



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Tuesday 13 May 2014

Session 4

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**Tuesday 13 May 2014**

**CONTENTS**

	<b>Col.</b>
<b>TIME FOR REFLECTION</b> .....	30811
<b>BUSINESS MOTIONS</b> .....	30813
<i>Motions moved—[Joe FitzPatrick]—and agreed to.</i>	
<b>TOPICAL QUESTION TIME</b> .....	30814
Mesh Implants (National Health Service) .....	30814
North Sea Oil (Wealth Fund) .....	30817
<b>PROCUREMENT REFORM (SCOTLAND) BILL: STAGE 3</b> .....	30820
<b>PROCUREMENT REFORM (SCOTLAND) BILL</b> .....	30927
<i>Motion moved—[Nicola Sturgeon].</i>	
The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon) .....	30927
James Kelly (Rutherglen) (Lab) .....	30930
Alex Johnstone (North East Scotland) (Con) .....	30932
Jim Eadie (Edinburgh Southern) (SNP) .....	30933
Hugh Henry (Renfrewshire South) (Lab) .....	30934
Linda Fabiani (East Kilbride) (SNP) .....	30936
Tavish Scott (Shetland Islands) (LD) .....	30937
Jackie Baillie (Dumbarton) (Lab) .....	30938
Gavin Brown (Lothian) (Con) .....	30939
Mark Griffin (Central Scotland) (Lab) .....	30940
Nicola Sturgeon .....	30942
<b>DECISION TIME</b> .....	30946
<b>ASBESTOS-RELATED CONDITIONS (HEALTHCARE COSTS RECOVERY)</b> .....	30947
<i>Motion debated—[Bill Kidd].</i>	
Bill Kidd (Glasgow Anniesland) (SNP) .....	30947
Stuart McMillan (West Scotland) (SNP) .....	30948
Hanzala Malik (Glasgow) (Lab) .....	30950
Stewart Stevenson (Banffshire and Buchan Coast) (SNP) .....	30951
Jackson Carlaw (West Scotland) (Con) .....	30953
Gil Paterson (Clydebank and Milngavie) (SNP) .....	30954
The Minister for Public Health (Michael Matheson) .....	30955

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## Scottish Parliament

*Tuesday 13 May 2014*

[The Presiding Officer *opened the meeting at 14:00*]

### Time for Reflection

**The Presiding Officer (Tricia Marwick):** Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is Laura Seggie of the University of Strathclyde Catholic Society.

**Laura Seggie (University of Strathclyde Catholic Society):** Presiding Officer, members of the Scottish Parliament, thank you for your kind invitation to address you today.

At this time of year, many of my fellow students face important exams determining their future. However, through my experiences at the University of Strathclyde Catholic Chaplaincy, I have found that not only do those young people rely on books and endless hours of studying in order to pass their exams, they increasingly look for spiritual support.

Through my involvement at the chaplaincy and other youth groups, I have witnessed a great deal of young people embracing their faith despite social pressures. That faith journey is one that does require a great deal of courage, since at times religious faith is portrayed as something negative, but it is a journey that brings so much joy and meaning to people's lives.

A recent message from Pope Francis resonated with my experience. Using Twitter he said:

"It is not easy to follow Jesus closely, because the path he chooses is the way of the Cross."

So often we find that in some way or another everyone has a cross to bear, be it poverty, loneliness or illness; and central to the Christian message is that we should have a willingness to help people with their cross. For many of us, we bear our cross for the sake of serving those around us, and being as Christ to them. So much of the work of political life is in fact taking the problems of others on your own shoulders.

That spirit of service for the common good is the heart of the Christian message. It means loving God and treating others as we would wish to be treated ourselves.

I am therefore convinced that Scotland still has much to benefit from the Christian faith. My hope for the future is that more people find the courage to embrace and express their faith.

And I hope that you, as members of our Scottish Parliament, continue to show courage in the decisions that you make to legislate for the people of Scotland. Be assured that you are in the prayers of Christians nationwide.

Finally, I would like to end with the words of St John Paul II:

"True holiness does not mean a flight from the world; rather, it lies in the effort to incarnate the Gospel in everyday life, in the family, at school and at work, and in social and political involvement."

Thank you.

## Business Motions

14:03

**The Presiding Officer (Tricia Marwick):** The next item of business is consideration of business motion S4M-10034, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for today.

