendments. It is important to have the right deterrent in place, as well as ensuring that the right collaborative work with the commissioner and individual landowners can be done. However, let us be clear: this is not about crofters with 5 hectares of inby land; it is about sizeable holdings and businesses with—we have just agreed—1,000-plus hectares. Those are major businesses and if, with all the support that is available, they cannot meet the requirements in the bill, there should be a hefty deterrent and a requirement to fulfil the obligation.

I wanted to address the issue of cross-compliance again, but I am happy to accept the cabinet secretary's reasoning around amendment 412, which was that, looking at it from the subsidy point of view, requiring cross-compliance with the subsidy regulations in relation to the land management plans and all the other obligations in the bill is probably the right way to do it. The fact that that reasoning is on the record gives me confidence that it is another thing that farmers will have to do before they get subsidies and support.

I will leave it there. Did somebody say that they wanted to come in?

Bob Doris: I did.

Mark Ruskell: It was you! It has been a long day. In you come, Bob.

Bob Doris: I was not going to bother but I shall now, Mr Ruskell.

Mark Ruskell: Go on, give it your best shot.

Bob Doris: You said that everyone expects there to be repeated fines. For me, that is not the

best starting point. The £40,000 maximum fine is a backstop for non-compliance, not a first course of action. It may be that there are repeated fines—we will establish that through the passage of time—but do you agree that the aim is that there should be a positive, correct, initial relationship with the new commissioner, in much the same way as the tenant farming commissioner has built up an excellent relationship with everyone that he has responsibility for in relation to regulations? If we get that right at the outset, although we might end up having fines for some very large businesses and large landholdings, that positive relationship will mean that, for many, fines do not have to be regular. To say that fines have to be regular sets the wrong tone for the relationship that we are trying to build with landowners in Scotland.

Mark Ruskell: I agree. The tone of members' contributions to the discussion seemed to suggest that they expect fines to be a fairly regular occurrence, but I hope that they are not. I hope that there are never any fines because that relationship is good. The existing tenant farming commissioner, Bob McIntosh, has set the tone. It has to be about—

Tim Eagle: Will you take an intervention briefly?

Mark Ruskell: Very briefly, yes.

Tim Eagle: I agree with Bob Doris that it is all about collaboration. My problem with the £40,000 figure is that it is disproportionate, and I worry that it might be against article 6 of the European convention on human rights. In addition, issuing fines of that amount is quite a big power to give to one commissioner. Do you agree that that may be pushing it? I get your point about collaboration and the fact that we should not have to use that power, but do you agree that that £40,000 figure is a little bit too high?

Mark Ruskell: It depends on the nature of the business. Ultimately, it is about having a deterrent. You have moved an amendment that suggests that the figure should be £500—well, £500 is very little next to the cost of producing a land management plan. We have to consider the context. We took evidence in the committee that suggested that some land management plans may cost several thousand pounds to produce—perhaps upwards of £10,000 or £15,000—although that depends on the guidance, and we do not have the guidance yet, so we are not sure what an LMP will look like for a large estate or a smaller estate.

There would be a way to avoid having an LMP if we accepted your amendment to pitch the fine at £500. I think that £40,000 is within the limit of something that the commissioner could do, which is why it is pitched at that limit. A fine of that nature would provide a deterrent. I hope that no one

would ever get a fine, because, instead, they would do the easy, obvious thing, which is to comply with the legislation by having the conversation with the community and laying out their plans for the future. It should be a positive thing.

I will leave it there.

The Convener: Do any other members want to say anything?

Douglas Lumsden: I want to briefly add a couple of things. I am interested in the discussion about the £40,000 fine. We all agree that that should be a last resort—we do not actually want anyone to be fined £40,000. That is why I was making the point that we need to have guidance around the fines—there could be some sort of sliding scale or something. I hope that that might come through at stage 3 if a fine at that level is agreed today. The move from £5,000 to £40,000 is significant, so I think that something else is required for people to know exactly what they might or might not be hit with.

It is good to hear that the cabinet secretary is not minded to take up the compulsory purchase powers that Rhoda Grant has proposed. We must remember that some of those landowners are not only landowners but major businesses, and there would be an implication if they were to suddenly be compulsorily purchased.

11:15

Rhoda Grant: What does the member think is required in the bill to make people take their responsibilities seriously? We all know of landowners whom people are unable to contact, who do not deal with the community and who are a dead hand. Small fines will not bring them to the table. The bill really needs to have teeth. If the member is not happy with the larger fines or compulsory purchase powers, what would he suggest would bring those landowners to the table?

Douglas Lumsden: In relation to fines, I am looking for guidance—not in the bill but in the regulations that are coming forward—so that everyone understands what is going on there.

On compulsory purchase powers, the point that I was going to make about major businesses is that they are not only landowners but employers. What would happen to all those people who were employed on an estate? Would they then be transferred across to the Government, under the Transfer of Undertakings (Protection of Employment) Regulations 2006? There are real concerns around that. At the end of the day, the commission is working with landowners to ensure

that everyone works together and that the land management plans are in place.

The Convener: The committee heard about the fine levels when we took evidence. It was generally felt that £5,000 was quite light for some of the bigger businesses. We heard that a land management plan could cost somewhere between £15,000 and £20,000—I think that we discounted the much bigger estimates. That means that, if the fines were limited to £5,000, it would take four years of fines to equal the cost of not producing a land management plan. However, I have a problem with taking the level to £40,000, which is an incredibly large amount. Although I accept that a landholding of 1,000 hectares is a substantial holding, 1,000 hectares in the cabinet secretary's constituency might be far more productive than 1,000 hectares on an uninhabited island or small island in the Highlands, or even in the Highlands as a whole, where densities of stocking are limited by the amount of vegetation. Therefore, the profitability of the holding would be such that a £40,000 fine would be impossible to pay, which is the point that I made earlier. I am signalling that, although I agree in principle with what Mr Doris has suggested, which is that £5,000 is too little, £40,000 seems to be a massive figure.

Bob Doris: Your contribution is quite helpful, convener, as it sets this all in context. Do you believe that a £40,000 fine for non-compliance could ultimately be appropriate for some large landholdings that could be seen to be businesses on an industrial scale in our rural communities but would not be appropriate for others?

The Convener: I am struggling with that as well, because larger businesses that have holdings that could justify a fine of £40,000 would not be worried about such a fine per se; they might be more worried about the reputational damage that it would cause them, should it become clear that they have not drawn up a land management plan.

Having listened to this morning's arguments, I intend to try to work with the cabinet secretary and Mr Doris to see whether a more reasonable figure or a guidance figure could be agreed to get to that £40,000 over a structured period of time. I do not anticipate that many people will be in that situation. I really hope that, once the legislation is in place, people will work towards land management plans if they are agreed, which would preclude the need for land reform every 10 years.

Michael Matheson: On the figure of £40,000, it is important to reinforce the point that the fine could be up to £40,000, but that it could start off at £50, £500 or £5,000, for example. Are you arguing that the cap should be lowered from £40,000, and, if so, what should the cap be? The figure of £40,000 is not the amount of the fine, but a cap

that you cannot go beyond, so there is a range from no fine to a fine of up to £40,000.

The Convener: I accept very much the point that you make, deputy convener. My view is that there should be a progression: the first time that you did something wrong, there would be a fine of a certain level, but that would increase the second time and again the third time. If you have reached the third time, the level of the fine probably would be £40,000. Therefore, it would be an iterative approach, as the fine of £5,000 was in the original legislation, so I—

Bob Doris: If I understand—

The Convener: I love conversations, and I would love to have one, but I do not think that the committee procedure will allow that. If you would like to make an intervention, Mr Doris, I am happy to take one.

Bob Doris: I apologise—I think that I am also cutting across the deputy convener, who I think was also about to make an intervention.

Your last few comments were welcome, convener, because we can see your rationale and the fact that you are comfortable with a fine of £40,000 as a backstop so that landowners who do not comply would eventually get to the stage where they could be subject to a fine of £40,000. Have I picked that up accurately?

