OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 17 June 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 17 June 2025

CONTENTS

NET ZERO, ENERGY AND TRANSPORT COMMITTEE
22nd 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)
Ross Greer (West Scotland) (Green)
Ben Macpherson (Edinburgh Northern and Leith) (SNP)
Mercedes Villalba (North East Scotland) (Lab)
Martin Whitfield (South Scotland) (Lab)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 17 June 2025

[The Convener opened the meeting at 08:49]

Land Reform (Scotland) Bill: Stage 2

The Convener (Edward Mountain): Good morning, and welcome to the 22nd meeting in 2025 of the Net Zero, Energy and Transport Committee. Our first and only item of business is stage 2 consideration of the Land Reform (Scotland) Bill. I welcome Mercedes Villalba, who is here for that item. This is our third stage 2 meeting on the bill, and the deadline for completing stage 2 is, at the moment, 27 June. The committee will meet again tomorrow evening to consider further stage 2 amendments. A formal target has been set for these meetings—the committee will not go beyond chapter 2 of part 2 of the bill, which means that the final group that can be debated before the end of tomorrow evening's meeting is the one on the tenant farming commissioner. For this meeting, I will push through until about 1.30 this afternoon, and we will, I hope, start promptly tomorrow night.

I could provide a recap on stage 2 procedure, but I think that we are all pretty close to understanding it by now—and, if we are not, my explanation will probably not help very much anyway—so I will leave doing that.

Before we continue, I remind members and those who are watching of my declaration in the register of members' interests. As is set out, I have an interest in a farming partnership in Moray. Specifically, I declare an interest as the owner of approximately 500 acres or 202 hectares of farmland, of which approximately 50 acres or 22 hectares is woodland. I also declare that I am a tenant of approximately 500 acres in Moray under a non-agricultural tenancy, that I have another farming tenancy under the Agricultural Holdings (Scotland) Act 1991 and that I sometimes take on grass lets annually, if required.

Let me move straight to my script, which, I have to say, never gets shorter and, unhelpfully, is added to each week as a result of some quite substantial amendments, but here we go.

After section 3

The Convener: Amendment 355, in the name of Mark Ruskell, is grouped with amendments 356 to 358, 486 and 514. I call Mark Ruskell to move amendment 355 and speak to all the amendments in the group.

Mark Ruskell (Mid Scotland and Fife) (Green): Good morning, everybody. I hope that you all had a restful weekend and are ready for the marathon to come this week.

Amendment 355 seeks to address cases in which a community purchase of abandoned or neglected land is, in effect, stymied by a landowner bringing only a tiny proportion of the landholding into use. I will illustrate that with an example from Lower Largo. In the Largo estate, there is Largo house, which is derelict and abandoned. If you visit the site, you will see that it is clearly derelict and has clearly been abandoned by the landowner.

The site is of historical significance. It includes Wood's tower, which was a fort that was built in the early 17th century for Scotland's first sea admiral—it is well worth a visit to see the fantastic and amazing history. The site also includes some of Scotland's oldest walled gardens.

Having seen that the site has been abandoned and neglected, the community has wanted to use provisions under the community right to buy legislation to take over and restore the site in order to turn it into a wonderful tourism opportunity for the local community. However, although most of the site is clearly abandoned and neglected, about 5 per cent of it has been developed as a horticultural business, and the community believes that that thwarts its ability to buy the land under the current provisions on abandoned and neglected land in land reform legislation.

I have lodged amendment 355 to close the Largo loophole. It would require that at least 50 per cent of a site was brought into use before it was no longer classed as abandoned or neglected. If the vast majority of a piece of land is abandoned and neglected, the commonsense definition of that land is that it is abandoned and neglected, so the community should have a right to register interest in taking it over.

Amendment 355 would close a loophole that has blocked communities taking forward their rights to purchase unused land, and I am interested in hearing the cabinet secretary's view on that. I recognise that a wider community right to buy review is happening; we have debated that already during stage 2 consideration. The amendment provides an opportunity to close the loophole, and, if we do not do so through the amendment, I am looking for commitments to take that action in another way.

I turn to other amendments in the group. Rhoda Grant's amendments 356 and 357 look to improve recognition of crofting communities in the

community right to buy regulations. I am keen to support those amendments and to listen to the discussion about them. I am similarly supportive of Monica Lennon's amendment 514 on common good land. I will listen to the cabinet secretary's comments on that and how the provision can be taken forward. I am not entirely sure what Tim Eagle is trying to achieve through amendment 486, but, again, I will listen to his comments on it. It seems that it would require a review of the community right to buy, and my understanding is that that is already under way in the Government. However, again, I will listen to the debate and offer a few comments in closing.

I move amendment 355.

The Convener: I believe that Mercedes Villalba is going to speak to and move Rhoda Grant's amendment 356 and speak to the other amendments in the group. Over to you, Mercedes.

Mercedes Villalba (North East Scotland) (Lab): Thank you, convener. Yes, I will speak to and move amendments 356 to 358 in Rhoda Grant's name. I place on the record the fact that Rhoda Grant and I are members of the Co-operative Party.

Amendment 356 would insert, after section 3, a power to modify crofting community right to buy provisions. It is a regret that the Scottish Government has not reviewed and consulted on right to buy provisions prior to taking forward the bill. It makes the bill incomplete and means that, although the Scottish Government can tick a box to say that it has delivered a land reform bill, it does so in the knowledge that the bill is incomplete.

If the current reviews indicate the need for further legislation to make the law workable and change land ownership patterns in Scotland, the Scottish Government will have to find time to legislate again. Amendment 356 would therefore grant the Scottish ministers powers to modify the crofting community right to buy legislation without bringing forward primary legislation. Changes, of course, would have to be consulted on prior to any regulations being laid and scrutinised by the Parliament.

Amendment 357 is similar and would grant the Scottish ministers powers to modify community right to buy provisions.

Amendment 358 would require Co-operative Development Scotland to support community benefit societies in exercising the community right to buy. Most community buyouts are co-ops of one kind or another, such as community groups, sheep stock clubs and the like. Co-operative Development Scotland exists as part of Scottish Enterprise, so we could use it as a vehicle to promote community co-operative ownership.

The Convener: I should have welcomed Tim Eagle at the start of the meeting; I know that you will forgive me for that omission, Tim. I ask you to speak to amendment 486 and any other amendments in the group.

Tim Eagle (Highlands and Islands) (Con): Thank you and good morning, convener. My amendment 486 would introduce a new section on a review of the community right to buy. As Mark Ruskell has pointed out, the Scottish Government announced a review of the community right to buy last year, and I have heard from stakeholders that they are disappointed that the bill is proceeding before the conclusion of the review. Amendment 486 seeks to insert such a review in the bill and to include in it consideration of a less onerous pre-registration of interest stage, which would be brought forward if appropriate.

The Convener: I call Monica Lennon to speak to amendment 514 and any other amendments in the group.

Monica Lennon (Central Scotland) (Lab): Amendment 514 is the only amendment in my name in this group. Common good is the oldest form of community ownership in Scotland, dating back to the 13th century. It is an important part of the heritage of many communities, and those places should have the opportunity to take back ownership and control of such assets should they wish to do so.

With the abolition of town councils 50 years ago, in May 1975, 194 of Scotland's burghs lost ownership and control of land and other assets that they had held for centuries, in many cases. Through two reorganisations of local government, the administration of those assets has been somewhat chaotic and has lacked direct accountability to the communities concerned.

There are 25 burghs in Fife, for example—and I hope that Mark Ruskell will not contradict me on that. They are 25 distinct communities, from St Andrews to Dunfermline, and all their common good is owned and governed by the local authority, Fife Council. If we believe in community empowerment, community ownership and community wealth building, those highly significant and historic assets should be owned by the communities to whom they belong.

09:00

Amendment 514 ensures that there will be a legal framework to enable that to happen, should communities wish. The amendment suggests that that can be done by way of an amendment to the Land Reform (Scotland) Act 2003, but I am open to hearing about other ways of achieving the same goal. The amendment also refers to the right to buy common good assets. I want to make it clear

that those assets already belong to the communities, and they should not have to pay money for them. I would expect transfer of ownership to be at a nominal cost. The phrase "to buy" is better read as meaning "to transfer ownership".

The Convener: I invite Douglas Lumsden to contribute next; I will then make some comments myself.

Douglas Lumsden (North East Scotland) (Con): It could add a lot of confusion to make changes to the right to buy process through the bill when a review is already taking place: I think that that is asking for trouble. I therefore support Tim Eagle's amendment 486, and I would want its provisions to come forward as soon as possible.

One of my concerns about Mark Ruskell's amendment 355—which he might address at the end—is that it refers to whether

"50% of the land is frequently used."

I am not sure what the definition of "frequently used" would be. Perhaps Mark will clear that up in his closing remarks.

The Convener: I will make a couple of comments before I call on the cabinet secretary to speak.

I am struggling to see why amendments 356 and 357, which relate to crofting, are required, as crofting has a fairly easy and understood way of purchasing land and determining the value of crofting land. The situation with common grazing becomes more complicated, as the common grazings might not be attached to people who are active crofters. The common grazings may be held by active crofters and non-active crofters. I think that those two amendments would add confusion.

I think that the cabinet secretary will be bringing forward a crofting bill, and my suggestion is that, if change is wanted to the multitude of pieces of crofting legislation, the place for that is in that legislation, rather than in the bill that is before us. I would be interested to hear what the cabinet secretary says on that.

I understand what Mark Ruskell is trying to achieve though amendment 355, but I do not understand the mechanical way of achieving it—in particular, giving a right to buy and determining whether to value the land based on the percentage that is unused or on the percentage that is used, which could penalise somebody who might only be able to use a percentage less than 50 per cent. How would that affect their property rights?

I am also concerned that we went through the whole of the Land Reform (Scotland) Bill knowing that there was a consultation on the right to buy, which had not been fed in before we considered amendments to the right to buy in the bill. I think that that is flawed.

I am keen to hear what the cabinet secretary has to say. Now is your moment, cabinet secretary.

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): I thank everyone for the points that they have made and for the discussion.

Throughout the committee's evidence taking on the bill, I heard the criticism on the timing of the community right to buy review. I accept that, as well as the points that you and Mercedes Villalba have made on that, convener. That is a significant piece of work, and it is important that we continue with the significant work that we are doing now on the Land Reform (Scotland) Bill.

Some of the examples that Mark Ruskell touched on are really important, and they highlight why the review is so important. That is the only reason why I would ask members largely not to support the amendments in this group. It is purely because they relate to exactly the kind of issues that we need to tease out in the course of the review.

I am more than happy to have discussions with Mark Ruskell and other members of the committee to talk about their concerns in more detail. As I set out in relation to a point from Douglas Lumsden last week, we are looking to publish the consultation on the community right to buy review in the coming weeks. The intention is to outline and publish the overall outcome of the review towards the end of this year. I am happy to engage in conversations with members throughout that process, so that we can pick out specific examples that highlight issues with the existing community right to buy.

I was grateful to hear from Monica Lennon about the rationale behind amendment 514. I do not believe that it is necessary, because the right to buy does not exclude common good land. I accept what Monica Lennon is trying to say, which is that it is about not necessarily having to purchase the land. However, it is not clear from the drafting what "seize" means in that context. I am also not sure why Aberdeen, Dundee, Edinburgh and Glasgow councils are excluded from the provision. That is why I ask the committee to oppose amendment 514.

Again, the only reason why I ask the committee not to agree to amendment 486, which is from Tim Eagle, is that we are undertaking the community right to buy review. The amendment would mean that, once the bill has been passed, we would have to do another review in quick succession, which I do not think is necessary.

The Convener: I ask Mark Ruskell to wind up and press or withdraw amendment 355.

Mark Ruskell: We are where we are with the legislation in this area. There is a lot of frustration in communities. There is a call for reform, particularly on crofting legislation, and a bill on that has been introduced in Parliament. There is also the long-awaited community right to buy review.

Some of the issues are really long standing. The Largo community has been active on the issue that I referred to since 2017, and it is clear that the law, as currently constructed, is not working. In terms of the intricacies of valuations and buyouts, the provision on abandoned and neglected land has very rarely been tested. That is partly because it is not a robust provision. There are loopholes that allow landowners to effectively avoid or bypass the right that communities have.

I welcome the cabinet secretary's comments that the examples that have been raised today will be consulted on and reflected on in the community right to buy review. We look forward to that process. I hope that it will be on time and that the next Government that comes in will be able to act quickly on the issue. I do not want to find that I, or my successor MSPs from Fife, are sitting here making the same point in another five years' time, perhaps in speaking about another land reform bill, because communities are still trying to get control over historic assets that are abandoned and neglected. Right now, those assets are literally crumbling away because of a technicality. That is holding back economic development and conservation and the vision of communities around Scotland, which is a shame.

I will withdraw amendment 355, but I look forward to continuing the conversation with the cabinet secretary and taking that forward into the community right to buy review in the months ahead.

Amendment 355, by agreement, withdrawn.

Amendment 356 moved—[Mercedes Villalba].

The Convener: The question is, that amendment 356 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 356 disagreed to.

Amendments 357 and 358 not moved.

Section 4—Lotting of large land holding

The Convener: We turn to lotting and land transfers. Amendment 426, in the name of Tim Eagle, is grouped with amendments 138, 6, 428, 7, 429, 139, 430, 8, 9, 140, 431, 141 to 147, 147A, 147B, 148, 432, 166 to 168, 171 and 172. I remind members of the pre-emption and direct alternatives in the group, as set out in the groupings document.

I call Tim Eagle to move amendment 426 and speak to all the amendments in the group.

Tim Eagle: We have reached lotting, which has been discussed a lot in relation to other measures in the bill, and which I think is the provision that many owners of land are most concerned about.

My amendment 426 seeks to remove the measures in the bill that allow ministers to transfer part of a lot that is involved in a lotting decision. I am happy to listen to the cabinet secretary's explanation, but I am not sure why ministerial approval is needed to approve the transfer of part of a lot, and I have concerns that it will put a brake on the system.

My amendment 428 seeks to increase the size threshold for land that will be subject to prohibitions from 1,000 to 2,500 hectares. That is in line with arguments that I have previously made.

My amendments 430 and 431 would delete the word "composite" from the bill. As such, I am not minded to support the cabinet secretary's amendments on composite holdings, as I do not support that idea being included in the bill. I believe it to be unworkable, because two landholdings could be located in opposite areas of the country with very different requirements. However, I will be guided by her explanation.

I will oppose Mark Ruskell's amendments in the group, which seek to increase the area threshold by defining what is meant by "contiguous".

My amendments 166 and 172 would remove the ability for ministers, provided by proposed new section 67Y of the 2003 act, to modify parts of section 4 by regulations. That could include modifications to the size threshold for land that can be considered for lotting decisions. The thresholds should be set out in the bill. My amendment 167 seeks to prevent ministers from lowering the land size threshold in future.

I will briefly mention the remaining amendments in the group. I am happy to support my colleague

Rachael Hamilton's amendment 429, which is an important amendment to ensure that the land referred to in the bill is contiguous. As such, I will not support Mercedes Villalba's amendment 140, which seeks to delete "contiguous" from the bill. I do not intend to support Michael Matheson's amendments 138, 139 and 168 as I do not wish to see an extension of lotting. I am interesting to hear the policy intention behind Monica Lennon's amendment 432. I will oppose Mercedes Villalba MSP's amendments in the group, as I want to see the threshold increased and have lodged a number of amendments to that effect.

I move amendment 426.

The Convener: Thank you. Just to remind you, although you might oppose the amendments, it will be the committee members who vote on them, rather than you.

Tim Eagle: Yes, I was about to say that.

The Convener: We have logged your views.

I ask Michael Matheson to speak to amendment 138 and the other amendments in the group.

Michael Matheson (Falkirk West) (SNP): Amendments 138, 139 and 168 are consequential to earlier amendments on sites of community significance that I did not move.

The Convener: I call Mark Ruskell to speak to Ariane Burgess's amendment 6 and her other amendments, but he will get a chance to speak to the other amendments in the group later.

Mark Ruskell: I will not move amendments 6 to 9, and I will not move amendments 147A and 147B, which were debated with earlier groups.

The Convener: I call Douglas Lumsden to speak to Rachael Hamilton's amendment 429 and any other amendments in the group.

Douglas Lumsden: Amendment 429, in Rachael Hamilton's name, aims to make more practicable implementation of the 50-hectare rule that is set out in proposed new section 67G of the 2003 act. Some larger landholdings have had a programme of land sales over a number of years, and if the bill's provisions had been in place, they would have made the process more difficult by increasing the time for such transfers to take place or blocking them altogether. That cannot be the intention of the proposed new section.

When the owner of a large landholding is negotiating voluntarily with a number of buyers for various plots, that would trigger prior notification notices under proposed new section 46C of the 2003 act. When some of the transfers are above 50 hectares, that would also then bring the total area that is being sold within the bill's lotting provisions, which would cause a further prohibition on any of the sales until the lotting decision is made.

If areas above 50 hectares were required to be contiguous with a larger landholding, that would meet the objective of reducing the concentration of ownership but would still allow separate sales, each of more than 50 hectares around the edge of a landholding, for example, but not in the vicinity of each, without having to worry about triggering the lotting provisions and, therefore, holding up sales to sitting tenants or communities.

09:15

The Convener: I call Mercedes Villalba to speak to amendment 140 and any other amendments in the group.

Mercedes Villalba: Amendments 140 and 145 seek to ensure that aggregated, non-contiguous landholdings across Scotland fall under the definition of a "large holding of land" when applying the prohibitions. As with amendments 43 and 47 and amendments 122 and 125, which were debated in previous groupings, non-contiguous landholdings that are over the threshold limit will not be affected by the bill. By removing the requirement for landholdings to border each other, that would ensure that large landowners— [*Interruption*.]

The Convener: You are back on microphone, Mercedes.

Mercedes Villalba: I will start the sentence again.

By removing the requirement for landholdings to border each other, that would ensure that large landowners of multiple estates across the country would be in the scope of the bill. That would ensure that the bill fulfils its goal of disrupting concentrated, national-level patterns of land ownership by the few. Taken with amendments 43, 47, 122 and 125, amendments 140 and 145 would therefore remove loopholes on contiguous landholdings and would include aggregated landholdings.

The intention is for the thresholds to be adjusted only downwards. Therefore, my amendment 171, in the same manner as amendments 109 and 133, would amend the bill to specify that the regulations

"must not increase the number of hectares ... that land must exceed"

in order for the obligations or prohibitions to be imposed on the land. Therefore, amendment 171, taken together with amendments 109 and 133, would ensure that thresholds cannot be revised upwards.