*Motion moved,*

That the Parliament agrees—

(a) to the following revision to the programme of business for Tuesday 13 May 2014—

delete

5.00 pm Decision Time

and insert

6.15 pm Decision Time

(b) that Rule 2.2.5(a) of Standing Orders be suspended for the purpose of allowing the Parliament to meet beyond 5.30 pm on Tuesday 13 May 2014.—[*Joe FitzPatrick.*]

*Motion agreed to.*

**The Presiding Officer:** Deputy Presiding Officer, I take it that you did not mean to press your button and that you do not wish to speak against the motion.

**John Scott (Ayr) (Con):** Correct.

**The Presiding Officer:** The next item of business is consideration of business motion S4M-10024, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Procurement Reform (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the Procurement Reform (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 50 minutes

Groups 3 to 5: 1 hour 25 minutes

Groups 6 to 9: 2 hours 15 minutes

Groups 10 to 12: 2 hours 55 minutes.—[*Joe FitzPatrick.*]

*Motion agreed to.*

## Topical Question Time

14:04

### Mesh Implants (National Health Service)

**1. Neil Findlay (Lothian) (Lab):** To ask the Scottish Government, in light of the recent reclassification of mesh implants as high risk in the United States, when mesh implants will be banned in the NHS in Scotland. (S4T-00695)

**The Minister for Public Health (Michael Matheson):** The Cabinet Secretary for Health and Wellbeing has written to both the Medicines and Healthcare products Regulatory Agency and the European Commission, asking that they urgently consider the United States Food and Drug Administration's proposed reclassification of surgical mesh for the treatment of pelvic organ prolapse. The European Commission is seeking further research and expert opinion. The cabinet secretary has asked for assurance that it will act quickly, once the research is available, to reclassify these devices if the evidence points to that requirement.

**Neil Findlay:** The complications for many women after the implant of a mesh device are devastating, leaving them disabled, in chronic pain and facing a life of multiple operations and uncertainty. In the US and Australia, mass class actions are being taken against the manufacturers, which are pending.

The Scottish Government originally told me, in answer to a parliamentary question, that only six women in Scotland have suffered an adverse impact of a mesh implant. That figure then rose to 101 women, but a freedom of information request that I submitted to health boards revealed that more than 330 women have had to have mesh fully or partially removed. In addition, more than 10,000 women have had an implant despite a parliamentary answer that suggested that the number is 2,000.

**The Presiding Officer (Tricia Marwick):** Mr Findlay, can we have a question?

**Neil Findlay:** Does the minister now have definitive numbers for those who have had an implant and those who have suffered complications?

**Michael Matheson:** We have a range of figures for the number of procedures that were undertaken in which transvaginal mesh implants were used. Those figures go back to 2007-08 and up to 2012-13. I am more than happy to provide the member with the annual breakdown of those figures.

We do not have specific figures relating to problems with a particular product, because information relating to a specific product is not recorded in a patient's medical notes. However, the Government is pursuing a programme of work on how the medical implant that is used in a procedure can be recorded in the patient's electronic record so that we have a much clearer picture of the number of patients who may be affected should problems develop with a particular medical implant.

**Neil Findlay:** Despite the large numbers, the Scottish Government has been reluctant to suspend the use of mesh devices, apparently out of concern that the manufacturers will instigate legal action against the Scottish Government. Is the minister still concerned that the Scottish Government could face legal action from manufacturers, or has he changed his mind and is he now ready to put the women of Scotland first, before any legal concerns that he may have? Does he have the same concern about the legal action that is being pursued by those who have been horribly injured by these products?

**Michael Matheson:** The Government's sympathy is with any woman who has suffered a complication as a result of treatment that has involved the use of these medical products. However, the member will understand that the products are regulated by the MHRA and the European Commission, and we must be led by their guidance on the matter. Unlike other regulatory bodies around the world, the MHRA in the United Kingdom is not recommending that the products should not be used at this time.

Nevertheless, we have asked for an urgent meeting with the MHRA to ask what action it intends to take as a result of the FDA's actions in the US. Equally, we have asked the European Commission to be very clear about the two pieces of research that it is undertaking to ensure that, once we have the findings of those research projects, action is taken quickly. If a reclassification of the products is recommended, we will act on that. We have to work within the regulatory function that we have at present, but the member can be reassured that, if there is any change to the guidance or a recommendation is made by the MHRA or the European Commission, the Government will act swiftly on that.