The Convener: I think that what you have picked up, Mr Doris, is that I think that repeat offenders should incur greater costs and that somebody should not go straight from 0 to 70, if that is the right analogy—I, of course, mean £0 to £40,000. I will give way to the deputy convener, but then I fear that I will need to move on. Otherwise, I will be accused of delaying the procedures.

Michael Matheson: On that point, convener, my reading of amendment 97 is that it would provide for exactly what you suggest, namely that someone could receive multiple consecutive enforcement notices that imposed a fine if the breach remained unremedied. Therefore, it would be perfectly within reason for those imposing the fine to start at a lower level and then to progress the fine to a higher level on the basis of multiple breaches, through enforcement. I think that amendment 97 makes provision for what you are looking for, but it sets the cap at £40,000.

The Convener: I hear the deputy convener's point, which is well made. However, the amendment does not set out that the fine could not be £40,000 each time, which causes me huge concern.

I will move on to the point about compulsory purchase. I am not sure that compulsory purchase could be done under the relevant legislation,

although it is some time since I read that legislation. However, I think that there would be huge problems with compulsorily purchasing land and with valuing land for that purpose. I will leave my comments there.

I will invite Mark Ruskell to wind up—

Mark Ruskell: I believe that I have already wound up.

The Convener: Well, you could wind up again—no, you cannot wind up again.

Mark Ruskell: I think that we are all wound up enough right now.

The Convener: Mr Ruskell, do you want to press or withdraw amendment 53?

Mark Ruskell: I would like to press amendment 53.

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 53 agreed to.

Amendments 345 and 346 not moved.

Amendment 54 moved—[Mark Ruskell].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 54 agreed to.

Amendment 55 moved—[Mark Ruskell].

The Convener: The question is, that amendment 55 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 55 agreed to.

Amendment 56 moved—[Mark Ruskell].

The Convener: The question is, that amendment 56 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 56 agreed to.

Amendment 57 not moved.

Amendment 58 moved—[Mairi Gougeon]—and agreed to.

Amendment 59 not moved.

Amendments 60 and 61 moved—[Mairi Gougeon]—and agreed to.

The Convener: I call amendment 62, in the name of Tim Eagle, already debated with amendment 14.

Tim Eagle: If it is easier, convener, I will just say that I will not move amendment 62.

The Convener: No, it is not easier.

Amendment 62 not moved.

The Convener: The question is, that amendment 62 be agreed to. Are we all agreed?

Members: It was not moved.

The Convener: I am sorry—the amendment was not moved. You see, Mr Eagle—you confused me. That is why it is not easier.

Amendments 63 and 64 not moved.

The Convener: I call amendment 407, in the name of Tim Eagle. I should say that if the amendment is agreed to, I cannot call amendment 65, which has already been debated in the group on establishment, appointment and functions of the land and communities commissioner.

Amendment 407 moved—[Tim Eagle].

The Convener: The question is, that amendment 407 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 407 disagreed to.

Amendments 65 and 66 not moved.

Amendment 67 moved—[Mairi Gougeon]—and agreed to.

Amendments 68 and 69 not moved.

Amendment 70 moved—[Bob Doris]—and agreed to.

Amendment 71 not moved.

Amendment 72 moved—[Mairi Gougeon]—and agreed to.

Amendments 73 to 75 not moved.

Amendment 76 moved—[Mairi Gougeon]—and agreed to.

11:30

Amendment 77 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)

Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 77 agreed to.

Amendments 78 to 81 not moved.

Amendment 82 moved—[Tim Eagle].

The Convener: Oh!

Michael Matheson: He is just checking that we are paying attention.

The Convener: Well, apparently we are, so that is good.

The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 82 disagreed to.

Amendment 83 moved—[Bob Doris].

The Convener: The question is, that amendment 83 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 83 agreed to.

Amendments 84 and 85 not moved.

Amendment 408 moved—[Tim Eagle]—and agreed to.

Amendment 86 not moved.

Amendments 409 and 410 moved—[Tim Eagle]—and agreed to.

The Convener: I call amendment 411 in the name of Tim Eagle, already debated with amendment 53. I point out that, due to pre-emption, if amendment 411 is agreed to, I cannot call amendment 87, which has already been debated in the group on the establishment, appointment and functions of the land and communities commissioner.

Amendment 411 moved—[Tim Eagle].

The Convener: The question is, that amendment 411 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 411 disagreed to.

The Convener: I call amendment 88 in the name of Tim Eagle, already debated with—*[Interruption.]* I am sorry—that was my mistake. I call amendment 87 in the name of Tim Eagle, already debated with amendment 14.

Amendment 87 not moved.

The Convener: I could have just gone to amendment 88.

Amendment 88 not moved.

The Convener: I call amendment 89 in the name of Bob Doris, already debated with amendment 53. I remind members that amendments 89 and 90 are direct alternatives, so they can both be moved and decided on, and the text of whichever is the last agreed is what will appear in the bill.

Amendment 89 moved—[Bob Doris].

The Convener: The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division. *[Interruption.]* I will rerun that vote just to make

sure that we are all still awake. Mr Stewart, I do not want to incur your wrath.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 89 agreed to.

Amendment 90 moved—[Tim Eagle].

The Convener: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 90 disagreed to.

Amendment 347 moved—[Rhoda Grant].

The Convener: The question is, that amendment 347 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 347 disagreed to.

Amendments 412 and 413 not moved.

Amendment 91 moved—[Bob Doris]—and agreed to.

Amendment 92 not moved.

Amendment 414 moved—[Tim Eagle]—and agreed to.

Amendments 93 and 94 not moved.

Amendment 415 moved—[Tim Eagle]—and agreed to.

Amendment 95 not moved.

Amendment 416 moved—[Tim Eagle]—and agreed to.

Amendment 96 not moved.

Amendment 97 moved—[Bob Doris].

Amendment 97A not moved.

The Convener: The question is, that amendment 97 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 97 agreed to.

Amendments 98 and 99 moved—[Bob Doris]—and agreed to.

Amendment 100 moved—[Bob Doris].

The Convener: The question is, that amendment 100 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 100 agreed to.

Amendments 101 to 103 not moved.

The Convener: Gosh, there are a lot of these.

I call amendment 104, in the name of Tim Eagle, already debated with amendment 11. If amendment 104 is agreed to, I cannot call amendments 105 and 106.

Amendment 104 moved—[Tim Eagle].

The Convener: The question is, that amendment 104 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 104 disagreed to.

Amendment 105 moved—[Tim Eagle].

The Convener: The question is, that amendment 105 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 105 disagreed to.

Amendment 106 not moved.

Amendment 107 moved—[Bob Doris].

The Convener: The question is, that amendment 107 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 107 agreed to.

Amendment 108 moved—[Mairi Gougeon]—and agreed to.

Amendment 109 not moved.

Amendment 110 moved—[Tim Eagle].

The Convener: The question is, that amendment 110 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 110 disagreed to.

Amendment 417 moved—[Tim Eagle].

The Convener: The question is, that amendment 417 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 417 disagreed to.

Amendment 348 not moved.

11:45

The Convener: The next group is on leaving out part 1. Amendment 111, in the name of Tim Eagle, is grouped with amendments 136, 425, 173 and 176. I call Tim Eagle to move amendment 111 and speak to all amendments in the group.

Tim Eagle: Members will be pleased to know that I will not labour the point, because there has been a lot of discussion on part 1 and we have just agreed to an awful lot of stuff; however, I seek to remove the entirety of it. That is no great surprise—to be fair, I laid that out in my stage 1 argument. I do not agree with part 1 or with the premise of what the bill seeks to do with land management plans. My experiences have brought that about.

It is right to put on record that amazing work goes on in our estates in rural Scotland. We have estates that are actively participating in community societies. We have estates that are giving ground to communities. I know estate owners who are giving housing plots to local young people and key workers in their areas. We have estates that are doing everything possible for agri-environment schemes. We have farmers who are trying new methods such as mob grazing—exactly what we want to see. I am worried that land management plans will destroy some of that.

I take on board Rhoda Grant's point. As she mentioned, we all know of landlords who do not obey. I agree. As was brought up earlier, in some situations in Scotland—in particular, those that involve absentee landlords—there is no involvement or collaboration with the community. We could have addressed that in other ways; we do not need to impose land management plans on everybody when so much great work is already going on. We are already meeting obligations—I say “we”; I mean that, already, large estates of more than 1,000 hectares are out there meeting obligations on nature restoration, agriculture, outdoor access and so on.

