OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 12 November 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 12 November 2025

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RURAL AFFAIRS AND ISLANDS COMMITTEE
31st Meeting 2025, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)
*Ariane Burgess (Highlands and Islands) (Green)
*Tim Eagle (Highlands and Islands) (Con)
*Rhoda Grant (Highlands and Islands) (Lab)
*Emma Harper (South Scotland) (SNP)
*Emma Roddick (Highlands and Islands) (SNP)
Evelyn Tweed (Stirling) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Liz Anderson (Scottish Parliament)
Bill Barron (Scottish Government)
Martin Brown (Scottish Government)
Jim Fairlie (Minister for Agriculture and Connectivity)
Alison Fraser (Scottish Parliament)
James Hamilton (Scottish Government)
Nick Hawthorne (Scottish Parliament)
Marion McCormack (Scottish Government)
Michael Nugent (Scottish Government)
Mark Ruskell (Mid Scotland and Fife) (Green)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 12 November 2025

[The Convener opened the meeting at 09:02]

Crofting and Scottish Land Court Bill: Stage 1

The Convener (Finlay Carson): Good morning, and welcome to the 31st meeting in 2025 of the Rural Affairs and Islands Committee. As usual, I remind everyone to switch electronic devices to silent.

Our first agenda item is an evidence session with the Minister for Agriculture and Connectivity on the Crofting and Scottish Land Court Bill. We have scheduled approximately 70 minutes for the discussion on part 1 of the bill, which relates to crofting reform. I welcome Jim Fairlie, the Minister for Agriculture and Connectivity, and his officials: Michael Nugent, bill team leader and head of crofting policy; Bill Barron, crofting bill team adviser; and James Hamilton, solicitor. I remind our witnesses that they do not need to operate their microphones—I am quite sure that they were aware of that.

I will kick off by asking how the Government will ensure that "environmental use" is clearly defined and actively managed to deliver environmental and community benefits, while preventing neglect and absentee ownership.

Minister, I should have said that, if you have an opening statement, we would be delighted to hear it. That is two weeks in a row that I have forgotten to give you that opportunity.

The Minister for Agriculture and Connectivity (Jim Fairlie): I do, indeed, have an opening statement.

Good morning, and thank you for inviting me to give evidence on the Crofting and Scottish Land Court Bill. As you know, the bill has two main parts. I will begin with a short opening statement on part 1, on crofting. I will give a further short statement on the merger of the Scottish Land Court and the Lands Tribunal for Scotland later in the meeting.

The crofting provisions in the bill are the culmination of more than three years of stakeholder engagement. To date, there have been 20 crofting bill group meetings, and those will continue through the upcoming stages. The proposals that have been considered came from a variety of sources. They include issues that were previously identified by a crofting bill team between 2016 and 2019, many of which were drawn from the crofting law sump, issues that the Law Society of Scotland singled out for crofting law reform in 2019-20, and issues that were identified and raised by stakeholders over the three-year period. Over the summer of 2024, we carried out a consultation and officials ran 15 public events throughout the crofting counties, which were attended by 257 people. It is fair to say that the bill has not lacked stakeholder engagement.

It has been mentioned that the bill does not go far enough and that it does not address some of the bigger issues that exist, but the bill was never meant to deliver fundamental reform. Officials have made that point throughout the process. Crofting law is complex, and even when there is consensus that something needs to be changed, it is often difficult to reach a consensus on what the remedy should be. Developing proposals and identifying workable solutions requires time.

However, the bill is more than just a technical bill—it is also an enabling bill. It will give crofters more options for how they use their land, it will allow approximately 700 people to apply to become crofters, it will streamline the enforcement of duties and the family assignation process, and it will prevent those who are in breach of the duties from profiteering and removing land from crofting tenure. Landlords and subtenants will be able to report breaches of duty to the Crofting Commission, and crofters will be able to apply to the commission for boundary and registration changes.

Rather than being viewed in isolation, the reforms should be viewed alongside the work that is being done by the Crofting Commission. As the commission pointed out in its evidence, it is important to note the interplay between the legislation and the commission's policy plan. The legislation provides the necessary framework and the plan provides the detail of how the commission will administer and regulate. The commission has advised that it has the legislative tools and the resources to carry out its functions, and the changes in the bill will further support the commission in its work in processing regulatory applications and tackling breaches of duty.

The bill prepares the ground for what comes next. It will help to lay a stronger, healthier foundation for crofting, whereby we aim to have increased residency levels and more people actively using their crofts and common grazings. We will then be in a better place to take stock and consider what is needed for the future.

I am happy to take questions.

The Convener: On the back of your statement, it is important to put on record the fact that the consultation and the pre-legislative engagement have been almost universally well received by stakeholders. The work that your team has done on the consultation and behind the scenes has been exemplary. Perhaps that is an approach that can be taken in relation to other pieces of legislation as we move forward.

You will not be surprised to hear that my first question is about how the Government will ensure that "environmental use" is clearly defined and actively managed to deliver environmental benefits while preventing neglect and absentee ownership.

Jim Fairlie: I absolutely concur with what you have just said. The bill team has done a phenomenal job in the engagement that it has undertaken. As I went out on my own around the crofting counties, it was clear that the bill team had done a phenomenal amount of work. I hope that that will enable us to get the bill absolutely right.

With regard to your question about a clear definition, the bill makes it clear that "environmental use" must be planned and managed for a clear purpose and must not adversely affect adjacent land. Crofters are already familiar with the concept of acting in a planned and managed manner. It is vital that environmental use is undertaken in a planned and managed way, and for a clear purpose.

We are sympathetic to the concerns that someone might neglect their croft and claim that they are rewilding, but we believe that it will not be difficult for the commission to tell the difference between someone who is actively putting their croft to environmental use, who will be able to explain what the environmental benefits are and what they are trying to achieve, and someone who is simply neglecting their croft and presenting the results of that neglect as good environmental practice.

We have intentionally framed the provisions in broad terms to allow for flexibility and adaptability as new environmental practices and technologies emerge. We have taken note of the concerns that stakeholders have raised, and, as officials have already discussed at meetings of the crofting bill group and the cross-party group on crofting, we will strengthen the wording of the bill to avoid any misunderstanding of the policy intention.

Those changes might be along the lines of what has been expressed by those who have already given evidence. For example, "environmental use" could mean any land that is deliberately planned and actively managed to achieve a specific environmental outcome. Allied to that, in its evidence session, the commission explained that it intends to make changes to its policy plan. That will bring further clarity on the matter and explain what would be expected of crofters in meeting that specific duty. The legislation provides the framework and the policy plan provides the detail for how it will be implemented and enforced in reality.

The land is the key asset and we need to optimise its use, whether it be to produce food more sustainably, to cut emissions or to enhance the environment. There are 750,000-plus hectares of land in crofting tenure, which represents a significant opportunity to deal with some of the key challenges that we face in creating potential benefits for crofters.

The Convener: I do not want to step on anybody's toes with further questions on stronger enforcement, but there are a lot of concerns about the addition of "environmental use". At the moment, people are not being pulled up for absentee ownership, neglect or whatever. However, we will move on to that later.

We have heard evidence that there are concerns that one crofter could put in a plan to rewild or to re-wet or do some peat restoration, which might have a negative impact on neighbouring crofts. For example, if a ditch ran through a number of crofts and one of the crofts decided to block it up to re-wet as part of an environmental scheme, that could be to the detriment of others further downstream. Who would police that? Who would decide whether there was a detriment to other crofts?

Jim Fairlie: The thing about crofting is that it is supposed to be about crofting communities, and I would hope that those communities would work together. Anyone who has been in the crofting counties and communities will know that there is always the potential for difficulties, but my understanding is that, if there are individual disputes, the Crofting Commission will have a role to play in making sure that they are agreed amicably for the benefit of the entire community.

The Convener: Does that need to be more formalised, so that it is quite clear in the legislation? At the moment, it is not clear how conflicts over detriment to neighbouring crofts might be dealt with. Do we need to spell that out a bit more clearly in the regulations and the legislation?

Jim Fairlie: The commission has significant powers, but I am quite happy to ask Bill Barron or Michael Nugent to say whether those need to be strengthened.

Michael Nugent (Scottish Government): We have been talking with environmental colleagues about that, and some of it will be covered in the commission's policy plan. We will be able to put some flesh on it and provide the detail, so that

crofters know what they can and cannot do when it comes to that duty and how the Crofting Commission will enforce it.

The Convener: Will it extend beyond just the individual inby land crofts to the common grazings when a decision is taken?

Jim Fairlie: The policy plan will include everything that is to do with crofting, so I presume that that will also have to be considered as part of the common grazings.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): I would like to ask about some of the scenarios of crofters having a debate about what happens on inby land. Do you foresee common grazings committees continuing to have some role in managing such situations? I appreciate that we are not talking about common grazings, but is that part of what you would anticipate their duty being?

Jim Fairlie: Do you mean the common grazings committees?

Alasdair Allan: Yes.

Jim Fairlie: They will have to work with their local community and the Crofting Commission to ensure that they are working for the benefit of the individual crofters as well as for the crofting community.

Alasdair Allan: A theme that has regularly come through in all our conversations with crofting communities—and in yours as well, I am sure—is the appetite for more enforcement and regulation, which is not often the case in other sectors. How will you ensure that the Crofting Commission is resourced so that it can step in where it needs to step in and find a resolution, whether that means re-letting a croft, finding a subtenant or making other kinds of intervention to avoid situations whereby crofts are simply abandoned?

09:15

Jim Fairlie: That is a very good point. I regularly meet Gary Campbell, the Crofting Commission's chief executive officer, and the commission's chair, Andrew Thin. We discuss crofting and the commission's performance, and those two topics—enforcement of duties and regulatory application and processing times—are always high on the agenda.

It has been clear that the commission is increasing its enforcement work. Last year, the commission commenced engagement with 215 crofters and resolved 134 breaches of duty through taking some form of regulatory action. The level of engagement and enforcement is increasing further for the coming year.

Since the summer, the commission has been terminating tenancies at a rate of one per week due to unresolved breaches of duty. That is significant. You can see that the commission is now using its powers of enforcement. As the committee was advised by Gary Campbell and Andrew Thin during their evidence session, the commission is better resourced now than it was a few years ago. It is already taking greater action to enforce annual notice provisions. As Andrew Thin said in his evidence, the commission already has the legislative tools to enforce duties through the crofting census, and, if the census is not returned, the commission will now be taking action. If the census is filled in falsely, that will be fraud and action will be taken. Spot checks will be carried out on those who have returned their census.

For many years, the commission has been supported by the Government's rural payments and inspections division when proper local knowledge has been required to advise on regulatory applications. More recently, RPID has also been acting on behalf of the commission in connection with duties and enforcement cases. We are using the existing network and local agricultural offices in that way because that is more sustainable than seeking to establish a parallel network of local commission offices.

The bill will help further through streamlining the enforcement processes, the family assignation provision and the enforcement provision against subtenants and short lease holders. That will enhance the efficiency and scope of the commission's enforcement functions.

Gary Campbell gave the committee some quotes about the level of enforcement that the commission is carrying out now, which was not happening in the past. I hope that that gives the crofting community confidence that the commission is using the powers that it currently has through the extra resources that were put in a number of years ago.

Alasdair Allan: You mentioned co-operation with other organisations such as RPID. That has come up in evidence. The issue is related, as it is about enforcement. Can you say a bit more about how that will work? In giving evidence to the committee, directly or indirectly, a number of stakeholders have been looking for RPID and the Crofting Commission to work together more closely to gather evidence about activity or inactivity.

Jim Fairlie: Those in RPID are the people on the ground in local areas. The Crofting Commission cannot be everywhere. It has the powers of enforcement, and using local knowledge through the RPID offices is clearly beneficial. As the committee knows better than anybody, being on the ground and knowing what is happening locally is probably one of the most important things that we can do to ensure that the crofting way of

life and the crofting townships are functioning in the way that they were designed to do. It is a matter of using local knowledge and resource to ensure that crofting is functioning properly.

Alasdair Allan: You mentioned streamlining. If I heard you right, you were focusing on the potential for the commission to spend less time dealing with assignations and more time doing other things. Can you explain whether there are other areas of the bill that allow the Crofting Commission to focus its activities in new areas?

Jim Fairlie: Assignation is probably the biggest aspect, as that is where the vast majority of the commission's time has been taken up. Bill Barron has worked in the commission, so I invite him to give a brief overview of the things that would eat into the commission's time.

Bill Barron (Scottish Government): There are lots of things in the bill that will speed up different aspects of the commission's work. For example, there is the ability to make changes to maps. At the moment, a mapping problem can cause a great many exchanges of letters and, eventually, Land Court processes and so on. The bill proposes to introduce a much simpler way of making changes to maps of crofts when that is required. The assignation, as the minister says, is a big aspect, and there are other things in the bill that will simplify and speed up processes.

The other key thing is that the process for enforcement is itself being streamlined and sped up so as to get through more cases in return for the amount of resource that can be put into enforcement. As the minister said, the level of resources went up a few years ago, and the commission is now benefiting from that. The backlogs have come down and we are able to see more resources going in, fewer distractions from elsewhere and a quicker process when enforcement takes place. That all adds up to a significant change.

The Convener: It is a strange situation, because every other sector would demand less regulation, less red tape and less enforcement. Almost universally, however, those in the crofting sector are looking for far firmer enforcement—more enforcement and potentially more regulation—to protect the whole crofting community.

Jim Fairlie: That is a very pertinent point. It is the crofting communities themselves that want the changes to happen. They understand what their community is, and there is a requirement to be able to say, "This is a functioning ecosystem, which we all live and work in." If people upset that, we need to have the ability to intervene.