I will speak to amendments 6 to 9 in the name of Ariane Burgess. I have long campaigned for more

democratic land ownership and a practical 500-hectare threshold. That was central to the consultation on my proposed land ownership and public interest (Scotland) bill. Amendments 6 to 8 seek to reduce the threshold definition of large landholdings, and the purpose of amendment 9 is to insert an islands criterion. The amendments would reduce the lotting limits from 1,000 hectares to 500 hectares, which would make the powers apply to land that exceeds 500 hectares and land that exceeds 50 hectares as part of a large landholding exceeding 500 hectares. I am fully supportive of those amendments, as is my colleague Monica Lennon.

The Convener: I call the cabinet secretary to speak to amendment 141 and other amendments in the group.

Mairi Gougeon: The amendments that I have lodged in the group mirror those in other sections that we have already largely debated, but I will speak about a few amendments in the group. Amendments 141, 143 and 146 seek to strengthen the definition of a composite holding. Amendments 142, 144 and 148 would resolve cross-referencing errors that were identified in the provisions following their introduction. Amendment 147 is similar to amendments 49 and 127, as debated in groups 3 and 10, and would allow for non-contiguous areas of land to form a holding, provided that they are within 250 metres of each other. I ask the committee to support those amendments.

I hope that we can have further conversations about the amendments that Mark Ruskell has lodged. We have already debated the substance of his amendments in previous groups. The same applies to Tim Eagle's amendments. Tim Eagle asked for clarification on the issues raised by amendment 426. I appreciate his intentions, but I think that the amendment as drafted would have the opposite effect and would mean that we would never be able to transfer part of a lot. It is important to highlight that element. Tim Eagle suggested that "composite" would apply to other parcels of land across Scotland, which is not the case, because of the measures that we have introduced and how we have defined that in the bill.

We have debated the substance of Ariane Burgess's and Mercedes Villalba's amendments, so I do not intend to rehearse those discussions, but I oppose the amendments.

I also ask Michael Matheson not to move his amendments in the group.

Rachael Hamilton's amendment 429 would run counter to my amendment 147, so I again recommend that it is opposed.

Monica Lennon's amendment 432 would exempt land that is owned by Scottish ministers from the transfer test provisions. I am interested to hear more about the rationale behind that amendment but, as the largest landholder in Scotland, the public sector has a duty to lead by example. That is why I recommend that the amendment is opposed.

The Convener: I call Mark Ruskell to speak to amendment 147A and any other amendments in the group. You said that you are not going to move them. As you are happy with that, I will move on to Monica Lennon, who wants to speak to amendment 432 and any other amendments in the group.

Monica Lennon: I am grateful to the cabinet secretary for the comments that she made a few seconds ago. The purpose of amendment 432 is to remove the conflict of interest that appears evident when Scottish ministers exercise powers under section 4 of the bill in relation to large landholdings that they own and are proposing to sell, or large landholdings that they are seeking to acquire. The amendment achieves that by removing land that is owned by Scottish ministers from the scope of the bill's powers in section 4. That might not be the only way to achieve that, but it appears to be the simplest.

I listened to an interaction between Rachael Hamilton and the cabinet secretary at stage 1, and I heard the minister explain that she does not agree that such a conflict of interest exists. I will make two observations in response to that. First, it appears self-evident that, if a person or organisation is simultaneously seeking to sell or acquire land and also has a statutory power to intervene in that process, it is a classic example of a conflict of interest.

Secondly, section 6 disqualifies from appointment to the role of land and communities commissioner any person who either owns a large landholding or has owned one within the year prior to appointment. The committee recommended in our stage 1 report that that disqualification be dropped, but the Government took a different view. If the very small risk of a conflict arising from the land and communities commissioner owning, or having owned in the previous year, a large landholding is considered sufficient to justify the disqualification, perhaps the cabinet secretary can explain why ministers can make decisions under sections 2 and 4 of the bill when they own the land or are seeking to acquire the land that is subject to those powers. We need to clear that up.

I emphasise that the benefits to communities that are provided by the bill can still be achieved in relation to land that is owned by Scottish ministers, even though they are excluded from its scope, since asset transfer provisions will still apply and

Scottish ministers are free to make their own decisions about lotting, for example.

The Convener: Bob Doris wants to speak at this stage.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I have some brief comments on some of Tim Eagle's amendments. If I have got it right, amendments 4 to 8 would increase the threshold for the transfer test, which I would not support. We have got the balance right in relation to that.

Amendment 166 indicates that Mr Eagle believes that any future changes to the thresholds should be conducted by primary legislation and not regulations, which is mainly unheard of in this type of legislation. I would not be supportive of that whatsoever.

Mr Eagle has a further amendment, which I understand means that we can use secondary legislation to increase but not decrease thresholds. I would not be supportive of the policy intent in Mr Eagle's amendments, because it is quite counterproductive.

I was sympathetic to Mercedes Villalba's comments about thresholds not going up the way, but in a later grouping I will be proposing reviews, perhaps every five years, by the Scottish Land Commission to make sure that the thresholds across the board are at the right level. We cannot have an independent, fair, robust and transparent review when we have legislation that means that thresholds can go in only one direction. We must be led by the evidence and the lived experience of how the bill works in practice after it becomes an act. For that reason, I cannot support the policy intent of Mercedes Villalba's amendment, although I am sympathetic to what she is trying to achieve.

The Convener: If no other members wish to speak, I ask Tim Eagle to wind up and press or withdraw amendment 426.

Tim Eagle: I do not have much to add. In reply to Bob Doris, it is no great surprise that I am trying to take as many people out of the lotting process as possible, as that is what I have argued for previously. We disagree fundamentally on the direction of travel, but that is fair enough, and I respect your views on that.

That is it, convener. I am happy to press amendment 426.

The Convener: The question is, that amendment 426 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 426 disagreed to.

Amendment 427 moved—[Tim Eagle].

The Convener: The question is, that amendment 427 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 427 disagreed to.

Amendments 138 and 6 not moved.

Amendment 428 moved—[Tim Eagle].

The Convener: The question is, that amendment 428 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 428 disagreed to.

Amendments 7, 429, 139 and 430 not moved.

Amendment 8 moved—[Mercedes Villalba].

The Convener: The question is, that amendment 8 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 8 disagreed to.

Amendment 9 not moved.

Amendment 140 moved—[Mercedes Villalba].

09:30

The Convener: The question is, that amendment 140 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)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

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

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

Amendment 140 disagreed to.

The Convener: Amendment 431, in the name of Tim Eagle, was already debated with amendment 426. I remind members that if amendment 431 is agreed to, amendments 141 to 146 will be pre-empted.

Amendment 431 not moved.

Amendment 141 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 141 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 141 agreed to.

Amendments 142 to 144 moved—[Mairi Gougeon]—and agreed to.

Amendment 145 not moved.

Amendment 146 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 146 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 146 agreed to.

Amendment 147 moved—[Mairi Gougeon].

Amendments 147A and 147B not moved.

The Convener: The question is, that amendment 147 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 147 agreed to.

Amendment 148 moved—[Mairi Gougeon]—and agreed to.

Amendment 432 not moved.

Amendment 433 moved—[Tim Eagle].

The Convener: The question is, that amendment 433 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 433 disagreed to.

The Convener: Let us go on to lotting decisions. Amendment 434, in the name of Tim Eagle, is grouped with amendments 435 to 438, 149, 439 to 443, 152, 153, 359, 444, 360, 445, 361, 154, 447, 525, 155, 362, 363, 156, 157, 448, 449, 159, 160, 457, 163, 526, 527, 169 and 461. I point out that if amendment 436 is agreed to, I cannot call amendments 437, 438, 149, 439 and 440.

I call Tim Eagle to move amendment 434 and speak to all amendments in the group.

Tim Eagle: Apologies—I need to speak to quite a few amendments here.

Amendment 434 would allow for landowners or creditors to include their own plan when making a valid application for lotting to ministers. That plan would set out the proposed lots for the purpose of the land being transferred in. I would welcome comments from the cabinet secretary on my thoughts on the matter.

Amendment 436 seeks to delete the entire section in the bill that allows for an expedited lotting decision. That is not because I do not support an expedited lotting decision—I very much do—but rather because I find that section a bit unclear. I have other amendments on timing, but I would be grateful to hear from the cabinet secretary about her approach to this section.

My amendment 437 would change the wording from "expedited" to "emergency" lotting decisions, to better reflect the circumstances in which an emergency lotting decision is needed for those people who are facing hardship. My amendment 438 is along similar lines. Currently, the bill allows ministers to make expedited lotting decisions in the sense that they "may" make such decisions if they are satisfied that certain conditions are met. The amendment would change the word "may" to the word "must", which seeks to ensure that those who are facing hardship can rely on such an emergency procedure if conditions are met.

My amendments 149 and 439 would add a timeframe to the expedited or emergency lotting decision. Amendment 149 would set a timeframe of 14 days; amendment 439 would cut that to seven days. That seeks to ensure a quick decision for those people who need it. I look forward to hearing the cabinet secretary's approach on that. Following my amendments 149 and 439, my amendment 440 would offer a second option if members did not agree to set a 14 or seven-day period, as it would require ministers to set a specific period by regulations.

My amendments 441 and 445 seek to add to the definition of community in proposed new section 67N of the 2003 act, to make it clear that that definition must be restricted to communities in the vicinity of the land in question. I argued that in relation to previous provisions as well.

Proposed new section 67N of the 2003 act allows ministers to make lotting decisions if the decision would be more likely to lead to the land being used in ways that might make a community more sustainable. My amendment 442 seeks to add the word "significantly" to the word "sustainable" to add more clarity to the provision as drafted.

My amendment 443 would require that, when ministers are making lotting decisions, they must consider environmental designations and any contractual arrangements. That would avoid any lotting decisions having unintended negative environmental impacts by interfering with existing processes and pre-existing commercial arrangements.

My amendment 444 would put a duty on ministers, during a lotting decision, to specify lots that have been specified in a plan submitted by the landowner or creditor when an application for a lotting decision has been submitted.

My amendment 447 would add a new requirement—to consider whether

"a community body has registered an interest in the land."

As currently drafted, the bill requires ministers to have specific regard to certain provisions when making a lotting decision. The amendment seeks to shift some of the responsibility on to communities to proactively engage with landowners and register their interest.

My amendment 157 seeks to add timescales to the bill. Currently, the bill, via proposed new section 67P of the 2003 act, requires ministers

"to review a lotting decision"

if they receive

"a valid application asking them to do so."

However, no time period is set out for when that decision will take place, and I believe that to be a failure in the bill. Amendment 157 would require that a decision is made no later than 60 days after the application is made.

The Convener: I seek some clarity. I would like to understand why you think that 60 days is an appropriate period. Do you have experience of lotting? Is it possible to do that within 60 days?

Tim Eagle: We had significant discussions on that behind the scenes. We came up with a period of 60 days because we thought that it was reflective of the current planning process. It fits in with the legislative requirements that already exist.

Amendment 157 therefore seeks to prevent landowners from being stuck because they have to wait for an undefined period for a decision and potential sales from being hindered in the process.

My amendment 448 would delete some of the conditions in proposed new section 67P of the 2003 act that relate to when an application that requests a review of a lotting decision is valid. The bill sets out that an application is valid if it is made

"(i) in the case of the first application to ask for a review of the lotting decision, more than one year after the decision was made, or

(ii) in any other case, more than one year after Ministers received the last application to review the lotting decision."

Amendment 448 would delete those provisions. I do not believe that landowners should have to wait for a year before they may reapply.

My amendment 449 would also delete some of the conditions in proposed new section 67P of the 2003 act that relate to when an application that requests a review of a lotting decision is valid. As I said, the bill sets out that an application is valid if it is made

"(i) in the case of the first application to ask for a review of the lotting decision, more than one year after the decision was made, or

(ii) in any other case, more than one year after Ministers received the last application to review the lotting decision."

Amendment 449 would replace that period with a six-month waiting period after a previous application for a review.

My amendment 457 would introduce a third option to the appeals process. Proposed new section 67U of the 2003 act provides that the landowner may appeal against a decision that their land may only be transferred in lots. On receiving such an appeal, the court will be able either to uphold the lotting decision or to quash it. Amendment 457 would also allow it to rule that the land is to be lotted in accordance with any plan that the landowner had submitted at the time when the lotting decision was made. That recognises that the proposals in that plan might be better, more sympathetic to the land use and more commercially realistic.

My amendment 163 seeks to add a new chapter to proposed new part 2A of the 2003 act. It would allow prohibitions on the land to be lifted if no lotting decision or review of a lotting decision was made within 60 days. That would prevent sales from being significantly impacted by the fact that ministers had made no decision. The most critical thing is that we ensure that the bill contains the right timeframes for ministers' decisions on lotting.

My amendment 461 seeks to improve parliamentary scrutiny of this framework bill. It would require any regulations that are made under the provision in amendment 440 to be subject to section 98(5) of the 2003 act. That would mean that any statutory instruments would have to be laid before the Scottish Parliament and approved by it.

I move amendment 434.

The Convener: I call Douglas Lumsden to speak to Rachael Hamilton's amendment 435 and other amendments in the group.

Douglas Lumsden: There will be situations when there are good reasons why one or more transfers of more than 50 hectares should be allowed to happen without the delay and expense to the public purse that would arise from a lotting decision having to be made on the larger holding of which they form part.

An owner might apply for a direction under proposed new section 67L of the 2003 act early in the process of transferring land because they anticipate that they will wish to make a series of transfers of smaller areas. That could involve voluntary sales to sitting tenants of farms over 50 hectares that fall outside agricultural holdings legislation. The Government has set out that such voluntary transfers are to be encouraged in order to achieve the aims of the bill, but it is clear that the bill as drafted would obfuscate that. Amendment 435 seeks to remove that potential barrier and put in place specific safeguards to prevent any loopholes from being exploited.

The Convener: I call the deputy convener, Michael Matheson, to speak to amendment 152 and other amendments in the group.

Michael Matheson: My amendments in the group relate to my earlier amendments on the issue of public interest. My amendments 152 and 153 seek to amend the 2003 act so that a lotting decision must not only specify what the lots will be but also

"provide a statement of reasons as to why Ministers consider the decision is in the public interest."

That will provide greater transparency in the process.

09:45

My amendment 156 also relates to the issue of public interest. It would place a duty on ministers to issue guidance on how lotting decisions are to be made, including the circumstances in which ministers are to instruct the land and communities commissioner to carry out any initial review on their behalf.

My amendment 159 relates to lotting decisions and the requirement to make sure that ministers reference how that lotting decision is being undertaken. It relates to my amendment 158, which was previously discussed.

The Convener: I call Mercedes Villalba to speak to Rhoda Grant's amendment 359 and any other amendments in the group.

Mercedes Villalba: Amendment 359 allows ministers to make a lotting decision on the basis that the lotted land will be put into crofting tenure. That provides the ability to increase the number of crofts available. We know that there is a waiting list for crofts, and we know that crofts provide the opportunity to grow food and provide a house site for the crofter to build a house to live in.

Rhoda Grant's amendment 360 is consequential to amendment 359. It extends the provision for ministers to explain their decision with regard to lotting to similarly explain their decision with regard to lotting for crofts.

Rhoda Grant's amendment 361 allows ministers to have regard to local food production when making decisions about lotting and creating new crofts. We need to encourage local food production, and the amendment would help to encourage that within communities. Amendment 362 is consequential to amendment 361 in that it includes a definition of "crofting counties".

Rhoda Grant's amendment 363 ensures that lots or new crofts do not impinge on current crofts and common grazings.

The Convener: Cabinet secretary, it comes to you to speak to amendment 154 and any of the other amendments in the group.

Mairi Gougeon: I will speak to my amendments before turning to others in the group.

My amendments 155, 160 and 169 propose to introduce six-month timescales for both initial and replacement lotting decisions. Ultimately, the timescales have been based on consideration of what would be appropriate for a lotting decision, where engagement with the landowner and local communities and provision of expert advice from a land agent would be required.

It is important to set out that, in many cases, a decision could be made well within the timescales that have been set out. For example, if initial scoping by the land and communities commissioner indicates that lotting would not be appropriate, it would not take that full period. That is why I recommend that the committee supports those amendments.

Tim Eagle touched on the 60-day timescales that he is looking to introduce with his amendments. However, applying the 60-day timescales for decisions would include lifting prohibitions if the timescales were not met. I cannot agree with the amendment on the initial lotting decision, but there could be scope to consider the timescales on review of that. If Tim Eagle is happy not to press that amendment, I would be happy to have that discussion with him ahead of stage 3.

Ultimately, the timescales could be impractical in cases where land agent advice or further consultation with a landowner or the local community is needed. Lifting the prohibitions would penalise a local community that may have benefited from a lotting decision.

Briefly, my amendment 154 removes the requirement for ministers to have regard to the frequency with which land in the community's vicinity becomes available for purchase on the open market. That is on the back of advice from the Scottish Land Commission.

I do not have much to add on Michael Matheson's amendments, but I recommend that the committee support them, because, as he set out, they will provide additional clarity on lotting decisions, including a duty on ministers to set out guidance.

Returning to the rest of Tim Eagle's amendments, I am happy to support amendments 441 and 445, because they clarify that, when ministers are considering impacts on a community as part of a lotting decision, it should be a community in the vicinity of the landholding. That is consistent with the overall intention of the bill.

However, I recommend rejecting Tim Eagle's other amendments in the group, mainly because they seek to undercut the overall policy aims of what we are trying to achieve. Forcing decisions not to lot or narrowing the circumstances in which ministers could require lotting is not an option.

However, I am happy to engage and have further discussion with Tim Eagle ahead of stage 3 on amendments 448 and 449. I appreciate the rationale for allowing people to request a review earlier than the bill provides for, but the amendments would go too far. They would allow successive review requests one after another, and there would be resulting implications for overall

Government resource. I hope that Tim Eagle will be happy to engage in that conversation with me.

I turn to Tim Eagle's amendments that seek further detail in relation to expedited decisions. That will be covered as part of the guidance that will be required as a result of Michael Matheson's amendments in the group. Similarly, regulations on applications are the right place for information about when it will be appropriate for landowners to submit lotting proposals. That approach has the added benefit of allowing further consultation on both matters with all the relevant stakeholders, which is really important.

I think that Douglas Lumsden's amendments misunderstand the lotting provisions in the bill. A lotting decision will be made only in a situation in which a landowner is voluntarily selling their land. It is, of course, always possible that a sale will impact on employment. That could be positive or negative, but we will all be aware of examples where access to small amounts of land for expansion—whether that involves local businesses providing additional housing or other facilities—has been the springboard to growing employment in rural communities.

