



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 26 September 2012

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
20th Meeting 2012, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (SNP)

COMMITTEE MEMBERS

*Stuart McMillan (West Scotland) (SNP)

*Anne McTaggart (Glasgow) (Lab)

*Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sarah Boyack (Lothian) (Lab)

Jim Hume (South Scotland) (LD)

Derek Mackay (Minister for Local Government and Planning)

Tavish Scott (Shetland Islands) (LD)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

Committee Room 3

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 26 September 2012

[The Deputy Convener *opened the meeting at 10:00*]

Interests

The Deputy Convener (Kevin Stewart): I welcome everyone to the 20th meeting in 2012 of the Local Government and Regeneration Committee. As usual, I ask everyone to ensure that they have switched off mobile phones and other electronic equipment.

Before we move on to our business, I take this opportunity to thank James Dornan and David Torrance for their contribution to the committee during their membership.

The first item of business is declaration of interests. I ask the new committee members to declare any interests that they might have.

John Wilson (Central Scotland) (SNP): I draw the committee's attention to my entry in the register of members' interests. Given the relevance to this committee's remit, I declare that my wife is an elected member of North Lanarkshire Council.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have no interests that are relevant to the committee's business.

Stuart McMillan (West Scotland) (SNP): I have no relevant interests.

Convener

10:01

The Deputy Convener: Agenda item 2 is choice of convener. The Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of the committee. I seek nominations for the position.

John Wilson: I nominate Kevin Stewart.

Kevin Stewart was chosen as convener.

The Convener (Kevin Stewart): Thank you very much. It is a great honour to serve as convener.

Deputy Convener

10:01

The Convener: We move to agenda item 3, which is choice of deputy convener. Only SNP members are eligible for nomination. I seek nominations for the role.

Stewart Stevenson: I nominate John Wilson.

John Wilson was chosen as deputy convener.

European Union Reporter

10:02

The Convener: Item 4 is consideration of a clerk's paper on the appointment by the committee of a European Union reporter. The paper sets out the reporter's role as part of the Parliament's agreed process for the scrutiny of EU legislation. Following my election as convener, I have decided to relinquish the post of EU reporter for the committee and, as a result, we must now appoint a new reporter. I seek nominations for the position.

John Wilson: I nominate Stuart McMillan as EU reporter for the committee.

The Convener: Stuart McMillan has been nominated. Are members agreed?

Members *indicated agreement.*

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 2

10:03

The Convener: The next item is stage 2 consideration of the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

John Pentland (Motherwell and Wishaw) (Lab): Before we move to consideration of the bill, convener, I wish to raise a point of order about the fact that certain information has not been provided to allow me to examine this legislation with the deep thoroughness that such a bill richly deserves. As a result, I have had to lodge amendments without having the full facts. I hope that in future such information will be made readily available when Parliament sets the timing for scrutinising the bill.

The Convener: First of all, there is no such thing as a point of order in committee. As for the issue in question, we have already said that we will write to the minister on the timing for receiving certain information. I am quite happy to do that and to say so on the record. Again, however, I make clear that that is not a point of order.

John Pentland: That decision was made in private, so I raised that point of order so we could get it on the record.

The Convener: Thank you, Mr Pentland. For the record, as I said, I will write to the minister on behalf of the committee about the timing of the information that we have received.

We move on to consider the bill, which we will take in the following order: sections 1 to 6; and then the long title.

Section 1—Rating of unoccupied lands and heritages

The Convener: The first group is on non-domestic rates: treatment of premises undergoing renovation. Amendment 15, in the name of Margaret Mitchell, is the only amendment in the group.

Margaret Mitchell (Central Scotland) (Con): Amendment 15 takes account of the fact that, currently, domestic properties that are undergoing renovation are exempt from council tax for the period during which they are uninhabitable and unoccupied due to renovation. That is provided by paragraph 2 of schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997, which exempts a dwelling that is

“incapable of, and is not, being lived in because it is being structurally repaired, improved or reconstructed.”

Paragraph 9 of schedule 3 of the Local Government (Scotland) Act 1966 gives some protection to buildings that are being improved by the owner and are thereby rendered temporarily unsuitable for occupation. However, it is unclear about the extent to which that covers non-domestic properties that are undergoing renovation and for which there is unlikely to be a determined date on which the renovation of the building is completed.

The amendment seeks to clarify the position regarding non-domestic properties undergoing renovation, to ensure that they receive the same relief as domestic properties in similar circumstances.

I move amendment 15.

The Convener: As no one else wishes to enter the debate, I invite the minister to speak.

The Minister for Local Government and Planning (Derek Mackay): Thank you, convener, and congratulations to you and to your deputy convener on your new posts.

Amendment 15 seeks to give premises that are undergoing repair, improvement or reconstruction a complete rates exemption. I understand Ms Mitchell's intention but, at best, all that her amendment would do is make tax avoidance easier, because an owner would simply need to start a renovation project and never complete it in order to enjoy a permanent rates exemption. At worst, the amendment could create a tax incentive for the owner of an unoccupied property to put it into a state of disrepair rather than to try to bring it back into use.

I urge Ms Mitchell to think again and not create a tax-avoider's charter. Failing that, I recommend that members of the committee recognise the significant flaw and reject it.

Margaret Mitchell: The minister has confirmed that commercial properties that are uninhabited while they are undergoing renovation will be treated differently. For that reason, I will press the amendment.

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Mitchell, Margaret (Central Scotland) (Con)

Against

McMillan, Stuart (West Scotland) (SNP)

McTaggart, Anne (Glasgow) (Lab)

Pentland, John (Motherwell and Wishaw) (Lab)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

Stewart, Kevin (Aberdeen Central) (SNP)

Wilson, John (Central Scotland) (SNP)

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

Amendment 15 disagreed to.

The Convener: The next group is on restriction of power to increase non-domestic rates: exclusion of certain unoccupied public sector buildings. Amendment 16, in the name of Anne McTaggart, is the only amendment in the group.

Anne McTaggart (Glasgow) (Lab): Amendment 16 concerns the power to increase non-domestic rates and the exclusion of certain unoccupied public sector buildings.

The concern behind the amendment arose because some of the evidence that the committee took suggested that the bill would end up costing local government more money. I am sure that the minister will be able to inform us of his thinking in that regard.

Part of my concern is that it was stated that the change would cost Glasgow City Council £1 million. My other concern is that the Government has failed to think about the effect that the change will have on the health authorities. I asked the Government a question on that in August, but I have not received a reply yet. I would like the minister to fill us in on that.

Just because a building is empty at present does not mean that it cannot be used again. We find evidence for that in Glasgow City Council's regeneration policy. However, the council would not be able to use buildings again if it was forced to demolish properties or sell them on.

There is no strategic thinking from the Government on this issue. It must realise that the change will be an extra tax on local government and the national health service and that that is a huge concern.

I move amendment 16.

Margaret Mitchell: I have a lot of sympathy for the intention behind amendment 16, but it appears to me that what it proposes would mean unequal treatment for properties that are under local authority or health board control. For that reason, I would have some difficulty in supporting amendment 16.

Stewart Stevenson: I wonder whether in her summing up the member might give the committee some more information about the situation in Glasgow. The figure of £1 million as a cost was suggested, but that would lead one to the rough conclusion that properties worth about £100 million in Glasgow City Council's control are not currently occupied. I wonder whether the member could confirm that, because it seems a large number indeed for Glasgow to hold.