The Crofting Commission has clearly demonstrated that the matter has now become very serious for it. The signal is being sent out to those who might have been a bit lackadaisical in the past that the situation is no longer acceptable and that, if crofting communities are going to function as they are supposed to, they will have to comply with the duties. That can only be a positive thing.

The Convener: There will almost certainly have to be additional resources. Mr Barron suggested that a reduction in the capacity required for assignations and boundary changes will bring an increase in capacity in some areas, but, from what we have heard, there is a lot to do, and there are a lot of concerns about abandoned crofts and those who do not abide by the regulations. We will therefore need more active monitoring and enforcement.

Are there any plans to use technology? We heard a suggestion that drones or light detection and ranging—LiDAR—could be used to detect changes in the management of crofts. Might that be considered in order to provide some more capacity? If so, would there need to be additional legislation to allow that to happen?

Jim Fairlie: You are raising something that I have not heard about, but I am happy to take that away and consider it.

The Convener: Thank you.

Tim Eagle (Highlands and Islands) (Con): Good morning, minister. Section 3 makes changes to who can report suspected breaches of crofting duties. Two new groups are added to that list. When we had representatives of the Crofting Commission in front of us, they said that anonymous reporting made no difference to their work and that, in their eyes,

"anyone can allege a breach"

of duty, provided that they provide evidence. What is your view on widening the ability to report breaches of duties to include anyone?

Jim Fairlie: I ask Michael Nugent to deal with the anonymity bit.

Michael Nugent: It is a difficult topic, and any views that I express are applicable only in this crofting context.

There are obviously advantages to anonymous reporting—that is obviously the case for the reporter. As for the overall disadvantages, I suppose that one is factual while the rest are perhaps a bit more subtle. Under the existing legislation, the Crofting Commission must investigate a "suspected breach of duty" that has been reported if it comes from one of the groups that are listed in the legislation. Unless the report is frivolous or vexatious, in order for the commission to know whether it must investigate

that report, it needs to know who it has come from. The first point is therefore that the commission needs to know who is making the report.

Furthermore, in his evidence, Gary Campbell covered how, in a small community, you are more than likely to know who has made the report. If I was living in a community and somebody had reported me, I know that I would start looking around the neighbourhood and questioning friendships and relationships. People can easily make false assumptions. For example, they might think that their neighbour next door, whom they get on well with, covets their croft, or they might wonder whether it was the person whom they fell out with a few months ago about something that was not related to crofting. It is difficult to know, which can cause its own problems.

The third point is that, if someone wants to safeguard their identity when they make a report, the evidence that they give can be quite vague and can suffer as a result. If someone living across the road from me wants to safeguard their identity, they cannot make a report that says, "I live across the road from Mr Nugent, and there has been no car in the drive and his croft is overrun." They have to be a little bit cuter and more subtle with the evidence, which can sometimes suffer as a result.

Tim Eagle: If I am right, you just said that the Crofting Commission needs to know who is putting in complaints, but that is not the case. On 24 September, the representatives from the commission said to the committee that they would be "quite content" if anonymous reporting was allowed and

"it would not make any difference"—[*Official Report, Rural Affairs and Islands Committee,* 24 September 2025; c 21, 22.]

to their work. Why did they say that to us when you are saying something different?

Michael Nugent: I am pretty sure, although I might be wrong—I do not have the *Official Report* in front of me—that Andrew Thin said in his evidence that, because of the way in which the legislation is structured, the commission must investigate whether the report comes from a grazings committee or from somebody within the crofting community, because it needs to know that in order to know whether it has to investigate.

Bill Barron: I wonder whether the commission was saying that it needed to know but that it has no view on the question of anonymity within the community. Michael Nugent has set out the reasons why we feel that allowing anonymous complaints from within the community is not a great idea.

Jim Fairlie: The commission also stated that it would consider a report of breach of duty from someone who is not on the list mentioned in the legislation but it would not then be required to do anything about it. Anyone could allege that there was a problem with a croft somewhere, but the commission has to act on reports only from those mentioned in the legislation. That is probably what Andrew Thin was trying to get at when he was giving that evidence.

Tim Eagle: You are quite content that the two additional groups that, through section 3 of the bill, you propose to put into the existing legislation expand it far enough.

Jim Fairlie: At this moment, yes.

Alasdair Allan: Mr Nugent, you talked about coveting thy neighbour's croft. What policy are you envisaging that will cope with vexatious or repetitive complaints of that kind?

Michael Nugent: I must confess that I do not deal with those reports; the Crofting Commission does. Perhaps Bill Barron can give the commission's position on that.

Bill Barron: They do not often come up in that form. It is more often at the point at which a croft is being assigned when objections come in, such as, "I don't want you assigning to that person, because there are other people, including myself, who would quite like that croft." The commission is aware of that. Vexatious points rarely come up, but sometimes a point is made that does not go anywhere, because it does not have very much legal force.

James Hamilton (Scottish Government): There is a provision in the legislation that disapplies the commission's duty to investigate if it considers the complaint to be frivolous or vexatious. Therefore, it has discretion to filter out that sort of complaint.

The Convener: This might be a question for the Crofting Commission, but do you have any idea how many complaints it deals with annually, how many are investigated and how many turn out to be vexatious or found not to be valid?

Jim Fairlie: Bill Barron might be able to estimate that.

The Convener: Just an estimate is fine.

Bill Barron: It is not a figure that I want to mention now, because it has been a couple of years since I left the commission.

Jim Fairlie: We could get that figure to you. We could ask the Crofting Commission to furnish the committee with it.

The Convener: I am sure that it will be in our papers somewhere, but it would be interesting to understand the numbers that we are looking at

and the challenge that might lie ahead with the change in legislation.

We will move on to our next theme, which is the Crofting Commission's powers. Beatrice Wishart has some questions.

09:30

Beatrice Wishart (Shetland Islands) (LD): My question is about section 8 and the three-croft limit. We have already heard about the streamlining of the family assignation process. We heard evidence from NFU Scotland that the three-croft limit could stifle active crofters in areas such as Shetland because of different patterns of land ownership. NFUS suggested a flexible and regionally sensitive approach, or applying the limit only to family assignations. How will the Scottish Government ensure that the fast-track process balances the need for administrative efficiency with the flexibility to account for regional differences in croft sizes and ownership patterns?

Jim Fairlie: Crofters have the right to assign their croft, but only with the consent of the commission. The legislation sets out the process that must be followed before the commission decides on the application, which includes public advertising and the opportunity for local crofters to object. When a crofter wishes to assign to a family member who might already be resident in the community, our position is that the process is disproportionate. It costs the crofter and the commission time and money, and we want to reduce the burden of crofting regulation where it makes sense to do so. That is one of the things that came out of my trip around the Western Isles, where we talked about family assignations. The resources that will be freed up by the change will then be available for the commission to deploy elsewhere. We talked earlier about reducing the burden on the commission so that it will be able to carry out more enforcement duties, for instance.

We settled on a limit of three crofts because that felt like it struck the right balance between the policy intention, which is to improve the efficiency of the service that is provided to customers, and concerns that there could be croft collecting or land banking by certain individuals.

The main reason for not going with a hectarage threshold is that we are including any interest that the crofter has in deemed crofts, which do not have a set hectarage. It is normal and accepted for some crofters to run their business on multiple crofts, and we are not opposed to that in any way, shape or form. It is also beneficial to the community if there are opportunities for new entrants to take on a single croft. All that we are saying is that, if someone has three crofts or more, their application will be subject to the current process. The local community will be given the opportunity to comment and the commission will give it reasonable consideration.

No one crofting area will be disadvantaged by the three-croft rule. We want to make family assignation as easy as possible, but, if someone has three crofts or more, it is worth having another look at that to make sure that there is fairness in the community.

Beatrice Wishart: Are you saying that there is some flexibility?

Jim Fairlie: In what sense?

Beatrice Wishart: In relation to having three crofts within a family.

Jim Fairlie: We are not saying definitively that, if someone has three crofts, they cannot have any more. We are saying that, if someone has three crofts or more, the Crofting Commission would take a look at any further assignation. However, that does not mean that it would say, "No, that's not allowed. You can't do that." It is about making sure that there is an appropriate spread among the people in a crofting community and that, as I said, one family or one person does not just keep gaining crofts and land banking.

The Convener: Tim Eagle has a supplementary question.

Tim Eagle: Minister, you might have just answered my question. I was looking through the consultation responses on this issue, and various crofters have raised concerns about croft size not having been considered and deemed crofts being double counted, which disadvantages people who have multiple small holdings. Respondents from Shetland noted that it is quite normal in Shetland for someone to have more than three crofts. You have answered that point. This is not about stifling economic growth or the sustainability of a croft; it is about making sure that there is fairness across the system. Is that what you are saying?

Jim Fairlie: That is exactly what we are saying. One of the things that came up, particularly in the Western Isles, was the need to make the assignation process as simple as we possibly could, particularly for family members. However, that cannot result in a particular family hoovering up the entire area. This is just about the commission being able to say, "Hold on—you have three crofts. Let's have a look at that and see whether we are in the right place," but that does not mean that the commission would then say, "No—you can't go any further."

Michael Nugent: I will add some figures to that. We have 14,489 crofters, and 13,196 crofters have two or fewer crofts. That means that 91 per cent of crofters could be the recipient of a family

assignation, as long as it is a family member who assigns to them.

The Convener: That is helpful.

Rhoda Grant (Highlands and Islands) (Lab): I have a short supplementary question. We quite often see crofts being subdivided, especially when there are several family members to whom someone wants to leave a share of the croft. If someone had three or more crofts that had been subdivided in the past, would that be taken into consideration, so that it would not count against them when the crofts were brought back together again?

Jim Fairlie: You are getting technical now. I will pass that on to Michael.

Michael Nugent: That would be included in the count. The count will come from the register of crofts, so, if that individual is registered as having that croft, it will count.

Rhoda Grant: It could be tiny pieces of land that we are talking about.

Michael Nugent: If someone had three or more crofts and there was an assignation application for what would be their fourth croft, it would have to go through the current process. I do not want to second guess what the commission would do in those circumstances, but if they were working their crofts, meeting their duties and returning their annual notice, I am sure that the commission would treat that assignation application in much the same way as it would today. It is just that it would have to go through the current process; that would be the only difference.

Jim Fairlie: I presume that, if the croft has been subdivided and crofts have then been created, they would have to be counted as crofts. If they were not, would the crofts need to be re-amalgamated to make one croft? It could get very messy. Without putting words in the commission's mouth, I presume that, as Michael Nugent said, it would look favourably on anyone who had three crofts, as long as they were meeting the duties involved in what we are trying to achieve.

Bill Barron: That might be dealt with by the division application. If the division application would create tiny parcels of land that would be too small to be viable crofts, the commission would refuse it in the first place. What we have is a system with viable crofts; therefore, applying the three-croft rule makes sense.

Rhoda Grant: Okay.

The Convener: Minister, I think that you recognise that the size of crofts varies widely, depending on where they are in the country. Donna Smith pointed that out and suggested that regional discretion might work, which seems sensible. Is that something that would need to be in the bill, or could it be dealt with through guidance?

Jim Fairlie: I am not sure that it is needed, but I will ask Michael Nugent to give his thoughts.

Michael Nugent: If the provision as currently worded remains in the bill, I do not think that we could stray from that. I had a quick look at the figures. I am pretty confident that these figures are correct, but we can provide figures to the committee if you can give us another couple of weeks.

We looked at the regional areas and where people have three or more crofts. If you decided that you were going to have a different system in Shetland, for example, that would benefit 338 Shetland crofters, but you would also have 645 Highland crofters in the same boat and more than 200 in the Western Isles. If you had different rules for different regions, there would be some people in the Western Isles who would like to benefit from the rules that existed in Shetland or in Orkney, which I think would very much complicate the process. The proposals will streamline the process and make it more efficient.

However, for someone who has three or more crofts, the process would simply be the one that crofters go through today and have been going through for years. The commission's final decision will be based on the strength of what the local community says, if it says anything, and it will look favourably on any crofter who is using their croft, meeting their duties and completing their annual notice.

The Convener: From what you have said, it would appear that one rule does not necessarily fit all, given how crofting in Shetland and perhaps in Skye differ from the situation elsewhere. Would there be anything wrong in setting out a policy that recognises the regional variations in crofting, given that we want to achieve a good outcome?

Bill Barron: The difficulty is in how we would actually do that. Donna Smith's point is that, when there are small crofts, there should be a variation to allow for a larger number. However, the place where people have been calling for such a variation is not the Western Isles, where the crofts are small, but Shetland, where the crofts are larger but it is slightly more common for people to have multiple crofts. Therefore, how would you go about saying what areas the variation would apply to?

This is a small adjustment that involves a decision whether to introduce a fast-track process or, instead, continue with an existing process; it is not about handing out gold rewards to people. Even so, if we go into the business of having a slightly different rule in one area and not in another, how would we justify not giving that

slightly different privilege to a person who is exactly the same type of crofter as someone in Shetland, the Western Isles or Argyll but who happens to live in an area where the variation does not apply? That would be quite hard to do, administratively.

The Convener: Thank you. That is helpful.

I have a question about community-led croft acquisition. How will the stage 2 amendments to section 10—which were alluded to by the Crofting Commission in its evidence to us—ensure that community-led croft acquisitions, including rural housing projects, are allowed?

Jim Fairlie: That is a legitimate concern. Officials raised it at recent meetings of the bill group and the cross-party group on crofting, and we have begun discussions with stakeholders to try to resolve it. We are potentially looking to amend the bill in that regard. Michael Nugent can give you some background to the discussions that he has had on the matter.

Michael Nugent: I should begin by saying that we have not yet discussed this issue with James Hamilton and his colleagues in the Scottish Government legal department, but the aim could be delivered in a relatively straightforward way. If an owner-occupier crofter sells their croft to a natural person, the owner-occupier crofter's status will transfer. That is fine—there is no change there.