**John Scott (Ayr) (Con):** Given the emerging worldwide concerns about mesh implants and the difficulties and costs associated with removing them, can the minister assure our Parliament and our constituents that the Scottish Government will issue fresh guidance to NHS boards on the use of mesh implants, will take a more open approach to dealing with legitimate concerns and will be prepared to play its part in a worldwide

collaborative approach to resolving this emerging problem?

**Michael Matheson:** The cabinet secretary has established a working group to look at the issue, and one of its early actions will be to produce an information and consent form for women who undergo, or who are thinking of undergoing, this procedure. The working group intends to issue that form shortly, and we will roll it out across the NHS so that women are fully informed about the procedure and the issues associated with it.

The member also made reference to the impact on those women who suffer complications. Another piece of work that the expert group is doing is on the patient pathway for such women. The aim is to ensure that that pathway is robust and clear, and that they receive the early treatment that they require.

Of course, if there is a need for us to engage with authorities in the rest of the world, we will be more than happy to do so, but I hope that the member is reassured by the actions that the cabinet secretary has taken to ensure that, where a change is made to any of the recommendations to do with this procedure and this type of device, we will act quickly in NHS Scotland.

**Bob Doris (Glasgow) (SNP):** Have any risks been identified that relate to the use of other mesh devices, such as hernia mesh? Has the use of such devices been affected by the decision in the United States?

**Michael Matheson:** I am afraid that I can refer only to the proposal from the FDA, which I understand relates to the use of pelvic organ prolapse mesh; I cannot comment on mesh that is used for other procedures.

It is worth pointing out that, to date, the evidence does not point to a particular product produced by a particular manufacturer. It is important that we ensure that the public can have confidence in this procedure. The University of York is doing a piece of work to look at the use of mesh for the procedure and at the use of natural tissue, and to find out which has better outcomes for patients. Once we have the findings of that work from the MHRA, we will be in a position to consider how it can be rolled out to clinicians in NHS Scotland.

**Margaret Mitchell (Central Scotland) (Con):** In February 2007, a constituent of mine was one of the first people to have a mesh implant. Within weeks, she knew that something was very far wrong. Consequently, she had some of it removed in 2008 and January 2014. What advice was given to those who took part in the pilot programme for the mesh implants? It is my constituent's understanding that the Scottish Government made funding available for the removal of those implants

in 2008 but, because of the number of cases involved, the Government had a change of heart when it realised the severity of the situation and the funding was removed. Was that the case?

**Michael Matheson:** In relation to the latter point, I have no recollection whatever of that happening. If there are patients who require a medical intervention on the basis that they are suffering from complications that relate to the use of a particular medical device in a previous procedure, we would expect clinicians to take that forward in the appropriate way. That is a matter for clinical rather than ministerial decision making.

As far as the member's specific point about her constituent is concerned, if she writes to me with the details of that case, I will be more than happy to ensure that it is looked into and that she gets a full and detailed response.

### North Sea Oil (Wealth Fund)

#### 2. John Mason (Glasgow Shettleston) (SNP):

To ask the Scottish Government what its response is to the report in the *Sunday Herald* suggesting that the Labour Administrations in the 1970s ignored advice about setting up a North Sea oil wealth fund. (S4T-00691)

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** The two reports that were written by Professor Gavin McCrone, which were highlighted this weekend, provide further evidence of the mismanagement of Scotland's oil and gas resources by successive United Kingdom Governments.

The costs of ignoring that advice are now clear. Norway, which discovered oil at the same time as Scotland did, now has an oil savings fund that is worth £500 billion, which is equivalent to £100,000 for every man, woman and child in Norway. There can be no clearer demonstration of the need for us to be able to make our own decisions on the issues that matter to Scotland than this weekend's revelations, which show that, in spite of the evidence that was presented by the then Scottish Office and the arguments of distinguished individuals such as John Smith, the Treasury failed to put Scotland's interests first.

However, given that up to 24 billion barrels of oil remain to be recovered from the North Sea, it is clear that the sector will be an important source of tax revenue for decades to come. With independence, we will have the tools to ensure that the wealth that is generated from those resources can be used for the long-term benefit of the people of Scotland.