Derek Mackay: Amendment 16 from Anne McTaggart seeks to protect the NHS and councils from change to relief for empty properties. However, regardless of whether a property is in the public or the private sector, the owner or landlord should be encouraged to bring it back into use.

Furthermore, the impact of changes to empty property relief will be minor compared with the significant resources that councils and the NHS were given in the 2013-14 budget. I have given these figures before but, for clarity, for 2013-14 we estimate that the impact of the changes for councils will be up to £1.7 million in increased rates against total funding of around £10 billion. For the NHS, the impact will be up to a maximum of £300,000 against a funding package of around £12 billion.

Protecting the public sector from taxation in the way that amendment 16 proposes may also fall foul of state aid rules as, in certain instances, the public sector could be in direct competition with the private sector. I am unclear whether Ms McTaggart has given that point due consideration.

I urge Ms McTaggart not to press her amendment. Failing that, I recommend that committee members reject it.

The Convener: Thank you, minister. I ask you to wind up, Ms McTaggart, and to press or withdraw amendment 16.

Anne McTaggart: I press the amendment.

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 16 disagreed to.

The Convener: The next group is on restriction of power to increase non-domestic rates and council tax: wilfully unoccupied properties. Amendment 11, in the name of Margaret Mitchell, is grouped with amendments 13 and 14.

10:15

Margaret Mitchell: Amendment 11 goes to the heart of what we were told that the bill seeks to achieve, that is, the penalisation of owners who do not actively market empty properties. It would ensure that the bill targeted only properties that had been

“wilfully left unoccupied for a period exceeding 10 years.”

The approach would ensure that people who are genuinely trying to lease properties would not be punished because of the lack of demand for commercial property in the current economic climate.

The amendment would enable properties that are left empty because of a lack of demand to be distinguished from properties that have been “wilfully left unoccupied”—there are such properties throughout Scotland—by providing that the following matters should be taken into account:

“(a) how often the lands and heritages have been advertised for sale or let;

(b) how often offers to buy or let the lands and heritages have been made and the reasons why such offers have not resulted in the lands and heritages being occupied;

(c) the state of repair of the lands and heritages; and

(d) any other steps taken by the person entitled to possession of the lands and heritages to encourage occupation of the lands and heritages.”

I understand that that is what the bill seeks to achieve and what the minister told us that it would achieve. Amendment 11 would ensure that the bill did what it said on the tin.

Amendments 13 and 14 would apply the principle of wilful unoccupation to council tax, by preventing the Scottish ministers and local authorities, respectively, from increasing the council tax that is applicable to unoccupied domestic properties by reducing rates relief, unless the property was wilfully unoccupied for the reasons that I have set out.

I move amendment 11.

John Pentland: Amendment 11 goes against the spirit of the bill and would be unworkable in practice. Ten years is far too long. If there was a short occupancy within the 10-year period, would that reset the clock? Perhaps Mrs Mitchell will advise on that when she sums up.

Stewart Stevenson: The member appears to want to subsidise the withdrawal of assets from use. Like John Pentland, I think that that goes very much against what this short bill seeks to do. I am surprised that an amendment couched in such terms should be lodged by a member of a party that, in many other contexts, seeks to embrace the market with such vigour. It would be straightforward to avoid wilfully keeping something

from the market by deciding that the price should be three times what the market determines.

The bill gives modest encouragement to people to establish the real value of a property in the market and do something about unoccupied properties. That will contribute to economic activity in Scotland. I strongly urge the member not to press amendment 11.

John Wilson: Like Stewart Stevenson, I have some concerns about Margaret Mitchell’s amendments, particularly in relation to the issue of who would monitor whether properties had been “wilfully left unoccupied” and whether it would add an extra burden on local authorities to check regularly through the various records what steps were being taken by the owner of a property or land to ensure that the land was being brought into full constructive use. Perhaps Margaret Mitchell could respond to that when she sums up.

Derek Mackay: The Scottish Government does not support amendments 11, 13 and 14. I welcome the fact that Margaret Mitchell at least acknowledges that something should be done to tackle empty properties in some cases. However, it is not acceptable for owners to leave property lying empty for 10 years, blighting the local community. By limiting increases in charges for non-domestic rates and council tax to premises that have been empty for more than 10 years, we are simply kicking the problem into the long grass. We need to get those properties back into use, for example by encouraging community groups and others to bring empty commercial properties back into use. That is essential to the work that I am progressing through the proposed community empowerment and renewal bill.

Amendments 13 and 14 would mean that for 10 years houses could sit empty and falling into disrepair—a wasted resource—while throughout Scotland there is a shortage of houses for people to live in. There has been widespread support from stakeholder organisations for allowing councils to charge a council tax increase after homes have been empty for more than one year and general support for giving owners who are trying to sell or let their homes an extra year before they would pay any increase.

Even in this difficult economic climate, we believe that two years gives those who are really trying to sell or let their home sufficient time to do so. It certainly should not take 10 years. Even the coalition Government’s new empty homes premium on council tax in England can be applied to homes that have been empty for two years or more. Furthermore, Ms Mitchell seeks to create numerous get-out clauses, which will be burdensome for councils to administer and may lead to tax avoidance.

We have concerns that it could be extremely difficult on a practical level for councils to prove that a home or property has been “wilfully left unoccupied” for a whole 10-year period. The factors given for councils to take into account are quite subjective. It would require a lot of investigative work from councils to try to find evidence going back years and would leave owners easily able to challenge a council’s decision.

I therefore ask Margaret Mitchell not to press the amendments to ensure that the powers in the bill still have sufficient teeth as a tool to encourage owners to bring their properties back into use. If she does not do that, committee members should acknowledge the need to tackle empty homes and business premises now, not in 10 years’ time, and reject amendments 11, 13 and 14.

Margaret Mitchell: I will take some of the points in order, more or less. To answer John Pentland’s question, the 10 years would be continuous.

On Stewart Stevenson’s comment, if the rent being requested was three times the market value, that would be covered in reasons why it was not possible to lease out the property, which would help to prove that the property was being wilfully left empty.

The minister’s comments are the kind that put politics into disrepute. We are considering a bill that was fairly shambolic at stage 1 and not much better at stage 2. This is a genuine attempt to deliver what the bill could do to have some value. My preference, which was well stated at stage 1 and in my support of Jim Hume’s amendment, is that in this economic climate we should not be considering at all legislation that will clobber business and private landlords, who are already struggling.

Amendment 11 seeks to make the best of a very bad job. To respond to the minister’s other points, there most certainly are properties in town centres up and down the country—everyone will be aware of them—that have been empty in excess of 10 years. Why 10 years? It is quite clear that nothing has been done about such properties since way before we fell into the dire economic straits that we are in now, so 10 years seems like a reasonable period to specify in the amendment.

If the minister is not aware of the issue with homes, he should be and his constituents certainly will be. Up and down the country, homes are being allowed to deteriorate and fall into disrepair, often with the object of getting planning permission where it could not be gained otherwise. It is entirely reasonable that those responsible should be hit with the kind of penalty that the bill proposes.

Amendment 11 seeks to do exactly what the minister is telling us that the bill will do, but which it will not achieve. As it stands, all that the bill will do is clobber businesses and public and private sector owners when they are already facing challenges.