Sorry, convener, were you angling to intervene?

The Convener: I was not angling to cut you off in mid-flow, cabinet secretary, but if this is the right moment, I will intervene.

My concern is that, if you decide on lotting, it could result in somebody being made redundant because there is nowhere else in the area for them to be employed. Who will take the responsibility for that redundancy? Is it the Government, because it demanded the lotting, or the landowner, who did not want the land and was happy to sell it in a oner? It appears that you could make a decision that will cost somebody else money. I seek clarity on whether you think that you would be liable if you made the decision.

Mairi Gougeon: I will address that as I continue with my comments. Ultimately, it comes down to my initial point that it is a voluntary choice by the landowner to sell their land. I appreciate your point, but it comes down to what we have to consider as part of a lotting decision anyway and to the guidance and the consultation that we will have to produce under Michael Matheson's amendments. However, I hope that, as I continue, I will address your question.

Under the bill as drafted, we will be able to take account of those factors, where appropriate, as part of considering community sustainability in relation to a lotting decision, but that does not change the fact that the decision to sell is for the landowner or the fact that decisions on the employment of individuals are for subsequent landowners, too. It is ultimately those decisions, and not any requirement to sell land in lots, that would directly impact on current employees. I do not believe that such decisions are for the Scottish ministers. It would not be right for ministers to set out guidance or take liability as Douglas Lumsden proposes, and that is why I recommend that the committee opposes his amendments in the group.

I turn to Rhoda Grant's amendments, which Mercedes Villalba spoke to. I absolutely agree with Rhoda Grant about the many benefits that crofting communities bring, but I am concerned that her amendments could give rise to significant interference in the use of land and in property rights that would go beyond the evidence base for the bill. It would not be proportionate to require a new owner to apply for land to be constituted as crofts.

I understand the aim of amendment 363, but it would require ministers to have regard to information on boundaries that is not available on any register, so it would not be practical. However, I am happy to engage and have further conversations with Mercedes Villalba or Rhoda Grant to see whether there is an alternative way to emphasise that ministers will consider impacts on crofters and common grazings when we make lotting decisions.

In relation to amendment 361, I suggest that further detail of the kind that is proposed is better considered as part of guidance. Again, I am happy to discuss that with Rhoda Grant. That is why I recommend that the committee opposes her amendments in the group.

I turn to Rachael Hamilton's amendment 435. It was never the intention that a request to ministers to stop a lotting decision would count as taking action with a view to transferring land under pre-notification. There are also issues with the drafting of the amendment that mean that it would not have the effect that I believe that Rachael Hamilton is trying to achieve. If Douglas Lumsden is happy not to move the amendment today, I will be happy to have a further conversation with Rachael Hamilton to better understand the concerns and see whether there is merit in looking at an alternative ahead of stage 3.

The Convener: I call Douglas Lumsden to speak to amendment 525 and other amendments in the group.

Douglas Lumsden: There seems to be a theme on the subject of lotting, which is that we can divide land up so that people own smaller bits and everything will be fine. However, we have to understand that, when it comes to large land holdings, we are also talking about businesses that employ people and families in our rural communities.

When we are speaking about splitting up an estate, for example, we have to understand that we are speaking about a business. Like any other business, it may not be viable if it does not have the same diversity and scale once it is broken up. If any other business were being sold, I do not think that we would say that it had to be broken up.

My amendment 525 simply states that the viability of employment should be considered when making a lotting decision. My amendments 526 and 527 go further. They say that, if a lotting decision that is forced on a business owner means that jobs will be lost, ministers must accept responsibility for that decision and they will need to make regulations on liabilities when such a situation occurs.

If a business is sold, Transfer of Undertakings (Protection of Employment) Regulations kick in. If an estate is being sold as a whole, it is clear that the workers are protected and employment passes to a new owner. However, if land or a business is broken up, we need to be clear about who is responsible for the employment of the workers.

If a business were broken up into 10 lots, for example, would the number of employees be divided equally between those purchasers or would it be done based on area or productive land? If a community purchased 10 per cent of the land or business, would it be obliged to take on 10 per cent of the workforce? If many jobs were not viable because the land had been broken up, who would be liable for the employment liabilities? The bill is silent on workforce, but we need clarity on that.

Mark Ruskell: May I clarify, based on what the cabinet secretary said, that the provisions are about businesses that are being sold voluntarily? It is up to the new owner—whether for an entire estate or whether, because ministers intervened, it is lotted—to decide whether to restructure the workforce, close certain aspects of the business down or maybe expand into other areas. It is ultimately a business decision. Selling in the first place is also, ultimately, the landowner's business decision.

Douglas Lumsden: Yes, absolutely, selling is a voluntary process. If someone were selling as a whole, they would know exactly where all the employment liabilities were going. My amendments relate to the complications when things are lotted. The question is where all the staff go and where all the liabilities fall. The bill is silent on that and that is why we need more clarity. I understand that the business owner is selling voluntarily, but the bill needs to make it clearer where the liabilities go. We do not want them to fall on communities, if they take on chunks of the land. We need clear guidance on that.

The Convener: I would like to make a few points; I am very happy to take interventions. The first point is on the timescales involved in lotting. I am taken by Tim Eagle's amendment, which allows for 60 days. My experience in practice has shown that 60 days is an easy time frame in which to make a decision on whether an estate should be lotted for sale.

If that is taken in conjunction with Michael Matheson's amendment 156, which refers to taking advice from others regarding the lotting, that could also be done within 60 days. Holding out for six months is an unnecessary delay, which is probably acceptable only in Government, rather than in the private sector. Therefore, that is completely unnecessary.

Mairi Gougeon: I am intervening with the aim of being helpful. I appreciate the concerns that have been illustrated today about the overall timescales. If it would be helpful, I can circulate to the committee how we have mapped them out and the different phases that could potentially form part of the process. That might help to illustrate how we have reached our conclusion on the overall timescales.

The Convener: I thank the cabinet secretary for that kind and generous offer. That will help at stage 3, but it will not help at stage 2, which is where we are at the moment. We have to make a decision based on the amendments that we have and the evidence that is in front of us.

As far as Rhoda Grant's amendment 360 on crofting is concerned, I am not entirely convinced that that is required. I am also not sure that I understand how that would happen and what kind of crofting ownership that would apply to. Would it apply to an owner-occupied or a tenanted croft? There are too many missing parts to that wheel for me to be able to support amendment 360 and the other amendments in relation to crofting.

As I said, the deputy convener's amendment 156 holds some attraction.

I want to push back in relation to Douglas Lumsden's amendments on employment, as I am afraid that I am not taken by the cabinet secretary's argument. During my 15 years of private practice, I sold estates on behalf of owners who stipulated that they could be sold only as a whole and could not be split up, in order to protect the employees who might have been on the estate for a long period of time.

10:00

If we look at recent sales and purchases, I could point the cabinet secretary to Glen Prosen, an area that she is no doubt fully aware of. As a stipulation of the sale, which the Government

required, the employees were made redundant before the Government purchased the land. I think that that illustrates that there are problems.

I do not believe that the Government can absolve itself from responsibilities on employment if it makes a decision to split up an estate. I think that the Government has an absolute obligation to say what is going to happen and to compensate people as a result. It may not always be the estate owner's choice to sell; it may be forced on them by other means, such as a lack of cash, or a wish to invest in other things, as we have seen with estates around the country. I am not minded to accept what the Government has said about that.

I have no further comments. I call Tim Eagle to wind up and to press or withdraw amendment 434.

Tim Eagle: I have a couple of comments. Overall, I think that some stakeholders are still significantly concerned that the lotting provisions are pretty unworkable. NFU Scotland published an interesting blog on that at the end of last week, I think, and Scottish Land & Estates has also commented on the issues. I have been reminded by someone that it is imperative that the European convention on human rights principles of public interest, rational connection to a policy intent, proportionality and balance should be satisfied when we look at lotting, and I am not completely convinced that those principles have been satisfied.

In saying that, I am grateful to the cabinet secretary for being willing to work with me on timeframes, which are very important. I am happy not to move those amendments so that we can have a discussion about it.

My amendment 434 looks at how landowners can be involved in the process of lotting, because they will know about services, water pipes and all those sorts of things that would be relevant. I will not press my amendment at this point and am happy to work with the cabinet secretary on potentially including such provisions in guidance instead.

The Convener: Before I put the question on the amendment, we will have a series of votes—potentially 33 of them—in quick succession. At the end of that, I will call a short break in proceedings, in case anyone was wondering where we are.

Can I confirm whether Mr Eagle wishes to press or withdraw amendment 434?

Tim Eagle: I will not press amendment 434, but there are others in the group that I want to move.

The Convener: That is what I thought.

Amendment 434, by agreement, withdrawn.

Amendment 435 not moved.

The Convener: Amendment 436, in the name of Tim Eagle, has already been debated with amendment 434. I remind members that if amendment 436 is agreed to, I cannot call amendments 437, 438, 149, 439 and 440.

Tim Eagle: I think that I will move that one, convener.

The Convener: You think that you will, or you will?

Tim Eagle: I will move it, convener.

The Convener: Good. That provides some clarity. You are not halfway in or halfway out—you are moving the amendment.

Amendment 436 moved—[Tim Eagle].

The Convener: The question is, that amendment 436 be agreed to. Are we agreed?

Members: No.

The Convener: There is no dubiety on that. 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 436 disagreed to.

Amendments 437 and 438 not moved.

Amendment 149 moved—[Tim Eagle].

The Convener: The question is, that amendment 149 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 149 disagreed to.

Amendment 439 moved—[Tim Eagle].

The Convener: The question is, that amendment 439 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 439 disagreed to.

Amendment 440 moved—[Tim Eagle].

The Convener: The question is, that amendment 440 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 440 disagreed to.

Amendment 150 moved—[Michael Matheson].

The Convener: The question is, that amendment 150 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)

Abstentions

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

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

Amendment 150 agreed to.

Amendment 151 moved—[Michael Matheson].

The Convener: The question is, that amendment 151 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 151 agreed to.

Amendment 441 moved—[Tim Eagle].

The Convener: The question is, that amendment 441 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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)

Against

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

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

Amendment 441 agreed to.

Amendments 442 and 443 not moved.

Amendment 152 moved—[Michael Matheson].

The Convener: The question is, that amendment 152 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 152 agreed to.

Amendment 153 moved—[Michael Matheson].

The Convener: The question is, that amendment 153 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 153 agreed to.

Amendments 359 and 444 not moved.

The Convener: Amendment 360, in the name of Rhoda Grant, has already been debated with amendment 434.

Mercedes Villalba: On the basis of the cabinet secretary's commitment to discuss the issue with Rhoda Grant, I will not move the amendment.

The Convener: Thank you for that, but I am keen for an answer of "moved" or "not moved". I understand the reasons—they are already on the record and repeating them will only lengthen the time that we spend on dealing with the amendments.

Amendment 360 not moved.

Amendment 445 moved—[Tim Eagle].

The Convener: The question is, that amendment 445 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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)

Against

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

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

Amendment 445 agreed to.

Amendment 361 not moved.

Amendment 154 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 154 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 154 agreed to.

Amendment 447 not moved.

Amendment 525 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 525 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)
Matheson, Michael (Falkirk West) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

Lennon, Monica (Central Scotland) (Lab)

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

Amendment 525 disagreed to.

Amendment 155 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 155 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 155 agreed to.

Amendments 362 and 363 not moved.

Amendment 156 moved—[Michael Matheson].

The Convener: The question is, that amendment 156 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)

Abstentions

Mountain, Edward (Highlands and Islands) (Con)

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

Amendment 156 agreed to.

Amendment 157 not moved.

10:15

Amendment 448 moved—[Tim Eagle].

The Convener: The question is, that amendment 448 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 448 disagreed to.

Amendment 449 not moved.

Amendment 158 moved—[Michael Matheson]—and agreed to.

Amendment 159 moved—[Michael Matheson].

The Convener: The question is, that amendment 159 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 159 agreed to.

Amendment 160 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 160 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 160 agreed to.

The Convener: At this stage, we will briefly pause. I ask committee members to be back here at 10.25, ready to resume with the next phase.

10:17

Meeting suspended.

10:28

On resuming—

The Convener: I resume the meeting. I remind people who might have just joined us that we are on stage 2 of the Land Reform (Scotland) Bill.

We will now deal with the group of amendments on offers to buy and compensation. Amendment 450, in the name of Tim Eagle, is grouped with amendments 451 to 456, 164 and 462. I call Tim Eagle to move amendment 450 and speak to the other amendments in the group.

Tim Eagle: I think that I have the group all to myself. My amendments centre on the ability of ministers to offer to buy land and to make compensation.

My amendment 450 seeks to allow for compensation to be provided if a new lotting

decision, under proposed new section 67R of the 2003 act, is substantially the same as the original lotting decision. I believe that if the new decision is substantially the same as the landowner's original lotting plan, then some compensation should be provided for lost time and expense and the loss of interest on the sale price in the intervening period.

My amendments 451 and 452 seek to strengthen the language around the buying of land by ministers. In the bill as drafted,

"Ministers may offer to buy land"

following a review of a lotting decision if they are satisfied that the reason why the land has not been transferred is that it is likely that the land is "less commercially attractive" since the lotting decision. Amendment 451 would provide that ministers "must" rather than "may" offer to buy.

Taken together, my amendments 453 and 454 mean that the "appointed valuer" who, under proposed new section 67S of the 2003 act would determine the price of the land that ministers offer to buy following a review, must be jointly appointed by ministers and the owner of the land in question. I believe that that is required, as the purchaser would be the Scottish ministers and they would be setting their own price. It is therefore vital that there is some independent adjudication, rather than ministers being able to do everything.

10:30

My amendment 455 follows on from amendments 453 and 454. If ministers and the owner cannot agree on the appointment of a valuer, the valuer is to be appointed by the chair of the Royal Institution of Chartered Surveyors, which is an accredited organisation that deals with land for sale.

My amendment 456 relates to proposed new section 67T of the 2003 act, which allows an owner to request that ministers consider buying land to which the lotting decision relates. Ministers can make a decision on that, and an applicant can appeal to the tribunal if they are unhappy with the decision. If the tribunal is satisfied that the land has not been transferred because it is less commercially attractive following the lotting decision, the minister

"must consider making an offer to buy the land".

My amendment strengthens the wording to change "consider making" to "make". That seeks to help the landowner or creditors and so on, when the minister's decision to sell in lots has made it difficult to sell.

My amendment 164 seeks to extend the time period for lodging an appeal from 21 days to 35 days. Proposed new section 67V of the 2003 act allows for the owner to receive compensation from ministers when a loss is incurred as part of the lotting process. Currently, the bill requires an appeal to be made within a period of 21 days and, as I said, amendment 164 proposes to increase that to 35 days. That would allow more time for those who are trying to sell land to appeal against the minister's decision and give them more time to gather evidence, should they need to consult with other land managers, for example.

My amendment 460 seeks to increase parliamentary scrutiny of the bill's provisions. It would require any regulations made under new section 67DA of the 2003 act, which would be introduced by my amendment 427, to be subject to section 98(5) of the 2003 act. That would mean that any statutory instruments made under the new section would have to be laid before and approved by the Scottish Parliament.

I move amendment 450.

The Convener: As Mr Eagle mentioned the Royal Institution of Chartered Surveyors, I should make it clear that I was a member of that organisation, although I am now officially classed as retired, so I get no benefit from it.

Tim Eagle: Convener, you have just made an important point. I am a member of the RICS, which I should have declared, and I probably should have re-declared the fact that I am also a small farmer.

The Convener: Now we have that on the record; maybe the prompt was useful. Thank you, Mr Eagle.

I turn to the cabinet secretary for her remarks.

Mairi Gougeon: On amendments 450 and 462, the bill already allows for compensation to be provided for loss or expense that is attributable to a decision that land may only be transferred in lots, so I do not think that those two amendments are required.

As Tim Eagle has outlined, his amendments 451, 452 and 456 seek to place obligations on ministers to buy land during and after a review. I agree that measures in the bill must be fair to landowners, but the amendments would leave landowners and ministers in a worse position. Under the bill as drafted, there can be three possible outcomes of a review. We can either keep the original lotting decision; replace it with a new decision, which might change the lots or mean that lotting is no longer required; or ministers could offer to buy the land. Tim Eagle's amendments would force ministers to buy the land even when removing or amending the lotting decision would allow the land in question to be sold. Even if the landowner or creditor would prefer a new lotting decision—for example, when

they had a buyer of another lot with an interest in the unsold lot—the amendments would prevent ministers from taking those landowners' views into account. Given that, I ask the member not to move his amendments.

I also have some concerns about the changes that are being proposed through amendments 453, 454 and 455, because of the administrative complexity and delay that they would add. The bill's approach to the appointment of a valuer is based on current practice that we have set out for the community right to buy and it provides a right of appeal against a valuation.

Finally, on amendment 164, 21 days is the standard period for compensation appeals across a range of legislation. However, I hear Tim Eagle's concerns and I am more than happy to have a conversation with him to discuss the potential for an alternative amendment to look at a suitable timeframe.

The Convener: Thank you, cabinet secretary. I now ask Tim Eagle to wind up and to press or withdraw amendment 450.

Tim Eagle: I have nothing further to add, convener. I press amendment 450.

The Convener: The question is, that amendment 450 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 450 disagreed to.

Amendment 451 moved—[Tim Eagle].

The Convener: The question is, that amendment 451 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 451 disagreed to.

Amendment 452 not moved.

Amendment 453 moved—[Tim Eagle].

The Convener: The question is, that amendment 453 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 453 disagreed to.

Amendments 454 and 455 not moved.

Amendment 162 moved—[Mairi Gougeon]—and agreed to.

Amendment 161 moved—[Tim Eagle].

The Convener: The question is, that amendment 161 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 161 disagreed to.

Amendment 456 moved—[Tim Eagle].

The Convener: The question is, that amendment 456 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 456 disagreed to.

Amendment 457 not moved.

The Convener: I call amendment 163, in the name of Tim Eagle, already debated with amendment 434.

Tim Eagle: Not moved, convener.

The Convener: I would like to move the amendment.

Amendment 163 moved—[Edward Mountain].

The Convener: The question is, that amendment 163 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 163 disagreed to.

Amendment 164 not moved.

Amendment 165 moved—[Mairi Gougeon].

Amendment 165A not moved.

Amendment 165 agreed to.

Amendment 458 moved—[Tim Eagle].

The Convener: The question is, that amendment 458 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 458 disagreed to.

Amendment 526 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 526 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 526 disagreed to.

Amendment 527 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 527 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 527 disagreed to.