**John Mason:** I note the figures that the cabinet secretary mentioned in relation to Norway. Does he have any idea of how much money we might

have had in our oil fund had the Callaghan Labour Government at the time heeded the advice of Government advisers?

**John Swinney:** Analysis of that point was undertaken by the fiscal commission working group, which concluded that, if Scotland had established an oil fund in 1980, it could have eliminated its share of UK public sector debt by 1982-83 and could have accumulated substantial financial assets of between £82 billion and £116 billion by 2011-12. The evidence that the fiscal commission working group has put into the debate is significant evidence of the strength of the economic opportunity that was missed for Scotland by not stewarding these resources in the most effective way in the long-term interests of the people of Scotland.

**John Mason:** Sometimes we are told that bigger is better, but can the cabinet secretary explain why it is that a small country such as Norway has repeatedly made wise decisions and a larger country such as the UK has repeatedly made unwise decisions?

**John Swinney:** The information that became available at the weekend demonstrated that an active and deliberate choice was made in the 1970s to use the resources from North Sea oil and gas not to provide long-term economic security for the people of Scotland but to prop up the failing UK economy. The issues that Scotland faces today about determining our own political future are similar to the ones that were considered in the 1970s. The great advantage that we have is that in September we will have the opportunity to take a democratic decision to put the people of Scotland in the driving seat of determining their own future on this question.

**Iain Gray (East Lothian) (Lab):** The advice that Gavin McCrone gave to the UK Government last century is interesting, but perhaps more important and more topical is the advice that he gave to the Finance Committee last week, when he said:

"If Scotland's public expenditure was similar to the UK average, North Sea oil would be a kind of bonus, which would be all right. However, Scotland's public expenditure is about 10 per cent higher than the UK average."—[*Official Report, Finance Committee, 7 May 2014; c 4133.*]

In other words, diverting oil revenues to an oil wealth fund in 2014 would require swingeing cuts in public expenditure. Is that the cabinet secretary's plan?

**John Swinney:** No, it is not. What that question ignores—which Mr Gray always ignores—is the stronger financial position that Scotland is in. If Mr Gray happens to look at the "Government Expenditure and Revenue Scotland" information for the past five years, he will see that it shows Scotland to be in a stronger financial position, to



the tune of £8.3 billion, than the rest of the UK. That opens up choices as to whether we reduce debt faster, invest more in public expenditure and public services, or invest in a long-term oil fund, but the crucial thing is that none of those choices is available to us, because the UK parties persistently squander the natural wealth and financial advantage of Scotland. The sooner we have the opportunity to take the decisions that are in the interests of the people of Scotland, the more we can take decisions about the long-term future of our country.

**Gavin Brown (Lothian) (Con):** Based on the cabinet secretary's oil figures, which he has yet to publish, how much does he think an independent Scotland could put into an oil fund in year 1, and how much could it put in year 2?

**John Swinney:** The first thing to say in answering that point is to put on the record once again that, given the advice and given the opportunity to invest in a long-term oil fund over the past 40 years, the UK Government decided not to embark on that proposition. With the assistance of the fiscal commission working group, the Scottish Government has set out the arguments about how we could construct a long-term savings fund for Scotland, and I have just answered Iain Gray's question, demonstrating that, based on the past five years, Scotland was in a stronger financial position than the rest of the UK, equipping us to invest in an oil fund if we choose to do so. The key point is whether we decide to take our future in our own hands or whether we leave it to the UK Governments that have made such a mess of the public finances of the UK and have wasted oil Scotland's oil revenues in the process.

**The Presiding Officer:** I apologise to Malcolm Chisholm and Chic Brodie. I simply do not have enough time to let you ask your questions, but I think that we have heard a wide range of views.

## Procurement Reform (Scotland) Bill: Stage 3

14:19

**The Presiding Officer (Tricia Marwick):** The next item of business is stage 3 proceedings on the Procurement Reform (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2, SP bill 38A; the marshalled list of amendments, SP bill 38A-ML; and the groupings, SP bill 38A-G.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after the group is called. Members should now refer to the marshalled list of amendments.

### Section 8—General duties

**The Presiding Officer:** Group 1 is on the Scottish living wage. Amendment 11, in the name of James Kelly, is grouped with amendments 14, 6, 7, 9 and 10.