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Mitchell, Margaret (Central Scotland) (Con)

Against

McMillan, Stuart (West Scotland) (SNP)

McTaggart, Anne (Glasgow) (Lab)

Pentland, John (Motherwell and Wishaw) (Lab)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

Stewart, Kevin (Aberdeen Central) (SNP)

Wilson, John (Central Scotland) (SNP)

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

Amendment 11 disagreed to.

The Convener: The next group is on power to increase non-domestic rates for unoccupied properties: consultation and procedure. Amendment 17, in the name of John Pentland, is grouped with amendments 18, 19, 2 and 3.

John Pentland: The bill mostly gives powers to the minister. We are being asked to put our faith in the minister, and to trust him to do the right thing. However, that is not why we are in Parliament and it is not why our constituents put us here. They expect us to scrutinise the Scottish Government’s actions. It is the committee’s responsibility to examine and question legislation that gives powers to ministers, and to examine and question how those powers are used.

To do that, Parliament needs the opportunity to assess and debate secondary legislation, particularly when so much of the impact of a bill will be determined by the regulations that are issued by ministers. We need to have a proper business and regulatory impact assessment of the bill, not just a consultation before the bill followed by the minister’s ad hoc promise of further consultation before regulations are issued.

Amendments 17 to 19 are designed to ensure that, before the powers are used and before regulations are issued, the proposals come back to Parliament, and we will have the information that we need to make a careful and considered judgment on them. Without parliamentary consideration of proposed regulations, based on a proper assessment of their potential impact, there is a significant danger that section 1 of the bill will

do more harm than good. We should not take such a risk.

I move amendment 17.

The Convener: I call Sarah Boyack to speak to amendment 2 and the other amendments in the group. Welcome to the committee, Ms Boyack.

Sarah Boyack (Lothian) (Lab): Thank you, convener, and thank you for letting me contribute to the debate. It is very clear that the problem with the bill is the way that it has been handled and the lack of robust information to underpin such crucial measures. We are not in principle against changing reliefs for non-domestic rates, but major problems resulted when that was done in England—there were demolitions and other unintended consequences. When the bill was introduced, we decided that we would test it. We want to see the information.

The response to the committee's statement on principles came after the stage 1 debate, and information from the minister arrived last night, after our opportunity to lodge amendments. That is not good parliamentary process.

10:30

The amendments that John Pentland and I lodged are about giving the minister another chance. We are saying that we are not necessarily against the proposals but we must be aware of the economic situation, and without proper testing the proposals could make the situation worse. We are not necessarily against putting the proposals on the statute, as long as there is a process whereby a minister who intends to vary reliefs is required to lay a formal report before the Parliament, which can be tested by the people whom the variation would affect and by anyone else.

Local authorities and businesses have criticised the proposals, and if there is no proper business and regulatory impact assessment, and no consultation or report to the Parliament, the proposals will be pushed through at speed by the minister, without due consideration, which will cause major problems for the business community.

There is a way round that. John Pentland and I have offered different solutions to the minister. Mine is tough. It is that before the minister gets the powers he must undertake a BRIA and lay an order before the Parliament. John Pentland's solution is slightly softer and more consensual; it would give the minister the powers but require that before they were exercised and a statutory instrument was laid, the minister would have to go through a consultation and report on it to the Scottish Parliament.

I feel even more passionately about the issue in the light of the response from the minister and his officials. I hope that the amendments will be regarded as constructive. I repeat that we are not, in principle, against varying reliefs on non-domestic rates. However, in the current economic climate, and given the evidence from England and the robust contributions from people from the business community and local authorities, now is not the time to introduce such provisions, particularly without a BRIA.

We did not use the term "business and regulatory impact assessment" in our amendments, because the parliamentary drafters told us that such a term does not exist in statute. The drafters helpfully tried to capture the spirit and intent of a BRIA, and I think that they did that effectively.

I very much support John Pentland's suggestion that instruments that deal with such issues should be subject to the affirmative procedure. If the provisions are agreed to without amendment, the minister will be able, as soon as he likes, to make a statutory instrument to give them effect.

On the housing side, there has been a consultation and people have been allowed to comment—even then, I think that the closing date for the consultation on the proposed statutory instruments in that regard is 5 October. There are no such safeguards in relation to the non-domestic rates element, which is fundamental to the bill and to whether we can support the proposals.

Minister, I hope that you will agree to amendments 2 and 3, in my name. If you do not do so, I will be more than happy if you agree to John Pentland's amendments 17, 18 and 19, which would provide the caveat that we need before we can support the proposals.

Stewart Stevenson: There seems to be a lamentable failure to understand the parliamentary process and the role of committees. I am astonished by that, given that Ms Boyack has even more experience in the Scottish Parliament than I have—John Pentland I forgive, because of his comparative inexperience. The idea that a negative instrument is not subject to parliamentary scrutiny is bizarre—

Sarah Boyack: I did not say that.

Stewart Stevenson: When I was a minister, I had four such instruments rejected by the Parliament in session 3. All that a member requires to do is lay a motion that nothing further be done under the instrument—that is the formal terminology—and the Parliament can then scrutinise the negative instrument exactly as is required.

Underlying the amendments that we are considering is something much more fundamental—an attack on the integrity of the parliamentary committee system. It is precisely the role of committees to pick up matters of concern such as we are presented with today.

Of course, I am not astonished that Labour members have made these comments. Only this week, Lord Foulkes, late of this place, suggested in essence that the committees' role be diminished and much of their work taken away to an unelected body 400 miles to the south—the House of Lords. Quite frankly, the proposal runs entirely against the role of committees in the Parliament and I will vigorously oppose any of the suggestions that we have heard from the two Labour members who are speaking to amendments today.

Margaret Mitchell: Following Stewart Stevenson's pompous comments, I have to say that I am a little bit sympathetic to amendments 17 and 18. It is only reasonable that if one feels that a matter is important enough one should suggest that the affirmative rather than the negative procedure be followed. I believe that that is what lies at the heart of John Pentland's amendments.

Derek Mackay: I note Sarah Boyack's amendments 2 and 3, which seek to require that a consultation and business and regulatory impact assessment be carried out before section 1 can come into force. I will discuss those amendments together with amendments 17 and 18 in the name of John Pentland, which seek to require the use of affirmative procedure for the first set of regulations, and amendment 19, which seeks to require consultation before those regulations are made.

The Government's policy on reform of empty rates was originally announced a year ago as part of the 2011 draft budget. Subsequent to that, I have met and listened to a range of stakeholders, as has the committee. Throughout the process I have made it very clear that I will be flexible and listen to all constructive suggestions. That is why I was happy to take on board Mark McDonald's suggestion that we look at introducing the sort of relief scheme that is in operation in Northern Ireland and why I have lodged an amendment that, if agreed to, will enable me to create similar new incentives. We will discuss that amendment later but Ms Boyack should note that I have taken on board her colleagues' suggestions to adapt this relief scheme to help smaller businesses. The Government now needs to prepare and introduce regulations and, when it does so, the committee will have yet another opportunity to scrutinise the proposals.

Amendments 17 and 18, in the name of John Pentland, seek to require the first regulations

made under amended sections 24 and 24A of the 1966 act to use affirmative procedure. I remain unconvinced by Mr Pentland's arguments. The Subordinate Legislation Committee raised no issue with the use of negative procedure for regulations made under those sections. The regulations deal with comparatively straightforward matters such as the percentage of relief to be given and the classes of property to which the percentage applies, and the amendments would attach a more onerous procedure to the regulations than their content justifies, especially as most other rates regulations are made under negative procedure—as indeed were changes that were made by previous Administrations. I therefore urge Ms Boyack and Mr Pentland not to press their five amendments and, if they press them, I urge members to reject them.