We have figures from an answer to a parliamentary question that Ariane Burgess asked a couple of years ago. If the cost was £15,000 per land management plan—I realise that that is at the upper end—with a 500 hectare threshold, we would be looking at something like a £27 million cost to rural communities for putting the land management plans in place. At 1,000 hectares, we are still looking at a cost of £13.1 million. There is a significant cost to the introduction of land management plans, and I do not think that everyone—

Bob Doris: I am sure that Tim Eagle followed very closely the evidence that we received at stage 1. Does he recognise that large landowners told us that, by and large, all the things that are to be contained in the plans are best practice and are taking place anyway? If that is true, where is the additional cost?

Tim Eagle: That is what I have tried to lay out. A lot of great work already goes on in communities across Scotland. That does not necessarily mean that it is all written down in a plan. For example,

deer management plans are present, and an application for a grant for outdoor access might be written down, so it might be possible to lay that out very easily. Agri-environment schemes would be the same. However, we are talking about an extra imposition that would involve writing everything into a further plan. I do not agree that everyone will be running to their local library to look at such a plan because, for much of Scotland, the work is already occurring on the ground and we would have been better focusing on where that work does not occur, as opposed to putting the obligation on everybody.

There are ways to do that. The changes to deer management that we are looking at under the Natural Environment (Scotland) Bill do not impose obligations on everybody. They just say that, where things go wrong, we will look at what we can do, and NatureScot can come in. I am not sure that everyone will agree with me, but I think that such an approach might have been better under this bill. I reiterate the importance of the many good things that are going on out there in rural Scotland. I am worried that, ultimately, the requirement will be a burden, not a help.

I move amendment 111.

The Convener: I am looking round to see whether any other members want to contribute.

Douglas Lumsden: I will briefly pick up on a point that Tim Eagle made. When we think about landowners, we might think of huge estates, but with the bill we are seeing more and more agricultural holdings being brought in that will have to produce a land management plan. If things had stayed as initially intended, only 285 agricultural holdings would have had to produce a land management plan. However, with the amendments that have been made, that will increase to 874 agricultural holdings across Scotland. Given what is happening in the farming industry just now, I think that that goes a bit too far and will have a huge impact on many of our farmers. I completely support what Tim Eagle has been saying and doing. The changes that we have made to the bill have gone much further than was intended, which I think is a negative.

The Convener: Before I come to the cabinet secretary, I will say that, as a farmer, I am not frightened of producing a land management plan—I am very happy to do it. However, I want to point out some of the problems that farmers face in drawing up a land management plan. As a farmer, I have no idea what I will be doing in two years' time. I have no idea what the Government wants me to do with the subsidy system in two years' time. If my landholding was big enough to have a land management plan, I could not come up with one, because I do not know whether the cattle that I have would be something that the

Government wants. The Climate Change Committee is talking about a reduction of 33 per cent in cattle numbers, which means that I might not be able to have those cattle. I do not have sheep but, if I did, I might not be able to have those sheep. Although I have barley, I might not even know whether distilleries want the barley in two years' time. It is very difficult to come up with a land management plan for five years.

I see that Monica Lennon wants to come in, but I will take Mr Ruskell first.

Mark Ruskell: I find myself agreeing with much of what Tim Eagle said in relation to positive things happening in rural Scotland. The committee had a number of visits. For example, we went to Atholl Estates, which is well bedded in with the community, already has active plans on nature restoration, and is doing work on housing, the management of villages and so on. Where that works, it does work. I do not see it as a massive imposition to take that information and compile it in a way in which communities can engage with it.

Ultimately, this is about a conversation. Nothing in land management plans will compel landowners to make a certain decision. All they are being asked to do is to engage with communities. That could be a very positive conversation. It could be about the community thinking about how it can support an estate or a larger farm in its business enterprises and about where there might be business opportunities. Members of the community could say, "Have you thought about small-scale horticulture? Have you thought about a business doing mountain bike guiding or tuition?" There could be opportunities—it is a way of creating a conversation.

Tim Eagle: Will the member take a quick intervention?

The Convener: Hold on. Let us try to keep this in sequence. I accepted an intervention from Mr Ruskell. That does not mean that you can intervene on Mr Ruskell's intervention on me, Mr Eagle.

Mr Ruskell, if you could finish, I will then allow Monica Lennon's intervention on me.

Mark Ruskell: I am sorry. I did not realise that this was an intervention; I thought that it was my opportunity to contribute.

The Convener: No—you intervened on me. If you want to speak individually, I will bring you in afterwards. By all means, intervene on me.

Mark Ruskell: Okay. I will hurry up with my intervention and perhaps forego my opportunity to come in again later. I merely say that Mr Eagle's points about the positivity are well made. However, convener, do you agree that the issue comes down to guidance? For an estate that

already has well-developed forestry plans and land management plans, it will perhaps be more about translating those into a community conversation that is meaningful and supportive for the estate and the community. That is at the heart of the issue.

We do not know what that looks like yet, because we do not have the guidance yet. The guidance needs to show a way forward that is proportionate and genuinely useful for everybody. I do not recognise the figure of £15,000—the process could cost that if it was incredibly onerous, but it does not have to. It could involve the essence of what is in the bill, which is a positive conversation, positive community planning, iterative thinking between communities and landowners and partnership. That is what I take out of it. Do you agree, convener?

The Convener: I am always going to agree with you, Mr Ruskell. I was trying to make the point that, if what was being asked for was a fairly light-touch plan—for example, if, for an agricultural estate, the long-term objective was to continue agricultural and food production in line with Government guidelines—I personally might be able to sign up to that, and many farmers could. The problem is that if you start to get into more intricate details about how many hooves you have on the ground, I am not sure that I would have any indication at this stage of where I could be in five years, because I do not know what ground will be available for those hooves or what ground the Government would like me to use for other practices apart from feeding the nation.

Monica, you wanted to intervene, too. I am very happy to take the intervention—unless you want to say something separate to Mr Eagle.

Monica Lennon (Central Scotland) (Lab): I will come in now, convener. I am not surprised that people want to contribute to this part of our scrutiny, because the land management plans are an important part of the bill and we took a lot of evidence on them at stage 1.

I take issue with the way in which Tim Eagle has framed the issue. On the one hand, we are hearing about the benefits of land management plans and the fact that many landowners, especially larger landowners, already make them, but we are also hearing that it is burdensome and could be very expensive. We did not really get evidence at stage 1 that backed up the suggested higher costs of £15,000. There is a contradiction in Tim Eagle's arguments that, on the one hand, land management plans are good and lots of people do them but, on the other hand, we do not want them to be in the legislation.

I agree that we have to take care that land management plans do not become overly

prescriptive. I do not think that that is the Scottish Government's intention, but I will leave that to the cabinet secretary. However, does the convener agree that the benefits of land management plans have been well argued in our scrutiny? This is about improving accountability and transparency and, as Mark Ruskell says, engaging with communities, which can add value to the process for everyone.

The Convener: Experience has taught me that, when a landowner signs up to a land management plan, if there is criticism of their objectives and actions, bodies such as NatureScot—Scottish Natural Heritage, as was—run for the hills rather than supporting the land management plan that they signed up to. A land management plan has to work both ways. Once it is signed up and agreed to, it must be supported not only by the landowner, who has developed it in conjunction with the community, but by the community that signed up to it taking part in it and the Government bodies that have asked for it. It needs to be progressive.

The committee heard views on the costings of land management plans. We heard from one witness who suggested that it might cost £60,000 to produce a land management plan, but we thought that that was particular to a specific area, and that land management plans would be graduated in cost. We also heard from two land agents who suggested that £10,000 to £15,000 for a 1,000-hectare estate farm would be relevant.

My concern is that the level of community engagement that might be required is still not bottomed out. Maybe that is something for stage 3. Community engagement can take a considerable amount of time. I gave the example of Glen Prosen. Three years after the Scottish Government purchased it for the people of Scotland, we still do not have a land management plan for it, because community engagement is occurring. It might appear in the next week as a result of this conversation, but I doubt it. It is going to take a considerable amount of time.