However, the way in which we have worded the provision in the bill means that, if an owner-occupier crofter sells their croft to a non-natural person, that transfer becomes null and void. We do not think that that should be the intention. What we should have is a system in which, if an owner-occupier crofter sells their croft to a non-natural person, the title can transfer and they will become the landlord of a vacant croft but the owner-occupier crofter's status will not transfer. That means that a local community body could become the landlord of the croft and could then decide who got that croft. We think that that addresses all the concerns that have been raised on the matter.

The Convener: I know that we had lengthy discussions on the matter in previous sessions, so it is reassuring to hear that you do not think that there will be any issues with that.

Beatrice Wishart: I have a question about section 14, which concerns the commission's powers to adjust boundaries. We have heard in evidence from legal stakeholders concerns about the possible conflict with title boundaries, which could create disputes. How will the bill ensure alignment between the crofting register and the land register while allowing practical boundary corrections?

09:45

Jim Fairlie: The bill gives the Crofting Commission two new powers to resolve registered croft boundary problems when all parties are in agreement. Adjustment will be possible in simpler cases in which no land is brought into or out of crofting tenure, and boundary remapping will be possible when more complex boundary changes are sought.

We have taken the concerns about boundary adjustments on board, and officials are in discussion with Registers of Scotland and the Crofting Commission to address them. We acknowledge that it is often important that the title extent, as shown in the land register, aligns with the occupied extent, as shown in the crofting register. The boundary adjustment process will give crofters whose boundaries have become unaligned the option of remedying the position that they find themselves in.

We are looking at various ways of ensuring that the boundary provisions consider the linkage between the two registers. One possible suggestion is that we allow the commission to award provisional consent to a boundary change. That would be subject to the necessary conveyancing, which would amend the title on the land register.

We will address the concerns that have been raised, and we will look to amend the current provision accordingly.

Beatrice Wishart: We heard in evidence from Brian Inkster that he thinks that the proposed provisions are "a recipe for disaster".

Jim Fairlie: As I said, we are looking at various ways of addressing the issue. We have listened to the concerns that have been raised, and we are looking at ways of getting this right.

Would you like to add anything, Michael?

Michael Nugent: Only that we think that the proposal that the minister has just explained will address the concerns that Brian Inkster raised.

The Convener: We heard from other stakeholders that, currently, the crofting register boundaries are inaccurate and there would need to be tighter procedures to improve the process of amending registered boundaries. Does the bill need to go further?

Jim Fairlie: I do not think so. We are trying to resolve the issue that has been raised, and I think that the proposal that I have set out is a potential fix to the problem.

Bill Barron: I agree with the minister. The bill introduces two things. The first is a power to make corrections when the boundaries in the crofting register are wrong. Secondly, it provides an

opportunity for a crofter or a landowner to apply to make a change not because the boundary is wrong but because it is simply inconvenient and it would be better if it were somewhere else.

The first of those measures, which involves creating a system whereby the commission or Registers of Scotland can just change the registered boundary and make it right, is probably slightly more difficult. We think that that would be used only in cases in which it was absolutely self-evident and agreed what the correct answer was, because, as soon as people get into disputes about boundaries, the only sensible place for those to go is the Scottish Land Court.

The Convener: Thank you.

Our next theme is common grazings, on which Rhoda Grant has questions.

Rhoda Grant: The bill stops the accidental severing of shares of common grazing rights from crofts. Why does it not do anything to stop the deliberate separation of such rights, whereby someone could reassign their croft but not assign the grazings share that goes with that?

Jim Fairlie: As members of the committee know better than anyone, crofting law is unbelievably complex, and common grazings and the associated shares are probably the most complicated part of it. The policy intention is that there should not be any accidental or unintended separation of shares from the inby croft. Broadly speaking, everyone agrees with that.

We have listened to the views and concerns that were expressed by stakeholders before and during the evidence sessions, and officials have set up a common grazings sub-group, which has already met on two occasions. It is made up of crofting lawyers and members of the Scottish Government legal directorate, and it is working on a number of topics to resolve some of the concerns.

I will pass over to James Hamilton, because we are moving into the legal side of things.

James Hamilton: Section 15 creates a presumption that the grazing right will be transferred by default, as a pertinent to the croft land. However, since the bill's introduction, the committee has heard from legal stakeholders that, with owner-occupied crofts, there is a lack of certainty about the relationship with the grazing right and, in particular, about whether that grazing right can be characterised as a pertinent. For example, a 2012 Land Court decision says that the grazing right is a pertinent and can be transferred in a disposition of the croft if it is expressly included. However, the Land Register does not include grazing rights as a pertinent, which it would be required to do if those rights were thought to be a pertinent under the Land Registration etc (Scotland) Act 2012.

We have been engaging with stakeholders through the crofting bill group to identify the appropriate mechanism by which the grazing right can, as a default, be attached to the owner-occupied croft when it is transferred. To answer the specific question, that would still allow intentional separation of the grazing right. We are working with stakeholders to identify the appropriate mechanism to ensure that accidental separations do not occur and to demonstrate the link between the inby croft and the deemed croft and, subject to time allowing and the development of the bill, to see whether we can identify a process by which grazing rights that have been accidentally separated can be reattached to the inby croft interest. We are aware of those issues, we recognise them in the bill and we are working with stakeholders to identify the correct solutions.

Jim Fairlie: By finding the solutions to those issues, we hope and think that we will alleviate most of the legal concerns that have been expressed, and we will make the necessary amendments to the bill as we go forward.

However, there are also policy concerns. We know that some stakeholders and crofters would prefer that the share always remained with the inby croft and could never be separated. The concern is that that might lead to many more common grazings not being used at all, at least for extended periods of time. Historically, it would not have been an issue, because most crofters kept livestock, but that is no longer the case. If 80 per cent of current crofters had livestock, we would not be having this conversation. In fact, if 50 per cent of crofters had livestock, we probably would not be having this conversation either, but we estimate that the figure is around 25 per cent, and it has been decreasing over the years. It is therefore not hard to imagine a township where all the crofters are meeting their inby crofter duties but none of them are using the common grazings.

In that context, I do not think that there is a justification for insisting that all the shares remain attached to the crofts in all circumstances. The decision should remain a matter of choice for the crofter. Many crofters will retain a share in a grazing, but others will have no interest in the share whatsoever because they use their inby land purely to grow food and not to run livestock at all, or they might have no intention of using it.

We have listened to the concerns and we think that the process requires a safeguard, so we are also looking to establish an agreed approach whereby a crofter, tenant or owner-occupier would have to apply to the commission to divide a grazing share from the croft, and they would have to state a reasonable purpose for doing so. We

should trust the commission to regulate that and ensure that the right balance is struck between the shares being in the hands of those who will actually use them and protecting against too many shares being separated from crofts.

When discussing deemed crofts, we often start with the assumption that they are a bad idea, but the more important question is whether the shares are in the hands of people who are actually going to use them. In its evidence session, the commission correctly pointed out that a deemed croft can create an opportunity for a new entrant and their family by way of an apportionment. Officials are looking at whether we can amend the legislation to allow those who have an apportioned deemed croft to have all the rights that would allow them to work it as a croft, including being able to decroft a small area of land for a house. The purpose is to create the functioning community that we talked about at the start of the session.

Rhoda Grant: I cannot quite understand why somebody would keep a grazing share and not have a croft. It seems that this has happened by accident rather than design, but now we are coming to a point at which people are looking at carbon trading, forestry, peatland restoration and the like, and the share in the common grazing could suddenly become very lucrative. Someone might be a dead hand on the community—they might have nothing to do with the community and have no croft there—but they could have a grazing share that they could use to prevent the crofters in the community from using the grazings.

On the point about having the maximum of three crofts, there is nothing to prevent someone assigning their inby three crofts but keeping all the grazing shares, which would give them access to a lot more land. It kind of goes against the stated aims of the bill if we do not try to keep the grazing share with the croft or reunite them in instances where they have become separated.

Jim Fairlie: I invite Michael Nugent to pick that up.

Michael Nugent: The point that the minister makes is really important. There are crofters who are meeting their duties for their inby. They are living within 32km and they are using their inby, but they have no intention of using their common grazings; it is not in their plans to use them. We therefore think that the ability to pass their share on to somebody else would be beneficial. When that share gets passed on—and when it is classed as a deemed croft—they can apportion it, so that it gets fenced off and they are able to use it. As the minister said, we are looking into whether we can amend the legislation further, with people having all the rights that would allow them to work an apportioned deemed croft as a croft while being able to decroft a small area for a house site. That is something that we are just considering at the moment, and we have not talked it through with SGLD.

We are saying that such decisions should remain a matter of choice for crofters, as they currently are. If we make the changes whereby the shares have to remain permanently, we have to accept a few things: that we are taking an existing right away from crofters and that we are closing off a route that would create opportunities for new entrants. Indeed, I think that, during its evidence session, the Crofting Commission said as much about the opportunities that would be created.

The Convener: We will move on to more questions about deemed crofts and environmental use. There was a question in the consultation about the purchase of grazing rights and so on, although the question did not actually allow the respondents to say what we have heard in evidence since then. More than a third of respondents to a question about the purchase of grazing rights suggested that there needs to be more legislation around it. As was noted,

"Many respondents called for automatic grazings rights to be included with the parent croft, often alongside a call for deemed crofts to end."

We understand why the proposed legislation would stop inadvertent separation—which is, effectively, a bad solicitor not doing the job properly, as they do not recognise that a grazings share is part of the croft. However, respondents described

"disadvantages of deemed crofts ... such as limiting the rights and crofting activity of the crofter; the risk of ownership of grazings shares becoming concentrated; and crofting communities becoming fragmented."

The Highland Good Food Partnership said:

"Ideally, deemed crofts and grazings shares should stay with their parent croft. The loss of a grazings share may seriously damage the viability of a croft, especially where the crofter wishes to keep livestock."

From my point of view, and given what Rhoda Grant said about the outcomes that we want from crofting legislation, I cannot understand why there would not be legislation to prevent the splitting of inby land and grazings shares, particularly given the potential economic value—which might not have been there in the past—with the ability to pursue carbon capture and so on. We will move on to discuss that in a minute.

Why are we not going further to stop this, unless there are absolute conditions? Michael Nugent suggested the scenario of splitting off a bit of land for a house or something like that. Why is there not an assumption against splitting the inby croft land and the grazings share?

Jim Fairlie: You have already touched on the scenario of accidental separation. Some crofters

do not use their grazings shares and have absolutely no intention of using them. However, somebody else might want to use those grazings shares, and they can be put to better use. That is the purpose behind the measure.

Is there anything that I am missing here, Michael?

10:00

The Convener: It might be helpful if I gave you an example that we heard about in evidence. Let us say that a non-crofter's company needs to get rid of a £100,000 profit because of the tax on that. He seeks to purchase grazings shares on a 5,000 hectare hill in Skye, which seems to be a good deal and allows him to spend his £100,000. Ultimately, the land might be valuable because of what it can be used for, whether that is renewables or something else. The land would be taken out of the crofting scenario, which would not help townships or individual crofters and would potentially limit their viability. Why would the legislation not prevent that type of land banking?

Jim Fairlie: We are trying to establish an agreed approach whereby a croft, tenant or owner-occupier would have to apply to the commission to divide the grazings share from a croft and would have to state a reasonable purpose for doing so. Therefore, we have to trust the commission to regulate that activity and to ensure that the right balance is struck between grazings shares being in the hands of those who will use them and protecting against too many shares being separated from crofts. I understand people's concerns, because, in the past, the Crofting Commission was not enforcing duties—I am trying to be polite—and was not deemed to be doing its job appropriately. That is not the position just now. The Crofting Commission is in very good hands at the moment, and people understand that it is doing its job properly to find the right balance for the communities that it works with. That is where we are at the moment.

Bill Barron: The other aspect, which I think will help, is the change that James Hamilton mentioned. In the past, it was quite difficult to keep a deemed croft together with a croft, because they were listed in different parts of different registers and were not visible. We are doing as much as we can to make the links absolutely public and evident, as well as formally legally linked, so that the natural way to transfer a croft will be to transfer it with its grazings share. I think that that will make a huge difference. There have been a couple of thousand accidental separations. If we dry that up, the picture will change.

The other aspect that we are looking at in the sub-group, which James mentioned, is making it easier to reattach a deemed croft. Once we have worked out the legal form for linking a croft to its grazings share, we will have an approach whereby people can ask, "I have a croft and I have a share. Can I link them, so that they will be together going forward?"

Alasdair Allan: The measures in the bill that seek to avoid the accidental situation of deemed crofts or grazings shares that are separated from crofts will be welcome. I am trying to get a picture in my head of a potential scenario in a township where several crofts could end up without any shares in common grazings. What would the Government's view be on that, and what would that mean for any new entrant who did want to keep livestock in the village?

Jim Fairlie: Would they be able to get a portion of common grazings land?

Alasdair Allan: Would they be able to graze livestock if, hypothetically, half the available crofts in a village had become separated from the shares in the common grazings?

Bill Barron: There are various ways that that situation might be resolved. They could look around for one of the separated shares and buy it; that is not impossible. There is also a role for the grazings committee, which manages the grazing rights and will be aware of any shares that are available and are not being used. Quite often, those shares are loaned for one year at a time.

Alasdair Allan: That is helpful. You said that only 25 per cent of crofters have livestock. Although I appreciate that there has been a big decline in the amount of livestock that is kept, does the figure take into account things such as subtenancies, grazing agreements or, indeed, abandoned crofts?