Amendment 166 moved—[Tim Eagle].

The Convener: The question is, that amendment 166 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 166 disagreed to.

Amendment 167 moved—[Tim Eagle].

The Convener: The question is, that amendment 167 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 167 disagreed to.

Amendment 168 not moved.

Amendment 169 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 169 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 169 agreed to.

Amendment 170 moved—[Mairi Gougeon]—and agreed to.

Amendment 171 moved—[Mercedes Villalba].

The Convener: The question is, that amendment 171 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)
Stewart, Kevin (Aberdeen Central) (SNP)

Abstentions

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

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

Amendment 171 disagreed to.

Amendment 172 moved—[Tim Eagle].

The Convener: The question is, that amendment 172 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 172 disagreed to.

Amendment 173 moved—[Tim Eagle].

The Convener: The question is, that amendment 173 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 173 disagreed to.

Section 4, as amended, agreed to.

After section 4

Amendment 174 moved—[Mercedes Villalba].

Amendment 174A moved—[Mercedes Villalba].

10:45

The Convener: The question is, that amendment 174A 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 174A disagreed to.

Amendment 174B moved—[Mercedes Villalba].

The Convener: The question is, that amendment 174B 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 174B disagreed to.

The Convener: The question is, that amendment 174 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 174 disagreed to.

Amendment 364 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 364 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 364 disagreed to.

Amendment 459 moved—[Mercedes Villalba].

The Convener: The question is, that amendment 459 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 459 disagreed to.

Section 5—Modifications in connection with section 4

Amendment 460 moved—[Tim Eagle].

The Convener: The question is, that amendment 360 be agreed to. [*Interruption*.] It is amendment 460. I am going to have to slow down, although that may cause a problem. I will try to be a bit more diligent in my reading.

The question is, that amendment 460 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 460 disagreed to.

Amendments 461 and 462 not moved.

Amendment 175 moved—[Mairi Gougeon]—and agreed to.

Amendment 176 not moved.

Section 5, as amended, agreed to.

Section 6—Establishment of the land and communities commissioner

Amendment 463 moved—[Tim Eagle].

The Convener: The question is, that amendment 463 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 463 disagreed to.

Amendment 177 not moved.

Amendment 464 moved—[Mark Ruskell].

The Convener: The question is, that amendment 464 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 464 agreed to.

Amendment 178 not moved.

Amendment 179 moved—[Tim Eagle].

The Convener: The question is, that amendment 179 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 result of the division is: For 2, Against 5, Abstentions 0.

Amendment 179 disagreed to.

Amendment 180 moved—[Tim Eagle].

The Convener: The question is, that amendment 180 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 180 disagreed to.

Section 6, as amended, agreed to.

After section 6

The Convener: I am about to get a break, which means that members will get a break from hearing my voice. The next group is on the functions and duties of the Scottish Land Commission. Amendment 181, in the name of Michael Matheson, is grouped with amendment 468. I call Michael Matheson to speak to and move amendment 181.

Michael Matheson: Amendment 181 relates to amendment 178, which was considered earlier, and to the fact that, with the creation of the Scottish land and communities commissioner, there is an opportunity for us to consider

expanding the role and functions of the Scottish Land Commission.

Amendment 181 seeks to require the commission to have regard to four key additional areas:

"the contribution of land to the achievement of a just transition to net zero";

"the relationship between scale of land holdings to the building of community wealth";

"the desirability of achieving a more diverse pattern of land ownership";

and

"measures to support the repopulation of land and the sustainability of communities."

I am conscious that the Scottish Land Commission may have regard to those areas at present, but there is nothing in legislation that requires it to do so. Amendment 181 is a probing amendment to seek clarity from the Government on the role that it sees the Scottish Land Commission having in helping to address what are pressing public issues and the role that land can play in addressing them.

I move amendment 181.

The Convener: I call Mark Ruskell to speak to Ariane Burgess's amendment 468.

Mark Ruskell: I pass on apologies from Ariane Burgess, who is convening this morning's meeting of the Local Government, Housing and Planning Committee.

Amendment 468 seeks to extend the timeline for the requirement for the Scottish Land Commission to produce its strategic plan from every three years to every 10 years. The reason for that change is practical. The strategic plan covers the commissioners' objectives and priorities for the plan period. Undertaking that work every three years constrains their ability to plan for the longer term and adds a heavy administrative burden on staff every three years.

Given that changes in land ownership and use occur gradually and that that will continue to be the case under the bill, a requirement for the commissioners to produce a plan every 10 years would free up more of their time and allow them to take a longer-term approach to their work. Following conversations with the Scottish Land Commission, Ariane Burgess feels that the proposed change would better match the long-term view that the commission takes of the pattern of Scotland's land ownership and use.

The Convener: As no other member wishes to speak on the group, I call the cabinet secretary.

Mairi Gougeon: It is always helpful to get the background to and rationale for amendments that have been lodged.

On Michael Matheson's amendment 181, although I support linking the Land Commission's work to the role of land and working towards some of the wider objectives that he outlined, I note that the commissioners already do that through their existing remit, which is defined broadly as including

"any matter relating to land".

Over the past year alone, they have undertaken a number of significant pieces of work that are linked to the areas that are specified in the amendment. I am therefore not sure that the amendment is necessary, but I am more than happy to discuss the matter further with Michael Matheson to see what his particular concerns might be and whether we can work together to address them ahead of stage 3.

On Ariane Burgess's amendment 468, there is no evidence that the current three-year period has caused any issues. For reasons of accountability and oversight, I think that it is important and appropriate that the Land Commission is required as a minimum to present a new report to ministers for approval every three years. For that reason, I ask members not to support amendment 468.

The Convener: I call Michael Matheson to wind up and to press or withdraw amendment 181.

Michael Matheson: I am grateful to the cabinet secretary for her comments. I am conscious that the Scottish Land Commission already undertakes aspects of the work that is referred to in my amendment, although that is not in any legislation. On the basis that I will seek to explore the matter further ahead of stage 3, I seek to withdraw amendment 181.

Amendment 181, by agreement, withdrawn.

The Convener: The next group is on reviews and so on in relation to the act. Amendment 182, in the name of Bob Doris, is grouped with amendments 367, 383 to 385, 503 and 386 to 388. I call Bob Doris to speak to amendment 182 and other amendments in the group.

Bob Doris: I will, by and large, restrict myself to commenting on my amendment in the group.

There has been broad agreement on various new obligations that will be placed on landowners, but not always on the thresholds for when some of them should apply. The Scottish Land Commission—I think that this is useful in relation to amendment 182—described those obligations as

"new steps to increase transparency, widen ownership opportunities, and regulate large land holdings in the public interest",

including

"Requiring greater transparency and community engagement through Land Management Plans",

"Ending private off-market sales of large landholdings through prior notification"

and

"Introducing scrutiny of the sale of large landholdings with a power to require land to be sold in lots."

11:00

The Scottish Land Commission followed closely the committee's evidence-gathering process during our stage 1 scrutiny of the bill, and it reviewed and adapted its position based on the evidence that it heard during our deliberations. It shifted its position to the belief that there should be a unified threshold of 1,000 hectares for all proposed measures, rather than the varied thresholds in the bill as drafted.

If the Scottish Land Commission has shifted its position on such matters within the course of the passage of the bill—which I welcome—it would seem reasonable to assume that, within five years of the bill receiving royal assent, the time is likely to be right for a more substantial review to be undertaken of such thresholds, which would draw on the experience of the impacts of the act's provisions. That is precisely what my amendment 182 would ensure.

The review would be conducted by the Scottish Land Commission. A subsequent report would be published and laid before Parliament by ministers. Ministers would then be required to provide a statement of the action, if any, that they intended to take as a result of the commission's conclusions and recommendations. Ministers would also be required to lay regulations before Parliament to implement the recommendations of the Scottish Land Commission or different modifications. Either way, a statement explaining the rationale would have to be laid before the Scottish Parliament. If no such regulations were laid, ministers would have to publish and lay before Parliament a statement that set out why they considered that no modifications should be made.

I believe that five years is a reasonable review period, but that is just one possible period. It could be four years or six years, but five years seems to me to be reasonable and to strike the right balance. I am open to discussing with the Scottish Government what a reasonable period would be, what subsequent reviews might look like, and what nuts and bolts are needed to hold the amendment together to ensure that Parliament's scrutiny of the policy intent is right and balanced.

I look forward to hearing the views of other committee members and of the Scottish Government on my amendment, but I hope that all will agree with its policy intent.

I move amendment 182.

The Convener: I call Mark Ruskell to speak to Ariane Burgess's amendment 367 and other amendments in the group.

Mark Ruskell: Amendment 367 would require ministers to report annually on the operation of part 1 of the bill, including the production of land management plans and the use of the transfer test and lotting powers. The report would also cover the issuing of any fines by the land and communities commissioner and registrations of community interest in large landholdings.

We believe that it is necessary to give Parliament a yearly snapshot of what is happening in Scotland's land market as a way of scrutinising the effectiveness of the legislation.

I acknowledge that the amendment covers actions that are taken directly by the Scottish ministers, such as the use of the transfer test and lotting decisions, and actions that are taken by the commissioner. However, we believe that the required information is sufficiently high level that collating it for an annual report would not place a burden on ministers or the commissioner.

Monica Lennon's amendment 503 seeks to do something similar, and the Greens broadly support the intention behind that amendment. We will listen carefully to the cabinet secretary's comments on amendment 367.

I turn to the other amendments in the group. We are happy to support Bob Doris's amendment 182. We do not agree with Martin Whitfield's amendments in the group, as they seem to create grounds for part 1 of the act to be repealed before the new powers have had the chance to bed in. We will be interested to hear his comments on that later.

Similarly, we do not agree with the addition of a sunset clause that would apply 10 years after royal assent, which is proposed in Martin Whitfield's amendment 386. Such a provision does not exist in other legislation, such as the Climate Change (Scotland) Act 2009, which granted powers to ministers on a range of issues, such as energy efficiency and recycling schemes, although those schemes were not taken forward until several years down the line. We will listen to Mr Whitfield's comments on his amendments.

The Convener: We now come to Martin Whitfield, who has been patiently waiting for his time. Welcome to the committee. I ask you to speak to amendment 383 and other amendments in the group.

Martin Whitfield (South Scotland) (Lab): Good morning. Before I start, I refer to my declaration of interests in the register of members' interests in relation to wind power interests that rest on land, for those who know.

It has been an interesting opening to this group with regard to post-legislative scrutiny, which has been an important matter for the Parliament during this session. A number of the proposed amendments in this group take different approaches to the issue. I very much welcome Bob Doris's comments and Mark Ruskell's comments on behalf of Ariane Burgess with regard to the level and intent of reporting that we need. However, I feel that there is also a need to back that up with post-legislative scrutiny so that the Parliament can have a full and proper say, but only when there is evidence before it about how well or otherwise the bill is working.

My amendment 383 contains a very widely drawn provision that invites the Government to consider post-legislative scrutiny. Without trying to anticipate anything that the cabinet secretary will say, I have already had useful discussions with her and her advisers with regard to the right format that the proposed provision should take. Only once we know what the bill looks like post stage 2 will we be able to come to a view and determine what form of post-legislative scrutiny would be best.

Amendment 385 has its roots in the very unfortunate events, which are almost two decades old, relating to my constituent, Andrew Stoddart, who farmed at Colstoun Mains in East Lothian. When previous legislative amendments that were made in relation to how farmers could operate on land were held to be illegal, there were consequential financial losses that were truly devastating to, I think, nine farmers. The number affected was very small, but the consequences of those actions were enormous and are on-going. Therefore, there is an interest outside of this place in how legislation is scrutinised and in how we deal with how legislation will work in practice before it is progressed, and in whether there are any further challenges for our farming community and farming families with regard to tenancies and ownership.

A substantial part of the bill deals with tenancies and ownership, but as Andrew Stoddart has told me on a number of occasions, when the matter was last dabbled with, the effects for those families were catastrophic. I merely put that on the record as one of the reasons for lodging a number of my amendments. I also point out that the period for which my question to the Scottish Government about what the consequential costs of that action were has remained unanswered is the longest period for which a question of mine has remained unanswered—the question dates back to the first few months of this session—so I might renew my pursuit of details on that.

To sum up, my amendments invite a discussion to be held once we know what stage 2 produces by way of amendments to the bill, so that we can provide for effective and meaningful post-legislative scrutiny that is based on evidence that will be collected on how the bill operates in practice.

I will leave my contribution there.

The Convener: I call Monica Lennon to speak to amendment 503 and other amendments in the group.

Monica Lennon: I will limit my remarks to amendment 503, but, like Mark Ruskell, I am interested to hear what the cabinet secretary has to say and to see whether we can work to get the best out of this group of amendments, perhaps for stage 3.

I will not read out all the things that are listed in the amendment, but it is quite clear that it is about better reporting on land management and ownership. It is about having a report that gives more detail about the extent of privately owned and publicly owned land, and about the concentration of privately owned land.

I will explain a little bit of the rationale behind my amendment. First, it is about providing better statistics on the use of the existing right to buy and the amended late application procedures in the bill. Secondly, it is about requiring the collation and publication of reliable statistics on the pattern of land ownership in Scotland.

I think that it is fair to say that a feeling has been expressed in the committee and by other members that we would have benefited from having better information on the effectiveness of the existing community right to buy, which would have helped with the scrutiny of the likely impacts of the measures in part 1 of the bill. We would also have benefited from a deeper analysis of the pattern of land ownership and how it is changing and has changed over the years in order to have a better assessment of the likely impact of measures in the bill.

Meaningful debate on and scrutiny of land ownership in Scotland will be constrained if we do not have robust official statistics. I have set out in amendment 503 how things could be improved in that regard, and I am open to hearing what the cabinet secretary has to say about that.

The Convener: Mercedes Villalba would like to make a comment.

Mercedes Villalba: On Bob Doris's amendment 182, I support the introduction of a duty to review

thresholds. I previously lodged amendments to amend the duty so that thresholds could only be revised downwards. Those amendments were not agreed to, but it is important that we secure a move in that direction of travel. Is the member open to working on further amendments ahead of stage 3? I put that to the cabinet secretary as well.

Bob Doris: I might make this point again in summing up. The thread running through most of the amendments is a policy intent to nail down what post-legislative scrutiny should be undertaken and to get the balance correct on that. I am interested in hearing what the Scottish Government has to say on where it thinks that the balance should sit. I would be keen to collaborate with Mercedes Villalba to see whether we can work out where that balance should sit and to jointly lodge an amendment on that at stage 3. That would be welcome.

Convener, it was remiss of me not to mention that Mercedes Villalba's support for my amendment 182 is noted on the marshalled list. I should have done that when I spoke to the amendment.

The Convener: Thank you. Is that you finished, Mercedes?

Mercedes Villalba: Yes, I will leave it there.

The Convener: Before we go to the cabinet secretary, I would like to make a comment on amendment 383, which was lodged by Martin Whitfield. I have long believed that this Parliament is extremely bad at doing post-legislative scrutiny—that is a matter that has constantly vexed the Conveners Group. Martin Whitfield brought up the Salvesen v Riddell case. Had post-legislative scrutiny been carried out, that would have saved a huge amount of money, not only for the families but for the Government.

I would be very surprised if the cabinet secretary does not support amendment 383, because it would enable the Parliament to undertake greater scrutiny to ensure that we had not adversely affected the tenant farming sector through the legislation. For example, one of the points that people who gave evidence to the committee strongly made was that altering some of the resumption provisions could have an adverse effect on the tenant farming sector.

We are clear that the previous legislation has affected the tenant farming sector, but we have done nothing about it. I am looking forward to the cabinet secretary supporting Martin Whitfield's amendment 383 or giving very good reasons as to why she does not.

Mairi Gougeon: First and foremost, all the points that have been raised today are hugely important. As I hope that I was able to articulate quite clearly at stage 1, we recognise that we are introducing new measures and that there will need to be a review, because we will want to see how they are being implemented and whether they are having the desired effect.

The amendments that have been lodged by Bob Doris, Martin Whitfield, Monica Lennon and Ariane Burgess all propose to have a review in one form or another, although they propose different periods and different roles for ministers and the Scottish Land Commission. I ask Bob Doris not to press amendment 182 and other members not to move their amendments but to work with me so that we can find a way through that is coherent and makes sense. If members agree to that approach, we can bring forward a cohesive plan for stage 3.

The only other amendments that I will touch on in this group are Martin Whitfield's. His proposed repeal and sunset clauses are extreme and could lead to provisions that have been passed by the Parliament being repealed or to ministers being required to repeal provisions by regulations in what are quite loosely defined circumstances.

The bill already provides for compensation when appropriate, and it is unclear how ministers would be expected to fulfil the requirements that are set out in amendment 385, which would appear to require compensation to be paid in relation to any negative impacts on owners and tenants, regardless of any other benefits that the bill might bring.

11:15

Martin Whitfield: The cabinet secretary speaks to the challenging situation in which families found themselves, as they were trapped between two institutions that were unable to adequately compensate them for their losses. Her point about the challenge that exists for whoever is in government is pertinent, given the unforeseen consequences that can, unfortunately, arise very quickly.

Mairi Gougeon: I appreciate Martin Whitfield's point. I ask him not to move his amendments, but I hope to work constructively with members ahead of stage 3.

Monica Lennon: I welcome the opportunity for further engagement on my amendment 503 and other amendments in the group. I want to clarify, if it is helpful, that I have reflected on the wording of my amendment 503. It is not my intention to require reporting on all landholdings; the provision should apply proportionately to larger landholdings and rural land. I appreciate that that is perhaps not clear in my amendment, but I am happy to work with the Government on that.

Mairi Gougeon: Okay. Thank you.

The Convener: I call Bob Doris to wind up and to press or withdraw amendment 182.

Bob Doris: I will be seeking permission to withdraw amendment 182, on the basis of the cabinet secretary's offer to work with me and colleagues who have similar policy intentions ahead of stage 3.

I know that this is a very long meeting, but I will make a brief point about post-legislative scrutiny more generally. Members of the public should perhaps watch these committee meetings if they have insomnia, but they should also watch them for another purpose, because they show that going through legislation line by line before it is passed is a very intensive process, as is post-legislative scrutiny. There are pressures on committees in the Parliament to scrutinise legislation, look at the affairs of the day and carry out robust, detailed and transparent post-legislative scrutiny, but our capacity to do that is very much limited by the number of committees that we sit on and the demands on MSPs' time.

When people go to the ballot box, no MSPs say, "Give us more MSPs," but there is a general understanding across all parties in the Parliament that there needs to be a greater focus on post-legislative scrutiny and that time needs to be made available for it. I am sure that Mr Whitfield agrees with that general point.