I would like to see more bottoming out of the idea, and I would like to work with the cabinet secretary on what community engagement means. If we can get community engagement right, and resolve the issue of the depth of and requirements in the land management plan, they should not necessarily frighten people who are taking part.

I would be grateful if the cabinet secretary could wind up and perhaps agree with everything that I have said—but maybe she will not.

Mairi Gougeon: There is a lot to agree with in what we have been talking about round the table today. Mark Ruskell summarised where we are, and I wrote it down as, "Better community engagement," because that is such a strong and

positive thing that can come out of land management plans.

I completely recognise the points that Tim Eagle made, because the majority of us will have seen landowners doing that work in our constituencies, but we also know that there are landowners who are not doing good things and who do not undertake that engagement. We have to try to address that. The law does not allow us to distinguish between the good and the bad, or to get only to those who we feel are not doing the things that we want them to do. We have to apply the measures equally across the board.

The proposals that we have brought forward enable us to do that, and I am more than happy to have further engagement with you, convener.

12:00

Douglas Lumsden: You mentioned the proposals that you brought forward, which related to land of more than 3,000 hectares. With the reduction in area from 3,000 to 1,000 hectares, the number of agricultural holdings that are now in scope has increased from 285 to 874—it has tripled. Has the Government had any discussions with NFU Scotland on what impact that will have on our farming communities?

Mairi Gougeon: With the lowering and aligning of the thresholds at 1,000 hectares, only the largest agricultural businesses—1.4 per cent—will now be caught by those measures. I do not think that that is too unreasonable.

We come back to the issue of the level of detail that we expect to be provided in land management plans, which there has been a lot of discussion about today. As I have said, today and previously, there are the overarching objectives of what we want to achieve, but the detail of what is contained in the plans will be subject to wider consultation, because we need to make sure that we get the balance right. It is broadly the case—certainly among members round the table—that people do not want the process to be too prescriptive or too onerous, and, as Bob Doris and Mark Ruskell have said, many people are already doing that work. We simply want to ensure that everyone adheres to the requirements, because owning land comes with obligations.

Douglas Lumsden: It is the number of agricultural holdings that will be affected that concerns me. Although not all agricultural holdings will be in scope, the number that will be affected has tripled from 285 to 874. The issue is not just the pressure that that will put on our farming communities, but the pressure that it will put on the land and communities commissioner, who will have to review all the land management plans. Do you think that they will have the capacity to look at

all the plans, now that the threshold has been lowered, given the number of plans that will come forward?

Mairi Gougeon: We will obviously have to work closely with the Scottish Land Commission to make sure that it has the resources that it needs to undertake that work. I do not have particular concerns in that regard. What is more important to me is why we are doing this and the overall objectives that we are trying to achieve.

I do not intend to say much more, other than that I completely reject Tim Eagle's amendments in this group, which would undermine what the majority of us are seeking to ensure—that the bill works and is effective. The discussions that we have had so far and the other amendments that we have considered represent a step forward in achieving that.

The Convener: I ask Tim Eagle to wind up and to press or withdraw amendment 111.

Tim Eagle: I will not take long, but I want to come back on a couple of wee points. Monica Lennon said that there was a contradiction in my position. I do not think that there is a contradiction in what I am saying. I am not the cabinet secretary—although, in my dreams, I could be. I cannot believe that the Scottish Parliament could not have found another way of putting in place a law that would have targeted those who do not do what the cabinet secretary is seeking to ensure that they do, which is to implement a land management plan.

More often than not, I see the Government imposing an ever-greater administrative burden—an example of that is the whole-farm plans in agriculture. That is putting pressure on rural businesses, which they do not need at this time.

Mark Ruskell asked how much more difficult it would be to bring together all the plans that are already produced. Estate offices and agricultural businesses—which might simply have a desk in a shed—are not quiet places. They are already busy. It will be burdensome to pull the information together and to get it out there. The community engagement part of the process will definitely be burdensome.

Monica Lennon: I am really interested in the points that Tim Eagle is making. He said a moment ago that perhaps the Government should have targeted those who do not produce land management plans.

Tim Eagle: Did I say that?

Monica Lennon: Yes. How would the Government know who had produced a plan and who had not?

Tim Eagle: I apologise—my enthusiasm is getting the better of me. I will retract what I said about land management plans. What I am talking about is targeting the landowners who do not engage with communities. I am referring to people who are absentee landlords, in the sense that we probably all understand. Because they are not present, there might be issues with tenants on their estate, they might not be working with any of the communities or there might be other problems. I do not know of many examples, but there will be such cases across Scotland.

However, there are many other estates where people can do a variety of activities. I have written down a few examples. There are estates in the Deeside area where you can do sauna and swims, fishing tours and picnics on the hills. That is all happening without those estates having a land management plan in place. Community individuals are coming forward and asking the estate owner, "Can I set up this business?" and they are being allowed to do it.

Bob Doris: Will the member take an intervention?

Tim Eagle: If the convener is happy, I am happy to take another intervention.

The Convener: It is up to you, Mr Eagle, whether you want to take an intervention, but your enthusiasm may preclude it.

Bob Doris: I thank Mr Eagle for giving way. I point out that the spa activities in Deeside are much more like what I would dream about than what you apparently dream about, but we will leave that hanging.

Some of your amendments to part 1 are simple deletions, but some of them would have amended part 1, on the basis that you thought that they would improve it. Had those amendments been agreed to—not the deletions but the other amendments—would you still move your amendments to delete part 1 in its entirety?

I am trying to understand whether your presence at the committee last week and today, which is always very welcome, is destructive or constructive. Would you ever have agreed to part 1 in any shape, size or form?

Tim Eagle: The simple answer is no, because I do not think that the burden of land management plans on all rural landholdings in Scotland above 1,000 hectares, which is 2,000 hectares less than the original proposals in the bill, is helpful.

I must pick up on a second point. I cannot believe that we do not all dream about being cabinet secretary for rural affairs—that is an important thing to do.

On what my earlier amendments were trying to do, it is all about how we take them here, is it not? I am still learning the process. I was trying to make a bad thing better, but ultimately I just do not support the bill. In fairness, I laid that out very clearly in the stage 1 debate. I do not think that this is the right way to go.

Do you agree with the principle that we probably need some—

Kevin Stewart (Aberdeen Central) (SNP): Will Mr Eagle give way?

Tim Eagle: Yes.

Kevin Stewart: I find this conversation very interesting. You lodged amendments to try to improve the bill and yet you want to take out an entire part of the bill. You said at the very start of the meeting—I paraphrase—that the Scottish Parliament could find a way to make sure that landowners are living up to their obligations. That is legislating, and that is what we are doing, so if you were unhappy with the bill, surely you should have tried to amend it to shape it into what you want it to be. However, you seem to have failed to do that, so we are now in a situation where you are proposing an amendment to wreck the bill. That is not good legislating at all.

Tim Eagle: I appreciate that interesting point. My understanding of being in opposition is that I am here to scrutinise and question the Government. That seems fair. The cabinet secretary has a wealth of advisers behind her who support her in creating and introducing a piece of legislation but, to be honest, I do not have that—I have a couple of people who help me to do this.

The point that you raised related to an early discussion that I had with my colleagues about how we could have a completely different proposal for the bill that would address some of the issues that I have raised, but it became apparent that we just did not have the time or ability to bring forward that proposal. I am now trying to question and scrutinise the Government, and I am saying, “I don’t think what you are proposing here will work.” I am happy to say that on record here; I already said it at stage 1, and I will say it again at stage 3.

To an extent, my hope for rural Scotland, which I think we all agree we are passionate about, is that the bill will work, but I do not think that it will. I think that it will be burdensome, and I do not think that it will improve the good relationships that are already out there.

I thought that this discussion would be slightly quicker than it has been, convener.

Mark Ruskell: I have a quick reflection. Do you agree that, where a larger estate has to produce a land management plan, surrounding smaller landholdings—farmers, typically—would benefit?

They would not have to produce a land management plan, but the transparency of a nearby estate would be there, so they could see more clearly the future for the area and how they might fit into that.