Michael Nugent: That figure comes from the "Economic condition of crofting: 2019 to 2022" report, which was published in 2022. We publish a report every four years, so there is due to be one next year. I can find a more up-to-date figure for you, but we think that that figure of 25 per cent will be roughly the same. The figure is based on the number of crofters who claim Government grants on their common grazings. Having spoken to RPID officers, I think that there might be a bit of variation in the figure—1 or 2 per cent either way—because there will probably be some crofters who have livestock but who do not claim, although the vast majority do claim it. I can get a more accurate figure for the committee.

Alasdair Allan: We have already touched on the potential implications of having too many deemed crofts in any one township for the communal aspect of crofting. One of the purposes of crofting is the retention of population. Would the Government consider enforcing crofter duties, the

primary of which being residency, on shareholders who do not have a croft?

Jim Fairlie: The commission cannot really enforce duties on deemed crofts. The immediate concern for enforcing duties on inby crofts is that—

Alasdair Allan: I am talking about people who own a share in a grazing but who do not have a croft in that community.

Jim Fairlie: Sorry?

Alasdair Allan: Would the Government consider imposing, or—forgive me if I have got that wrong—does the Government impose the duty of residency on somebody who owns a share in a grazing in a community but who does not have an inby croft?

Jim Fairlie: The Crofting Commission already has the power to enforce that duty.

The Convener: Just to be crystal clear—this would clear up a lot—some of the questions that we have asked prior to this would need to be asked. The regulations around deemed crofting and deemed crofters are exactly the same as those for crofters who have inby land. If the regulations are enforced correctly, a lot of the scenarios that we are talking about should not exist.

Jim Fairlie: Yes, because the commission can already enforce duties on those crofts.

The Convener: Okay.

Bill Barron, you have talked once or twice about the role of grazings committees. We were made aware that a lot of grazings committees either do not exist or are not functioning. Will this legislation assist in reinvigorating those grazings committees? From what you say, it appears that they will have to shoulder a lot of responsibility for policing or facilitating under the legislation.

Bill Barron: The bill is removing the most blatant bit of grazings committee policing, which was introduced in 2010 and which said that they have to report on every crofter every five years. That requirement has widely been ignored and has not been enforced by the commission, and we are getting rid of it, so that will be a bonus.

It is hard work for a grazings committee, and they are volunteers. It is about the balance of responsibility with opportunity, and there are things in the bill that will give grazings committees more opportunities—for peatland schemes and so on. Ultimately, I do not think that it will make a massive difference to the number of people volunteering to be on grazings committees. The commission is constantly trying to encourage that volunteering, as are other crofting organisations. In recent years, we have turned the tide on that: about five years ago, the figure had got a lot lower, and since then it has recovered. I hope that it will continue to go in that direction.

The Convener: There is one final question on common grazings and a supplementary from Ariane Burgess.

Rhoda Grant: Section 18 of the bill broadens the use of common grazings for environmental projects. What steps are you going to take to clarify the crofters' right to carbon? Some landlords are saying that the carbon is theirs, so that they can sell off the carbon credits, but the peat, trees and grass on a common grazing are actually the crofters'. In the legislation, will you take steps to clarify that?

Jim Fairlie: The bill provides crofters and landowners with a legislative framework to help them to propose and take forward environmental initiatives on common grazings. We hope that that will encourage crofters and their communities to have a much greater say in how the land is used in their area. We want to avoid a situation in which crofters are unable to access the funding schemes and incentives in order to do those things.

As I understand it, the legal ownership of carbon credits is still to be fully determined through case law, so I am not sure that we are in a position to state in crofting legislation whether the carbon rights sit with the landlord or with the crofter. In the meantime, we encourage crofters and landlords to start looking at and entering into joint ventures and to develop and secure shared solutions that benefit all parties. As I said, at the moment, we still do not know the legal ownership situation for carbon credits.

Rhoda Grant: The carbon belongs to the crofter. The trees belong to the crofter, and they can cut them down. The peat belongs to the crofter, and they have a right to cut peat and burn it in their fires. The grass belongs to the crofter, because they can cut it and feed their animals with it. There is no dubiety about that. It seems to me that the bill is an opportunity to make sure that that is beyond question.

Jim Fairlie: If we get absolute clarity on what you have just stated, we can come back to you. My understanding at the moment is that the legal ownership of carbon credits is still to be fully determined.

Rhoda Grant: That is a cop-out.

Michael Nugent: What you listed there is correct. I agree that a crofter can cut peat, plant trees and so on. However, the issue is specifically to do with who owns the carbon credits. That is what we are unsure of.

Rhoda Grant: If a landowner decided to sell carbon credits based on forestry on a common

grazing and the crofter came and cut down the trees, the landowner would no longer be able to sell that carbon credit.

Jim Fairlie: That is exactly why shared community conversations should be going on, until we have clarity.

Rhoda Grant: I disagree, but I will leave it at that.

The Convener: That issue was highlighted as one of the potential unintended consequences of bringing in a piece of legislation that addresses a lot of the issues that are stopping us from moving forward but that needs to be brought in prior to the next piece of crofting legislation—which the Government has admitted will be required and which will be a bigger piece of work. That situation could create a loophole that could be exploited between now and when further work on a future crofting bill can be done.

Ariane Burgess (Highlands and Islands) (Green): On the question around the carbon issue, there is a case to be made for the work of Jill Robbie and her idea around a public carbon trust, which could be Scotland-wide. It could be worth looking into that.

I have a question about transparency in what is going on in common grazings committees. As the convener said, in some cases, they are not really active. In some parts of Scotland, in the crofting counties, not everybody is part of the crofting community, and some people are part of the community but are not involved in the committee. From talking to constituents, I have picked up that there is no transparency around what is going on in common grazings. They feel that things are being done to them, even though they are members of the community.

Section 16 requires

"a public meeting to appoint a new grazings committee"

and for the Crofting Commission to be notified of that, so there is something there, but could we have more transparency about the activities of the grazings committee and what is happening on the land? I also wonder whether, in some cases, grazings committees will fall under the new legislation that is coming in. The Land Reform (Scotland) Bill—when it becomes an act—and the land management plans could help in those cases.

Jim Fairlie: Are you asking about transparency in relation to what grazings committees are doing on the land, which others do not know about?

Ariane Burgess: Yes.

Jim Fairlie: Okay. You have touched on an area that I genuinely do not know about.

Bill Barron: We can take that away.

Jim Fairlie: We can take that away and look at it. Are you talking about the wider community rather than the crofting community?

Ariane Burgess: Yes.

10:15

Jim Fairlie: Okay. You have touched on something that I do not have an answer to.

Ariane Burgess: There are parts of Scotland where people do not know what the crofting community is doing on neighbouring land. That is just what is happening with the land use patterns now.

Jim Fairlie: You are saying that the crofters have the right to the land and the neighbouring community wants to know what the crofters are doing.

Ariane Burgess: Yes. More transparency for communities is the general direction of travel that we are heading in, is it not? The land reform legislation introduced more transparency, so that communities know what is happening on the land around them. In this case, it might be about a grazings committee.

Jim Fairlie: Okay. We will take the matter away and have a look at it.

Bill Barron: We would want to keep it in balance. Grazings committee membership is a voluntary role. It is hard work without a massive reward, and a lot of bureaucracy around it would not be the right way to go. However, we will look at the issue.

Ariane Burgess: There is perhaps something in there. I am talking about grazings committees, but there are also volunteer organisations that set up development trusts, which do a lot of work and do amazing things, and that is hard work, too. It is something to look at.

Tim Eagle: I have a couple of questions, minister. The first is on carbon projects, because there is a valid point there. I did some work for a wind turbine on Scottish Government land—I probably should declare an interest in relation to that. A wind farm was going up, and we were giving crofters quite a significant amount of money. Then the crofting tenancies got the—[*Interruption*.]

I will let the minister cough. Feel free to get some water, minister. It is that time of year.

The big question, which has been got at a wee bit, is whether you are conscious that we do not want there to be speculative buying—or coming into—of land, such as deemed crofts or hill land, just because of the potential future value in the carbon markets, as that would ruin the whole

ideology of what crofting is to the Highlands and Islands. Does that make sense?

Jim Fairlie: Absolutely. I am very conscious of the fact that that is a potential area of concern as we go forward. However, it is also a massive opportunity when we consider the sheer scale of crofting land that has the potential to help us with our environmental desires and what we are trying to do as a country.

We will definitely take a very close look at the issue. However, until we have clarity about the legal ownership, we will just have to keep an eye on it.

Tim Eagle: I will come back quickly to deemed crofts. I am aware of an example on Jura, where one person has six deemed crofts but is considered absentee, and loads of other people in that area need, or would like, access to that ground but cannot get it. There have been a lot of questions today, but are you prepared to have discussions with us in advance of stages 2 and 3, to see whether more could be done in the bill around that issue?

Jim Fairlie: I am happy to engage with anyone who wants to talk to me before stage 2—there is absolutely no question about that.

If the owner of the six deemed crofts is absent, they are not fulfilling their duties and it is up to the Crofting Commission to ensure that they do so.

Tim Eagle: It is good to have that on the record. I will send an email to you separately.

In section 32, which is an additional section, you are removing the necessity to have a landlord representative on the Crofting Commission. There has been some concern as to why you are doing that—I think that Scottish Land & Estates brought that up during our round table—particularly because it is increasingly likely that landlords will be community bodies. Why have you felt the need to do that at this point?

Jim Fairlie: We recognise the importance of the landlord's voice, and the bill continues to recognise that as well. However, there are normally only three appointed commissioners, and those appointments come round only every few years. Other skill sets might be even more important. We must retain the flexibility to make the best appointment. The bill will provide that Scottish ministers must consult the commission and have regard to the desirability and value of appointing a commissioner who can represent landlords' interests.

The Crofting Commission—it is not the Crofters Commission any more—must consider all the regulatory applications in the drafting of its policy plan. The board has a responsibility to consider all relevant parties, including the landlords.

Tim Eagle: There has been a worry that adding section 32 makes it look like you are not interested in what landlords are saying. Can you confirm that that is not your intention and that you still value what landlords are saying, whether they are private landlords or community landlords, which I think they will increasingly be? They will still have the ability to be on the board—you are just taking out the requirement for them to be on it.

Jim Fairlie: Yes. You should bear in mind that the Scottish Government is also a landlord. There is absolutely no desire to water down or dilute landlords' ability to be represented. It is just that, in this circumstance, there may be other, more effective uses of that place on the commission.

Tim Eagle: Okay—fine. I think that you mentioned this in your opening statement, but some responses to the consultation said that the bill does not go far enough. Quite a lot of crofters mentioned the escalation in the market for crofts and tenancies and what that means for new entrants being priced out. How do we get new entrants into both crofting and farming, but specifically crofting, given that we are discussing that today? The bill does not really go into that. Is that something that you have missed? Is the bill a missed opportunity? How do you respond to those people who have said that the bill does not go far enough in that respect?

Jim Fairlie: The bill was always deemed to be a technical bill to fix some of the anomalies, such as the one on assignation to family members.

We have done a number of things that should allow us to get the outcome that you mention. The enforcement of duties is a really important one, because there will be circumstances where people—who have been wilfully inactive and not dealing with their crofts—will simply not come back. As I said earlier, a croft a week is being re-let by the Crofting Commission. That is creating a sense in the crofting communities that things are now beginning to work and function in the way that they are supposed to. That is largely down to the excellent efforts of Gary Campbell and Andrew Thin. I think that the simplification of the assignation of family crofts and the provisions on assignation to two people have gone some way towards achieving the desired outcome.

Is there more to be done? Absolutely. There will always be more to be done, but the bill as it stands will meet the objectives that people set out to achieve long before I was a minister, when they started to talk about the subject. The bill will meet those objectives and it also seeks to add one or two things that will allow us to try to restabilise the crofting community spirit.

Tim Eagle: Is that a fair comment? My understanding is that people were expecting the

bill to be more than a technical bill, but you feel that it was only ever going to be a technical bill.

Jim Fairlie: My understanding is that it was supposed to make technical fixes.

Tim Eagle: Okay. On the point about new entrants, we can have this discussion between stages 1 and 2, but do you have anything in mind away from the bill, whether in primary legislation or in what might follow, that will encourage new entrants into crofting?

Jim Fairlie: As you know, we have a programme for government commitment to make sure that every public owner of land, which includes the Scottish Government and anyone who has crofting land, to look at the opportunities to get new entrants in. As you well know, I am passionate about making sure that we get a vibrant new generation of young folk coming into crofting and farming. We are taking the steps to make that happen and we are starting to see the results.

Tim Eagle: I asked about that because the subject was raised in the consultation responses as a significant one, so I thought that it was worth mentioning.

The Convener: We will move on to the next theme, which is the crofting register, with questions from Emma Harper.

Emma Harper (South Scotland) (SNP): Good morning. No concerns have been raised about sections 21 or 25, which seek to simplify the governance of the crofting register and the register of crofts. That is good news.

Section 26 seeks to expand the powers on the correction of errors to allow the keeper to fix clerical mistakes at any time. Minister, you alluded to that when we talked about mapping and digitisation. Brian Inkster mentioned in his evidence that we might be opening "a can of worms" and raised concerns that allowing post-registration amendments to the crofting register could create legal uncertainty. Do you have any thoughts on the evidence that Mr Inkster submitted?

Jim Fairlie: We have taken on board the comments from stakeholders, including Mr Inkster. However, 93 per cent of respondents to the consultation supported that provision. Officials are already in discussion with the Registers of Scotland and the Crofting Commission to ensure that the legislation cannot bring about the scenario that was outlined by a solicitor in their response to the call for views.

Michael Nugent: The bill already has a condition that the commission must contact all parties that have an interest and that are affected by rectification, and the commission

"must have regard to any representations"

that they make.