Reference has been made to the fact that the policy was introduced in 2008 by the then Labour Government, which was followed by the Conservative-Liberal Government. This Administration has learned many lessons from the application of that policy and, indeed, has refined its policy to reflect that. We will continue to consult; we do not require the legislation to be changed to compel us to do so. After all, we have taken that very approach throughout our handling of the bill.

John Pentland: First of all, I will press my amendments to the vote.

Mr Stevenson said that he forgave me because of my newness to the Parliament, but I point out that I have a wealth of experience in debating with Opposition members. In fact, I believe that Mr Stevenson himself has missed the point completely. My amendment seeks to protect the committee and to allow it to scrutinise things. When I first came to Parliament, my understanding was that committees were to be consensual and that their role was to scrutinise reports, the Government and so on. Mr Stevenson has failed miserably to realise that my amendments would strengthen the committee's role.

I ask committee members to think seriously about supporting the amendments, because they will bring back to the committee the scrutiny role that it should play rather than giving power away to ministers.

The Convener: The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 17 disagreed to.

The Convener: The next group is on non-domestic rates: reason for different treatment of unoccupied industrial premises. Amendment 12, in the name of Margaret Mitchell, is the only amendment in the group.

Margaret Mitchell: Amendment 12 is a probing amendment that seeks to provide more of an explanation for why industrial premises are deemed to be a special case and therefore exempt from the non-domestic rates relief proposals. Essentially, the amendment requires that the minister must provide an explanation to that effect.

I move amendment 12.

Derek Mackay: Margaret Mitchell's amendment 12 would require an explanation of any different treatment that is produced by changes that affect retail premises but not industrial premises. The amendment is unnecessary, as any regulations that the Government introduces would be subject to parliamentary scrutiny.

However, I am happy to confirm to Margaret Mitchell that this Government—unlike the United Kingdom Government—intends to continue to provide 100 per cent relief for industrial property, which is a measure that has been widely welcomed. She will, of course, be aware that her colleagues in the UK Government reformed empty property relief in England in 2008, an action that they have said is unaffordable to reverse. She will know that we have sought to learn from the English experience in which some industrial premises were deroofed, and we are protecting industrial premises from such changes as have been undertaken in England.

I note with interest that Ms Mitchell mentions only retail and not any other type of property.

Margaret Mitchell: In that long-winded explanation, the minister failed to provide the information that was sought. I will withdraw the amendment in the hope that by stage 3 he will have had time to think about the matter and come up with some explanation for why those properties are treated differently.

The minister mentioned deroofing, but—as he should know—the Lambert Smith Hampton report that was published by the Royal Institution of

Chartered Surveyors mentioned demolished premises and covered all sectors, not just industrial premises. I am at a loss to know from the minister's explanation—even at this stage—why industrial properties have been singled out. Perhaps we will get more of an explanation at stage 3.

Amendment 12, by agreement, withdrawn.

Amendment 18 moved—[John Pentland].

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

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 18 disagreed to.

Amendment 19 moved—[John Pentland].

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

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 19 disagreed to.

10:45

The Convener: The next group is on non-domestic rates: treatment of previously unoccupied premises. Amendment 5, in the name of the minister, is the only amendment in the group.

Derek Mackay: Amendment 5 will allow the Government to create further incentives to encourage long-term empty non-domestic premises back into use. Throughout the bill process, I have said that I will listen to and consider any reasonable proposals that will help to address the problem of empty properties.

I am grateful to Mark McDonald, who in June made Parliament aware of a relief that is operating in Northern Ireland for new occupation of empty shops. I see significant merit in it and have discussed with stakeholders how it could be adapted for Scotland and something similar could be introduced.

I intend, subject to parliamentary approval of amendment 5, to introduce regulations that will create a new 50 per cent rates relief for new occupation of some premises that have previously been empty for at least 12 months. I intend that that relief will be available for potentially hundreds of properties from April next year. I remain flexible on the final details, but I noted suggestions during the stage 1 debate from some members—including Anne McTaggart—that any concessions should consider smaller businesses. As such, I intend to focus the new relief on smaller offices and shops by making it available only to premises that have a rateable value below a specified amount.

We have only a fixed budget at our disposal, but we would seek to contain the costs of the relief within the margins of the overall business rates income estimates, which will amount to approximately £2.4 billion in 2013-14.

Taken together, the original proposal to increase rates for landlords of empty premises and the new incentive to help them to attract tenants create a package that will help to get empty premises back into use. I urge the committee to support the amendment.

I move amendment 5.

John Pentland: I have a couple of questions. The minister said that the costs would be met within the margins. Would those costs outweigh the £18 million that it is anticipated the bill will bring in?

The Convener: Mr Pentland, you can ask all your questions and the minister will deal with them in summing up.

John Pentland: That is fine—one question will do.

Sarah Boyack: Will the minister outline what type of properties he envisages being given the relief? He mentioned shops and offices, but what about other types of potential high-street uses—for example surgeries, opticians or small business workshops? Does the minister intend to

differentiate between different types of small businesses, or is the proposal intended to address the concerns of the retail industry?

The matter is important because there could be unintended consequences, with some types of properties being completely blighted and others being supported. That goes back to John Pentland's question about the potential for robbing Peter to pay Paul. It would be good to see detail on how the minister thinks the scheme will work in practice.

Derek Mackay: To answer the questions on that figure directly, we propose that shops and offices that currently have a rateable value of less than £45,000 would be able to apply, which would achieve the purpose of targeting the relief on smaller properties.

On that basis, we suggest that the costs would not be above a maximum of £2 million. However, because the status of properties can change depending on the tenant, what they may be eligible for and so on, it is complicated to arrive at a figure. In our current proposals, there would be a maximum cost of £2 million, which fits within the financial envelope of the £2.4 billion that will be raised from non-domestic rates.

On Sarah Boyack's question, we remain flexible and we are designing the regulations—I am talking about the enabling power to make regulations. We are more than happy to listen to suggestions about constructing and defining the power so that it does not have unintended consequences.

Key stakeholders have welcomed our approach; I will go back to them and ensure that we get the policy right, so that we achieve the purpose of regenerating properties throughout Scotland, particularly in our high streets, by offering a financial incentive to people to bring empty properties back into use. We have taken a consensual and constructive approach in arriving at our decision, and we think that the policy is perfectly affordable.

The Convener: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 5 agreed to.

The Convener: The next group is on introduction of power to increase non-domestic rates for unoccupied properties. Amendment 1, in the name of Jim Hume, is the only amendment in the group.

Jim Hume (South Scotland) (LD): Amendment 1 would delete section 1, thereby removing the provisions that will allow the Scottish Government to alter the level of non-domestic rates relief for empty property, and would therefore maintain the current scheme, in which empty commercial properties benefit from 50 per cent non-domestic rates relief, after an initial three-month period during which they get 100 per cent relief.

The Scottish Government said that section 1 will encourage owners to let properties. I argue that if amendment 1 is not agreed to, the bill will encourage owners not to invest in new commercial property and might encourage some owners to take properties down or convert them to residential properties, thus causing a shortage of commercial properties, which are needed to help Scotland out of recession.