Do you not think that the requirement for transparency and to have a discussion with bigger landholders would benefit smaller landholders such as yourself or the convener? Clearly, your land would not be captured by the 1,000 hectare threshold currently set by the bill.

Tim Eagle: That is an interesting question. I want to be slightly careful with how I answer it, because I am not suggesting for one moment that I have all the answers; I do not and would never profess to. My small farm is surrounded by two very large estates, the Crown estate, which is to the west, and the Seafield estate, which is to the east. There has never been a moment when I have not been in contact with those two estates. I have never felt that I could not pick up the phone to the farm manager or the estate manager to have a conversation with them or ask them questions about whether there might be opportunities for renting land, or whatever it might be. I would hope that it is already possible for the vast majority of areas to have those kinds of conversations, so I do not know whether land management plans are really necessary.

I accept the point made by Mark Ruskell and the cabinet secretary in that I suspect that there are examples across Scotland of where what I have described does not happen. I am not saying that I have the answer written down in front of me, for the reasons that I have set out, but I think that there could have been another way that we could have worked to improve the relationship. For example, we could work with the likes of Scottish Land & Estates, which works with those sorts of estates and large farmers all the time, to achieve that. In my mind, the constant need to have large plans is not the way forward.

Douglas Lumsden: Will Tim Eagle take another intervention?

The Convener: Committee time is always precious. I am conscious that there are never timings for discussion of amendments, but I gently urge Mr Eagle to bring his argument on part 1 to a conclusion. I cannot force you not to take the intervention—take it if you want to, but please bring your argument to a close.

Tim Eagle: Can I take a final intervention, convener? I promise I will stop after that.

The Convener: Yes. Thank you for your compromise.

Douglas Lumsden: I thank Tim Eagle for taking the intervention. I will be quick. Does he not feel

that part of the problem is that the scope of the bill has increased? You spoke about large estates having land management plans and said that you work well with them, but we have increased the scope of the bill. As I said to the cabinet secretary, we have tripled the number of farms that would be included in the requirements from 285 agricultural holdings up to 874. We have included many more people than where we started, which is part of the problem with the bill and the process that we have followed to get here.

Tim Eagle: I completely agree. That neatly ties into my last bullet point. The threshold has been reduced from 3,000 to 1,000 hectares and there was a proposal to bring it down to 500—I am glad that that has not gone forward. We are not just talking about massive multifaceted estates any more; potentially, we are talking about an upland sheep farm.

The discussion has been helpful. As I have said, I am not saying that I am perfect in this, but I feel that we need to support rural Scotland as much as we can and recognise the great work that is being done. Unfortunately, I am concerned by all of part 1.

I press amendment 111.

The Convener: The question is, that amendment 111 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 111 disagreed to.

The Convener: We will move to the next section.

Kevin Stewart: Convener, do we not need to agree to section 1?

The Convener: No, because we voted on amendment 111. I do not need to put the question on the section, because the amendment was disagreed to by the majority of the committee. I think that that is correct—yes, it is.

Section 1, as amended, agreed to.

Section 2—Community right to buy: registration of interest in large land holding

The Convener: Amendment 349, in the name of Rhoda Grant, is grouped with amendments 418, 350, 112, 351, 352, 113 to 115, 353, 354, 116, 419, 420, 117 to 119, 421, 5, 422, 120 to 122, 423, 123 to 127, 127A, 127B, 128, 128A, 129 to 131, 133 to 135, 137, and 424. I remind members of the pre-emptions and direct alternatives in the group, as set out in the groupings. I call Rhoda Grant to speak to amendment 349 and other amendments in the group.

Rhoda Grant: I will also speak to Mercedes Villalba's amendments. Do you want me to do that at the same time, or do you want me to leave it to the point at which she will have come in?

The Convener: It would be helpful if you could speak to your amendments and the rest of the amendments in the group, and then speak purely to Mercedes Villalba's amendment when I call it later.

Rhoda Grant: That is fine.

Steps need to be taken to simplify and clarify the pre-notification of sale. My amendments in this group aim to achieve a longer timeframe for the prohibition of sale, the introduction of de minimis considerations and the setting in statute of a timeframe for section 34 letters, all of which would be crucial changes to the bill.

12:15

The prior notification mechanism is based on communities using the late application process in the Land Reform (Scotland) Act 2003. That process has not been successfully used since 2017 and the introduction of additional criteria in the Community Empowerment (Scotland) Act 2015. That has led to the Scottish Government interpreting late applications as being applicable only when a community body is already in possession of a section 34 letter and is actively working on a community right-to-buy application. That is simply unrealistic.

The proposed mechanism in the bill appears to circumvent those issues. However, it may be helpful for the Scottish Government to issue guidance that it will accept applications from community bodies that do not meet those unrealistically high criteria. If the prior notification mechanism is going to be agile and effective, the Government needs to accept that interested community groups are unlikely to be community right to buy compliant ahead of time and that they may or may not have a clear public record of interest in the land. It is especially problematic when there is a monopoly landowner who has held the land for many years and there had seemed to

be little likelihood of the land coming on the market.

Amendments 350 and 352 to 354 would simply create a single universal 120-day prohibition on sale rather than a 70-day prohibition. Community right-to-buy processes currently take many months and communities need a reasonable period of time to progress their applications. Amendment 349 would insert a 28-day timeframe for the Scottish Government to issue section 34 letters. That will be of assistance, but communities need a longer prohibition of sale period to allow time for them to do the administrative and fundraising work that is necessary. Amendment 351 would expand the list of organisations that will be notified of a land transfer to include community councils, development trusts and other community-focused bodies that ministers are aware of.

I support Mercedes Villalba's amendments 120, 122, 125 and 133. I also support the amendments that have been lodged by Michael Matheson and Mark Ruskell. I cannot, however, support Tim Eagle's amendments in this group.

I move amendment 349.

The Convener: I ask Tim Eagle to speak to amendment 418 and any other amendments in the group.

Tim Eagle: Amendment 418 seeks to define "community body". Section 2 of the bill will add procedures for applications to register an interest in land. This amendment seeks to ensure that those who can make such an application are within the legally recognised definition of "community body". That definition is found in section 34(4) of the Land Reform (Scotland) Act 2003, which states:

"A body is not a community body unless Ministers have given it written confirmation that they are satisfied that the main purpose of the body is consistent with furthering the achievement of sustainable development."

I turn to my amendment 113. As drafted, the bill will allow the prohibition of sale under proposed new section 46B of the 2003 act to be lifted after 30 days. That 30-day period will begin when ministers publicise

"that the owner ... intends to transfer the land"

and

"how a community body can register an interest in some or all of the land".

Amendment 113 would still allow for the prohibition to be lifted following 30 days, but the 30-day period would begin when ministers receive a request for the prohibition to be lifted under proposed new section 46C of the 2003 act or the owner of the land proposes to transfer that land under section 48 of the Land Reform (Scotland) Act 2016. I am concerned that there could be

scope for delay if the lifting of the prohibition is based on ministers fulfilling duties under proposed new section 46D of the 2003 act, which would unfairly prevent the landowner from selling their land. My amendment seeks to prevent that.

Following on from that is my amendment 114. As the bill is drafted, ministers will be required to give notice to a person who has notified their intention to transfer land, under proposed new section 46C or section 48 of the 2003 act, that the prohibition on transferring the land is lifted after a period of 30 days after ministers fulfil their duty under proposed new section 46D. Amendment 114 proposes that ministers should be required to publish the notice to be given under this part of the legislation.

My amendment 116 regards the registering of community interest. Proposed new section 46F allows for ministers to prohibit an owner of land from transferring that land under a number of circumstances. In allowing that prohibition, ministers need to be satisfied of a number of conditions, including that

"there is a reasonable prospect of that application resulting in a community interest in the land being registered."

Amendment 116 adds the condition that ministers are satisfied that the person noting an intention to register community interest

"would have sufficient resources to purchase the land."

I believe that the amendment would add protection for the seller by ensuring that those who are lodging a community interest would be able to buy the land. That would avoid landowners being caught in a situation in which sales are delayed when those expressing the community interest would be unable to buy the land.