We do not think that the scenario that was laid out in the call for views would happen, because the third party in that scenario—the one who builds a house on the disputed land—would be able to object to the rectification, as they would be deemed an interested party. The commission would not take a rectification forward in those circumstances. When there are disputes, it will always remain for the Scottish Land Court to resolve them, so the Crofting Commission would not take forward a rectification.

Emma Harper: Okay. One additional issue might be if land that was previously excluded were later added to a croft. Would it be part of the rectification process?

Michael Nugent: Potentially, but, once again, all the interested parties would have to be involved in the process. As I said, the commission has to contact all interested parties and have regard to any representations that they make.

Emma Harper: As you were saying, this is about simplifying the process to make it easier for boundaries, fences or ditches that were previously excluded to be added to a croft.

Michael Nugent: Yes. Doing so is covered by the boundary provisions. The rectification process occurs if there was an error when the croft was registered, which it corrects. When there has not been an error but a change that is wanted by all parties, that is covered by the boundary provisions.

Emma Harper: Okay. Thank you.

The Convener: We have now come to the end of part 1 of the bill, but I want to follow up on Tim Eagle's suggestion that a lot of stakeholders thought that it would be more than a technical bill. The sump report suggested that more radical legislation to transform crofting and bring it up to date should be introduced. Minister, what discussions are you having on that and when do you intend to look at implementing more radical crofting reform?

Jim Fairlie: It was never intended for this bill to deliver fundamental reform. It is technical in nature and provides the necessary improvements while enabling crofters to take control of how they use their land.

The future reform will absolutely be necessary, but I caution against rushing straight into it. We first need to establish what crofting policy should be in the future, and, similar to the approach that we took with this bill, we need stakeholders to consider what that policy is. Although it is ultimately the responsibility of Government to set

policy, that should never be done in isolation. At the start of the session, you referenced how well that work had been done by the officials, who ensured that they were actively engaged with the stakeholders.

Once we have the views, we will need to see where they converge and where negotiation and compromise will be required. The discussions of the past three years have been informative and have led us to produce a bill that has had wide stakeholder input and buy-in, but they have also told us that there is a wide range of views out there.

From the consultation responses, we can tell that some crofters want more regulation, but an equal number of them appear to want less. Some stakeholders are asking us to review a crofter's right to buy their croft, which is a perfectly reasonable question to ask, but more than 6,500 crofters have already exercised that right. Establishing clear policy outcomes will therefore take time and it will be central to any future wholesale reform.

From my travels around the country in the summer, I know that we were getting different views from different sets of crofters, each of which raised absolutely valid concerns, but a wide range of considerations will need to be given to any future policy programme.

10:30

The Convener: Back in 2018, the Government announced its intention to introduce a phase 1 bill in response to many who believe that crofting reform needs to be substantially reviewed and modernised. We have phase 1, which will, in many ways, simplify and correct some less-than-perfect legislation. However, there is still the underlying desire for radical reform that was set out in 2018. What are the timescales for bringing that forward, given that it has been quite some time—seven years—since the Government made the commitment?

Jim Fairlie: As I said earlier, the bill gives us a solid foundation and a bedrock to go forward from. I am not going to put a timescale on when we will introduce new legislation. We are coming up to an election next year, and a whole load of things will have to be discussed between now and then.

I absolutely take on board the point that you and stakeholders have made that some people would like to see the reforms go further, but, as I say, others want less regulation. All that would need to be considered as a policy objective, and it is very much in my mind for when we see what happens next year.

The Convener: A lot of stakeholders will be disappointed in your statement, minister, given that they expected a more substantial and transformational crofting bill to come quite quickly on the back of this technical bill. It is disappointing to hear that you do not have any firm timescales for delivery of that reform. The feeling that we get from stakeholders is that they thought that the bill was a small step towards more transformational change.

Tim Eagle: I am just going to come in on that point, minister. That was my understanding. Legal experts have said that the legislation is quite patchwork and all over the place. Highland Council and Western Isles Council have commented that there should be a root-and-branch reform of crofting. I do not have the quote in front of me—I was desperately trying to find it—but I thought that the Scottish National Party had said that it would do a big reform of crofting law, and that is not what this bill is.

Within the consultation responses, there is wide acceptance that the bill contains some good stuff and we want to see that, but that does not take away from the fact that many, in the consultation responses and afterwards, including the Scottish Crofting Federation, have said that we need more of a root-and-branch reform of crofting law. Given that they have waited for years, how much longer do we need to wait to make sure that crofting is fit for the future?

Jim Fairlie: Since 2018, a number of things have got in the way of delivering a bigger crofting bill. I am not going to go over the history, but I have already said that we absolutely understand that there will have to be a bigger crofting bill further down the road. However, we are focusing on making sure that we get this one right and that we get people on board with it, once the bill is passed by Parliament, as I hope that it will be. That will give us the bedrock to allow us to look at what is next. We absolutely know that this is not the final point—it is a journey, and I am committed to making sure that we continue on that journey, even after the bill is passed.

The Convener: We will move on to section 2, which is—apologies to solicitors—probably the drier part of the legislation.

I will suspend the meeting for five minutes—that is a relief—to allow a changeover of witnesses to bring in the lawyers for what I have just suggested is the less interesting part of the bill.

10:34

Meeting suspended.

10:42

On resuming—

The Convener: Welcome back. We now move on to consideration of part 2 of the Crofting and Scottish Land Court Bill, which relates to the merger of the Scottish Land Court and the Lands Tribunal for Scotland. The minister is joined by two Scottish Government officials: Martin Brown, solicitor, and Marion McCormack, civil courts, justice transformation and inquiries. Marion joins us remotely.

Do you have an opening statement to make, minister?

Jim Fairlie: I do. I thank the committee for the opportunity to give evidence on part 2 of the bill, which makes provision for the merger of the Lands Tribunal for Scotland and the Scottish Land Court.

The merger will create a one-stop shop for users, thereby offering a streamlined process that will be clearer and easier to understand and navigate. The rich history of the Land Court, which dates back to April 1912, and the affection in which it is held, especially in the crofting community, are recognised and respected in the bill. That is a key reason why the tribunal, which is itself a respected body with important functions, albeit one with a shorter history, will be joining the court.

The bill also seeks to preserve the traditional character of the Land Court. That includes maintaining local sittings and retaining the requirement for a Gaelic-speaking member.

Under the new arrangements, the composition of the bench will reflect the specific requirements of each case. There will be no dilution or diminution of expertise. The newly expanded Land Court will retain and, indeed, strengthen the depth of specialist knowledge that is available. The bill also provides for the expansion, by regulation, of the Land Court's jurisdiction on a case-by-case basis.

Importantly, on-going proceedings will not be disrupted by the merger. The provisions have been designed to provide flexibility so that any transitional or implementation matters can be managed smoothly as they arise. Although the tribunal's jurisdiction and functions will transfer to the court, the tribunal itself will not dissolve immediately. Its members will be able to sit in the court during the transition period. Full integration will follow through separate legislation.

10:45

Alongside the merger provisions, the bill will enable suitably qualified members of the merged court—and, on a transitional basis, members of the Lands Tribunal for Scotland—to act in the Upper Tribunal. Although the provisions are largely administrative, they will enhance the resilience of the Upper Tribunal by giving it access to a broader range of expertise when required. To ensure that that is done appropriately, there are a number of safeguards in place, which involve the chair of the court, the president of the Scottish tribunals, the Lord President and the members themselves.

In summary, the proposals in part 2 of the bill will bring about practical improvements, while safeguarding the proud heritage and expertise of both institutions. They offer continuity where continuity matters and change where change is needed.

I am happy to take questions from the committee.

The Convener: Thank you, minister.

Beatrice Wishart: The policy memorandum does not explain the Scottish Government's reasons for the proposed merger of the Scottish Land Court and the Lands Tribunal for Scotland, and the Law Society of Scotland has expressed concern that the main driver could be to cut costs and reduce capacity. I note that you said that the proposal will create a "one-stop shop" and that there will be "no ... diminution of expertise", but could you explain what the policy objective is for the merger? What reassurances can you give that resources and capacity will be maintained?

Jim Fairlie: The policy objective of the merger—which has been talked about for a very long time and has been looked at by various institutions over that period—is to give a streamlined structure to the current system. As I said, the merger will not result in any diminution of the ability of the tribunal or the court. In fact, it will enhance it, and that has been broadly welcomed by most people we have spoken to.

Alasdair Allan: The last time the committee took evidence, we heard about the concerns that Lord Duthie had raised about how the newly merged court would ensure that it managed its workload fairly. We had a discussion about internal appeals and appeal routes. Can you say anything more about the appeal routes in the new structure and how those will be managed?

Martin Brown (Scottish Government): The point about internal appeals is being looked at following Lord Duthie's input. The current system works well for the Land Court, and the bill keeps that position in place. However, it perhaps does not sit well enough with what will come in from the Lands Tribunal, so we are looking to change that. We are actively considering how to get that right through amendments.

Alasdair Allan: Thank you.

Emma Roddick (Highlands and Islands) (SNP): The bill retains the eligibility requirements, including the requirement for a Gaelic-speaking member. How important is that requirement, given the provisions of the Scottish Languages Act 2025, which seek to strengthen and actively promote Gaelic?

Jim Fairlie: I think that it is vitally important. When the requirement for a Gaelic-speaking member of the court was first established in statute in 1912, Gaelic speakers had no protection in law. The inclusion of that requirement created an opportunity for Gaelic speakers to use their language of preference in at least one institutional setting of importance to them. The requirement was also an important recognition of the worth of the language and of its speakers, and it is important that that respect for the language is not lost.

The 2020 consultation on the future of the Lands Tribunal and the Land Court gauged opinion on whether the Land Court required to have a Gaelic-speaking member, and the majority of respondents considered that essential. Many of the stakeholders who are in favour of maintaining the requirement for a Gaelic-speaking member have noted that, for many crofters, Gaelic is their first language, and that that identity must be acknowledged to ensure that their civil and human rights are not eroded.

Stakeholders also highlighted that there is a close relationship between the Gaelic language, the land and crofting. There is reasoning in the Gaelic language that does not transfer into English, meaning that an argument can sometimes be made properly only in Gaelic, and it requires a Gaelic speaker to fully understand the points. From a personal point of view, it is a heritage that I believe we should cling on to dearly. That is despite the fact that I cannot speak the language, although I would very much like to.

Emma Roddick: Hopefully, Gaelic speakers also believe that we should cling dearly to the language.

You mentioned that there are many crofters for whom Gaelic is their first language and that some terms of phrase, even relating to land rights, might not directly translate. Are there particular situations where that has arisen so far in the court, or is the minister just generally aware that that can be a factor?

Jim Fairlie: I am generally aware of that, given the fact that I am not a Gael. I cannot give a specific answer, I am afraid.

Ariane Burgess: I want to explore the idea of the Land Court expanding its jurisdiction to become an environmental court, which, according to the policy memorandum, could be considered in the future. There is an on-going breach in Scotland of the Aarhus convention's access to justice requirements. People cannot get access to justice because of the cost of taking forward litigation. Is there an opportunity to speed up the process and follow the requirements? In a 2025 update, the relevant United Nations committee described Scotland as failing to guarantee compliant environmental justice. Is there an opportunity to explore and bring forward the Land Court's expansion, rather than consider it in the future?

Jim Fairlie: The bill provides ministers with the flexibility to adjust the jurisdiction of the Land Court. It is clear that the new, expanded Land Court will work primarily within the context of Scottish farming and crofting. It does not have universal jurisdiction to deal with all matters relating to land. Complicated environmental cases are likely to cover a number of issues, such as cultural, social and economic issues. As a result, such cases, among other issues, should continue to be considered in the current courts and tribunals system.

The Scottish Government is committed to ensuring that there is effective access to justice on environmental matters in Scotland. Since the United Kingdom left the European Union, steps have been taken to strengthen access to justice in environmental matters. Environmental Standards Scotland is an independent body that has been set up to ensure that environmental laws and standards are adhered to in Scotland. ESS replaces the European Union's scrutiny and enforcement role.

At the time of the Scottish Government's review of environmental governance, ESS was a new body. The Scottish Government acknowledged that time was required to allow the new arrangements to be implemented in full. In its draft strategy for 2026-31, ESS has stated that it

"will ensure that the environmental governance system works effectively".

I hope that that gives the committee some confidence that work is going on.

Ariane Burgess: My understanding of anything that the Government and Parliament are doing is that there is always work going on. Bills are part of a process to unlock powers, and to give powers either to ministers, councillors or public bodies. I understand that work is on-going, but the situation seems to be somewhat urgent. I get that Environmental Standards Scotland is in place, but organisations are having to take forward judicial reviews, which is very costly. What organisations and the UN are looking for is access to more affordable justice.

Jim Fairlie: At this stage, the bill is primarily engaged with farming and crofting. That is its function at the moment.

Ariane Burgess: It is primarily engaged with farming, crofting and land issues, and an awful lot of environmental issues take place on land. It is worth considering that point.

Jim Fairlie: Point taken.

The Convener: Minister, are you in favour of a stand-alone environmental court, or might what we have now change in future to cover more environmental cases?

Jim Fairlie: As I said, Environmental Standards Scotland is an independent body that is currently setting out its strategy for 2026 to 2031. That is the current position.

Ariane Burgess: I want to pick up on the convener's question. We heard from the Land Court last week, and one of its concerns about expanding its jurisdiction would be the resourcing. Are budgetary concerns part of the challenge? Do we not have the finances to meet our environmental obligations?

Jim Fairlie: I cannot give an answer to that one way or the other. My consideration has purely been about what the merger would deliver for crofting regulation.

The Convener: We have no further questions, minister, so I thank you and your officials for your time this morning.

10:55

Meeting suspended.