Martin Whitfield: I absolutely concur with what Bob Doris has said. There are various ways of looking at post-legislative scrutiny, and the bill could perhaps be a vehicle for considering the matter more widely across the Government. He is right to point out that there is also a challenge in relation to the capacity in the Parliament to carry out post-legislative scrutiny successfully.

Bob Doris: I should clarify that I am not calling for more MSPs, in case someone thinks that that is the point that I am making. My point is more about the challenges relating to colleagues' time more generally.

It is difficult to get the balance right on post-legislative scrutiny. Amendment 383 talks about reviewing the entire act after four years, and amendment 384 says that the Scottish Government should repeal, by regulations, any provisions that have a detrimental impact. The Government would be compelled and duty bound to do that, if we could define what a detrimental impact would look like, but members would be free to vote against repeal. In that sense, the amendment would tie the hands of the Government but would not tie the hands of the Parliament. It is a bit betwixt and between in relation to the policy intent, but I get the point that Mr Whitfield is trying to make.

Amendment 503, in the name of Monica Lennon, talks about reporting every two years. She clarified the scope of the reporting requirements—I think that there would be a delay of two years after the bill gained royal assent.

There have been lots of different recommendations about what post-legislative scrutiny should look like. We need to take a balanced and strategic approach to post-legislative scrutiny, so Monica Lennon, Mercedes Villalba, Martin Whitfield and I should sit down with the cabinet secretary to consider what such an approach should look like.

On that basis, I seek permission to withdraw amendment 182.

Amendment 182, by agreement, withdrawn.

The Convener: Amendment 366, in the name of Ariane Burgess, is in a group on its own. Mark Ruskell will speak to amendment 366.

Mark Ruskell: Amendment 366 introduces a duty on public bodies to ensure that they are contributing to nature recovery on publicly owned land over a certain size. This is an alternative to Ariane Burgess's amendment 320, which we discussed last week, which was more about land management plans.

Under the Nature Conservation (Scotland) Act 2004, public bodies already have a duty to further the conservation of biodiversity when carrying out their responsibilities. Mandatory reporting on that was introduced in 2011, but a 2016 report on compliance with that duty found that less than half of public bodies had published a biodiversity duty report as required. Introducing a duty that specifically relates to land management practices is therefore an important step.

Amendment 366 also clarifies that the duty is to enhance biodiversity on public landholdings, not just to sustain biodiversity. That reflects our commitments under the 2023 global biodiversity framework, which calls upon countries to enhance biodiversity across 30 per cent of their territory.

The Scottish Rewilding Alliance estimates that about 243 land parcels that are in public ownership are over 1,000 hectares. Those landholdings have huge potential to contribute to Scotland's ecological recovery in line with our international targets. The existing biodiversity duty is not sufficient.

The Convener: It sounds very laudable, but I have not seen anything in the financial memorandum that will cover the costs. Where will the funds for managing land for nature come from? Does Mark Ruskell expect the cabinet secretary to magic up some money in the financial memorandum to allow it to be funded, or is it just an uncosted aspiration?

Mark Ruskell: The duties to restore and support the development of our public land for meeting biodiversity targets are already there, but that approach is not working effectively. I see good land management as being cost effective. It could lead to improvements in biodiversity outcomes. It is being mainstreamed as part of the agricultural subsidy reform that we have seen coming through Parliament. We have nature recovery funds and active private and public investment is going into land management that can deliver on natural capital. I do not see it as contradictory to the good economic management of land to meet biodiversity objectives.

The existing biodiversity duty is not sufficiently understood or complied with. I urge members to support amendment 366.

I move amendment 366.

The Convener: As no member wishes to contribute, I call the cabinet secretary.

Mairi Gougeon: As Mark Ruskell has already said, the Nature Conservation (Scotland) Act 2004 places a duty on public bodies and office-holders to further the conservation of biodiversity as far as it is consistent with the proper exercise of their functions. That duty is broad and it covers decisions about the management of a large holding of land that is owned by Scottish ministers made by any authority that is likely to be covered by the amendment. Amendment 366 would not strengthen or improve on the existing duty. I am not clear what it would add beyond what is already set out in that duty.

In addition, the reference to the restoration of natural processes is not defined and it is unclear what that is intended to cover. If the amendment is passed, it could lead to confusion and some difficulty for public bodies in having two separate but parallel duties that aim to achieve similar outcomes. We have already committed within the biodiversity delivery plan to reviewing how that duty operates and making improvements to it to ensure that it is as effective as possible. On that basis, I ask the committee not to support amendment 366.

The Convener: I ask Mark Ruskell to wind up and to indicate whether he wishes to press or withdraw amendment 366.

Mark Ruskell: I simply wind up by asking the cabinet secretary whether the Natural Environment (Scotland) Bill could contain more consideration of the duties that are put on public bodies. The Natural Environment (Scotland) Bill will establish targets, some of which will be applied to public bodies. There is a requirement in the bill for public bodies to have regard to national park plans, which will establish targets for biodiversity as well.

I will leave the point with the cabinet secretary that what is happening at the moment is not working. Public bodies are not restoring nature at the scale and to the extent that we need them to in order to meet future biodiversity targets and the objectives that are in the biodiversity strategy. More work is required, whether it is in this bill or in the Natural Environment (Scotland) Bill. Perhaps a further conversation with Ariane Burgess might be useful ahead of stage 3 of the Land Reform (Scotland) Bill and ahead of stage 2 of the Natural Environment (Scotland) Bill.

The Convener: Mark, do you wish to press or withdraw the amendment?

Mark Ruskell: I would like to withdraw it.

Amendment 366, by agreement, withdrawn.

Amendment 367 not moved.

The Convener: The next group is on taxes in relation to the land. Amendment 368, in the name of Rhoda Grant, is grouped with amendments 369, 370, 466 and 479 to 485. I ask Mercedes Villalba to move Rhoda Grant's amendment 368 and speak to the amendments in the group.

Mercedes Villalba: These are probing amendments from Rhoda Grant on the basis that there is a clear and legitimate precedent for Governments to use taxation to seek to alter behaviours, such as in relation to smoking, alcohol, car fuel and other areas. In relation to land, it is important to note that the Scottish Government has already introduced a premium on second-home purchases to create a disincentive to such transactions.

The amendments in the group seek to explore whether a review of land and building transaction tax and a sliding scale of LBTT supplement for increasing scale of land ownership could be used to discourage the ownership of large tracts of land.

The purpose of land reform is, of course, to change land ownership patterns. At the same time, taxation and agricultural funding provide greater rewards for larger landholdings, so those policies are at odds. Scottish Labour recognises that the bill is not where we make taxation decisions, but we believe that it is the place to have the debate on whether we are using all the levers at our disposal to change the land ownership patterns in Scotland and whether those policies are currently at odds.

Amendment 368 seeks to introduce a new section into the Land and Buildings Transaction Tax (Scotland) Act 2013, section 26B, which would allow Scottish ministers to impose an additional tax on purchases of large landholdings—those exceeding 500 hectares. The amendment also seeks to ensure that regulations under this new power follow the affirmative

procedure, which would require the Scottish Parliament's approval.

Amendment 369 would introduce a new tax relief under the Land and Buildings Transaction Tax (Scotland) Act 2013, specifically for transactions that are carried out under the community right-to-buy provisions of the Land Reform (Scotland) Act 2003. LBTT can be a significant cost for community groups, particularly when purchasing large or high-value land parcels, so removing that cost would make community ownership more feasible and align with the Government's land reform objectives.

Amendment 370 seeks to introduce a mandatory review of LBTT as it applies to non-residential properties, with a focus on how the tax influences land ownership patterns, community wealth and rural sustainability. It requires Scottish ministers to review the impact of LBTT on non-residential land transactions within one year. The review must assess diversifying land ownership, how landholding size affects community wealth and measures to support repopulation and sustainable communities. Ministers must publish a report outlining any proposed policy changes within two years.

As I have said, these are probing amendments. We are keen to have discussions with the cabinet secretary in advance of stage 3 and potential future legislation in this area. With regard to the amendments in the name of Ross Greer, we welcome debate on this topic.

I move amendment 368.

11:30

The Convener: I welcome Ross Greer to the committee, as I think that this is the first time that he has spoken in the committee on this subject. I call Ross to speak to amendment 466 and any other amendments in the group.

Ross Greer (West Scotland) (Green): I have enjoyed watching the stage 2 proceedings so far from my office and I was waiting to swoop in when the moment arose. I refer members to my entry in the register of members' interests in relation to my regional office receiving rates relief under the small business bonus scheme, which is somewhat relevant to some of the amendments that will come later on.

In lodging amendment 466, I am trying to require ministers to set a surcharge rate in the land and buildings transaction tax for transactions of large landholdings—that is, as the bill is currently drafted, landholdings that exceed 1,000 hectares. There is a regulation-making power in the amendment to vary the surcharge rate and the definition of a "large holding of land". The intention of the amendment is to discourage the acquisition of large landholdings and to therefore encourage the break-up of large estates and reduce the concentration of land in very few hands.

The bill, particularly in relation to lotting arrangements, aims to promote the diversification of land ownership, with more people owning small landholdings and fewer people owning large ones. If that is the aim, we should be using more levers to achieve it, as Mercedes Villalba said. Our tax system is an obvious way in which we can achieve that.

Amendment 446 would mean that someone who buys up a large landholding would pay proportionately more than someone who buys a smaller one—not just more in absolute terms. That would prompt behavioural change, as it would discourage the acquisition of swathes of Scottish land by a wealthy few. Frankly, if you are in a position to buy up 1,000 hectares or more, you can likely afford to pay more in tax. Anyone who is not put off entirely would make a substantial but fair contribution to the funding of public services in Scotland. However, to be clear, the primary intention of the amendment is behavioural change, not revenue raising.

In the policy memorandum that accompanies the bill, which was published in March last year, the Government said:

> "In relation to taxation, the Scottish Government is giving careful consideration to these complex matters and intends to explore them more fully as part of its commitment to producing a longer-term tax strategy."

In December, the Government released its tax strategy, which specified one of the Government's priorities as being

"Tax as a lever to encourage positive behavioural change".

Specifically on land reform, the Government said:

> "We are also taking forward work with the Scottish Land Commission to consider the role of taxation and fiscal interventions in supporting land reform and reducing greenhouse gas emissions from land."

There is a positive intention but we have got ourselves trapped in a process of talking about having further discussions with key stakeholders and the issue never really moves forward. I have lodged these amendments to try to move the conversation on.

My amendments 479 and 480 are intended to prevent shooting estates from receiving non-domestic rates relief through the small business bonus scheme. Amendment 479 would mandate that assessors categorise crofts separately from shootings and amendment 480 would prevent landholdings that are listed as shootings from being eligible for rates relief.

Views on the value of shooting estates will vary across the committee and the Parliament. I would say that they are some of the least economically productive ways to use land, that there are vanishingly few jobs for the amount of land that is used and that they are ecologically totally counterproductive. They effectively create sterile monocultures by eradicating native wildlife that does not suit the purpose of hunting for sport what is usually a single species.

The small business bonus scheme gives rates relief to businesses on the premises' rateable value. It is a blunt tool and it does not meaningfully target small businesses. There are hundreds of shooting estates across Scotland that get the small business bonus scheme relief and that is subsidising the operating costs of blood sports that contribute to the biodiversity crisis and the degradation of too much of rural Scotland.

In 2020, there was research that showed that nine out of 10 shooting estates received such relief, possibly up to a value of about £10.5 million. In 2023, ministers said they would consider the issue through their NDR reform work. In the Finance and Public Administration Committee and in a letter to the committee this January, the Cabinet Secretary for Finance and Local Government again expressed interest in exploring ending rates relief for shootings and made clear her and the Government's sympathy for the proposal.

However, she noted an implementation issue whereby crofts are listed on the valuation roll under shootings. That is where amendment 479 comes in, as it would require crofts to be categorised separately on the valuation roll. I note that section 75 of the Land Reform (Scotland) Act 2016 inserted a requirement for shootings to be a specific valuation category. So, it is normal—

The Convener: Will you pause briefly to take an intervention?

Ross Greer: Yes.

The Convener: I am scratching my head. You referred to correspondence that has been sent to the committee regarding the removal of rates relief for sporting estates. Was that sent to this committee or a different one?

Ross Greer: The correspondence was sent to the Finance and Public Administration Committee. Sorry, I referred in quick succession to the Finance and Public Administration Committee and the Cabinet Secretary for Finance and Local Government. I probably did not make that clear.

The Convener: I was trying to remember whether I had missed something, but thank you for clarifying that.

Ross Greer: It was probably down to the speed at which I speak, which is not helpful for clarity.

The point that I was making is that it is normal legislative practice to set definitions around categories for the valuation roll. In this case, in relation to the issue that was highlighted by the Cabinet Secretary for Finance and Local Government, we could clarify that a little further, which would allow us to achieve the policy intention. Amendment 480 would prevent shooting estates from receiving NDR relief. The intention behind amendments 479 and 480 is to remove the previously cited barriers, and I will move them in order to clarify the Scottish Government's position on the policy intention. As an alternative to amendment 480, the Government could use its existing powers to exempt shooting estates as a category from the small business bonus scheme, as it has done with payday lenders and others.

Amendments 481 to 483 intend to ensure that more of Scotland's land is entered on the roll and that all land that ought to be entered is listed on it. Amendment 483 would require ministers to introduce regulations to ensure that all landholdings are entered onto the valuation roll, subject to half a dozen exemptions. That would end the current system of large-scale exemptions from enrolment for whole-use types, such as agricultural land and fish farms. At this point, it is worth emphasising that that would not mean that all currently exempt land would be required to start paying non-domestic rates, but the land would need to be on the valuation roll. Ministers and the Parliament would have the choice as to whether or not rates should be charged in the normal way.

Amendment 482 would require assessors to be notified at the point of transfer of a landholding, which would allow them to enter any outstanding landholdings on the valuation roll. Amendment 481 would set a deadline of four years from royal assent for local authorities to ensure that all relevant landholdings are entered on the roll, with a requirement for ministers to ensure that they get the support that they need in order to do so, for example, through the provision of a rateable value finder product. Those amendments deliver on recommendations 11 and 28 of the Barclay review. They seek to improve the transparency of the valuation roll and the non-domestic rates system and to prevent tax evasion by omission from the roll, which would provide a more complete picture of all property and land in Scotland. The financial benefits that landowners receive from the Government could be quantified and better understood by other ratepayers, policymakers and the general public. Not all Scotland's land is on the valuation roll. Domestic dwellings are on separate valuation lists for council tax, and huge amounts of land are listed on neither of those lists, leading to a lack of

transparency in the system of land ownership, particularly in the light of moves elsewhere to the cadastral system of land registration.

Amendment 483 delivers on the Barclay review's recommendation to end the broad exemptions from enrolment on the valuation roll, with exceptions for domestic dwellings, as well as the likes of embassies, because they are covered by treaties, and areas of property and land that would never be taxed, such as public roads and bridges. The Government's response to the Barclay review's recommendation on that was to say that there were not any plans to levy rates on the currently exempt classes, such as agricultural land and fish farms, but that is a separate issue to the requirement for those properties to be on the roll in the first place. Even if the enrolment does not change tax income, as the properties would be enrolled and then relieved of liability, the reform would provide clarity and transparency in the system.

Amendment 482 seeks to reduce the number of landholdings that ought to be on the valuation roll but are not currently, and amendment 481 adds a backstop of four years to ensure that that is delivered. Amendment 484 would empower local authorities to impose a surcharge on non-domestic rates for vacant and derelict land in addition to that. That would build on the 2023 devolution of non-domestic rates empty property relief and would deliver on recommendation 26 of the Barclay review.

The theme of my amendments is that I am trying to implement a number of the Barclay review's recommendations. The intention is for councils to be able to use tax powers to discourage land from standing derelict and, in turn, incentivise the disposal of the land and for it to be brought into productive use, which would contribute to local economies, rather than the land acting as a drag on them. Amendment 484 seeks to finish what was started when the Bute house agreement commitment delivered on the devolution of empty property relief. Since then, councils have been able to vary how generous and long lasting the reliefs are, which has allowed them to bring some vacant and derelict land back into public use. The Barclay review pointed out the absurdity of subsidising the costs of landowners who are sitting on non-productive land and allowing that to blight local communities. I think that we need to do the reverse and deliver on what the Barclay review pointed out.

Finally—you will be relieved to hear me say that, convener—amendment 485 is on a carbon emission land tax. The amendment would require ministers to launch a consultation on a carbon emission land tax within 90 days of royal assent, to be followed by the publication of proposals for that tax, and then a statement of ministerial intention to implement those proposals. The intention is to ensure that the consultation that the Government promised in April of last year takes place.

In autumn 2023, the Government confirmed plans to take forward a tax on land based on the emissions that the land releases. That delivers on a long-standing ask from the John Muir Trust and recognises that land use and land use change are some of the biggest contributors to Scotland's emissions. In April 2024, the Government said that, during the summer, it would consult on the carbon emission land tax. That was the summer of 2024, and we are now getting into the summer of 2025 but the consultation still has not taken place.

Amendment 485 seeks to tie the Government to a swift timescale to get that important behaviour-change mechanism in place, or to be up front about the fact that that is no longer the Government's policy position, presumably because of opposition from large landowners.

The Convener: Thank you very much, Mr Greer. I am looking round to see whether anyone wants to make any comments. I will do so, if no one else wants to.

It is always helpful, especially when we have gone through nearly 14 months of consultation on issues relating to land reform, if the issues that come up at stage 2 have been covered at stage 1. To my mind, none of your proposals, Mr Greer, or those of Rhoda Grant, came up or were discussed at stage 1 for the committee to understand. That makes it difficult for me to take from what you say anything but your aspirations to achieve things, which might not be related to the evidence that we have heard on land reform.

I am struggling with some of the amendments, based on the evidence that we have heard. We have heard that land management is best done at scale and that, if we want to challenge nature and biodiversity loss and deal with the environment, large landholdings might assist better with that. I believe that Mr Greer's amendment 466 would disincentivise people with larger holdings from investing in the high-quality nature restoration that we need, especially peatland restoration.

When the measure to levy sporting rates on estates came in, I struggled with it. I should make it clear that, on my farm, I am levied a certain amount of money for shooting, for which I get non-domestic rates relief. I think that the valuation on the roll is £485, so the contribution would not be hard to make. However, it is interesting to note that some of the landholders who suffer the worst are those who are trying to deliver a minister's policies to reduce deer numbers by culling. The very fact that those landholders are culling deer

means that they end up paying sporting rates when, actually, they are just trying to grow trees.