**James Kelly (Rutherglen) (Lab):** There is no doubt that the living wage is an idea whose time has come. The Labour amendment to pay £7.65 across all public contracts would make a massive difference to the 400,000 people who are not currently on the living wage, many thousands of whom would be covered by those public contracts. That would give many people a rise of £2,600 a year, and some 64 per cent of these people are women. This is an opportunity not only to help women, but to tackle low pay in public contracts. This is a chance to give cleaners and care home staff from Cambuslang to Carnoustie a fair deal.

The living wage is delivered in London, yet here in Scotland we are dragging our heels on the bill. Why is it that Boris Johnson can be so bold yet Nicola Sturgeon is so timid? Nicola Sturgeon's amendments reflect the fact that the Scottish National Party has moved its position from stage 1, when there was little mention of the living wage in the bill, but the effect is simply a nod in the direction. As the Government itself acknowledges, its amendments do not make payment of the living wage mandatory. The absolute test on the matter would be the cleaners who work on Scottish Government contracts in Scottish Government prisons, who are currently not on the living wage. I challenge the Deputy First Minister to say whether her amendments will make any difference to them. My view is that they will not.

The legal position, as outlined in an answer to David Martin in the European Parliament, is clear:

“Living wage conditions may be included in the contract performance clauses of a public procurement contract”.

Do the SNP MSPs want to make a positive change or have they come here simply to pose in the Parliament’s coffee bars? The point of legislation is to make a difference. Let us not be a pretendy wee Parliament. Let us stand up and be counted. I ask members to vote for the living wage and give a pay boost to thousands of workers on low pay.

I move amendment 11.

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** I am pleased to recommend my amendments 6, 7, 9 and 10, which considerably strengthen the bill in relation to the payment of the living wage and do so in a way that is both meaningful and legal.

The bill will impact on £10 billion-worth of spending each year. That means that it matters that we do everything that we can in the bill to ensure that that money is spent in a way that contributes to economic prosperity, equality and social justice. However, it also means that, if we get it wrong and end up with court challenges, it will be very costly indeed for Scotland’s taxpayers.

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** The cabinet secretary knows that I admired the way in which she went forward with minimum pricing of alcohol, which has ended up in court, as was almost certain to happen, via a challenge. Why was she prepared to be bold on that issue but not on this issue, where in fact there is less certainty of a challenge than there was on that issue?

**Nicola Sturgeon:** The issues are different. I regret the legal challenge over minimum pricing, but it is about a policy that we are seeking to bring in. This is about public contracts that our public bodies will be awarding here and now. Surely the suggestion is not that we put our public bodies in a position where they will face the risk of legal challenge. I want to ensure that we abide by the law and that we do not put our public bodies at that risk of being taken to court.

As I have said before, we do not disagree with the objective of making payment of the living wage a mandatory requirement of public contracts. It is worth reiterating our record on the issue. We are the first Scottish Government—I will say that again to Labour—the first Scottish Government to adopt the living wage for all our employees and we encourage all other employers, whether public, private or third sector, to pay their staff the living wage.

We are providing funding to the Poverty Alliance to promote living wage accreditation and increase the number of employers paying the living wage in Scotland.

**James Kelly:** Can the Deputy First Minister give an unequivocal assurance that her amendments will ensure that cleaners working in Scottish Government prisons, who are not currently paid the living wage, will be paid the living wage?

**Nicola Sturgeon:** If James Kelly will bear with me, I will explain exactly what our amendments will allow us to do.

My point is that there can be no doubt about this Government’s commitment to the principles of the living wage campaign. We are debating how—not whether—to use the bill to further promote the living wage. As members will be aware, in light of the on-going debate on the living wage, the First Minister wrote to the European Commission seeking further clarification of the legal position. The reply, which we received towards the end of last week, states:

“any such requirements must comply with the Posting of Workers Directive and the related case law of the Court of Justice of the European Union if they are applicable to workers sent from another member State ... a contractual condition to pay a living wage set at a higher rate than the general minimum wage is unlikely to meet the requirement not to go beyond the mandatory protection provided for by the Directive.”

That advice from the Commission—from the commissioner who is responsible for procurement—makes the position on the issue clear.

We are disappointed that that is the case. We will continue to press for further change at EU level, and if such change is forthcoming and it becomes possible to make the living wage a mandatory condition of public contracts, we will take steps to reflect that position in our approach here in Scotland.