My amendment 419 would allow ministers to add by regulations to the short list of land that could be excluded from prohibitions as cases are thrown up after the implementation of the bill. I believe that that would add flexibility to the legislation.

My amendment 420 allows ministers to disapply the prohibitions if it is considered to

"be in the public interest to do so".

I am in favour of a public interest test to some degree being included on the face of the bill. However, I believe that the other proposals that have been made for a public interest test are too wide ranging.

My amendments 421 and 423 would remove references to "composite holding" from the definition of land in section 2. That change follows on from my amendments to section 1. I believe that the definition of "composite" in the bill raises significant problems.

My amendment 422 seeks to increase the land size threshold, which is 1,000 hectares in the bill, under section 2, to 5,000 hectares. That follows on from my earlier amendments to section 1.

My amendment 129 seeks to delete the section in the bill that allows ministers to alter by regulations the period for which a prohibition lasts and the land size threshold.

My amendment 134 relates to amendment 129. Although my first choice would be to delete proposed new section 46L, amendment 134 would ensure that regulations that are made under section 46L do not lead to reduction of the land size threshold.

In a similar way, my amendment 131 seeks to avoid ministers being able to reduce the land size threshold in the future under their powers under proposed new section 46L of the 2003 act to modify section 2 of the bill by regulations.

My amendment 135 seeks to improve consultation. Currently, section 2, via proposed new section 46L, allows for ministers to make regulations to change the time period of prohibition and the land size threshold. Amendment 135 would require them to lay any such regulations before the Scottish Parliament and consult anyone who is considered appropriate when making such changes.

Amendment 24, which is my final amendment in the group, is a drafting amendment.

The Convener: I ask the deputy convener, Michael Matheson, to speak to amendment 112 and any other amendments in the group.

Michael Matheson: My amendments in this group relate to my original amendments in group 3, which were to do with community significance. These amendments are consequential to those earlier amendments, so I will not be moving them.

The Convener: Do you want to speak to any of the other amendments in the group?

Michael Matheson: No.

The Convener: Okay, thank you.

Cabinet secretary, will you speak to amendment 115 and any other amendments in the group, please?

Mairi Gougeon: I will, convener. There are quite a few amendments in this group, and I will try to work my way through them as best I can.

First, I turn to Rhoda Grant's amendments, starting with amendment 349. Part of that amendment is not necessary. We already publish guidance on late community right-to-buy applications, and we are going to review that and issue further guidance as part of the review of

community right to buy that we are undertaking at the moment. I do not think that the amendment's requirement for more specific guidance at this point is required.

Amendment 349 also proposes changes to processes and timescales in the existing part 2, on community right to buy, of the 2003 act. I think that those changes would be better considered as part of the review that I just mentioned. Further, the amendment does not reflect or practically work with the steps that are involved in registering community interest in land under part 2 of the 2003 act. For those reasons, I would not be able to support amendment 349.

Douglas Lumsden: Can you give us any details of when that review of community right to buy will be coming forward?

Mairi Gougeon: The review has been under way for the past year, and we are looking to consult on the measures within that shortly. We will come to further discussion on the review in future groups of amendments.

I have some sympathy with amendment 350, because ultimately it would give more time to communities. However, we cannot ignore the impact that it would have on the landowner, given that it would substantially extend the prohibition on sale. Our measures have to be proportionate and fair to all sides. I believe that the significant additional prohibition that is proposed in the amendment would not quite get that balance right, so I ask the committee not to support the amendment.

Rhoda Grant: It is widely believed that the time that is allowed in the bill does not allow communities any realistic chance of buying land or looking at how the sale is being lotted and the like. How does the minister intend to make it possible for communities to register their interest and become involved if the timeframe is not extended?

Mairi Gougeon: The amendments that I have lodged will change some of those timescales. We also heard the advice that the committee heard, as well as the recommendations from the Scottish Land Commission. Ultimately, it is about balance. I appreciate that you are advocating for 120 days, but we will still have two periods of time. I will come on to talk to my amendments and, I hope, set that out a bit more clearly.

If communities have registered an interest, they will already be notified under existing arrangements, so amendment 351 is not necessary. It also seeks to provide that a wide range of groups should be notified of any sale, but it does not make any distinction in relation to whether a group is interested in acquiring the land, without it having signalled that it wishes to be notified. The bill already provides for notification to

anyone, who need not be a community body, who has provided details and wants to be notified in the event of a landowner notifying ministers of an intention to transfer the land. That is the right target group. Expanding the requirement to anybody who has engaged with ministers under section 34 of the 2003 act would be a huge addition and would carry significant resource implications. There would not be a policy benefit in taking that approach, so I ask members not to support amendment 351.

I am not quite sure about the intent behind amendment 418, in the name of Tim Eagle, but it appears to seek to limit those who can submit a part 2 community right-to-buy application following pre-notification. However, that is already a feature of the bill. Community bodies that are not already in receipt of a section 34 letter must use the time that has been allowed by the prohibition on transfer to obtain that letter before they can submit a part 2 application. I ask the committee not to support amendment 418.

Michael Matheson's amendments would introduce sites of community significance to the provision. We discussed that issue in detail in the previous session, so I hope that he will not move his amendments in that regard.

On my amendment 115, I say again clearly that we have listened to and considered the stakeholder feedback on the timescales for pre-notification. I know that, in its stage 1 report, the committee noted the recommendation of the Scottish Land Commission, which I have already referred to, for a single 90-day period, and it suggested that timescales should be

"adjusted to allow communities more time to note their interest and prepare an application."

To that end, I have introduced amendment 115 to increase the second prohibition period from 40 to 70 days. Combined with the initial prohibition period of 30 days, that will give communities a total period of time of at least 100 days in which to note their initial interest and to prepare and submit an application to register a part 2 community interest in land.

Rhoda Grant's amendments 352 to 354 on the pre-notification prohibition timescales would replace the two prohibition periods that can be imposed under pre-notification measures with two separate periods of 120 days each. I do not know whether that is the effect that was sought with the amendments, because the result would be that, even if there was no community body interested in the land in question, a prohibition of 120 days would still apply before the landowner could transfer the land. That is quite a long period of time to restrict a sale without due interest from a

community body. For that reason, I ask members not to support those amendments.

On Tim Eagle's amendment 113, I understand that he wants to encourage ministers to act quickly once they have received notification of a potential transfer and for the prohibition period to start running from that point. However, amendment 113 could have unintended consequences for communities. It also does not work with the separate provisions that calculate the period of time that communities have to engage with the process following that notification from ministers. I believe that it is appropriate for the prohibition to begin when the notification is made by ministers. However, I acknowledge the desire for greater clarity of timescales from a landowner's perspective, and I want to assure Tim Eagle that those matters can be addressed through guidance.

Amendment 114 looks to place a duty on ministers to publish a notice that is provided to landowners to notify them that the prohibition on transfer has been lifted. It could have cost implications for the Scottish Government, but I would welcome further engagement with Tim Eagle to understand the reasoning behind the amendment a bit better.

Amendment 116 would place even more stringent conditions on communities than they would be subject to if they were submitting a regular right-to-buy application. That would turn pre-notification from a gateway into community ownership to something that would become a financial and bureaucratic hurdle. I oppose the amendment on that basis.

12:30

Proposals on the inclusion of a de minimis threshold were discussed extensively during stage 1. It is clear that stakeholders on all sides agree that non-controversial small sales should not be included in the pre-notification provisions. We have considered all the evidence that has been provided in that regard, and we have engaged extensively with stakeholders on the introduction of a de minimis threshold below which pre-notification provisions will not apply. I have lodged amendments 119, 128 and 137 to set out in the bill a de minimis exemption, which will depend on ministers making regulations at a future date to specify the area of land that will be exempted. That will enable the exempted area and related rules to be identified and agreed on following appropriate engagement and consultation. I hope that members will support the approach that I have set out.

There is a difficulty with amendment 419 in that it partially overlaps with the power in proposed

new section 46L of the 2003 act to modify land that is subject to pre-notification provisions. If the intention behind the amendment is to allow for the introduction of something like a *de minimis* exemption, I think that that outcome will be better served by the amendments that I have lodged in that regard. Amendment 424 is related, because it would make those regulations subject to the affirmative procedure. Therefore, I do not support those amendments.