As for the proposals on non-domestic rates relief on shooting, I understand Mr Greer's aspirations and the fact that he dislikes shooting—I have no issue with that. My issue, though, is that shooting is currently a respected and accepted form of business that is allowed by law in Scotland. Therefore, it is difficult for me to understand why those businesses should be treated any differently from any other business in Scotland just because Mr Greer does not like them.

I see that you would like to make an intervention, Mr Greer. I have almost tried to provoke you, so I am happy to take one.

Ross Greer: I am always happy to be provoked, especially in such a respectful manner.

On the point about singling out shooting estates and treating them differently from any other business, as I said when talking about the proposal, we already treat different businesses differently. A range of businesses are exempt from the small business bonus scheme—for example, payday lenders—so the measure would not be singling out shooting estates; it would just move them from one category to another. I accept that it is the category of businesses that we are of the view are less desirable or less deserving of rates relief, but the proposal would not single out shooting estates and separate them from everyone else. It would move them from one list to another existing list.

The Convener: I hear your point. Maybe we should put politicians' offices into that group, too, so that they also pay rates. Maybe people would find that acceptable.

From my experience, I know that shooting estates do employ people—in fact, one has only to look at an estate such as Kinrara, which was taken over for nature conservation. It used to employ five full-time employees and a shepherd, but I think that at the moment it employs no one.

I do not think that I accept your argument, Mr Greer. I am interested to hear what the cabinet secretary says, but I am always mindful of the difficulty of bringing amendments to a committee that has spent a lot of time considering an issue when the matters in question have not been considered as part of the stage 1 evidence taking.

I will now hand over to the cabinet secretary.

11:45

Mairi Gougeon: Thank you very much, convener. I will try my best to work through the many issues that we have to cover.

Ultimately—and as you have outlined, convener—all the amendments that have been discussed propose many complex changes that need to be properly considered as well as consulted on. Normally, any changes to devolved taxes that we make are taken forward in tax-specific legislation; a consultation with taxpayers and stakeholders will then take place, in line with the framework that we have established for tax principles and our tax strategy; and, ultimately, the matter would be considered by the Finance and Public Administration Committee in the same way that tax-related measures are usually considered.

Inserting amendments in this way into the bill and potentially agreeing them could lead to unintended consequences if that work has not been undertaken. It is for that reason that, broadly speaking, I do not support these amendments.

I will now touch on some of my key concerns with this particular group. Accepting Rhoda Grant's amendments, which Mercedes Villalba has spoken to, and which Ross Greer has talked about in relation to land and buildings transaction tax, would not allow for a full assessment of the policy impacts, the external consultation that we would need to undertake or the kind of partnership working with Revenue Scotland that would be essential to ensure effective administration and compliance.

Ross Greer made a general point about lodging the amendments, saying that, sometimes, there can be a frustration that many commitments are made and the work behind the scenes is either not necessarily seen or not seen to be progressing in a way that people would like. However, I would point out that, in respect of some of today's amendments, a wide-ranging review of LBTT is already under way. The proposals that have been made in relation to that are best considered through that review and in the context of wider changes that might be made to community right to buy as a result of the review that is on-going on that matter. For those reasons, I ask Mercedes Villalba and Ross Greer not to press or move those particular amendments.

As for Ross Greer's other amendments in the group—amendments 479 and 480—we are, as the member will no doubt be aware, and as I think he has already set out, already committed to exploring whether any shooting estates are in receipt of the small business bonus scheme, as requested, and whether that could be removed without risking a negative impact on small businesses. His amendments would prejudge any of the work happening in that space.

Again, I hark back to my earlier point about unintended consequences, particularly with regard to properties where no shooting takes place and

which might therefore be eligible for local empty property relief.

Ross Greer: The cabinet secretary said that agreeing to the amendments might prejudge work that is going to take place. Can she outline specifically what work she is talking about and when it is going to happen? I have lodged the amendments, as she has indicated, because the Government has made commitments on this issue in recent years and yet, from what I have seen during my party's time in Government and since, no progress has been made. I can understand that as an argument against amendment 480—and I would be happy not to move the amendment on that basis—but I do not understand it as an argument against amendment 479, which simply seeks to resolve the categorisation issue that the Government has already raised.

Mairi Gougeon: I will come to that amendment shortly. Obviously, these are areas of policy that I do not lead on in Government. Some of the work on priority intervention that I have just touched on is still in the early stages, and substantial work is already happening on LBTT. I would be happy to get colleagues to set all that out in a letter that specifically establishes the timelines for that work and where things currently sit, if that would be helpful.

As for amendment 479, I am not clear how it interacts with the agricultural exemption from the rating. The way in which it has been put forward risks requiring that crofts be treated differently from the rest of agricultural properties in Scotland, but perhaps Ross Greer can add something to help clarify the point.

Ross Greer: The point is that it relates to my other amendments on making sure that agricultural land is on the valuation roll, and it is separate to the question whether agricultural land should be paying rates, which is a decision that can be taken at budget time through the regular processes.

I come at this from the position that all land should be on one roll or another, whether it be the NDR roll or the council tax roll. Amendment 479 seeks to separate out crofts, given that, as the Government has raised previously, quite a lot of the land that currently sits under the shootings category is, in fact, crofts. The amendment seeks to specify that separation.

My policy intention is to ensure that all land is on the roll, not that crofts start paying rates in a manner that is not intended. The default position should be that all land is on a roll. Decisions about the rates that you levy and the categories that you levy against are not for this legislation, but will be part of the regular process that will still happen through the budget.

Mairi Gougeon: I appreciate that further explanation, but it speaks to a wider point in our discussions today, which is that I do not think that the bill is the appropriate vehicle for driving such issues forward.

With regard to the other amendments in this group, amendments 481 to 483 relate to the entry of land on the valuation roll. Ultimately, those amendments would place significant burdens on councils or property owners and, from what we can see, would have limited policy benefit, as it is unclear what problems they are seeking to address. Assessors are already required by statute to value all lands and heritages that are not exempt from rating. There would need to be greater consideration of the administrative impact of the changes and exemptions proposed in amendment 483 and of the potential subsidy control implications of any relief that might subsequently be offered. Ultimately, the amendments, as they stand, risk increasing the costs for agricultural businesses in Scotland, which would put them at a disadvantage compared with other parts of the United Kingdom.

Amendment 484 does not specify what proportion of a landholding would have to be vacant for the council to be able to levy the higher rate on it. Therefore, the amendment creates a risk of avoidance, as it incentivises the owners of a vacant or part-vacant property to artificially occupy the property or, potentially, to stretch their occupation of a part-occupied property—for example, by using it for storage—when they would not otherwise do so, in order to avoid paying higher rates.

The Convener: I have some sympathy with amendment 484, because I believe that it is trying to stop land banking in urban areas. Unfortunately, I do not think that this bill is the right place to do that. As you well know, given that it is the point that you are making, a landowner could just develop a car park on vacant land and not develop the rest of it, if that were feasible. My question is: how would you make amendment 484 fit for purpose? At the moment, I do not see that it is.

Mairi Gougeon: That is my concern with it—the potential unintended consequences, as I have outlined. I would be happy to pick the issue up for discussion, whether with me or with one of my Cabinet colleagues, to find the best way of addressing the issues that have been highlighted, if committee members were agreeable to that and if they would be happy to have that conversation with me.

Ross Greer: Is that an offer to engage in discussions, with a view, potentially, to lodging a stage 3 amendment that would address those concerns but would still achieve the policy objective, or is it an offer to address the issue

outwith the bill? If the former, I would be happy not to move amendment 484 and to see whether we can get something agreed for stage 3.

Mairi Gougeon: I am not able to commit to that at this stage, without having had those further conversations. As has been highlighted in our discussions today, there could be wide-ranging implications. Moreover, I do not lead on this policy area, so I would need to discuss it with my other colleagues, too. I will understand it if you still want to move the amendment, Mr Greer, but I must ask the committee not to support it, as a whole host of other work would need to happen in the background for the issues to be resolved. I do not believe that the bill is the right vehicle for that to happen.

With regard to Ross Greer's amendment 485, on a carbon emission land tax, we have, as Ross Greer has outlined, committed in our Scottish budget to working with the Scottish Land Commission to consider options for a land tax. In the letter and the update that I have committed to providing to Ross Greer, I am more than happy to provide an update on the work that is already under way specifically in relation to that tax.

Engagement with stakeholders has also been taking place to ensure that we develop the necessary evidence base for understanding any potential impacts. I am concerned that the way in which amendment 485 is set out and what it requires would mean that the Government would have to set out a plan to implement a carbon land tax, regardless of the evidence that we received during our consultation, which would, in turn, undermine its purpose. For that reason, I ask the committee not to support the amendment.

The Convener: I call Mercedes Villalba to wind up and to press or withdraw amendment 368.

Mercedes Villalba: I have nothing further to add, convener, and I would like to withdraw amendment 368.

Amendment 368, by agreement, withdrawn.

Amendments 369 and 370 not moved.

Amendment 466 moved—[Ross Greer].

The Convener: The question is, that amendment 466 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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)

Abstentions

Lennon, Monica (Central Scotland) (Lab)

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

Amendment 466 disagreed to.

The Convener: The next group is on compulsory acquisition and sale. Amendment 371, in the name of Douglas Lumsden, is grouped with amendments 372, 471 and 504.

Douglas Lumsden: The intention behind amendment 371 is to protect farmland from being acquired by compulsory purchase for energy infrastructure use. With the amendment, I am proposing that alternatives are investigated first, before using land that is used for farming.

Amendment 372 simply sets out that the Scottish ministers cannot compulsorily purchase land for energy infrastructure if a community body intends to exercise a right to buy land or has registered an interest to buy land. If we are serious that the bill is about giving communities a greater say in what happens to land, the Scottish ministers should not be able to use compulsory purchase powers to facilitate large energy projects and to get round community right to buy intentions.

Mark Ruskell: Will Douglas Lumsden clarify whether "energy infrastructure" includes nuclear reactors and any infrastructure that would be required to repower the Peterhead gas-fired electricity generation station? Are all forms of energy infrastructure covered, including nuclear power?

Douglas Lumsden: Yes, amendment 372 covers all those things. Where communities have the right to buy, that should be taken into consideration. I have heard stories from constituents about energy companies using the threat of compulsory purchase to force what they want on to communities and landowners, and my amendments are about ensuring that communities, landowners and land are protected.

I move amendment 371.

The Convener: Before I call the next amendment, I want to be clear that, as a farmer, I am often approached by energy companies to put pylon lines over my land. I am currently being forced, under threat of a compulsory purchase order, to take a pylon line over my farm, which interrupts my business for the benefit of another's business. I want to put that on the record so that people are aware of it.

I welcome Ben Macpherson to the committee. Good morning. You were previously a full member of the committee and are currently a substitute

member. I ask you to speak to amendment 471 and the other amendments in the group.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Thank you, convener, and good morning—just—to colleagues and to the cabinet secretary and her team.

The Convener: It is just morning; it is almost afternoon.

Ben Macpherson: I am grateful for the opportunity to speak to my amendments 471 and 504 on compulsory sale orders. I have lodged the amendments primarily as probing amendments, but I do so in the context of hearing, through the stage 1 evidence when I was on the committee and since leaving the committee about a year ago, about the compelling case for urban land reform. As the constituency MSP for the most densely populated urban part of Scotland, the need for action is clear to me in my day-to-day work.

12:00

I note the discussion on urban land reform during stage 2—for example, in relation to the deputy convener's amendment 42, which was discussed previously. The issue of the use of land is just as important and pertinent in urban Scotland as it is in rural Scotland. Indeed, particularly in this capital city, the housing crisis is very much affected by the value of land, and we need to take measures to change that.

A number of mechanisms are involved in using land well and making the most of it, particularly land that is vacant and derelict in places where people need homes. There are compulsory purchase orders; the Government is reviewing those at present. There is community right to buy, which is also being reviewed. There are taxation measures, some of which have already been instigated by the Scottish Government, and others that we have discussed today; those are always an area of consideration. There is incentivisation through investment, and the Scottish Government's vacant and derelict land investment programme, which I support, has made a positive impact in that regard.

However, there are times when we want to release land and for it not to go into community or public sector ownership; we want to release it so that it is used as soon as possible by other parties that want to build on it, invest in it and make the most of it.

In my constituency of Edinburgh Northern and Leith, there are large areas of land that could and should have been used for housing development in years and decades past. I think, too, of the pertinent example of the Ayr station hotel, which sat empty, vacant and derelict for a long time. As far as I am aware, the owner did not respond to correspondence, let alone invest in the property. Unfortunately, the building was vandalised and set on fire. It then became a public liability, as it affected the nearby railway station, which resulted in significant public cost.

It should be possible to deal with situations like that of the Ayr station hotel and with the land in my constituency that I mentioned. A compulsory sale order is an important tool that should be available in that regard.

On page 40 of its 2021 manifesto, my party stated:

"We will ... introduce ... compulsory sale orders."

The Scottish Land Commission looked at the issue in detail in its 2018 paper. During the committee's stage 1 evidence, Dr Wight spoke in favour of compulsory sale orders on 4 February; Andy Wightman, Peter Peacock and Laurie Macfarlane spoke in favour of them on 3 December 2024; and Linda Gillespie did so on 5 November 2024. There is strong agreement on and cross-party support for compulsory sale orders among a number of MSPs who have raised the issue in the Parliament in recent years.

I thank the cabinet secretary for the engagement on compulsory sale orders that I have had with her and her officials in advance of stage 2. I know that she will speak to my amendment shortly.

I note, too, the Cabinet Secretary for Social Justice's response to amendment 515 to the Housing (Scotland) Bill, in which she confirmed that the Scottish Government intends to

"consult on compulsory sale or lease orders before the end of this parliamentary session."—[*Official Report*, *Local Government, Housing and Planning Committee*, 29 May 2025; c 28.]

I welcome that and would be grateful if the Cabinet Secretary for Rural Affairs, Land Reform and Islands would firmly commit to that action and to the deadline of the end of this parliamentary session.

These are complex areas of law, and if we are going to bring in compulsory sale orders, we will want to ensure that we do that well and that they are effective. Therefore, I understand if time needs to be taken on this. However, we need to move on it, because we need CSOs in the toolkit, and I urge the Scottish Government to consider how they can be introduced as soon as is practicably possible. More broadly, I am sure that, if the Scottish Government were able to consider further the issue of urban land reform ahead of stage 3 of the bill, a number of other MSPs and I would be interested in engaging constructively with the cabinet secretary on such matters.

The Convener: Thank you very much, Ben. If no other member wants to speak, I will make a few points.

I know that, when he was on the committee, Ben Macpherson always highlighted the need for urban land reform. Unfortunately, every land reform that we have undertaken in this Parliament has related to rural land, which means that most of the people who will feel its effects will not actually see them directly, as they will not touch urban areas. I think that that is a huge missed opportunity. I am not sure what can be done about urban land reform ahead of stage 3, but I have some concerns that it is a missed opportunity in this bill. I would join with Ben with regard to the comments that he has made.

I understand that amendment 371 from my colleague Douglas Lumsden would involve a change to the Town and Country Planning Act (Scotland) 1997. My slight concern is that such an approach would not actually prevent what he is proposing, as such matters come under the Electricity Act 1989—I think, unless my memory of legislation is such that I have got that wrong. I believe that compulsory purchase, and the threat of compulsory purchase, are done under the 1989 act.

I have to say—it would be wrong of me not to point this out—that, over the weekend, there was a meeting in the Highlands that involved 53 community councils representing more than 70,000 people, and they had huge concerns about the way in which compulsory powers were being used to enforce power lines and transmission lines on communities across Scotland. My sympathy, therefore, is with my colleague's amendment, although I am not quite convinced that it is competent.

That said, I urge the cabinet secretary to be mindful of the fact that, if one person's business benefits from the use of compulsory powers at the expense of communities and other businesses, that is, I think, a misuse of those powers and why they were put in. I am sure that the cabinet secretary will correct me if my education with regard to which act or legislation we are talking about is wrong.

Over to you, cabinet secretary.

Mairi Gougeon: I will come to that, convener, but given the nature of Douglas Lumsden's amendments, I should first of all say, as I have said with regard to amendments in previous groups, that this is a matter of interest in my own constituency. I therefore want to make it clear that I am appearing before the committee today in my capacity as a minister of the Scottish Government, and the position that I am presenting reflects the collective view of the Scottish Government and concerns a matter of law and policy for which I have ministerial responsibility. Separately, and in line with the Scottish ministerial code, I have made my views and those of my constituents known to the responsible minister in the appropriate way. However, the issue under discussion is distinct from that constituency interest, and my contributions today should therefore be understood as reflecting the Government's position, not a personal or constituency-specific stance.

Convener, I think that you have summed up the issues with amendment 371. Although I completely appreciate what Douglas Lumsden is trying to achieve, the fact is that electricity licence holders can compulsorily acquire land through powers under schedule 3 to the Electricity Act 1989, Therefore, the amendment would have no effect on compulsory purchase orders made under those powers.

The Convener: On that point, cabinet secretary, we are talking about the transmission of power, not battery storage, which would fall under different legislation. My understanding is that the 1989 act is about transmission, not storage. Electricity companies are not empowered to store power.

Mairi Gougeon: That could well be right, but I would want to double check and clarify that before I came back to you, convener. In any case, I ask members not to support Mr Lumsden's amendments for the reasons that I have set out.

Turning to Ben Macpherson's comments on compulsory sale orders, I absolutely appreciate the points that he and you, convener, have made in relation to urban land reform more generally. However, the measures in the bill are based largely on the Scottish Land Commission's recommendations and work, which identified that the most pressing issues at the time were in relation to rural areas. That is why we have introduced those measures. However, as Ben Macpherson has suggested, a range of other work is on-going that I feel could help to address some of those issues, and the bill would not necessarily be the mechanism to do that.

With regard to Mr Macpherson's amendment 471, he outlined the progress of a similar amendment that was lodged to the Housing (Scotland) Bill, in respect of which the Cabinet Secretary for Social Justice announced that the Government would consult on compulsory sale and lease powers before the end of this parliamentary session. I realise that that might now fall within the remit of the new Cabinet Secretary for Housing, but I will be sure to follow up with her on that and ensure that we see progress in that respect.

Ben Macpherson: I would be grateful if the relevant cabinet secretary could follow up with me directly and with the committee to make it clear how that work will be taken forward and who in Government will be leading on it.