However, we have never been prepared to simply wring our hands and say that because EU law prevents us from making the living wage a mandatory condition of contract, we will do nothing. We have considered carefully what we can do within the law. That is why the bill provides that ministers may issue statutory guidance on how workforce matters should be taken into account in procurement decisions. Amendments 9 and 10 make clear that that can deal specifically with the living wage.

That guidance will mean that companies wishing to bid, especially for service contracts where low pay is traditionally an issue, will have their approach to managing, rewarding and engaging with their workforce evaluated. That will include—

where it is relevant to the contract—the willingness and ability of bidders to pay the living wage.

Just last week, I met the Scottish Trades Union Congress, the Poverty Alliance and Unison to give them a commitment that we will develop the guidance in partnership with them to ensure that it is robust and that its implementation is carefully monitored.

**Neil Findlay (Lothian) (Lab):** Will the member take an intervention?

**Nicola Sturgeon:** Not at the moment.

In addition to the amendments that will ensure that guidance will deal specifically with remuneration, amendments 6 and 7 will require all contracting authorities to set out their policy on the living wage as part of their procurement strategies.

Taken together, that package of measures sends a very powerful message to businesses wanting to sell to Scotland's public sector that businesses will be expected to demonstrate their willingness and their ability to pay the living wage and that they will need to be able to demonstrate that they are not winning contracts by undercutting competitors on the basis of a poorly paid workforce.

It is interesting that James Kelly mentions London. I find it particularly interesting that he does not mention Wales—the part of the United Kingdom where Labour is in government—because what we are doing today goes significantly further than the Labour Administration in Wales has managed to go. The Labour Government in Wales says:

“There is no ministerial policy or directive to adopt the living wage into Welsh Government contracts.”

That is what Labour has chosen to do when it is in a position to act, which stands in stark contrast to James Kelly's rhetoric.

I am proud that this Government will continue to promote the living wage. We will do everything that we can, within the bill and beyond, to ensure that we are furthering the living wage and I urge all members to welcome that position.

**Neil Findlay:** Will the cabinet secretary take an intervention?

**Nicola Sturgeon:** No—I am about to finish.

Although we cannot support amendments 11 and 14, I hope that members will recognise that we are tackling the issue in the strongest way possible, and we will continue to do so.

In conclusion, I ask that amendments 11 and 14 be rejected, but ask members to back my amendments, which will go further than any previous Scottish Government has gone to ensure

that the living wage is central to all that we do with public money.

14:30

**The Presiding Officer:** I call Alex Johnstone, to be followed by Patrick Harvie and then Tavish Scott. You should all be fairly brief.

**Alex Johnstone (North East Scotland) (Con):** I will try to be, Presiding Officer.

I came here to discuss a bill about procurement that will leave public procurement in a position in which it is easy to understand and accessible to all those who wish to bid for public contracts. It is important for our private and third sectors, and it is important that we all understand how it works.

My problem with many of the amendments that will be discussed is that they seem to use the bill as a proxy to introduce valid ideas from across the political spectrum that could be put into the bill as amendments, but which would result in its not being the effective instrument that it would otherwise be.

If we look specifically at the proposal in amendments 11 and 14, we find that James Kelly wishes to use the bill as a way of introducing the living wage across Scotland in public contracts, but we fail to understand that, before we can do that, we need to know how that will be financed. There are, for example, 636 care homes across Scotland, with 40,000 part-time or full-time staff. I wish to see those staff paid appropriately for what they do, and it is important that we all have that objective in the longer term, but amendment 11 could result in average care home costs rising to as much as £1,000 per week per person. That would result in a collapse in our care home sector that would make Southern Cross look like small beer by comparison. I therefore believe that it is inappropriate to exploit the bill for that purpose.

I fully commend the Labour Party for its long-held objective to achieve the living wage in Scotland, but the bill is an inappropriate place in which to bring in the proposal. That makes it necessary for the Conservatives to oppose amendment 11 as it stands.

**Tavish Scott (Shetland Islands) (LD):** I recognise that the Government has made progress on the matter, but we support James Kelly's amendments.