Amendment 420 would widen the circumstances in which ministers could lift pre-notification requirements on request from the owner. The bill allows for that to happen only in exceptional cases that are based on financial hardship. However, amendment 420 would give ministers quite wide discretion to decide that land was not subject to pre-notification requirements if they considered that that would be in the public interest. I disagree with the premise of the amendment, because I think that it is fair for pre-notification requirements to apply generally to all transfers of land within the bill's scope, except in cases in which financial hardship is in play. The amendment would also risk creating administrative burdens and costs for the Government in relation to processing requests to lift the pre-notification rules on grounds other than financial hardship.

I also cannot support amendment 421, which seeks to remove composite holdings from land that will be affected by pre-notification provisions, because that would reduce the scope of the measures. I ask members not to support those amendments.

In a similar vein, Rachael Hamilton's amendment 128A—I know that she is still to speak to it—seeks to amend my amendment 128, which would introduce the *de minimis* exemption. The purpose of amendment 128A appears to be to narrow the scope of the measures that ministers could take in future regulations to avoid misuse of the *de minimis* rule as a means of avoiding pre-notification requirements. I want to avoid transfers being artificially designed to avoid the need to pre-notify. It is therefore right that ministers have appropriate powers under proposed new section 46K of the 2003 act to provide for scenarios that will not benefit from the *de minimis* exemption. Amendment 128A would make it difficult to close any potential loopholes that could be used by those who had the time and resources to design schemes to avoid pre-notification measures in order to fly under the radar, so I cannot support the amendment.

As Tim Eagle has outlined, amendment 422 would raise the threshold from 1,000 hectares to 5,000 hectares, and amendment 423 would remove the definition of a connected person. Both amendments would reduce the number of

landholdings that would be caught by pre-notification measures, which is why I do not support them.

The Convener: In relation to areas that are considered to be *de minimis* as far as sales are concerned, have you considered the evidence that the committee heard that suggested that, if areas had been identified in the land management plan as being important to the community and if there was an undertaking that those would be excluded from the sale and sold to the community, the rest of the land would still be exempted from sale until ministers had ruled on the matter?

Mairi Gougeon: If I have understood you correctly, that brings us back to the discussion about recognising land of community significance.

The Convener: That is correct, and local place plans were also raised at some stages during our evidence.

Mairi Gougeon: Absolutely. There have been a number of different arguments relating to land of community significance, and we covered a lot of them during the debates on the groups of amendments that we discussed last week. I outlined a variety of issues in that regard. I hope that the approach that I have proposed through the amendments that I have lodged will work better in ensuring that there will be wider engagement and consultation before regulations are made, so that we get the measures right when they are introduced.

I have talked about Tim Eagle's amendments 422 and 423.

I note that Mercedes Villalba's amendment 120 aims to bring within the scope of pre-notification any holding that forms part of an inhabited island and constitutes more than 25 per cent of land forming the island. As such a definition would have no minimum area of landholding, it could bring holdings on very small islands within the scope of pre-notification and have a disproportionate and adverse impact on island communities and landowners. That has not been accounted for through our islands impact assessment.

However, I note that some of the other amendments that have been lodged, not just in this group but in other parts of the bill, have considered a variety of different thresholds in relation to our islands. We had removed that condition first of all so as not to disadvantage island communities, but I appreciate that there is still a lot of interest in that area. There is still some work to be done in order for us all to get that right, so I encourage members who lodged relevant amendments in this and other groups—including Mark Ruskell, Ariane Burgess and Mercedes Villalba, although I acknowledge that Ms Villalba is not here today—to have discussions with me.

Amendments 122 and 125 would remove the requirement for single landholdings to be contiguous. We discussed that at the previous meeting and, as I stated last week, we are unable to support those amendments because of the lack of an evidence base to justify the proposal.

Ariane Burgess's amendment 5 would lower the threshold from 1,000 hectares to 500 hectares. Again, we discussed that last week, so I am not going to rehearse the arguments against it that we made then, but I ask that that amendment not be supported.

My further amendments—amendments 123, 124 and 126—seek to strengthen the definition of “composite holding” that is set out in proposed new section 46K of the 2003 act in relation to land affected by the pre-notification prohibitions. Those are similar to amendments 41, 46 and 48, which we debated in group 3, and to my amendment 49, which relates to another part of the bill and has been previously debated. Amendment 127 allows for non-contiguous areas of land to form a holding, provided that they are within 250m of each other. I ask the committee to support my amendments. I understand that Mark Ruskell has amendments that are similar to amendment 127—amendments 127A and 127B—and, again, further to the discussion that we had last week in relation to previous groups, I ask him not to move those amendments.

Proposed new section 46L of the 2003 act provides a power that ministers can use to amend the length of the second prohibition period and the land to which pre-notification applies. That allows future adjustment of those parameters. The committee's stage 1 report said that that was an important feature to enable there to be a response to monitoring review.

Tim Eagle's amendments 131 and 134 would restrict the proper use of those powers by preventing ministers from making regulations, which would reduce the overall threshold for pre-notification. Mercedes Villalba's amendment 133 also seeks to amend section 46L but, in contrast, specifies that ministers may not make regulations to increase the overall threshold for pre-notification. Tim Eagle's amendment 129 looks to entirely remove section 46L and all the powers within it. Between them, those amendments unduly restrict the ability of future Governments to alter thresholds, even if the evidence overwhelmingly suggests that they should be altered, which is why I am not able to support them.

Amendment 135 requires ministers to consult before laying draft regulations under section 46L for approval by Parliament and to prepare and publish a report on the consultation. We have lodged a comprehensive Government amendment

to require consultation with appropriate people before draft regulations through part 1 of the bill are laid. For those reasons, I do not think that amendment 135 is necessary, and I urge members to oppose it.

The Convener: If Ariane Burgess were here, she would speak to her amendment 5 and the other amendments in the group, but Mark Ruskell will speak to Ariane Burgess's amendments only, because he will have a chance to speak to the other amendments in the group slightly later.

Mark Ruskell: I could pretend to be Ariane Burgess talking about Mark Ruskell's amendments, if you want.

The Convener: No, you could not.

Mark Ruskell: How confusing.

Amendment 5 would establish a 500 hectare threshold. We debated that issue in group 3 last week. I will not be moving that amendment on behalf of Ariane Burgess.

The Convener: I call Rhoda Grant to speak only to Mercedes Villalba's amendment 120 and any other amendments that Mercedes Villalba has in this group, because she has already spoken to the other amendments.

Rhoda Grant: The purpose of amendments 122 and 125, as with amendments 43 and 47 previously, is to remove loopholes relating to contiguous landholdings and include aggregated landholdings. The issue that we face is land concentration at a national scale, so it is only right that aggregation nationwide is considered.

Taken with amendments 43, 47, 140 and 145, amendments 122 and 125 would ensure that aggregated non-contiguous landholdings across Scotland were affected by prohibitions. To ensure that future Governments continue the direction of travel in diversifying land ownership, it is right for thresholds to be revised only downwards, bringing more large landholdings under the scope of the bill. Amendment 133, in the same manner as amendment 109, which we have previously debated, specifies that regulations must not increase the number of hectares that the land must exceed in order for obligations and prohibitions to be imposed on the land. Therefore, amendment 133, taken together with amendments 109 and 171, would ensure that thresholds could not be revised upwards.

Together, amendments 5 and 120 would apply the improved aligned thresholds for public interest tests and include island landholdings. The purpose of amendment 120 is to insert an islands criterion for a lower threshold.

We support Ariane Burgess's amendment 5, because, as we all know, Mercedes Villalba

consulted on a proposed land ownership and public interest bill and on lowering the land threshold to 500 hectares, which we will continue to support.

The Convener: I call Mark Ruskell to speak to amendment 127A and any other amendments in the group.

Mark Ruskell: As I have said, I will not move amendment 5.