Mairi Gougeon: I am happy to follow that up with my colleagues and ensure that that happens. Given that the powers in question will be significant, the consultation will help to ensure that any such powers deliver what is needed and that they are appropriate and proportionate. The consultation will also be vital in building safeguards into the system, such as an appeals process and rights to compensation, both of which are not included in amendment 471.

Compulsory purchase powers can already be used to acquire land and property in a wide range of circumstances, including by bringing vacant and derelict land back into use for housing. Notwithstanding that, we are implementing a comprehensive programme of work to reform and modernise Scotland's compulsory purchase system with a view to making it simpler, more streamlined and, ultimately, fairer. A substantial consultation on the changes that we propose to introduce through that work is proposed for the coming months, and I am happy to keep members updated on that.

Ben Macpherson: Will the consultation on compulsory purchase orders be separate to the consultation on compulsory sale orders? Is that correct?

Mairi Gougeon: Yes, that is right.

Taking all that into account, I ask Ben Macpherson not to move his amendments today.

The Convener: Thank you very much, cabinet secretary. I call Douglas Lumsden to wind up and indicate whether he wishes to press or withdraw amendment 371.

Douglas Lumsden: I have nothing further to add, convener, and I will press amendment 371.

The Convener: The question is, that amendment 371 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 371 disagreed to.

Amendment 372 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 372 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 372 disagreed to.

The Convener: I will give members some warning about what I propose to do. The next amendment is in a group on its own, so we will discuss it and then have a brief pause before we move on to the next group, as it will have been about an hour and a half since our previous break.

Amendment 374, in the name of Mark Ruskell, is in a group on its own, and I call Mark Ruskell to move and speak to the amendment.

Mark Ruskell: Members will recall that, just over a year ago, the Parliament passed the Wildlife Management and Muirburn (Scotland) Act 2024, which introduced a licensing scheme for shooting red grouse in Scotland. The intent behind that legislation was for the whole area of an estate to be included in the licence, given that gamekeepers are normally employed to undertake predator control over an entire estate.

However, a loophole in that legislation is allowing grouse moor managers to specify a particular part of an estate to which the licence is to apply—essentially, the grouse moor itself, rather than the surrounding land of the estate. That is really concerning, given that incidents of raptor persecution often occur outwith grouse moors.

As members will recall, the issue was brought up in evidence at stage 1 of this bill. Even though the scope of the bill is quite narrow, the RSPB and other stakeholders have raised it as an issue. Amendment 374 seeks to close that unintended loophole, clarifying that a grouse moor licence would cover an entire landholding, keeping the

licensing scheme in line with the intention of the Parliament when it passed the legislation last year.

I move amendment 374.

12:15

The Convener: Does any other member, apart from me, wish to say anything?

Bob Doris: I am aware of the issue and I associate myself with some of the concerns that Mark Ruskell has raised. It was remiss of me not to speak to the cabinet secretary about the issue ahead of today.

I am not sure what the Scottish Government's position will be on the issue, but I will listen carefully to what the cabinet secretary says and I might reach out ahead of stage 3. I thank Mark Ruskell for raising the matter.

Tim Eagle: My understanding is that the issue has been widely discussed among stakeholders and Government. Indeed, questions were raised about it in the Parliament during a rural affairs portfolio question time not that long ago.

I will not go into the full depth of it, but there are particular reasons for the approach in the legislation. NatureScot took the approach that Mark Ruskell is laying out now, but—I think that this might be in my notes—that was quickly changed back on the advice of a King's counsel. I think that Mark Ruskell is trying to close that loophole, but there were very clear reasons why it is more appropriate for the grouse licence to apply only to the area where shooting occurs rather than the whole landholding where other shooters might be coming in or where there might be other issues with separate landowners.

The Convener: I always think that when looking at legislation, what it is called is what it is attempting to do. We are talking about grouse moor licensing, and the amendment seeks to take things well beyond that. In fact, the application in amendment 374 talks about land that is

"within the ownership or occupation of the applicant, that is contiguous"

and

"where either management activities related to the killing or taking of the that bird could take place".

Those could be miles apart. They could be in the north of Scotland—they could be in Caithness; they could be on land that is well away. The amendments that have been made to the 2024 act to include only areas where grouse are killed is the correct definition of grouse moor licences. I cannot support amendment 374 for that simple reason, but I am sure that the cabinet secretary will have a view.

Mairi Gougeon: I understand the concerns that have been set out by Mark Ruskell about the area that is licensed under the grouse licensing scheme. However, I do not think that the way in which the amendment is drafted will have the effect that is intended.

NatureScot has implemented an additional condition on all grouse licences to resolve the concerns that the amendment seeks to address. Given the subject of the amendment, it would be more appropriate for it to be considered for the Natural Environment (Scotland) Bill, and for the scrutiny and debate to happen alongside other wildlife management legislation. Whether that lies with me or another of my colleagues who is leading on elements of the Natural Environment (Scotland) Bill, we would be happy to discuss that with Mark Ruskell separately, but, on that basis, I ask the committee not to support the amendment.

The Convener: I ask Mark Ruskell to wind up and indicate whether he wishes to press or withdraw amendment 374.

Mark Ruskell: I note the interest of Bob Doris and a number of members in the issue. At the end of the day, the 2024 act is a piece of legislation that is not functioning in the way that it should. I am less interested in the area in which grouse can be killed and more interested in the area in which raptors are being illegally persecuted and killed. If the primary intention of the licensing regime is to drive down levels of raptor persecution to ensure that land managers are sticking to the law, it is clearly not functioning at this point.

My point is about when we can fix that, if this is not the appropriate bill in which to do so. I do not want to get to a point with the Natural Environment (Scotland) Bill where a similar amendment is raised and it is seen as not quite right for that bill either. There is a need to fix this right now. The commitment that the cabinet secretary has made to look at this again is important, but I will withdraw the amendment only on the clear understanding that a fix will be found for this and that it will be introduced into the Natural Environment (Scotland) Bill by the Government, or I will lodge an amendment myself.

The Convener: I think that your point is right. The aim of grouse moor licensing was to address what was perceived to be a problem with the persecution of raptors, and I accept that raptor persecution is wrong. The trouble is that the licensing has hardly been going for the two shakes of a dog's tail; it has just come in. We have not seen whether it has had any effect and you already want to change it. I do not understand what your justification is for that. Perhaps there is evidence that I have missed. What has changed?

Mark Ruskell: The area of licensing has been drawn far too narrowly in the legislation and it does not include those areas where raptor persecution is occurring. We have, effectively, a licensing regime that was, at the outset, somewhat dysfunctional. It is important that it covers the area where the crimes are taking place.

I think that the Government acknowledges that this is a problem. It is somewhat embarrassing that, when the legislation was passed, it was widely celebrated among those who work in conservation, who had been campaigning for it for many years. It is a balanced piece of legislation, but this is clearly a loophole. If there is a commitment from the Government to fix it, I will not press amendment 374.

The Convener: Are you saying that you will not press it?

Mark Ruskell: I will not be pressing it.

The Convener: Therefore, Mark Ruskell wishes to withdraw amendment 374.

Amendment 374, by agreement, withdrawn.

The Convener: Good. I say "good" because that allows us to take a break. It is 12:21 and I ask members to be back here at 12:30 for the next hour or so of amendments.

12:21

Meeting suspended.

12:30

On resuming—

The Convener: Welcome back. We expect this session to continue until around 1.30, but that will depend on how quickly we go. I am not saying that the cabinet secretary ought to cut down her speaking notes—that is up to her—but we have quite a way to go if we are to get to where I want us to be before we finish for today and start again tomorrow night.

The next group is on information about land. Amendment 375, in the name of Mark Ruskell, is grouped with amendments 376 to 378, 470, 475 and 477.

Mark Ruskell: I will speak to my amendments in the group and to Ariane Burgess's amendment 470 on Scotland's land information service—ScotLIS.

The register of persons holding a controlled interest in land was established in 2021. The committee spent a long time looking at the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021, which was a super-affirmative instrument, working out whether the register itself and the penalties and provisions associated with it would be effective. The instrument could not be amended, but we reached a point at which we approved it, even though we had some questions and concerns about how effective it would be.

Since the register came into being, landowners have been required to publicly register their ownership and controlled interests relating to their land. At the time, the Parliament and the Government recognised that there was a lack of transparency in relation to who owned Scotland's land and who controlled it. Currently, landowners who do not provide their details for inclusion in that public register are committing a criminal offence. However, there have been cases in my region that constituents have brought to my attention in which Police Scotland has chosen not to investigate people who were thought to be flouting the law in that respect because of a lack of capacity or expertise in what is quite a technical area of law.

If the register is to be enabled to work, it needs to be revised. We took a bit of evidence on the subject at stage 1. I have lodged amendments 375 and 376 as probing amendments that present two options for how the register could be reformed to ensure greater compliance.

Amendment 375 would change the current position, whereby someone who does not comply with the registration requirements receives a £5,000 fine, to one in which they would receive an annual recurring fine until they complied. That would be one way of tackling the issue within the provision of the existing regulations. Of course, many landowners would view the payment of such fines as the cost of carrying on with business as usual, so the imposition of such fines would have to be accompanied by a strong commitment on the part of the Scottish ministers and Police Scotland to tackle the problems that are hindering enforcement of the current regulations.

Amendment 376 offers a slightly different and perhaps more complex approach that would provide a quicker way of addressing the problem and dealing with enforcement. It would make failure to register ownership a civil rather than a criminal offence and would give the land and communities commissioner the ability to issue a £40,000 annual fine. Although that does not have the heft of a criminal conviction, it is a stronger up-front financial penalty, and it perhaps aligns more with the penalties and provisions in the bill as they relate to environmental management plans and community engagement. We have discussed, for example, what an appropriate level of fine might be. It is a bit odd that there is no similar penalty in respect of the register for persons holding a controlled interest in land, and I think that that is causing problems. I will listen to the cabinet

secretary's comments and her reflections on what steps ministers can take to strengthen enforcement of the register.

Ariane Burgess's amendment 470 seeks to expand Scotland's land information service, or ScotLIS. In 2015, following previous land reform legislation, John Swinney committed to bringing forward a comprehensive, publicly available mapping tool to make available a range of information about how Scotland's land is owned and used. The ScotLIS service that is available on the Registers of Scotland website makes available information on ownership and sale that is held by the keeper. Although that is important, it falls short of the comprehensive information service that was envisaged in 2015.

Knowing how land is used and what activities are being supported by public subsidies is important for giving us all a fuller understanding of Scotland's land use and its contribution to the economy and to achieving net zero and other public objectives. Amendment 470 would require that, within two years of the bill receiving royal assent, the current ScotLIS service be expanded to include information such as biodiversity status, active travel routes, flood records, the location of public services and land held under agricultural tenancies. Those categories were recommended by the Government's digital land and property information service task force, which reported to ministers in 2015.

Making such information publicly accessible in a single database would add greater accuracy to our view of Scotland's land use and ownership. We just discussed the implementation of carbon land tax, and, before anything like that could be brought in, we would need to have a much more comprehensive view of landholdings. An expanded ScotLIS would be the first step to implementing such a tax.

Douglas Lumsden: I am trying to understand how you see all that information being added. If there is a new piece of land being registered, would all those additional details be added on? Alternatively, would you envisage that we go back and look at all the ScotLIS records and add to what is there? If it is the latter, do you think that there would be a significant cost to doing all that work?

Mark Ruskell: The Government has already made a commitment to expand and develop ScotLIS. The service is a living thing—it is not frozen in time. The frustration is that it is not currently achieving its potential. It could be quite a powerful tool in ensuring that, where public money is being invested in land and in public objectives, we are matching that up to the land of Scotland and are able to see the impacts of strategic policy across the whole of Scotland—I hope that I have managed to give some examples of that.

It is good for councils, national parks and the Scottish Government to have that mapping tool, so that they can see where public money is being spent, and it is also useful for landowners who are working at a landscape scale, as they can use it to see where the economic opportunities are. It would be for Registers of Scotland and the keeper to manage a work programme for how ScotLIS could be expanded.

There is an existing commitment to expand ScotLIS, so I am not suggesting something completely new. The digital land and property information service task force recommended using ScotLIS in a range of different ways. There is a frustration that, with regard to a carbon land tax and a range of other policies with which members may or may not agree, implementation relies on having an accurate map database of land across Scotland. We do not currently have that, and until we do, we will always come up against problems if we want to be ambitious in our land policy.

I will leave it there, convener. I move amendment 375.

The Convener: Thank you. I call Mercedes Villalba to speak to Rhoda Grant's amendments 377 and 378 and to any other amendments in the group.

Mercedes Villalba: Rhoda Grant's amendments address a loophole in the requirement for beneficial ownership of land to be registered. Currently, if a person has a security declaration in place, their details can remain hidden, which can be used to evade transparency and leave tenants with no way of contacting the landlord who has controlling interest in the land. If a tenant needs to discuss land management, repairs or other issues but cannot reach the decision maker, that causes significant problems.

Amendment 377 introduces a new right for tenants to request contact with "an associate"—that is, the person with controlling interest—even if a security declaration is in place. It provides that the keeper of the registers of Scotland, who is responsible for maintaining the register of persons holding a controlled interest in land,

"must facilitate communication between the tenant and the associate",

while still protecting the associate's personal details.

As mentioned previously, the register of persons holding a controlled interest in land requires certain entities, such as trusts and offshore companies, to disclose individuals with controlling interests in land, even if they are not the legal owners. However, individuals can apply for a

security declaration under regulation 16 if public disclosure would risk their safety. Currently, when someone applies for a security declaration, the keeper of the registers of Scotland must notify the recorded person—that is, the legal owner or entity—and the associate, who is the person with the controlling interest.

Amendment 378 would add

"the chief constable of the Police Service of Scotland"

to the list of parties who must be notified when a security declaration is applied for and when a security declaration is revoked or expires. That ensures that law enforcement is aware of situations in which someone's safety might be at risk due to land ownership disputes as well as transparency requirements.

The two amendments seek to close the current loophole that stops tenants from contacting their landlord, while protecting any owners of land who might be at risk if their details are published.

The Convener: Thank you. Going by the list of amendments, I should call Ariane Burgess to speak to amendment 470. However, as Mark Ruskell is raising issues for her and has already spoken to amendment 470, I will just check with him that he does not want to repeat everything that he has already said about it.

Mark Ruskell: No, I do not.

The Convener: Therefore, I call Monica Lennon to speak to amendments 475 and 477, and any other amendments in the group.

Monica Lennon: I will speak to my amendments 475 and 477. Mark Ruskell, on behalf of Ariane Burgess, has set out why we need to address the issue of ScotLIS. I will try not to repeat any of Mark Ruskell's ably made points on that, but it is good to put on the record again that, in 2015, when he was Deputy First Minister, John Swinney, made a clear commitment to establish a land information system for Scotland and that such a system would provide

"a one-stop-digital database for land and information services".

Mark Ruskell has outlined what has been implemented and some of the shortcomings around that. That implementation work is incomplete. I recently submitted a written question to the Government on the matter and got a response from the Minister for Public Finance, Ivan McKee. There is on-going work on ScotLIS, but I share Ariane Burgess's frustration, which Mark Ruskell has articulated.

My amendment 475 is not as prescriptive as Ariane Burgess's amendment 470, but the rationale is similar. I am keen to hear what the cabinet secretary has to say on it.

I turn to amendment 477. Under regulation 12, paragraph (2)(a) of the Land Register Rules etc (Scotland) Regulations 2014, the keeper of the registers of Scotland is required by law to enter on the title sheets in the land register the "consideration". Typically, that will be the price paid for land, and that recording of considerations is the reason why we have good data on house prices in Scotland. A consideration can also be recorded as "for love, favour and affection", for example, which is the accepted term for a gift to a relative—there are other terms that have been used for many decades and have accepted meanings. In recent years, however, an increasing number of large landholdings have changed ownership, with the considerations being given simply as "implementation of missives".

12:45

During the years 2020 to 2022, almost one quarter of all land sold as part of large landholdings—defined as those of more than 500 hectares—entered "implementation of missives" as the consideration. However, in 2023, that jumped to 72 per cent of the extent of all large landholdings, which represents more than 40,000 hectares. Eight out of 12 sales of holdings of more than 1,000 hectares gave that term as the consideration.

Those of you who know the basis of conveyancing will be aware that missives are exchanged as part of the conveyancing process, and they will be implemented unless the sale falls through. Therefore, "implementation of missives" is a meaningless term. As a matter of law, the keeper is a registrar and not an arbiter or enforcer; she faithfully records the consideration as given in the disposition. Given that the term is arguably being used to conceal the sum of money paid, amendment 477 requires the keeper to enter the actual sum of money that changes hands.

The Convener: I will comment on four amendments. Amendments 375 and 376, in the name of Mark Ruskell, are quite interesting. I think I know the case that he has in mind when he talks about somebody failing to register—it was brought to my attention as well as his, and I believe that the cabinet secretary was also warned about the person. However, it seems that that was a one-off event. I have not yet had any other information regarding people failing to register—I have not heard of anyone doing that at all. Therefore, amendments 375 and 376 seem to be using a sledgehammer to crack a nut. My view is that the law is there and people should be encouraged to register. If they fail to do it, the penalties in the law should be imposed.

On Mercedes Villalba's amendment 377, my concern is that she said that people hiding behind

security declarations was a serious problem, but I am not aware of any reports of situations in which people refusing to have their names divulged for security reasons has affected the operations of any of the tenants or people associated who want to know about the ownership of the land. If there were some evidence of that, I might be minded to look at the amendment in a different way, but, as there is not, I find it difficult to support amendment 377.

On Monica Lennon's amendment 475, which would require the Scottish ministers to prepare a report on Scotland's land information service, I am always in favour of hearing what is going on and having accurate reports, so I am minded to support amendment 475, because it would result in our having a more detailed picture.

I have no other comments, so I will bring in the cabinet secretary.

Mairi Gougeon: I will address the amendments that have been lodged in relation to the register of controlled interests. The regulations are quite complex, so if we were to change them that would need to be thought through in detail. We would need to have a wider discussion with relevant stakeholders about any changes, otherwise we would risk there being unintended consequences.

It is also important to point out that most issues relating to RCI can be dealt with through the regulations as they stand, rather than there being a need to address them through primary legislation. For example, we can properly address issues relating to penalties through regulations that are subject to the affirmative procedure.

Mark Ruskell also seeks to remove the option of applying criminal penalties for breaches of the RCI requirements. I have some concern about that. I would like to think that the risk of getting a criminal record would be a significant deterrent for those with responsibilities under the register, particularly because having such a record would bar individuals from holding certain directorships and other roles that might be of interest to certain landowners. The police have a key role in that, because their powers allow them to obtain information that is important in determining whether the requirements on compliance have been breached.