I listened carefully to the Deputy First Minister's remarks on the legal point. If I wrote down accurately the words in the letter from the European Commission from which she quoted, the word “unlikely” was used. It strikes me that there is still some room for manoeuvre. That is not a no or an unequivocal statement, so I hope that it is open to the Government to press the matter with the

European Commission. I am sure that it is considering doing so. It is open to the Government to press that particular point to see whether, even with a limited chance of success, that success, which I am sure the Deputy First Minister wishes to achieve, is possible. Given the equivocal answer from the European Commission, I hope that the Government will take the matter forward in that way.

**Patrick Harvie (Glasgow) (Green):** I will take it as a non-debatable point that most people in the chamber want the living wage to be paid throughout our economy, particularly in the public sector, and believe that poverty pay is a disgrace for our society. I am certainly convinced that both the Deputy First Minister and James Kelly are of one mind on the objective.

I will vote for James Kelly's amendment, and, if that falls, for the Deputy First Minister's amendments in the group. However, I say respectfully to James Kelly that presenting the amendment by baiting the other side is perhaps not the best way to make the case. I think that he knows the reaction that he provoked by the way in which he put forward his arguments, and that was probably not the best way to make the case. I understand the frustration that he feels; I, too, have felt that frustration when ministers in the current Administration or the previous Administration have said, "We can't do this, because EU law prevents us." He will understand the frustration of my colleagues in the City of Edinburgh Council when they put forward the same thing, and Labour and the Scottish National Party join forces to say no, using more or less the same arguments.

I take the view expressed by Malcolm Chisholm in his intervention. Sometimes, it is necessary for Governments to be willing to test the boundaries of what is allowable. Being willing to go in there and fight for an issue is a more articulate means of making the case with colleagues in Europe than simply advocating for it. The Government did that on minimum pricing, much to its credit, and the Deputy First Minister had a great deal to do with pushing that case. I wish that the same attitude was being taken on procurement and that the Government was willing to test the limits of what is permissible. On that basis, I will vote in favour of the amendments.

**James Kelly:** I press amendment 11. I was interested to hear the Deputy First Minister's speech. I heard no indication that the Government's amendments would close the existing low-pay loophole in which those who are working on contracts on behalf of the Scottish Government are not paid the living wage. Indeed, the proposals would not compel the living wage to be paid.

A lot of the debate has centred round legal argument. Tavish Scott was correct to quote the word "unlikely" from the letter. The letter was not exactly clear. The Deputy First Minister's intention in mentioning that was to try and give a bit of cover. It is almost like an excuse note—"Please excuse Nicola Sturgeon today; she is not able to take forward the living wage in Parliament."

This is not a legal issue but one of political will. I am quite sure that there are SNP MSPs who wish that the Government would be a bit bolder on the issue, but it seems that the more cautious voices—the Fergus Ewings and the Alex Salmonds—have unfortunately won the day.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Does the member accept that we would not even have to talk about the living wage if successive Westminster Governments had set the minimum wage at a decent rate and updated it?

**James Kelly:** The issue—[*Interruption.*]

**The Deputy Presiding Officer (Elaine Smith):** Order.

**James Kelly:** The issue for the SNP Government and SNP MSPs is whether the bill will deliver a wage of £7.65 an hour across all public contracts. That is the opportunity; that is the challenge. Let us see how they vote when the division comes.

The calls for the living wage are being made not only by the STUC and the Scottish Council for Voluntary Organisations, but by businesses such as KPMG and Nationwide. We should not want to lag behind—we have a real opportunity. We have all seen the photographs of SNP MSPs in which they are pledging their support for the payment of the living wage. This is the chance for them to put their money where their mouths are; this is not a photo opportunity, but a chance to make the living wage a reality. I urge them to vote for a mandatory living wage.

**The Deputy Presiding Officer:** The question is, that amendment 11 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. As this is the first division of the afternoon, Parliament is suspended for five minutes.

14:38

*Meeting suspended.*

14:43

*On resuming—*

**The Deputy Presiding Officer:** We move to the division on amendment 11.

**For**

Baillie, Jackie (Dumarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 74, Abstentions 0.

*Amendment 11 disagreed to.*

**Neil Findlay:** Tories together.

**The Deputy Presiding Officer:** Order.

**The Deputy Presiding Officer:** Group 2 is on the sustainable procurement duty. [*Interruption.*] Order! Amendment 30, in the name of Patrick Harvie, is grouped with amendments 16, 32 and 39.