10:59

On resuming—

Greyhound Racing (Offences) (Scotland) Bill: Stage 1

The Convener: Welcome back. Our second agenda item is an evidence session with Mark Ruskell on the Greyhound Racing (Offences) (Scotland) Bill at stage 1. Mark is the member in charge of the bill. I welcome Mark to the meeting, along with Nick Hawthorne, senior clerk, and Liz Anderson, assistant clerk, from the Parliament's non-Government bills unit, and Alison Fraser, from legal services.

We have allocated around an hour and 15 minutes for the discussion. As always, we have quite a few questions, so I ask members to be succinct with their questions and answers.

I invite Mark Ruskell to make an opening statement.

Mark Ruskell (Mid Scotland and Fife) (Green): Thank you, convener. I declare an interest: I am an honorary member of the British Veterinary Association.

I introduced the Greyhound Racing (Offences) (Scotland) Bill in April this year, and I welcome the Scottish Government's indication that it supports the general principles of the bill. I thank the committee for its work over the past three years in looking at the bill and the wider welfare issues of greyhound racing.

The extensive evidence that the committee previously took helped me to focus the bill on the central concern that racing greyhounds around a track at high speed results in injuries and long-term suffering of the dogs and, in too many cases, can lead to their deaths. The evidence points to the numbers, but behind every number is a real dog facing real suffering, and I want us to end that suffering.

The bill will make it illegal for someone who owns or is responsible for a greyhound or a racetrack to race, or to allow the racing of, a greyhound on an oval racetrack in Scotland. The offences set out in the bill apply to greyhound racing at licensed and unlicensed racetracks and cover any racing activity, including time trials and sales trials.

The offences cover tracks that are oval in shape. As all racetracks in Scotland are oval in shape, that should ensure that no further greyhound racing takes place in Scotland.

The bill also allows the Scottish ministers to regulate to make it illegal to race greyhounds on other types of tracks. Therefore, should a new

racecourse with, for example, a straight track be opened, the Scottish Government could extend the offences in the bill to cover that track, should it be deemed to pose a risk to greyhounds.

The bill provides that, if someone is convicted of an offence, they may be subject to a fine or a prison sentence. The court may also impose other penalties. Those include preventing someone from owning or keeping a greyhound that was present when the offence was committed; banning someone from owning, keeping or working with a greyhound for a period of time; and taking a greyhound away from someone who has previously been banned from owning, keeping or working with a greyhound but who has continued to do so.

The penalties and enforcement powers are based on those that are set out in existing animal welfare legislation. I note that, in the Scottish Government's memorandum to the committee, it suggested that the enforcement powers be modified. I also note the Scottish Government's suggestion that the bill be amended so that the commencement date of the act would be determined by the Scottish ministers. I am content to work with the Scottish Government on amendments in all those areas.

I again thank the committee for its work, and I am happy to answer questions.

The Convener: Thank you, Mr Ruskell. Can you talk us through the consultation and engagement that you undertook to develop the bill? As you will be aware, the committee previously took evidence on a petition to ban greyhound racing. At that point, there appeared to be a lack of evidence of prosecutions or involvement of the Scottish Society for the Prevention of Cruelty to Animals in animal welfare related to racing. Can you give us an idea of how you established an evidence base for prohibiting racing in Scotland?

Mark Ruskell: I point to the evidence that the committee has gathered: the six evidence sessions, the public call for views on the bill, and the Scottish Animal Welfare Commission report, which focused on what happens in Scotland and reviewed some of the scientific work on the inherent risk of racing dogs around oval tracks. I also point to the licensing review that the Scottish Government conducted and all the evidence that came from that.

Regarding the evidence base and the consultation around my member's bill, I undertook consultation during 2024. I hope that the committee has some of that evidence and the responses before it. A number of organisations gave evidence as part of that process, including the Scottish Courts and Tribunals Service; GBGB, which is the Greyhound Board of Great Britain; animal welfare charities; and a number of individual professionals who race greyhounds in the Scottish sector.

Through the consultation, extensive evidence was also given by people who had rehomed greyhounds. I had dozens of testimonies from those individuals; I will read out one or two. Somebody said:

> "I have seen the devastating impact that greyhound racing has. These dogs arrive not as dogs but as traumatised machines. They are scared by the littlest, most common, things and don't know how to function in a normal home."

Somebody else said:

> "My second dog was a rescue. His owner was caught giving the dog high doses of painkillers so he could still race on a badly injured wrist. The injury affected him for the rest of his life, continually swelling and ending up with chronic arthritis."

Another person said:

> "I adopted an ex-racing greyhound in 2017. When I adopted him, he looked moth-eaten, very thin, had patches of dandruff all over his coat and an old injury to his hock which he got while racing. He had bull-back legs caused by friction and being forced into traps to race. He had separation anxiety for the remainder of his life. I had to change my job to accommodate his needs."

Here is a final one. It makes difficult reading.

> "I adopted an ex-racer. His body is broken from racing. He has sore legs, came to me with an amputated tail, a sore back. This has not gone away after four years. My ex-racer was retired at two years old after allegedly only four races. His body is broken from it. He takes pain medication every day. His teeth were all worn down from gnawing at the cage he was in in kennels, and he has a sore back from being hit. Despite this, he's the most gentle and kind boy."

The evidence base shows us that there is an inherent risk in racing a dog at high speed around a curved track. The implication of that is that the dogs leave the industry when they are very young and are rehomed. The evidence that we have from the rehomers is absolutely critical. The committee has also had stats from GBGB. It has the empirical and scientific evidence that explains that inherent risk.

The Convener: The evidence and testimony that you have given is distressing. However, we need to focus on greyhound racing in Scotland. Of the examples that you have just given, how many relate to dogs that had been raced in Scotland?

Mark Ruskell: All are examples of dogs that have raced on oval tracks. They will be a mixture of dogs that have come from England and dogs that have come from Scotland. The critical point of the bill is that it focuses on the inherent risk of racing a dog around an oval track. All the tracks that exist in Scotland are oval in nature. They are the same as the tracks that exist in England. The

inherent risk is well understood and well studied. It has been shown what that risk is and the impact that it can have on the dogs.

The Convener: What I am pressing you on is that the bill sets out—rightly—to address animal welfare issues in Scotland and to prohibit greyhound racing in Scotland, so, although the testimony that you have given us is distressing, it is important that we understand accurately how many such situations came about as a result of racing on oval tracks in Scotland. With the best of intentions, your bill is not going to address the issues around greyhound racing outwith Scotland. It is therefore important that the evidence absolutely focuses on racing on oval tracks in Scotland. Of the testimonies that you read out, how many of those cases came about as a result of dogs racing in Scotland?

Mark Ruskell: We had 789 responses to the consultation on the bill, 86 per cent of which were fully supportive of the proposal to ban greyhound racing in Scotland. As I have said, a lot of evidence has come from the industry and from academics that focuses on the risk of racing on an oval track. The committee has received lots of evidence on the impact—

The Convener: Sorry, Mark—I must interrupt you, because it is an important question. I am not doubting the evidence that you have given us or the fact that there is an inherent risk in dogs racing on oval tracks, but the bill will apply in Scotland, so we must have an indication of how effective it will be and how many dogs we will protect from racing. Of the examples that you have given us, how many involved dogs that were injured while racing in Scotland? I say again, with all due respect, that the bill would not bring any animal welfare benefits for dogs that race south of the border or elsewhere.

Mark Ruskell: I will highlight the Scotland-specific data that the committee has received in the past. I point to the figures that were collected at Shawfield stadium, when it was running, between 2018 and 2020, which were produced as a result of it being licensed by the Greyhound Board of Great Britain. During that period, there were 197 injuries and 15 fatalities. We know that the injury rate at Shawfield is comparable to that at every other greyhound racing stadium across the UK.

Where specific data is available—a number of the people who have given testimony have taken dogs from Shawfield and Thornton, as well as from England—we can see that there is an impact on the dogs. Being raced on an oval track involves the same inherent risk, regardless of whether they are raced in England, Wales or Scotland.

Emma Harper: Good morning. My question is in a similar vein. It is about independent tracks. The Scottish Animal Welfare Commission's report included a summary that said:

> "Independent tracks, although they may provide some social benefit, do impose some specific risks on dog welfare through the lack of immediate veterinary care to injured dogs and general veterinary oversight of dog welfare."

It also recommended that

> "no further new greyhound tracks are permitted in Scotland".

Mark Ruskell just mentioned Shawfield stadium. I think that it is proposed that that stadium be demolished for housing, so there will be no more racing in Rutherglen.

I am interested in how the data from independent tracks compares with that from the GBGB tracks. You have almost said it all already, based on the Shawfield evidence.

Mark Ruskell: In many ways, the unlicensed track that runs in Scotland at Thornton is an underground track. It does not collect or report figures to GBGB. However, the nature of that track is similar to every other greyhound racing track in Scotland and across the UK, so the inherent risk is the same. The peer-reviewed scientific evidence shows that there is an inherent risk in racing a dog around an oval track. When the dogs reach the first curve, they face a centrifugal force on their bodies. There is the risk of them colliding as the pack of four to six dogs narrows to chase the lure. There is the impact on and the injury to their left front leg and their rear right leg. Those injuries do not change depending on whether the track is licensed or unlicensed.

On your point about whether licensing brings some marginal animal welfare benefits, although having a vet at the trackside is undoubtedly beneficial if a dog gets injured, the purpose of the bill is to prevent such injuries from happening in the first instance. It is through racing at high speed on oval tracks that those injuries occur.

Emma Harper: Last week, we heard that we are talking about speeds of almost 40mph—that is around 64kph—on the first bend. Those high speeds can lead to the greyhounds being injured.

Mark Ruskell: Yes. That is what the scientific evidence shows us. It is the nature of the high-speed race, the fact that greyhounds are very fast dogs and the forces that are exerted on the dogs that lead to injuries and deaths. I do not know whether members have ever watched a greyhound race—I have not been to a greyhound racing stadium, but I have watched many races on television, as well as excerpts of races—but they will know that the speed of the dogs is phenomenal. They enjoy running, and they will run

very fast, to the point where they will injure and, potentially, kill themselves. It is important that we draw a line under that.

11:15

Beatrice Wishart: Good morning. The Thornton greyhound track is thought to have ceased racing activity around the time that the bill was introduced. How do you think that that impacts on the need for the proposed legislation?

Mark Ruskell: No races are currently taking place at Thornton. I do not think that there have been any races since March this year, but I would point to what may happen in the future, particularly if the bill does not go ahead. The committee received evidence from Paul Brignal, the owner of the Thornton stadium, in response to the call for views. He indicated that, if it were not for the bill and the campaigning around it, Thornton would now be GBGB licensed. He wrote:

"the Stadium would have been racing under GBGB rules and providing part of the SIS service to betting sites all over the world, and would have been a thriving business contributing to the Scottish economy."

The appetite is there for the one remaining greyhound racing stadium in Scotland to expand and get GBGB certification, which would mean many more races in Scotland, many more dogs racing, a higher frequency of races, more injuries and more deaths.

Partly because of the scrutiny of the committee, the member's bill and the petition, greyhound racing currently does not exist in Scotland. However, the future may look very different. I draw the committee's attention to the proposal to end greyhound racing in Wales that looks as though it will go through the Welsh Senedd. If the Prohibition of Greyhound Racing (Wales) Bill goes through the Senedd and is approved, investors may look to invest in upgrading tracks elsewhere in the UK. If the bill before the committee does not go through, they may well look to Scotland and decide to invest in Thornton. The future is uncertain; what happens will depend on whether the Parliament approves the bill.

Alasdair Allan: I am aware that the scope of the bill is about banning racing in Scotland. However, as I understand it, it will not directly affect dogs that are kennelled or trained in Scotland and then sent to race in England. I appreciate that it may not be possible or practical for us to legislate on that. Could you say a bit about that issue, which must have been raised during the consultation?

Mark Ruskell: Yes, the issue has been raised, particularly by animal welfare charities, which would like to see progress on greyhound welfare everywhere in the UK and an end to greyhound racing everywhere in the UK and Ireland.

The bill is very tightly drawn and creates a stand-alone offence of racing a greyhound and organising the racing of greyhounds in Scotland. It is obviously not possible for us in this Parliament to create an offence around racing a greyhound in Swindon, Oxford or, indeed, Wales. The issues around dogs that are kennelled in Scotland, whose trainers live in Scotland and that are taken to races around the UK relate to existing practice—it happens at the moment. I am concerned about some of the welfare implications of that practice, particularly around kennelling, breeding and transportation, but it is not within the scope of the bill.

There may be a case for the Scottish Government considering wider licensing. For example, is animal transport licensing currently working effectively for racing greyhounds? Are local authorities enforcing it? However, that is outwith the scope of the bill. As the member might recall, I asked that question of the minister during last week's evidence session. I would like the Government to conduct a wider review, but that review would also be outside the scope of the bill. It may be that such a review could consider other animals and other breeds of dog. The Government might need to do a larger piece of work.

I note that, alongside introducing its bill, which will create a stand-alone offence of racing a greyhound, the Welsh Government has committed to doing a wider piece of work to review the existing regulatory framework in Wales in relation to racing greyhounds that cross the Welsh border. The Scottish Government could also do such a review, but it would not be within the scope of this bill, which is about creating a narrow offence and giving the courts enforcement powers on the back of that.

Alasdair Allan: Showing intent to transport dogs elsewhere for the purpose of racing is not within the scope of the bill. Is that correct?

Mark Ruskell: I do not believe that that would be within the scope of the bill. The committee will have received the memorandum from the minister and can reflect on the evidence that he gave last week. I am not discounting the fact that there are still issues and that greyhounds will probably still suffer, but transporting dogs is a wider issue that the Government would need to consider.

Alasdair Allan: Thank you.

Emma Roddick: The SAWC report highlighted the possibility of greyhounds continuing to be owned, bred, trained and kennelled in Scotland for the purpose of racing in England. During the call for views and the development of the bill, were any

mechanisms suggested that could curtail that behaviour?