Mercedes Villalba spoke to Rhoda Grant's amendments on security declarations. I was interested to hear more about the rationale behind those. It is important to note that, so far, there is only one security declaration in place out of about 17,000 published entries on the register. I do not believe, therefore, that there is a particular problem with security declarations. If there is, I will be more than happy to have that conversation. However, until we are sure that there is a problem that should be addressed, I do not agree that it would be appropriate to give more duties to Registers of Scotland and Police Scotland in the way that the amendments suggest.

I am more than happy to have further discussions with Mark Ruskell and Rhoda Grant to understand more about the rationale behind their amendments, but in the meantime I encourage the committee not to support them.

On amendment 470, I support the overall outcome of what Ariane Burgess is aiming to achieve, which is the delivery of a comprehensive single source for a range of land and property data. However, I have real concerns about the amendment, first and foremost because it would have significant cost implications. It could cost many millions of pounds to develop and maintain a new register, as well as to gather nationwide data of the sort to which the amendment refers. In addition, ScotLIS, which we have discussed a lot today and which is maintained by Registers of Scotland, already hosts an extensive range of information in an accessible map-based format. Registers of Scotland aims to continue to improve that service.

I am not clear whether amendment 475, in the name of Monica Lennon, relates to ScotLIS. I presume that it does, but the way in which the amendment is drafted means that it could be read as though it proposes a new land information service. I do not think that that is necessarily the member's intention.

Monica Lennon: To clarify, amendment 475 relates to the existing service. Does the cabinet secretary accept that, as Mark Ruskell outlined, there are shortcomings in the existing service when we compare it with what John Swinney committed to in 2015? That is what we are trying to address and improve.

Mairi Gougeon: I appreciate the points that have been made. However, the keeper and the accountable officer have to provide the Economy and Fair Work Committee with regular updates on and accounts of the work of Registers of Scotland, including on ScotLIS, which might be a more appropriate route through which progress could be reported. I am therefore unable to support amendment 475.

What amendment 477 is trying to achieve is unclear. My understanding is that the keeper is already obliged to reflect the consideration on the face of the title sheet, whether it is monetary or not. If it was considered necessary to make changes to the Land Register Rules etc (Scotland) Regulations 2014, that could be done through the usual mechanism for amending regulations; we would not necessarily need primary legislation to do so. There has not been wider discussion or

consultation with relevant stakeholders on any of the proposed changes. For those reasons I cannot support amendment 477.

The Convener: I ask Mark Ruskell to wind up and press or withdraw amendment 375.

Mark Ruskell: Having listened to the debate, I am minded not to press amendment 375 or move amendment 376.

To come back to the cabinet secretary's point about whether there is a big problem with the use of security declarations, Rhoda Grant and I have both come across incidents in which, disappointingly, the police were unable to take the necessary action to ensure the landowner's compliance. I would therefore look to the cabinet secretary and the Government to consider whether that is a larger-scale problem. We are now several years down the line from the roll-out of the register of controlled interests, which is an important tool in the box that enables us to build much more transparency about how land in Scotland is owned and managed. Clearly, there are examples of situations where compliance is not happening.

It seems odd that the bill contains provision for a fine of up to £40,000 for failure to produce a community consultation on a land management plan, whereas a failure to declare who is financially behind the ownership of land in Scotland attracts only a £5,000 fine. I understand the difference: one of those actions could result in a criminal conviction. However, in the small number of cases that have come through, we have seen that the likelihood of securing a conviction is vanishingly small. For the Crown Office and Procurator Fiscal Service to even take on such a case would require a lot of specialist research by the police. I do not know whether we would ever get to a point where that might help to secure a criminal conviction.

I am not clear whether such a penalty would be a deterrent against non-compliance but, until there is a bit more review of whether the register of controlled interests is working, we can only guess, because we have only anecdotal evidence. On the face of it, that provision appears as though it is quite misaligned with others in the bill, not just as they stood at stage 1 but as they have changed as we have progressed through stage 2.

Mercedes Villalba: Does the member agree that the legislation presents an opportunity to close any potential loopholes? I think that I heard from the cabinet secretary that she would be willing to have further conversations with Rhoda Grant about the potential loopholes that might exist, as raised by the amendments, which is welcome. We could then strengthen any legislation that is ultimately passed.

Mark Ruskell: I think that the challenge will be to get robust evidence. I heard the cabinet secretary's remarks that some people might have a security concern and, therefore, would be exempt from providing information, but we do not know. We are where we are; we are discussing the bill, it is before the Parliament, and there is a desire to change and fix a lot of things that we think are problematic. We might be reliant on the Government making commitments to change regulations or carry out reviews in the future, but now is the time to pin down such commitments so that there is some assurance for the committee, here and now, that we know what will happen as we go forward.

That also brings us to the subject of ScotLIS. We all agree that it is a powerful and useful tool, but that it could be more so. Again, we are fishing around to see what the next stage of its development might be. The cabinet secretary admitted that it would cost more money to make the service better and more effective, but what is the Government's commitment on that? Is ScotLIS a priority, or not? If it is not a priority, we should name it and say, "There is no programme to expand ScotLIS. The commitments that were made in 2015 by the digital working group will not be carried forward, and we will deal with what we have at the moment." I am aware that another committee would scrutinise the work of the keeper and ScotLIS, but it is so fundamental to our work on land reform that I think it important to bring that into the discussion.

I will not press amendment 375. I will not move amendment 376, but I will move amendment 470. We will see where we get to with Monica Lennon's subsequent amendments 475 and 477. Although her amendments are supportable, I would like to test with the committee the idea of putting something into legislation now.

Amendment 375, by agreement, withdrawn.

Amendments 376 to 378 not moved.

The Convener: Amendment 467, in the name of Ariane Burgess, is in a group on its own. I call Mark Ruskell to speak to and move the amendment.

Mark Ruskell: Amendment 467 would make small changes to the Community Empowerment (Scotland) Act 2015 and the Land Reform (Scotland) Act 2003 to support community bodies to own land or take leases for community energy purposes. It would ensure policy coherence across portfolios, and it would align Scottish Government objectives not only on land reform, by empowering communities with more opportunities to own land, but on community wealth building.

13:00

The Government has stated its commitment to increasing community-owned energy. We have a target of 2GW of capacity by 2030, but we do not think that that will be met without making more land available for community energy. The cabinet secretary has stated that the Land Reform (Scotland) Bill will

"allow the benefits and opportunities of Scotland's land to be more widely shared."

Community energy projects really show us how that can take place. There are some great examples on Lewis, including the Point and Sandwick Trust wind farm, which generates £900,000 a year for the local community. That will rise to £2 million a year once the project's capital costs have been repaid. That is really powering the community, and it is providing grants to local primary schools and to people who live in fuel poverty. In my constituency, the Fintry Development Trust has done amazing work over many years in pioneering such development. There are lots of positive examples of communities backing renewable energy, being part of the successful picture of renewable development in Scotland and sharing in its rewards.

However, none of those projects could have happened without the land being available for community renewables. It is quite clear that although partnership working can take place between developers and communities, communities can get the best deals when they are landowners. If they own the land, they can strike the best partnerships. Making more land available for community-owned renewables benefits not only the communities concerned but the whole of Scotland. It means that more of the wealth from renewable energy generation in Scotland stays here—it does not get offshored or go to shareholders.

That approach also increases public support for community energy projects. We see good evidence of communities developing renewables themselves, in the right places, by entering into positive agreements with developers, which drives support for renewables projects. That will be important going forward. People need to be able to look up at the wind turbine on the hill and recognise that they, their community and their families are benefiting from it, otherwise, it can feel as though wealth is being extracted from Scotland. Increasing public support will therefore be critical as we go forward.

When there is space on public land that is suitable for renewables, the first step should be to offer that land to local community organisations that wish to use it for that purpose.

The first part of amendment 467 would place a duty on ministers, when deciding community asset transfer requests, to exercise their function in a way that

"prioritises community ownership of green energy assets."

At the end of the section that would be inserted by Ariane Burgess's amendment 467, a duty would be placed on ministers, when assessing proposed land purchases under the community right to buy, to

"consider the public interest"

reasons for

"increasing community-owned green energy."

It is important that we move beyond what has become quite a polarised debate—including in this committee, given some of Douglas Lumsden's amendments on whether we need to restrict transmission infrastructure—about whether we need to restrict the growth of green energy. There is a way to advance community energy generation that reflects its benefits, notwithstanding concerns about planning decisions and getting renewables projects in the right place. The idea of community ownership, and getting communities to invest in and engage with projects, will be really critical to their success. I think that we could see renewable energy develop in a way that would benefit everybody.

I move amendment 467.

The Convener: Thank you, Mark. I am looking around the table, but I do not see any other members who want to speak.

I understand what amendment 467, in the name of Ariane Burgess, is trying to achieve. However, I think that there could be some confusion over one aspect that takes me back to a long time ago, when I was a practising surveyor, which is the application of the Crichel Down rules. Their effect is that where land is purchased under a compulsory purchase order by local authorities for various purposes, and, ultimately, that land is no longer required for those purposes, it must be offered for sale back to the person from whom it was compulsorily purchased. Therefore, for amendment 467 to have any validity, that aspect would have to be considered.

That issue slightly concerns me, and I look to the cabinet secretary, who might have a lot more information from her many advisers on how the Crichel Down rules might affect how amendment 467 would work in practice. For that reason alone, I cannot support it, but I would love to hear the cabinet secretary's views.

Mairi Gougeon: Thank you, convener. My colleague Gillian Martin has recently met community energy stakeholders in relation to

proposals to use public land for community energy projects. Either I or my colleagues would be happy to speak to Ariane Burgess on the matter, too.

Notwithstanding the concerns that the convener has outlined, there are a few practical difficulties with amendment 467 as it stands. For example, the proposed changes to the Community Empowerment (Scotland) Act 2015 appear to apply to all land and buildings owned by all public authorities, irrespective of the nature of their use or of their location. It is unclear what is within the scope of the phrasing.

Public authorities have to consider five criteria in particular when they are assessing asset transfer requests, which include matters such as public health and economic development. Amendment 467 would add an overarching green energy priority, which would not work in practice. It would make it too hard to ensure that we give due weight to the particular merits of an application.

However, I appreciate what Ariane Burgess is trying to achieve and I am more than happy to have further discussions with her and with my colleague Gillian Martin.

The Convener: I ask Mark Ruskell to wind up on behalf of Ariane Burgess and to press or withdraw amendment 467.

Mark Ruskell: I look forward to further discussions with Ariane over the summer about how we might deliver the policy intent behind the amendment—which is to have a thriving community renewables sector in which communities feel that they are achieving the benefit, so—

The Convener: Will you press the amendment?

Mark Ruskell: —on that basis, I will not press the amendment.

The Convener: I apologise that I started on my spiel even though you had not finished speaking.

Amendment 467, by agreement, withdrawn.

Amendment 468 moved—[Mark Ruskell].

The Convener: The question is, that amendment 468 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 468 disagreed to.

The Convener: Amendment 469, in the name of Ariane Burgess, is grouped with amendments 473, 474 and 505. I call Mark Ruskell to move amendment 469, on behalf of Ariane Burgess, and to speak to the amendments in the group.

Mark Ruskell: Okay—I will do my best.

Amendment 469 would require the Scottish ministers to establish a community land forum. That would bring together local authorities, public bodies with duties related to housing, land ownership or community development, and other agencies, in order to identify areas of land that could be made available for community housing developments.

A forum of that kind has been recommended by the Scottish Land Commission, based on its analysis of similar processes in England and the Republic of Ireland. Amendment 469 would be the first step. It would require ministers to facilitate a space in which the main stakeholders and community groups with an interest could discuss land for community housing. A more robust proposal would be for a public body to be charged with acquiring suitable sites for community housing and creating a land bank of such sites that could be portioned out, according to recommendations from the community land forum. That would be ideal.

Highland Council has successfully assembled parcels of land through its land bank fund since 2005. We would like to see more local authorities take that approach. Amendment 469 is the first step towards such a process, and I urge members to support it.

I move amendment 469.

The Convener: I call Monica Lennon to speak to amendment 473 and other amendments in the group.

Monica Lennon: A variety of types of common land—remnants of a much larger extent of land, from before enclosure and privatisation—still exist across Scotland. Their legal status is unclear and precarious. Many such pieces of land have been divided and appropriated by neighbouring landowners, and communities have lacked the means by which to protect that land from such activities. For example, Carluke commonty was saved by Andy Wightman, who is known to members around the table and who worked with the local development trust to register title to it.

In England and Wales, the purpose of the Commons Registration Act 1965 is

"to provide for the registration of common land and of town or village greens; to amend the law as to prescriptive claims to rights of common; and for purposes connected therewith."

Scotland needs an equivalent register, because we have fallen way behind England and Wales in that regard.

My amendment 473 provides for the creation of such a register and for regulation-making powers to require that any local authority may seize and manage such assets or transfer them to an appropriate body.

In the latter half of the 16th century, fully half of Scotland was held as part of some form of commons. Today, little of that remains, but what does remain deserves better protection. I hope that that explains the rationale behind amendment 473.

The Convener: I have a question about amendment 469, which Mark Ruskell spoke to on behalf of Ariane Burgess. It is about the establishment of a community land forum. Has any work been done with the cabinet secretary to identify costs relating to that and whether such costs would eventually have to be included in the financial provision for the bill, were the amendment to be agreed to?

Mark Ruskell: I do not have an answer to that.

The Convener: Okay. I am sure that the cabinet secretary will have an answer, so we will come to her now.

Mairi Gougeon: Overall, I support the outcome that Ariane Burgess is trying to achieve through amendment 469, which Mark Ruskell spoke to. Ultimately, this is about increasing the provision of homes of the right type. However, I do not believe that amendment 469 is the most effective way of doing that. If we want to bring stakeholders together, we do not need primary legislation. Ariane Burgess has proposed something that we have already committed to through the rural and islands housing action plan, in which we set out our work with local authorities and other stakeholders.

Local authorities, national parks and the Scottish Government already have duties to support the provision of housing, and the establishment in legislation of a new forum probably has more potential to confuse than to strengthen the focus on addressing housing issues. There is no requirement for legislation in that regard. I am not able to support the amendment because the purpose and operation of the forum, how it would be resourced and the powers that it would have remain unclear.

I am still not sure what is behind amendments 473 and 505, in the name of Monica Lennon, but I have a number of concerns with those amendments. Amendment 473 seeks to establish a new register for various types of common land. The creation of new registers is a long, complex and expensive process, and it is likely that very few examples are left of the common land types that are listed in the amendment. The amendment would also require local authorities to seize land that is identified as common land. That has the potential to cause unintended consequences and would have a significant impact on the property rights of the current owners and rights holders. More broadly, this area was not raised during the stage 1 consideration of the bill or in the stage 1 report, and more detailed consideration and engagement with stakeholders, including local authorities, would be needed as part of any discussion.

With regard to amendment 474, the Division of Commonties Act 1695 allows an area of commonty to be divided between the owners in two circumstances: first, where holding that land as a commonty no longer suits the parties; and, secondly, to allow enclosure and cultivation of the land. We do not think that there is merit in removing that right from the owners of the commonties, which are not common land in the sense that that term is usually understood. We do not expect there to be many commonties left in Scotland, although there are some. Any decision to repeal that provision would need to be given appropriate consideration. Again, that has not been consulted on or more widely considered during the development of the bill. For those reasons, I ask the committee not to support amendment 474.

Monica Lennon: I am sorry for interrupting you, cabinet secretary. You have made some fair points in relation to amendment 473. However, I have just realised that I did not speak to amendment 474, perhaps in the interest of time.

The issue was raised at stage 2 of the previous Land Reform (Scotland) Bill and there was some back and forth at that time. There has been a question mark over what exactly was agreed and what the Scottish Law Commission would or would not do in that regard, and there is an appetite to tidy up what looks like quite archaic legislation. I appreciate that this may not be the right time to do that, but does the Government have a view on when might be the right time to give that issue some attention?

13:15

Mairi Gougeon: I believe that Roseanna Cunningham, who was the cabinet secretary, wrote to the Scottish Law Commission at that time, but I would have to follow that up to find out where

that work ended up, because I do not have that information to hand at the moment.

The Convener: I invite Mark Ruskell to wind up and—

Mark Ruskell: Sorry, I just—

The Convener: Do not put me off, Mark. It is getting too late in the day and, if you stop me in mid flow, I will get lost. [*Laughter*.]

Mark Ruskell: Okay—go.

The Convener: I ask you to wind up and to press or withdraw amendment 469 on behalf of Ariane Burgess.

Mark Ruskell: I accept the cabinet secretary's comments about the work on houses being progressed in other ways, but I reiterate the point that that was a recommendation from the Scottish Land Commission. Similar processes are under way in England and Ireland, and we will judge any future progress against that.

To go back to the convener's point about relative costs, any comparison that looked at how similar processes have worked elsewhere would certainly answer that question.

I will not press amendment 469, but I will talk about Monica Lennon's amendments, because it feels as if that area of land reform continually gets dropped. Whenever a land reform bill comes forward, people say that considering commonties and common land is too difficult. I recognise that that is probably because a lot of the status of land has been eroded over time. Private landowners may have expanded a garden or private developers may have managed to take over an area—particularly an area of common good land—and develop it without there being clarity as to its legal status. I came across that issue when I was a councillor in Dunblane, and we did a bit of work with Andy Wightman to work out where the common land was. I know that the issue goes way back, probably to the previous Scottish Parliament in 1695.

Those areas of land are held for communities, so we need to give the issue a bit of care and attention. It feels as if another land reform bill has come and gone and, because the work has not been done, there is nothing that we can do legally now, and the problem is just going to sit there. It needs a bit of care and attention in the future.

The Convener: I think I hear the cabinet secretary heaving a sigh of relief. I take it that you will not press amendment 469. Is that right?

Mark Ruskell: I will not press amendment 469.

Amendment 469, by agreement, withdrawn.

Amendment 470 moved—[Mark Ruskell].

The Convener: The question is, that amendment 470 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 470 disagreed to.

Amendments 471, 473 to 475 and 477 not moved.

The Convener: Right; good. I had a question in my mind about whether we would move on to debate the next section of the bill, but there would then be a series of 10 votes that would take us beyond our 13:30 deadline, which would be unfair on members who are getting ready to speak in the chamber this afternoon. So, disappointingly for those who are in the swing of this and were ready to push on further and faster with the amendments, I will call a halt.

I remind members that, with the approval of the Parliamentary Bureau, we will be back here at 17:45 tomorrow evening for the next set of amendments. I will see you then.

Meeting closed at 13:20.

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