Our reducing non-domestic rates relief will do nothing to encourage letting of commercial properties. It is in the interests of businesses to let their properties—that is good business. Businesses have, when their commercial properties are not let, liabilities including electricity, security and maintenance costs. I think that all members received a letter from a property company that pointed out that whether or not a building is fully occupied, the company continues to bear the costs of management services, reception services, cleaning, buildings insurance and so on. That is an incentive to let a property; raising taxes on businesses discourages enterprise.

That is not just my opinion. The Confederation of British Industry Scotland said that the provisions represent a “tax on distress” and the Scottish Property Federation said that empty commercial properties are more likely to be a sign of economic conditions than a sign of business owners’ decisions. Scottish Chambers of Commerce said that our town centres need “a more healthy mix” of commercial properties, and that the increase in liability

“will do nothing to assist this process”.

The Government would have known that—if it had consulted earlier and more fully. The lack of formal consultation or business and regulatory impact assessment has led to conflicting information.

The bill will have unintended consequences for the public purse, as well as the private purse. The Finance Committee estimated that up to 870 council properties might be affected.

The Government says:

“Reform of empty property relief will provide incentives to bring vacant commercial premises back into use and raise additional revenue for the Scottish Government.”

However, there is no evidence that empty properties here or elsewhere will be filled—indeed, the evidence is to the contrary. There is evidence only that there will be additional revenue for Government. The bill is ill thought out.

We talk of actions for jobs and growth; amendment 1 is such an action. I urge the committee to support it. Let us have a Scotland that promotes business and enterprise as a serious matter, rather than penalises it.

I move amendment 1.

Margaret Mitchell: I am happy to support amendment 1. As Jim Hume said, commercial properties are empty because of the lack of demand for them. In rejecting the amendments that related to commercial properties that are wilfully left empty, the Government exposed the real intent behind the bill: it is a tax-raising measure. The bill will clobber businesses, against the advice of and warnings from the whole business community, from the CBI to the Scottish Chambers of Commerce and the Scottish Property Federation—the list goes on. The Government and the minister have quite simply refused to listen. In the circumstances, I am happy to agree that section 1 should be removed, so that businesses do not face more hardship. As the CBI said, the proposals represent a “tax on distress”.

Anne McTaggart: If the Government had supported amendment 19, we would not be supporting amendment 1. Labour has made compromises at every stage to make section 1 workable. We have been constructive, but the minister has turned his face against us at every turn. The Government is not interested in working collaboratively with the Opposition, as was clear from the new committee member’s outburst earlier in the meeting and as has been apparent throughout today’s debates. Government ministers and back benchers are not interested in working with us. For that reason, we will support Jim Hume’s amendment 1.

Stuart McMillan: During the past two or three years, I have met constituents who have had great difficulty trying to lease properties, and who have been told that the company or individual who owned a property did not want to lease it because that would be a short-term measure that was not in their financial interests. I listened to what Jim Hume said, but I have examples of cases that

demonstrate that the current situation, which amendment 1 would maintain, is not working. I will vote against amendment 1.

Derek Mackay: I was disappointed to see amendment 1, which would delete the non-domestic rate provisions in the bill. Mr Hume has been unimaginative. How do we tackle empty premises that blight high streets? His answer is to do nothing.

Throughout the process I have made it clear that I am flexible and will listen to constructive suggestions. If Mr Hume had offered a better solution, I would readily have listened to it. However, amendment 1 is not constructive. The critical point is that it offers no solution to the problem of empty premises that blight town centres. It would also create an £18 million shortfall in each budget year—of course, Mr Hume voted for the budget.

To bury our heads in the sand, as Mr Hume would have us do, is not an option. I urge Mr Hume not to press amendment 1. Failing that, I urge members of the committee to reject it.

Members should not take just my word for it. The Government has discussed the proposals with a number of stakeholders, including the Association of Town Centre Management, which appreciates that the policy could be effectively deployed locally. Mr Hume and Margaret Mitchell might want to reflect on their Government's position; the UK Government said in its command paper that to reverse the policy would be unaffordable. There is no evidence that what Mr Hume talked about would happen.

Labour is in a curious situation if it is arguing that free education, free prescriptions and the council tax freeze are unaffordable, but subsidising landlords to keep premises closed is affordable. That seems strange to me.

This committee and other committees have suggested a number of amendments that the Government has taken on board as we considered how to refine and improve the bill. The Government has lodged a number of amendments that reflect consideration at stage 1. We will consider such amendments shortly, and they will show that the Government has been listening. However, I reject the "Just don't do this" approach from the Liberal Democrats.

11:00

The Convener: We would normally move straight from the minister to the member's summing up, but I will be lenient and let Sarah Boyack in on this occasion if she keeps her comments brief.

Sarah Boyack: I am grateful, convener.

In our view, we have tried to be constructive by saying, "Give us the evidence, and let us have some proper testing." In the chamber debates and in committee, after members have read the evidence, there have been major criticisms of the bill's potential impact. Without a proper business and regulatory impact assessment, it is simply not possible to test the legislation before it is passed.

Only a couple of weeks ago in the chamber, the minister spoke about the extensive consultations that he had directly with businesses during the summer. The problem for us, in coming up with amendments and in debating and testing the legislation in committee, is that that information is not in front of us. Only the minister has had those conversations.

As none of that information has been published, the process is not transparent, so we cannot make a judgment on the legislation. All that we can do is test what we have in front of us. We do not have a proper BRIA, so there is not the robust evidence behind the bill that we are seeking.

The Convener: I will let the minister respond to those comments.

Derek Mackay: On the question of carrying out a BRIA, would it have been okay to have ticked a box earlier at the time of the budget announcement and to have left it at that? Instead, we have continued to hold an effective dialogue with all our stakeholders on how the policy could be applied, and have refined our policy as a consequence. In many ways, that is better than a BRIA.

We have provided the financial assessments that have been requested—those have been in the public domain for some time—and I have supported further requests for information. We have also complied with parliamentary scrutiny. We have had on-going consultations, and we will continue to do so as we return to the committee with the regulations that the Government seeks to introduce. That is quite comprehensive engagement.

The Convener: I ask Mr Hume to sum up and to press or withdraw amendment 1.

Jim Hume: I do not agree with Stuart McMillan's views. Perhaps some commercial property owners have not let properties to potential tenants, but we would have to look into the individual reasons for that. I find it difficult to believe that the situation that Stuart McMillan outlined would be the only reason. If someone lets a property, they will take over all the responsibilities and variable costs, so it would be far more in the interests of owners to let their commercial properties.

The minister stated that my view is that it is better to do nothing. My view is that we should maintain the current scheme, which is not doing nothing. The minister said that there is no evidence, but we have evidence. If we look at what has happened down south, we can see that there has been a 15 per cent increase in empty commercial properties in the past four years since the change was made in England.

We are all elected to represent the people of Scotland and to learn from other places. That is what I am doing, and I am prepared to press amendment 1.

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 1 disagreed to.

Section 1, as amended, agreed to.

After section 1

The Convener: The next group is on guidance on minimum state of repair below which non-domestic rates and council tax are not payable. Amendment 20, in the name of Margaret Mitchell, is grouped with amendment 23.