Amendments 127A and 127B relate to group 3 amendments on the definition of contiguous holdings, which we debated last week. We have had a constructive conversation with the cabinet secretary and I look forward to discussing, ahead of stage 3, how the bill will work on the ground. I hope that, in those discussions, we can agree a definition of “nearby land” that will reflect the need for community consultation. Therefore, I will not move those consequential amendments.

The Convener: I welcome Rachael Hamilton and ask her to speak to amendment 128A and the other amendments in the group.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): The Government's amendment 128 rightly seeks to provide powers to exempt some transactions from the prohibition on sale under prior notification—an issue that was highlighted in evidence at stage 1—and would provide a much-needed element of common sense in those sections.

There are too many transaction types to list in the bill, so having a regulation-making power is the right way to go. However, there is a real risk that, as drafted, amendment 128 will not achieve the required outcome. I understand that the wording has been lifted from other anti-avoidance measures related to the right to buy, but the proposed new subsection (4) in that amendment is problematic in that context. It provides that a series of transactions that have the effect of avoiding the community's right to buy may not be eligible for exemption from prior notification. That would catch the types of transactions that are referred to in amendment 128, because the outcome would be the avoidance of the formal community right-to-buy process, but the purpose may not have been to frustrate community ownership or avoid compliance with legislation.

In many cases, the opposite would be the case—in fact, the intention may have been to achieve a number of transfers to communities, tenants and others. We have seen examples of that. For example, in my constituency in the Borders, Buccleuch Estates and its tenants, farmers, communities and other relevant parties are embarking on discussions about a programme of voluntary land sales and are expending significant sums of money to do that. I believe that

those are positive steps towards greater community ownership, and that could be frustrated by the inclusion of the words

“or effect, or one of the main purposes or effects”

in this context. Removing them from the Government's amendment would provide comfort that the transfers to communities or sitting tenants would not be open to delay or challenge.

I have only been dipping in and out of this committee to move amendments, but I have the feeling, from some of the cabinet secretary's comments, that, as has been the case in relation to other legislation that has been passed in the rural context, there is an element of mistrust around this issue. The view that my amendment 128A would make it difficult to close loopholes goes against the grain of what I am trying to achieve, which is to ensure that there is not a delay for sitting tenants or communities in that context.

12:45

The Convener: I am reflecting on what the cabinet secretary said in relation to amendment 115, which would increase the 40-day period to 70 days and, in effect, give an overall 100-day standstill period. I am happy to take an intervention from the cabinet secretary if I have missed something, but, if it becomes blatantly obvious during the 100-day standstill period that nothing will be achieved, I am unclear about whether it is mandatory for that period to last 100 days or whether it could be closed off if there was no community interest in the matter or the community was clear that it was unlikely to achieve anything.

Mairi Gougeon: That is why the first prohibition period—the initial 30 days—is so important. If there is no community interest, the prohibition is lifted at that point and the sale will have been delayed for only 30 days.

I will follow up in more detail with the convener on the point about the 70-day period, because I need to double check some things.

The Convener: It would be helpful for me to know, before stage 3, whether, if a community had an interest but it became clear after, say, 35 days that the community would be unable to raise the funding for it, the 70-day period would remain extant. It would be helpful to have clarity on that so that there is equity for both parties. I will leave that hanging before stage 3, and I thank the cabinet secretary for her offer to engage.

I ask Rhoda Grant to wind up and to press or seek to withdraw amendment 349.

Rhoda Grant: I apologise—I am trying to remind myself whether I was going to press amendment 349. I will do so, and I have no further comments to make.

The Convener: The question is, that amendment 349 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 349 disagreed to.

Amendment 418 moved—[Tim Eagle].

The Convener: The question is, that amendment 418 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 418 disagreed to.

Amendments 350, 112, 351, 352, 113 and 114 not moved.

Amendment 115 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 115 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Mountain, Edward (Highlands and Islands) (Con)
Ruskell, Mark (Mid Scotland and Fife) (Green)

The Convener: The result of the division is: For 5, Against 0, Abstentions 2.

Amendment 115 agreed to.

Amendments 353, 354 and 116 not moved.

Amendment 419 moved—[Tim Eagle].

The Convener: The question is, that amendment 419 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 419 disagreed to.

Amendments 420, 117 and 118 not moved.

Amendment 119 moved—[Mairi Gougeon]—and agreed to.

Amendments 421 and 5 not moved.

Amendment 422 moved—[Tim Eagle].

The Convener: The question is, that amendment 422 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 422 disagreed to.

Amendments 120 and 121 not moved.

Amendment 122 moved—[Rhoda Grant].

The Convener: The question is, that amendment 122 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 122 disagreed to.

Amendment 423 not moved.

Amendment 123 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 123 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 123 agreed to.

Amendment 124 moved—[Mairi Gougeon]—and agreed to.

Amendment 125 not moved.

Amendment 126 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 126 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

Against

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 126 agreed to.

Amendment 127 moved—[Mairi Gougeon].

Amendments 127A and 127B not moved.

The Convener: The question is, that amendment 127 be agreed to. Are we agreed?

Members: Yes.

Monica Lennon: No—sorry, I mean yes.

The Convener: Do not feel pressurised, Monica. If you want to say no, by all means do so. What would you like to do?

Monica Lennon: I agree.

The Convener: We are all agreed on amendment 127.

Amendment 127 agreed to.

Amendment 128 moved—[Mairi Gougeon].

Amendment 128A moved—[Rachael Hamilton].

The Convener: The question is, that amendment 128A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Matheson, Michael (Falkirk West) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0. Therefore, amendment 128 is disagreed to.

Mhairi Gavin (Clerk): Amendment 128A is disagreed to.

The Convener: What did I say?

Mhairi Gavin: You said amendment 128, without the A.

The Convener: Oh—my mistake. Amendment 128 is not agreed to.

Mhairi Gavin: It is amendment 128A.

The Convener: Amendment 128A is not agreed to. Gosh, it is getting too late in the day. We have been at this for four and a half hours. Forgive me.

Amendment 128A disagreed to.

Amendment 128 agreed to.

The Convener: I point out that, if amendment 129 is agreed to, I cannot call amendments 130 and 131.

Amendments 129 to 131 not moved.

Amendment 132 moved—[Mairi Gougeon]—and agreed to.

Amendment 133 moved—[Rhoda Grant].

The Convener: The question is, that amendment 133 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lumsden, Douglas (North East Scotland) (Con)
Matheson, Michael (Falkirk West) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 133 disagreed to.

13:00

Amendment 134 moved—[Tim Eagle].

The Convener: The question is, that amendment 134 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 134 disagreed to.

Amendment 135 moved—[Tim Eagle].

The Convener: The question is, that amendment 135 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 135 disagreed to.

The Convener: I call amendment 136—*[Interruption.]*

I am sorry—did I miss something?

Tim Eagle: We were laughing. Sorry, convener.

The Convener: Well, it is getting late in the day so we can have a bit of lightness.

Amendment 136 moved—[Tim Eagle].

The Convener: The question is, that amendment 136 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 136 disagreed to.

Section 3—Modifications in connection with section 2

The Convener: I point out that, if amendment 137 is agreed to, I cannot call amendment 424.

Amendment 137 moved—[Mairi Gougeon]—and agreed to.

Amendment 425 moved—[Tim Eagle].

The Convener: The question is, that amendment 425 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 425 disagreed to.

The Convener: I ask committee members to pause for a moment while I consult the clerks to

see where we could get to if we start the next section.

If we have a quick five-minute break, we could get through the next section. I am in the hands of the committee. We do have another item of business to get through.

Mr Ruskell, do you want to say something?

Mark Ruskell: I have a fair bit to say in the next section, and I think that others will also want to contribute. I am also aware that we are starting a stage 3 in the chamber at the back of two. Let us leave it there.

The Convener: Okay. Along with most things in politics, that is a majority decision. On that basis, I will pause stage 2 proceedings for today and we will resume our consideration next week. I remind members that the deadline for new amendments to be considered next week is noon tomorrow.

I should also say to committee members and the cabinet secretary that it is more than likely that there will be a second meeting next week. I am waiting on an announcement from the Parliamentary Bureau in relation to the committee's request on timings.

I thank everyone for their attendance. We will now move into private session.

13:04

Meeting continued in private until 13:23.

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