Mark Ruskell: I would need to reflect on individual submissions, particularly those that have come from animal welfare charities, but that has been an area of discussion with them. There is an understanding among animal welfare charities that the bill has a narrow focus; it is focused on the inherent risk associated with racing a greyhound in Scotland. However, there is a wider concern. Again, it is a question for the Scottish Government as to how it will address that concern. I would like to see some progress in that area, but that should not detract from what the bill is trying to achieve, which is the first step of establishing an offence of racing a greyhound in Scotland.

The issue comes on the back of the Animal Health and Welfare (Scotland) Act 2006 not being able to address the issues that surround the racing of greyhounds in Scotland. That is partly because greyhound racing is inherently a lawful activity, so it has been difficult to prove that there has been unnecessary suffering of greyhounds. The 2006 act has not worked, in that it has not dealt with that inherent suffering. Therefore, the only way forward, as I see it, is to bring in the offence of racing a greyhound.

My hope is that other jurisdictions will perhaps follow Scotland's lead. The Welsh bill is going through the Senedd at the moment and there is an active discussion about the issue in Ireland. There are countries, states and jurisdictions around the world that have gone ahead and banned greyhound racing while this committee has been taking evidence. There is a direction of travel and an international consensus that creating the offence of racing a greyhound is the right way to go. I hope that, over time, such consensus will result in benefits for all dogs.

Emma Roddick: You stated that any such mechanisms would be outwith the scope of the bill, which is worth while on its own. However, would you be open to pressing the Scottish Government to introduce an accompanying scheme that would require any person who keeps or trains a greyhound in Scotland for the purpose of racing anywhere in the UK—or any premises where greyhounds are kept or trained for that purpose—to have a statutory licence? That could maybe allow the Government to put restrictions on transporting greyhounds out of Scotland to race.

Mark Ruskell: I have not taken evidence on that. On the back of the committee's evidence and the work that it has done on this issue for many years, my conclusion was to create the offence that is in the bill. That has been the focus. If there were to be wider consideration of a licence, that would be a question for the Scottish Government.

The scope of the bill, should it get to stage 2, will be a matter for the convener. My view, and the view of the Scottish Government, is that we should focus on the stand-alone offence. I do not discount the wider issues. If you wish to discuss the matter further with the minister or with me, I would be content for that discussion to happen.

Emma Roddick: That is good to know. My primary concern is that, even when racing was happening in Scotland, the number of ex-racing greyhounds that were being rehomed in Scotland seemed to be a lot higher than the number that were being raced here. Clearly, wider welfare concerns apply to the situation that the member is trying to address with the bill.

Are there other welfare issues for greyhounds away from the track that you have looked at and that you want to see prioritised for next steps?

Mark Ruskell: I point to the committee's excellent report, which looked at breeding, the relationship with breeding in Ireland, kennelling and other issues. Again, those issues are outwith the scope of the bill, but the committee made helpful recommendations to the Scottish Government about the work that it wants the Scottish Government to undertake in relation to those wider concerns.

This is a member's bill and it is tightly drawn. There are wider animal welfare implications of greyhound racing, but how the Government addresses them is properly a matter for it to consider in due course.

The Convener: I call Ariane Burgess.

Ariane Burgess: Emma Roddick's question brought the answer that I was looking for.

The Convener: Okay. My question for you, Mark, is this: why did you not take a different approach to the bill that would have addressed the wider animal welfare issues? If the bill were to go through without amendments addressing those issues, which you have suggested would be outwith the scope of the bill, no dogs would benefit from the bill, because there is no racing on oval tracks in Scotland. Given that all the evidence that you have given the committee surrounds dogs that are raced in England, why did you not take a different approach? Why is the bill so narrow when a lot of the concerns are about dogs racing outwith the country? Concerns were also raised about kennelling, which the bill does not address.

Mark Ruskell: I push back on the point that there is no evidence in Scotland. The committee has received evidence on the inherent risk associated with greyhound racing in Scotland.

On my approach, I reiterate that this is a member's bill, and if the committee wants to examine the issues of licensing and animal

transportation, it will have to look way beyond greyhounds and probably way beyond other dogs, as other animals could also be included. The Government has a responsibility to look at some of those wider issues, but I believe that the most appropriate way forward is to focus on introducing legislation that creates a stand-alone offence of racing a greyhound around a track. It is also the way forward that the Welsh Government is choosing.

The Convener: I feel that it is a potential missed opportunity, because although there is no racing on oval tracks in Scotland, your evidence is that there is still an issue with animal welfare as it relates to dogs racing. As Emma Roddick suggested, why did you not consider having an element of licensing in the bill that could cover a lot of those aspects? The bill is so narrow that it is questionable whether, in the absence of any racing on oval tracks in Scotland, it will deliver anything. You said that the wider issues are the Government's responsibility, but the bill was a fantastic opportunity to address most of the animal welfare issues that you used in evidence to support your bill.

Mark Ruskell: I go back to what I said about the evidence that the committee has had from the owner of Thornton, who wants to start racing again and expand racing in Scotland. I do not therefore think that it is a given that no dogs will ever race again in Scotland, even if the bill does not go through. Indeed, the reverse might be the case. The evidence that the committee took from the person who is running the last remaining greyhound stadium in Scotland suggested that.

11:30

The wider issues are matters for other jurisdictions around the UK. A bill is going through in Wales, and discussions are also taking place at Westminster. Ultimately, the only way to deal with issues around the welfare of greyhounds is to end greyhound racing. Introducing licensing will not bring about those benefits or tackle the inherent risk.

The figures that we have, which have come from the licensed industry, do not show that the picture has improved in the years during which that data has been gathered. Despite the attempts of the licensed industry to bring in a better welfare strategy for greyhounds in 2022, and despite the introduction of new standards of track maintenance, the picture has not shifted fundamentally. The licensed sector is now highly licensed, but dogs are still being injured and killed in that sector. I believe that the figures for the past year show that the number of deaths has gone up.

I do not see licensing as a way of tackling that inherent risk. I think that the Scottish Government has come to the same conclusion on the back of the SAWC report and by looking again at the evidence and the numbers that have been coming through. Licensing has not worked. If licensing had worked and there had been no or hardly any injuries or deaths, we would be having a different conversation. However, the view of all the animal welfare charities, the Scottish Government and SAWC centres around the same conclusion, which is that licensing has not delivered that result. If the suggestion is that we need to create a bespoke licensing provision that might help the dogs in some way, my response is that licensing has not worked up to now, and it certainly will not deal with the fundamental issue of the number of dogs that are being killed and injured.

The Convener: We will move on to sections 1 and 2, on offences and penalties. Tim Eagle has some questions.

Tim Eagle: Good morning, Mark. I have a couple of quick questions for you. First, the approach that you have taken in the bill is to criminalise the track owner and the individual who is racing their greyhound. That is quite different from the provisions in the Welsh bill, which focuses on the greyhound racing venue and those organising greyhound racing. Can you explain a little bit more about why you have taken that approach in your bill?

Mark Ruskell: We have taken that approach because we believe that it is more comprehensive. We do not want to create a loophole that means that the track owner can be penalised but those who are racing the dogs, putting them in the traps and providing them are not included. It is a more thorough approach.

Tim Eagle: My second question is about the maximum penalties that you have put in the bill. We heard from the minister last week that they are in line with those in the Animal Health and Welfare (Scotland) Act 2006. When you were looking at the penalties, is that what you considered? How do they compare with what has been put into the Welsh bill?

Mark Ruskell: The penalties in the bill derive from those in the 2006 act, which has been in operation for almost 20 years. The courts are used to applying those penalties appropriately. They are, of course, the maximum penalties that would be available—there is existing legal provision in that regard.

On the decisions of the Senedd, I note that there is a different devolution settlement in Wales. Scots law applies in Scotland, and I think that English law applies in Wales. We have Scots law within our jurisdiction, and the Parliament can

adjust criminal penalties. That might explain some of the differences in approach.

I ask Nick Hawthorne to come in if he has additional detail.

Nick Hawthorne (Scottish Parliament): I would not add much to that, except that the penalties in the bill match those in part 2 of the Animal Health and Welfare (Scotland) Act 2006, and they were chosen because they are in line with that and other animal welfare legislation.

As you remarked, Mr Eagle, there is a different offence in the Welsh bill, which does not apply the offence to the owner of the greyhound. That might account for some of the differences in the penalties. However, the Scottish bill is set against a different legal system, so we would expect there to be differences in some of the details.

Tim Eagle: Have you reflected on those differences, Mark? Imprisonment is not mentioned in the Welsh bill, but it is in yours. Have you reflected on whether you think that that is absolutely necessary?

Mark Ruskell: It is in line with the Animal Health and Welfare (Scotland) Act 2006.

Tim Eagle: Would you consider a more bespoke model?

Mark Ruskell: I go back to the fundamental point that the Scottish Parliament is concerned with Scots law. I do not believe that the Welsh Senedd has the ability to apply penalties of that kind, because it applies English law.

Ariane Burgess: We are talking about bringing in penalties. Why is there a need for that? Why does self-regulation not work?

Mark Ruskell: Self-regulation is the system that we have at the moment. In that system, there are licensed tracks, they have a set of rules and they are responsible for enforcement of the rules. However, data from the licensed part of the sector shows that the inherent risk is not going down; dogs continue to be killed and injured. There are examples of trainers falling foul of GBGB rules and being struck off, but that does not affect the fundamental picture of the number of dogs that are being injured or killed.

There are examples of GBGB trainers who have been found to be abusing animals, and it has taken a long time for those trainers to have their licences revoked. Evidence of that came through in the consultation. There was a Scottish dog connected with Shawfield called Dudleys Forever. A steward at Shawfield uncovered the dog in an absolutely dreadful state and reported it, but it took a long time to bring an inquiry and for the trainer to be effectively struck off. The dog had to be put down—it was half the weight that it should have been. It was in an absolutely dreadful state, as I said, yet it was very difficult for the Crown to get a prosecution for unnecessary suffering in that case.

It all comes back to the fact that licensing is not working. If it was working, would I be here today? I am not sure, but it is not working, which builds the case for the bill.

Ariane Burgess: Earlier, my colleague Beatrice Wishart made the point that racing is not taking place at Thornton, and you said that Thornton is not so busy at the moment partly because of the work that this committee is doing and partly because of your work. We also had evidence of that from the call for views. The owner's view is that it will move towards a more GBGB approach. However, given what you have said about what happened at the other track, if that approach was taken, we still could not have confidence in GBGB regulating and doing a good job.

Mark Ruskell: I point to what happened in Wales, which had an unlicensed track—the last unlicensed track in Wales. It sought investment, registered with GBGB and, as a result of that, started televising races around the world. The number of races went up, the number of dogs involved went up and, as a result, the number of injuries and deaths went up. That might change, if the Welsh Senedd approves a bill to end greyhound racing in Wales.

If we do not agree to the bill, the same could happen here: the last remaining unlicensed track could get licensed, and, based on the figures that come from GBGB, I do not think that that would lead to a welfare improvement. If anything, it could result in more dogs being raced, more dogs dying and more dogs being injured. That is the risk.

The Convener: We move to questions on the definition of racetracks as oval.

Beatrice Wishart: The key area of disagreement between animal welfare groups in our targeted call for views was on restricting the ban to oval racetracks. Dogs Trust, for example, said that that might be a loophole. What is your response to that concern, and are you still confident that that is the correct approach?

Mark Ruskell: The phrase

"A track that is oval",

which is in the bill, defines every single track that exists in Scotland, the UK and Europe. In fact, I think that only three straight tracks exist in the world, two of which are in Australia. The other one, which is in New Zealand, will close shortly because the New Zealand Government is legislating against greyhound racing. The fact is that, in the industry, the act of greyhound racing takes place on an oval track.

Is it possible that some other form of greyhound racing might emerge in the future? That is unknown, as are the welfare implications thereof; all that we know is that straight tracks do not exist at the moment.

I have been focused on the fact that the bill needs to be future proofed—I have taken the views of GBGB into account there. In case examples of other types of track racing emerge in the future, it is important that there be a provision in the bill for ministers to be able to reflect on the evidence and change the definition of the track, should that be necessary and should there be an implication in relation to the welfare of greyhounds.

What we have in the bill as drafted is proportionate and reflects the reality of greyhound racing pretty much everywhere around the world right now. Is there a risk of straight tracks emerging? These dogs run fast, so you would need a very long track, investment in a stadium and a complete reconfiguration of the way that greyhound racing operates in the UK.

When GBGB and trainers were in front of the committee some time ago, a number of questions were asked about straight tracks, and it was not clear at all that the industry might go there. However, if there is a move towards another type of racing or track configuration, the power is in the bill for the Government to take a proportionate approach, look at the evidence and propose to the Parliament through secondary legislation that that definition be changed. I note that the Delegated Powers and Law Reform Committee has looked at that provision in the bill for amending regulations and is content with it.

The Convener: On that point, New Zealand is legislating against greyhound racing completely, but the bill specifically mentions “oval” tracks. We know that oval racing does not take place in Scotland at the moment, but you are saying that we need to legislate in case it happens in the future; straight tracks do not exist in Scotland at the moment. Why did you not go for a ban on greyhound racing—full stop? Was it because it was unlikely that the Scottish Government would have supported your bill in that instance?

Mark Ruskell: I refer back to the work of the committee. You commissioned the report from the SAWC, which reflected the scientific evidence, and the scientific evidence reflected the inherent risk of dogs racing around an oval track. It is about what happens on that first curve, the centrifugal forces, the way that the dogs collide in the congestion at that first turn and the injuries and deaths that occur as a result. I have endeavoured to introduce an evidence-based bill that reflects the evidence that the committee has had.