Margaret Mitchell: Amendments 20 and 23 reflect concerns that Scottish Land & Estates expressed to the committee about long-term empty properties that are classed as dwellings, but which are not suitable as modern homes. Scottish Land & Estates called on local authorities to be more realistic about removing properties from the council tax register. Uninhabitable ruins, which could not be made habitable, are currently on the register.

In essence, amendment 20 would ensure that the minister will issue guidance on the kind of properties that should be on the valuation roll. I note that the housing minister said that such an approach would not be appropriate. However, amendment 20 is a probing amendment, to ascertain whether anything can be done. I accept that it is for the assessor to decide whether a home should be on the register, but the minister

could give guidance or direction on properties such as we are talking about. There are many properties that have no possibility of being made habitable, and it is time consuming for assessors to consider them. Guidance would be welcome. Amendments 20 and 23 would apply in relation to non-domestic rates and domestic properties respectively.

I move amendment 20.

Derek Mackay: I cannot support amendments 20 and 23. It would not be appropriate for the Government to give guidance to assessors, and assessors have not asked for such guidance. Assessors are independent of the Scottish Government and councils. To issue guidance to them would be to undermine their autonomy in determining whether a property should be included in the valuation roll.

Ms Mitchell's proposed approach risks confusing, rather than clarifying, assessors' work. Practice and case law play their part in determining whether a property should be included in the valuation roll, and it is not clear what place guidance would have in that landscape. Ms Mitchell has not proposed that assessors be legally required to have regard to guidance, so assessors might legitimately be uncertain about what weight, if any, they should give to guidance.

The only people whom Ms Mitchell's approach might help would be people who were trying to avoid tax. The guidance could be treated as a manual on how to vandalise one's property in order to avoid paying tax. I encourage Margaret Mitchell to seek leave to withdraw amendment 20 and not to move amendment 23.

Margaret Mitchell: I am continually amazed, minister, by the difference between your rhetoric about your intention always to be helpful, and your responses, which are often pre-prepared and do exactly the opposite. We are no further on with my probing amendment, which addresses a real issue. Perhaps we can make progress at stage 3. I will not press amendment 20.

Amendment 20, by agreement, withdrawn.

Section 2—Council tax: variation for unoccupied dwellings

The Convener: The next group is on council tax: restriction on level of increase for unoccupied properties et cetera. Amendment 6, in the name of the minister, is grouped with amendments 21, 7 and 7A.

Derek Mackay: Amendments 6 and 7, in my name, are designed to deal with concerns that the Subordinate Legislation Committee expressed, which were noted in the stage 1 report. The amendments will ensure that the bill places a limit

on the Scottish ministers' discretion to set the amount of council tax increase through regulations. If amendments 6 and 7 are agreed to, regulations will not allow councils to impose on owners a council tax increase of more than 100 per cent, which is equivalent to double the standard rate of council tax.

The Scottish Government does not support amendments 21 and 7A. We intend to give councils the flexibility that they need to set the council tax increase at a high enough level to encourage owners to bring empty homes, which are wasted assets, back into use as houses for people who need them.

We received widespread support for a 100 per cent increase in the consultation on our proposals. No one suggested that the increase should be capped at 50 per cent—indeed, a few people suggested that it should be higher than 100 per cent.

Councils would still be able to set a level of increase at lower than 100 per cent if they felt that that would be appropriate in their area and in line with local circumstances and pressures. The committee welcomed the Scottish Government's intention to give councils discretion so that they can adapt to their local situations. Setting the cap lower, at 50 per cent, would reduce that discretion.

The Government amendments include some minor changes to section 2. Amendment 6 clarifies that regulations that are made as a result of the bill will allow councils the broad discretion to offer council tax discounts, to offer no discount or to charge an increase. That will remove the existing provision, which could be used to allow councils to decide not to apply the regulations in their areas. Given the flexibility that councils will be given through the regulations, which I have just described, that provision has been overtaken.

I therefore urge the committee to support amendments 6 and 7 and to reject amendments 21 and 7A.

I move amendment 6.

Anne McTaggart: If the minister's proposal is not amended by amendment 21, people will be asked to pay twice as much on an unoccupied property in this current time of austerity. I am appalled and dismayed that some of the people to whom the minister has spoken would agree to going further than 100 per cent.

Many people are in possession of an unoccupied property for unforeseen reasons, such as inheritance or because they are unable to sell their property. People will have to sell, which will probably result in a negative equity situation. We are not against having a charge, but we need to ensure that it is not set at an obscene amount.

By ensuring that there is a cap, we can still ensure, without being overly punitive, that people work towards putting their property back into use.

John Wilson: I am quite surprised that Anne McTaggart is opposed to the proposal. In areas where pressured area status has been applied, I know of inherited properties that are lying empty because their owners have decided not to let them.

At a time when there is a demand for rented property, particularly in areas with pressured area status, those potential landlords should be made to release those properties in whichever way possible, whether by transferring their property to a tenant or by selling it.

One local authority has a waiting list that it cannot even attempt to address; at the same time, properties are lying empty in that area. One property in particular has been lying empty for more than 10 years, and I understand that the owner has no intention of selling or letting it.

Anything that can be done to release such properties to people who require adequate housing should be done.

Derek Mackay: The issue is fairly straightforward. We intend to respond to the committee's concerns by setting a cap at 100 per cent. That figure has enjoyed much support from stakeholders, including key housing stakeholders. Some people would have liked us to have gone further than 100 per cent, but that level feels reasonable.

The crucial point is that local authorities will have discretion as to how they apply the policy, and if 50 per cent seems more appropriate to them they can apply a 50 per cent increase. The enabling power is democratic and can be adapted to local circumstances.

11:15

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Against

McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 6 agreed to.

Amendment 13 moved—[Margaret Mitchell].

The Convener: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Mitchell, Margaret (Central Scotland) (Con)

Against

McMillan, Stuart (West Scotland) (SNP)

McTaggart, Anne (Glasgow) (Lab)

Pentland, John (Motherwell and Wishaw) (Lab)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

Stewart, Kevin (Aberdeen Central) (SNP)

Wilson, John (Central Scotland) (SNP)

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

Amendment 13 disagreed to.

Amendment 21 moved—[Anne McTaggart].

The Convener: The question is, that amendment 21 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)

Mitchell, Margaret (Central Scotland) (Con)

Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

Stewart, Kevin (Aberdeen Central) (SNP)

Wilson, John (Central Scotland) (SNP)

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

Amendment 21 disagreed to.

The Convener: The next group is on council tax: treatment of unoccupied social housing. Amendment 22, in the name of Margaret Mitchell, is grouped with amendment 24.

Margaret Mitchell: Amendment 22 is based on the assumption that council tax is payable in respect of empty social housing and would ensure that provision for increases or discounts could not result in social housing being treated more favourably than other properties, solely on the ground of ownership. If ministers and local authorities are increasing the council tax that is applicable to empty privately owned houses to encourage houses back into use, it is logical that the same rationale and provision should apply to empty publicly owned housing. Amendments 22

and 24 would therefore ensure that social housing could not be exempt from council tax increases. The amendments work in tandem and would provide that, if an increase were being applied to other empty properties in an area, empty social housing could not be subject to differential treatment simply on the basis of ownership.

I move amendment 22.

Derek Mackay: The Scottish Government does not support amendments 22 and 24. However, we agree with Margaret Mitchell that social landlords should not generally be exempt from paying the council tax or a council tax increase. Like any responsible landlord, councils and housing associations should seek to avoid leaving their properties empty over a long period, so that they maximise their income and help to reduce waiting lists.

As members will see if they look at the draft regulations that we are consulting on, it is not currently the Scottish Government's intention to exempt social landlords from either the council tax or a council tax increase. Therefore, we think that the amendments are not required and, indeed, that they would introduce some inflexibility into the operation of the legislation. That could be undesirable, and I hope that Margaret Mitchell will consider not pressing amendments 22 and 24.

I welcome Margaret Mitchell's conversion to the rationale on how to bring empty properties back into use, and appreciate that she is trying to be helpful. However, I say in the most generous spirit that the amendments are not helpful, as the Government shares her intention. There will be no exemptions, as the member has perhaps suggested.

Margaret Mitchell: We almost got some reasonable comments from the minister. It is a pity that he had to spoil things with the politics of the playground in his final comments.

I will seek to withdraw amendment 22 because, in a way, the question has been answered. Social housing will be liable for the council tax and will be treated the same as privately owned housing in the legislation. However, I will move amendment 24, which would ensure that, if the private properties in an area are deemed to be liable for an increase in council tax, the same will apply to social housing. That is certainly not covered in the bill.

Amendment 22, by agreement, withdrawn.

Amendment 7 moved—[Derek Mackay].

Amendment 7A moved—[Anne McTaggart].

The Convener: The question is, that amendment 7A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 7A disagreed to.

The Convener: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Against

McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 7 agreed to.

Amendment 14 moved—[Margaret Mitchell].

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

Members: No.

The Convener: There will be a division.

For

Mitchell, Margaret (Central Scotland) (Con)

Against

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 14 disagreed to.

Section 2, as amended, agreed to.

Section 3—Amendment of the Local Government Finance Act 1992

Amendment 23 moved—[Margaret Mitchell].

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

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 23 disagreed to.

Amendment 24 moved—[Margaret Mitchell].

The Convener: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Mitchell, Margaret (Central Scotland) (Con)

Against

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 24 disagreed to.

The Convener: The next group is on council tax: penalties for failure to provide correct information regarding certain properties. Amendment 8, in the name of the minister, is grouped with amendments 9 and 10.

Derek Mackay: These amendments relate to the penalty charges for failures by an owner to provide accurate information to a local authority on whether their home is occupied.

The amendments respond to the concern that the committee raised in its report that the proposed maximum £200 penalty level should be reconsidered as it may not be sufficient to cover the costs to a local authority of collecting the penalty. The committee also highlighted that £200 could be much less than the council tax an owner could potentially save by not letting a local authority know that their home was unoccupied, so it would not offer a sufficient deterrent.

Officials have been in touch with some local authorities and we believe that our proposed revised penalty of up to £500 is sufficient to cover the average costs to local authorities of administering and recovering a penalty. It should also pose a greater deterrent to owners who may be tempted to either lie to their council or simply not tell it that their home is unoccupied to try to avoid paying a council tax increase. The Scottish Government believes that the revised level will allow councils to determine a penalty that is proportionate in the circumstances.

Amendments 8 and 9 would increase the initial penalty that a council could charge to up to £500 when accurate information about whether a home is occupied is not provided on request to a council, or when a council is undercharging an owner because it has not been made aware that a home is unoccupied.

Amendment 10 would allow a council to charge a repeat penalty of up to £500—in addition to the first penalty—each time it makes a further request for information regarding a home's occupation status that is not adequately responded to.

I hope that the committee will support the amendments to help councils that charge a council tax increase to enforce it.

I move amendment 8.

Stewart Stevenson: The minister said that the £500 is intended to cover the shortfall of council tax that has not been paid because of inadequate reporting. He makes provision for there to be fines when multiple requests are not adequately responded to. Can he assure me that there is no artificial limit on the number of times that a council may request the information so that, in practice, it is always possible for the council to recover the full value of any council tax that has been avoided?

John Pentland: Although we will support amendment 8, I would like answers to some questions. What happens if an unintentional mistake is made? Who will have the discretion to make a judgment about that? Who will have discretion about the appropriate level of the penalty, which can be between £200 and £500?

John Wilson: As I understand it, the minister is proposing a penalty of up to £500. I seek clarification from the minister that in the first instance it will be up to local authorities themselves to determine the level of the penalty. Will he also clarify that £500 is the maximum amount that a local authority will be able to penalise anyone for not providing adequate information or the information requested? Has there been any discussion with local authorities about how they intend to use the legislation?

The Convener: There are a number of questions for the minister to deal with in his summing up.

Derek Mackay: They are helpful questions. Amendment 8 responds to the committee's concerns that £200 was too low a figure for a penalty and would not be enough of an incentive.

On Stewart Stevenson's question, there is no artificial limit on how many times a council could reasonably go back to someone to acquire the information that it seeks. On John Pentland's question, the revised maximum is £500, but it is a matter for the local authority's discretion what the figure might be in its area. I inform John Wilson that there has been dialogue with local authorities on how the process will be applied in practice.

11:30

The Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 8 agreed to.

Amendment 9 moved—[Derek Mackay].

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 9 agreed to.

Amendment 10 moved—[Derek Mackay].

The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Mitchell, Margaret (Central Scotland) (Con)

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

Amendment 10 agreed to.

Section 3, as amended, agreed to.

Section 4 agreed to.

After section 4

The Convener: The next group is on abolition of housing support grant: provision of transitional assistance. Amendment 4, in the name of Tavish Scott, is the only amendment in the group. I welcome you to the committee, Mr Scott, and invite you to speak to and move your amendment.

Tavish Scott (Shetland Islands) (LD): Thank you, convener. I do not think that you were the convener earlier this morning, but you are now, so I should begin by congratulating you.

The Convener: Thank you, Mr Scott.

Tavish Scott: It has been many years since I have enjoyed the excitement of a bill committee. Looking at Sarah Boyack reminds me that, many years ago, I was sitting at the other end of the table where Mr Mackay is and was doing the same kind of stuff as he is now, so I have every sympathy for him on these occasions.

I thank committee members, but particularly the convener, for their visit to Shetland, which was welcome. I believe that the evidence reflects that the committee gained considerably from that visit. I know that colleagues at home were appreciative of the quick turnaround of your visit and the fact that you had bothered to come, which was very welcome.

The point that I make in consideration of the issues that confront Shetland Islands Council and, perhaps more important, the 1,800 tenants who pay rent for their council houses in Shetland is that there needs to be an agreement between the Scottish Government and Shetland Islands Council over a transitional package that will allow the council to plan financially for new homes and affordable rent levels in Shetland. Abolishing

housing support grant in one fell swoop without an agreement on transitional relief would be wrong, and the committee was presented with evidence showing why it would be wrong.

Shetland Islands Council is the only Scottish local authority receiving housing support grant. The Scottish Government receives that money from the Treasury and, in that sense, is merely the middle man. Amendment 4 is therefore about a particular set of circumstances that do not apply to other local authorities. That is why I accept the recommendation of this committee and the Finance Committee that transitional arrangements are needed. My purpose today is to ensure that that happens; otherwise the bill will become law and there will be no requirement backed by statute to ensure that an agreement is reached.

Amendment 4 does not contain any financial details; it would be wrong if it did. Parliament should not tie ministerial hands on the financial detail. Nor should Parliament tie the council's hands. This amendment respects the right of both parties—the Government and Shetland Islands Council—to reach agreement on a transitional package.