The thinking has evolved over time as the committee has taken evidence. There is potential to go further and to have an all-encompassing definition of a track should the need arise. However, I do not see the need to put that into primary legislation, because this legislation needs to follow the evidence, and the evidence that you and I have had is about the risk that is inherent in oval tracks. That is the starting point.

The Convener: I suppose that my question roots in the fact that the minister was unable to tell us what had changed in the Government’s position. The evidence that he gave us as part of the petition process has not changed very much. In fact, the statistics over the intervening period have improved—although they might be only a tiny bit better—yet the Government still decided to go for a ban. You have talked about the bill being evidence based, but the Government changed its view on oval track racing without the evidence to suggest that it should have done so.

Mark Ruskell: I noted the questions that you asked last week, convener. I would say only that the Government has had time to reflect on the evidence and that the SAWC is advising the Government, too. In the memorandum that the committee received, the minister and his officials underlined the key parts of the evidence that the SAWC raised in relation to that inherent risk and the scientific basis for it.

11:45

I also note that the minister said last week that, despite some earlier scepticism, the Government had kept an open mind on the bill and had said that it would wait to see what was brought forward. I have now introduced a bill that I believe reflects the evidence, and I am grateful that the Scottish Government has reconsidered the evidence and moved from a neutral position to supporting the general principles of the bill.

The Convener: Okay. Thank you. We move to a question from Rhoda Grant.

Rhoda Grant: My question for Mark Ruskell follows on from that.

As we heard previously, the Scottish Animal Welfare Commission has taken a different view; it believes that all greyhound race tracks should be banned. Have you spoken to and engaged with the SAWC? Do you understand why it has taken a different view, and has that not changed your mind?

Mark Ruskell: I have engaged with the SAWC. I think that it is fair to say that the SAWC sees its role as advising the Government rather than individual members, but I have certainly reflected on its previous report and its recommendations.

The bill directly addresses a number of those recommendations, particularly the recommendation that the SAWC does not believe that there should be more tracks in Scotland or that tracks should reopen. That central concern is addressed in the bill.

Rhoda Grant: Is it? The SAWC is very clear that there should be no tracks, whereas your bill talks about oval tracks.

Mark Ruskell: The SAWC's evidence in its report, which was provided to the committee, focused on the inherent risk of oval tracks, and the bill would end the operation of and the racing of dogs on oval tracks.

The Convener: We move to enforcement provisions, with questions from Alasdair Allan.

Alasdair Allan: I am interested to know about the powers in the bill in relation to deprivation and disqualification and the seizing of animals. How would those actually work, as opposed to the way in which the analogous powers—which have been mentioned—in the Hunting with Dogs (Scotland) Act 2023 currently work? What are the differences?

Mark Ruskell: I felt that it was important to put those powers in the bill, which makes it different from the Welsh bill. If someone committed an offence under this bill and raced dogs around a racetrack, that would raise questions about the welfare of those dogs. I believe that it is appropriate for the courts to have at their disposal the option of disqualifying somebody from working with or owning a dog, and for there to be powers of seizure in relation to that.

I will bring in Nick Hawthorne to go into where those provisions come from and how that relates to the legislation that you mention.

Nick Hawthorne: With regard to the court order powers, Mr Ruskell wanted to ensure that the offence provisions were properly enforced. He took the decision that he wanted the courts to have at their disposal the option of making those orders. They are consistent with similar order-making powers in the Animal Health and Welfare (Scotland) Act 2006 and the Hunting with Dogs (Scotland) Act 2023. My understanding is that the provisions in the 2023 act are themselves based on the provisions in the 2006 act, but they are tailored for the specific offences in that act.

Similarly, the powers in the bill are very much based on those two other pieces of legislation but, again, they are tailored to the specifics of the offences that would be created. For example, there might be provisions in the 2023 act that relate to hunting with dogs, such as concealment of carcasses and applying the provisions to all breeds of dog—things such as that. The provisions in Mr Ruskell's bill are specific to the offences that it would create, which is why there might be some slight differences. Ultimately, however, they are consistent with the provisions in those other two pieces of legislation, and it would be for the courts to decide whether to use any of those order-making powers.

Alasdair Allan: Would the courts be required to make an order before a dog could be taken from its owner?

Nick Hawthorne: It would be for the courts to determine whether they wanted to make an order. Deprivation relates to depriving a person, and there might be reasons why the court would determine that that was appropriate. Disqualification means to disqualify somebody. The seizure order powers relate only to a breach of a disqualification order, so that is where they come in.

Emma Harper: Last week, you indicated to the committee that you were in discussions with the Convention of Scottish Local Authorities about amending the bill to allocate enforcement powers or responsibilities to local authorities in addition to Police Scotland, which would currently have sole responsibility for enforcement under the bill. Can you provide an update on that?

Mark Ruskell: Yes. I have accepted the minister's approach to amendments at stage 2. I have contacted COSLA and I have been in early discussions with the Scottish SPCA. I will look to conclude those discussions ahead of stage 2, assuming that the bill gets to stage 2.

I am mindful that there are resourcing issues, particularly for the SSPCA. The provisions in the bill relate to greyhound racing. There is one greyhound racing track in Scotland, so I do not see the enforcement provisions in the bill as being particularly onerous on inspectors or Police Scotland constables. A conversation is continuing with COSLA and the SSPCA, and I hope that we can find a way forward ahead of stage 2, if we get there.

The Convener: Is this really a big issue? Someone cannot really hide an oval greyhound track. Is it a resourcing issue? Is it not the case that, if somebody reports that there is greyhound racing on an oval track somewhere, it is not going to be a big burden on the local authority or the police to investigate it?

Mark Ruskell: I cannot see it, convener. If somebody wanted to race greyhounds around a barn, for example, that would not work. I am not sure how they could hide it. The tracks are hundreds of metres long—you can see them from space. I am not sure how effectively greyhound racing could go underground to a point where it could not be detected.

The SSPCA and local authority inspectors have existing duties under the 2006 act to investigate unnecessary suffering, alongside the police, if that is appropriate in a particular incident. If such a situation arose, they would probably already be there to look at wider aspects of animal welfare and whether the 2006 act was being breached. They would be in the mix anyway if there was an investigation. It would probably be the police, primarily, who would take responsibility for seeing who was organising the race and who was racing the dogs. It would then be for other inspectors to consider any wider welfare impacts.

I have acknowledged the position of the Government and officials in relation to bringing the bill closer to the 2006 act. If there was a way to make the bill fit more neatly with the existing powers of inspectors, I would be open to that.

The Convener: We will move on to questions about implementation, transition and review.

Rhoda Grant: The policy memorandum sets out thoughts on what is envisaged for transition. Given that racing has further wound up at Thornton, what would the transitional arrangements need to be? What support would be available for the owners of the track and their employees?

Mark Ruskell: I note that, for the time being, racing is not happening at Thornton. Through company records, we understand that two full-time equivalent employees are, or were, based there. It is not clear whether those employees are still working, given that no greyhound racing is taking place there.

I think that the biggest implication will relate to dogs. The Scottish Greyhound Sanctuary has said, I think, that they have already taken into their care the last three dogs that raced at Thornton. When Shawfield shut, animal charities, including the Dogs Trust, managed to successfully rehome all the dogs from there—I think that they have finally all been successfully rehomed. When it comes to transition, the biggest issue is the dogs.

When it comes to the owner's aspirations for the future of the asset that he has at Thornton, that is a private matter and a private consideration. Reports have been compiled on the potential for housing in the area. One report has looked at the suitability of the site for housing, what economic investment that could bring to Fife and the kinds of jobs that could be created. That is a live discussion with Thornton community council, given that it has a local place plan and there are housing allocations.

Those are private matters regarding what will happen afterwards. The situation right now is that Thornton is not operational. Nothing is happening there. One of the reasons why racing has stopped—alongside the campaigns and the evidence that has been taken around the bill—is that the bookie retired.

Rhoda Grant: Given that it is the only track that will be impacted by the bill, have you sat down and spoken to the people? Have you spoken to local enterprise companies? Have you tried to get some support for the people, given that their business will be closing down? Have you had those discussions?

Mark Ruskell: I have had some discussions. I have met Paul Brignal, particularly when he came to the committee, and I have received some correspondence from him. The tone of some of that correspondence is a little difficult when it comes to opening up a constructive conversation. The work that was done to look at an alternative use for the Thornton stadium and the economic impact that that could bring is a useful piece of information, but it was certainly not part of the evidence that I brought forward with the bill.

I ask Nick Hawthorne to say a little about what is in the financial memorandum about the costs of implementation of the bill and how that relates to the question.

Nick Hawthorne: The financial memorandum looks at costs to other bodies, individuals and businesses. Paragraphs 27 to 29 acknowledge and try to set out some of the potential impacts on Thornton Greyhounds, specifically on full-time staff and potential economic impacts. In relation to what Mr Ruskell said, there is also some information on potential savings—on page 9—which deals with a report entitled "Economic Impact Assessment of Thornton Greyhounds and Alternative Uses". I note that there is a link to that report in that part of the financial memorandum, in case that is helpful.

Rhoda Grant: That would not impact on the staff. The owner could possibly recoup losses through the sale, but that would not—

Nick Hawthorne: The staff impacts have been acknowledged, as I said, and set out to the extent that we understood them. That information was taken from the published company accounts of Thornton Greyhounds and reports of evidence that it has given the committee about its level of staffing. However, as Mr Ruskell said, the understanding is that no racing is happening at the moment, and arrangements may have already been made when it comes to the staff.

Rhoda Grant: They may have already been sacked.

Mark Ruskell: They were part-time staff, I think, and they were probably running facilities at the venue such as bars. However, the greyhound track is not open, and it has not been open for some time.

Rhoda Grant: Okay.

Beatrice Wishart: We know that the Thornton track is not operating at the moment, and we have heard from the Scottish Greyhound Sanctuary that there is a rehoming crisis. The lack of racing in Scotland has not reduced the number of greyhounds; the crisis relates to the churn of dogs that are still coming in from Ireland. Is there a need for more support in the rehoming sector in Scotland in general? Could your bill do anything to support the rehoming sector?

12:00

Mark Ruskell: I do not want to see the rehoming of greyhounds that have had to be rescued from the industry because they have been damaged and face trauma; I want to end that. Those who work in the greyhound rehoming sector want to end greyhound racing as well. They do not want the problem of having dozens of dogs to rehome—and, let us face it, the majority of them come from England, where about 490 trainers are racing dogs. They do not want to have to deal with that trauma or with the rehabilitation of dogs and the extensive veterinary treatment that they require.

If there is a rehoming crisis—and I believe that there is one—it is being driven across the UK by the number of dogs that are being wasted month in, month out. Young dogs at the prime of their life are facing injuries. I read out some testimonies from individuals who have rehomed greyhounds, and they very much accord with my lived experience of doing that.

The way to tackle the rehoming crisis is to end greyhound racing and end the inherent risk. That is what the bill would do in Scotland and it is what the Welsh bill will do in Wales. It is for other jurisdictions to consider—as jurisdictions around the world have done—whether they want to continue with the same numbers of dogs coming through week in, week out. It is heartbreaking. Charities are trying to find forever homes for these dogs, but there are so many. Fundamentally, the way to address the rehoming crisis is to end the need to rehome greyhounds.

Tim Eagle: My question was partly answered earlier. I was going to ask about the Greyhound Board of Great Britain's suggestion that racing would be driven underground. You have touched on that, but I do not know whether we have talked about the risk of moving to other types of racing or other breeds. Do you have any comments on any of that?

Mark Ruskell: There has been no greyhound racing in Scotland for some time and I have seen no evidence of other types of racing emerging as a result, but it would be for the Government, charities and others to continue to review whether there is any kind of displacement. I have not heard any evidence of that and I do not remember the committee hearing substantial evidence of it, but we need to be alive to the possibility.

Perhaps the provision in the bill that alters the definition of the track is the way to address that. GBGB's comments are important, and I have considered the issue of undergrounding, which is, in part, where the provision on the definition of a track comes from. If some other form of unregulated greyhound racing emerges, the Parliament, ministers, charities and those with an interest in animal welfare would want to be alive to the impacts. At that point, there would be a case for amending the legislation, and there is a mechanism for the Government to do that using a statutory instrument.

Tim Eagle: I have taken that into account, but do you think that anything else needs to be included in the bill to allow that to be monitored and to provide an option to make changes if needed?

Mark Ruskell: I am not convinced that there is a case for that.

The Convener: I have a technical question. You are clear that the bill has a tight and focused scope, and you have said that some of the other things that committee members have suggested could be included in it would be outwith its scope. This question might be one for Alison Fraser. The convener has to make some decisions about what is within the scope of a bill and what is outwith it. This bill is not particularly contentious, but decisions will have to be made on other bills that are coming up, including the Natural Environment (Scotland) Bill.

Can you set out exactly what the legal implications are of ruling on what is within and what is outwith the scope of the bill? If amendments are lodged relating to kennelling, licensing or racing on other tracks other than oval tracks, would they be deemed, from the perspective of legal advice, to be within or outwith the scope of the bill, given its tight focus?

Alison Fraser (Scottish Parliament): Ultimately, the decision on scope is for the convener, and I understand that you are advised by the legislation team. As such, that is not something that we would advise on. It would be improper for me to take that role from the legislation team.

The long title of the bill is

"An Act of the Scottish Parliament to make provision prohibiting the racing of greyhounds on racetracks."

It does not say anything else. Long titles are often wider—for example, including the words "and related purposes"—but that is a short and succinct

long title. However, the proper course is for the legislation team to advise you, convener.

The Convener: Thank you very much. That is helpful.

As we have no further questions, I thank Mr Ruskell and those who have supported him in giving evidence this morning.

12:05

Meeting continued in private until 12:25.

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