If there is no agreement, the impact on Shetland housing tenants will be desperate. According to the evidence that was presented to the committee, there will be a rise of £8.13 a week in rents; the proportion of rent that goes on servicing debt interest will rise from its current 40 per cent; and investment in social housing, with a Shetland waiting list in excess of 1,000, will be cut annually by £760,000.

It is important to recognise that if interest rates rose, which would of course affect the whole of Scottish housing, an increase of 1 per cent would equate to a rise of £4.80 in weekly rents in Shetland.

Over the past 15 years, Shetland Islands Council has managed to get the overall housing debt down from £60 million to £41 million. That is a fact that, if I may say so, contrasts with the supplementary evidence given to the committee after its meeting on 2 May by the Scottish Government. I found that evidence somewhat disappointing.

The council has presented analysis to the Government that demonstrates how, if an agreement could be reached to reduce the housing debt to £25 million, it would sustainably manage its housing revenue account at that level without the housing support grant. That would not be easy, but it would be manageable and it would be a fair outcome. However, such a financial scenario is against a background in Shetland of hard and painful decisions being taken on school closures, cuts to ferry timetables and reductions to

services—all aimed at balancing the council's books. The council is dealing with significant financial pressures of which housing debt is but one.

I want to commend the committee in particular for paragraphs 205 and 206 of its stage 1 report. Paragraph 206 says:

“Housing need and demand continued to be high, but the Council's ability to provide new social housing remained constrained by the requirement to service high levels of debt.”

That puts the context of amendment 4 in a fair light.

The Parliament and the Government cannot divorce the housing support grant from the level of housing debt that Shetland carries. A transitional agreement would allow the council to meet its own objective and the Government's objective—to ensure housing development within the prudential borrowing constraints while not hiking rent levels to even higher levels.

I will end with the observations of the Shetland Tenants Forum, whose written evidence to the committee was clear. It said:

“our tenants are going to suffer severely if our HSG is abolished and the Debt is not reduced.”

My amendment provides a route to avoid that and I ask the committee to consider it and support it.

I move amendment 4.

The Convener: Thank you, Mr Scott. I think that I speak for my colleagues who went to Shetland when I say that we enjoyed our visit. I have never been to Shetland yet when there has been bad weather, but I have to admit that I have never been there in the winter.

Does anyone wish to enter the debate?

Derek Mackay: I fear that I may be about to lose the sympathy of Mr Scott. I, too, have visited Shetland to discuss a number of items with the local authority, including this one.

The Scottish Government opposes amendment 4. If the amendment were accepted, Shetland Islands Council could in effect hold the Scottish Government to ransom on the abolition of the housing support grant. Bear in mind that the council has requested a sum of £15 million as a transitional payment for ending a subsidy that would have paid only £840,000 over the next three years, then ceased. Requiring the Scottish Government to reach an agreement with the council seems neither appropriate nor prudent to me and it does not seem to be in the spirit of the committee's conclusion in the stage 1 report that a solution should be fair not only to Shetland Islands Council tenants but to taxpayers generally.

On that point, I remind the committee that, over the past 34 years, the housing revenue account has paid very substantial loan charges to the harbour fund, which currently has a balance of £62 million that could be made available for housing purposes. In addition, Shetland Islands Council has received upwards of £80 million in housing support grant payments in cash terms since 1979-80, which translates into £124 million in today's prices. That would have been sufficient to pay off today's debt of £45 million nearly three times over.

Housing policy officials are continuing, in parallel, to talk to Shetland Islands Council about a possible solution and they will continue to do so. The Scottish Government is not against providing some transitional funding to the islands, which can be done in a number of ways that do not require any provisions in the bill. However, that cannot be done sensibly with amendment 4. The Scottish Government must balance the outcome between what is fair to Shetland Islands Council's tenants and what is fair to Scottish taxpayers. Therefore, I hope that Tavish Scott will seek to withdraw the amendment. If not, I urge the committee to reject amendment 4 and allow the Scottish Government and the council to reach a fair outcome on the basis of continuing dialogue.

The Convener: Mr Scott, I ask you to wind up, and to press or withdraw amendment 4.

Tavish Scott: If I had put figures in my amendment, the minister would have a fair point. The purpose of not including figures is so that the minister's hands are not tied behind his back. The minister used uncharacteristically explosive language to describe a situation that would not arise. If he was interested in reaching a fair settlement—which I accept, and I stated for the record that it had to be fair to both the Government and the council—I do not think that he would have expressed himself in that way.

Frankly, I think that the minister got it wrong on the finances, too. I refer him to the Finance Committee's evidence from James Gray, Shetland Islands Council's director of finance. I assure the minister that I will pass on the *Official Report* of today's proceedings to Mr Gray, who is a hard-working local government servant, and I am sure that he will want to reflect back to the minister and his officials on the inaccuracies of the minister's statements about the council's financial position. What the minister said was gratuitously not the case.

I ask the committee to reflect on a statement made by the Government in paragraph 6 of its supplementary evidence to the committee, which stated:

“This suggests that the council considers the level of debt to be affordable, prudent and sustainable as they have not reduced the debt burden per property over this period.”

That is demonstrably unfair: Shetland Islands Council has reduced the debt from £60 million to £41 million during the past 15 years. For the Government to present evidence to the committee that states that the council has done nothing to reduce its debt is quite unfair.

Presiding Officer—Presiding Officer! You are not quite there yet, Mr Stewart, but no doubt it will be any day now.

Convener, I will deal with the point about negotiations. Shetland Islands Council presented financial modelling to the Government—I appreciate that this was not Mr Mackay's portfolio at the time; there seem to have been a number of housing ministers over the past couple of years or so—in November last year, and again in February this year when asked to do so. At all stages, the council's directors of housing and finance have been entirely open to opening the parameters of a discussion about how to reach an agreement. At no time has the Scottish Government, either at official or ministerial level, opened discussions. When Mr Brown, Mr Mackay's colleague, was in the Shetlands in July, there was a perfectly convivial discussion but no opening of negotiations; Mr Mackay, as he said, was there in August.

If amendment 4 is not agreed to and the Government refuses it, what will simply happen is that the bill will be passed, housing support grant will be abolished, and Shetland Islands Council will be told by the Government to sort the matter out itself. That is the clear intention from what we have heard. That is disappointing given that the council wants to work with the Government to reach a constructive outcome. Of course, that outcome will not meet both parties' absolute aims, but there can be a negotiated settlement. That seems a fair objective to reach and I am disappointed that the Government will not accept that. I therefore press amendment 4.

The Convener: Thank you, Mr Scott. I put on the record that I would never dare to challenge the Presiding Officer.

Tavish Scott: Neither would I.

The Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 0, Against 7, Abstentions 0.

Amendment 4 disagreed to.

Section 5—Commencement

Amendment 2 moved—[Sarah Boyack].

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 2 disagreed to.

Amendment 3 moved—[Sarah Boyack].

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

Members: No.

For

McTaggart, Anne (Glasgow) (Lab)
Mitchell, Margaret (Central Scotland) (Con)
Pentland, John (Motherwell and Wishaw) (Lab)

Against

McMillan, Stuart (West Scotland) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (SNP)

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

Amendment 3 disagreed to.

Section 5 agreed to.

Section 6 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Thank you all very much.

Meeting closed at 11:45.

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