14:45

**Patrick Harvie:** Clearly the whole chamber is seized with excitement about the sustainable procurement duty. I am sure that is what it is, Presiding Officer.

My amendments in this group fall into two areas. Amendment 30 is about the relationship—between the general duty and the sustainable procurement duty. It is worth recalling that once upon a time, before the bill was introduced, people referred to it as the sustainable procurement bill. Then it became the procurement bill, then the procurement reform bill. Now the sustainable procurement duty is one small section in the bill.

It is good that it is there, and I am very pleased that it is, but as it is phrased at the moment, the bill says that we have a general duty that includes the requirement to

“treat relevant economic operators equally and without discrimination”—

in other words, to act in the interests of a free market in procurement—and that nothing that is done in pursuance of the sustainable procurement duty should conflict with the general duty.

In amendment 30 I seek to say instead that

“Nothing in subsection (1)—

the general duty—

“is to be taken to prohibit a contracting authority from considering any matter or acting in any way required to fulfil the sustainable procurement duty.”

In other words, sustainable procurement should take precedence and the wider general duty on procurement should exist within that.

At stage 1, the committee called on the Scottish Government to provide further information on how contracting authorities are supposed to balance the duties in practice. In the stage 1 debate, the Deputy First Minister said that she was happy to consider that in more detail and come back to the issue at stage 2. That did not happen: there have been no amendments from the Government to address the question of balance. I hope that the Deputy First Minister will take this opportunity to address the question.

Through amendment 32, I seek to add a requirement in relation to duties under the Climate Change (Scotland) Act 2009 and to the United Nations’ “Guiding Principles on Business and Human Rights”.

The Scottish Government has a human rights action plan, which in many ways is a very good document. It says:

“The Scottish and UK Governments, Scottish businesses and the Scottish Human Rights Commission will pursue the development of an action plan to implement the UN Guiding Principles on Business and Human Rights by Scotland and raise awareness among Scottish companies of their human rights responsibilities.”

What better way to give effect to that commitment than by including that provision in the guidance on procurement that ministers are expected to publish? That would address the global sustainability issues that go beyond the geographically limited aspects of sustainability in the bill and give procurement a clear link to duties under the Climate Change (Scotland) Act 2009 and the UN’s “Guiding Principles on Business and Human Rights”.

Amendment 32 is supported by Amnesty International, which I know many members support. It says:

“Excluding this amendment would be a missed opportunity for the Scottish Government’s human rights agenda.”

I am open to and interested in hearing the arguments on the other amendments in this group, to which I am sympathetic, but I will let the proposers speak to them.

I move amendment 30.

**Jackie Baillie (Dumbarton) (Lab):** I believe that reducing inequality is a shared ambition across this chamber and my amendment 16 seeks to ensure that that is at the very heart of the sustainable procurement duty.

The duty is framed in general terms, and I understand that the cabinet secretary promised in the stage 2 debate that there would be further definition of the duty in guidance. I could not help but recall that even when I was a minister and we were shaping legislation in the early days of the Parliament, civil servants always advised ministers to avoid putting something on the face of the bill and to offer it up in guidance instead. It appears that not a lot has changed, despite the passage of time.

We should put what matters to us in legislation and, of course, put the detail in guidance. I have always understood that tackling inequality is a key principle of the Scottish Government. Indeed, a mere week ago, the Scottish Government spoke about the persistent inequality in our society. The rhetoric was rightly robust, but we need to do more than shout. We need to and must take action.

If the Parliament agrees to amendment 16, it will be saying that tackling inequality matters. That would be one small step, but it would be central to

our making progress. If members share an ambition for a more equal Scotland, as I think we do, they should ensure that we use our considerable public spending to deliver just that, as well as the right framework for awarding contracts.

In everything that we do, we should have a clear, sharp focus on tackling inequality. Such a focus can drive the public sector in considering how it can secure important gains for local communities in the contracts that it awards. We are talking about substantial sums of public money.

This is a practical opportunity for the Scottish Government to demonstrate that it can match its rhetoric with action. It can do so by backing amendment 16.

**The Deputy Presiding Officer:** I understand that Sarah Boyack cannot attend today and that Claudia Beamish will speak to amendment 39.

**Claudia Beamish (South Scotland) (Lab):** Amendment 39 would place a duty on the contracting authority, when publicising the award of a contract, to include a statement that sets out how the contract will contribute to the fulfilment of the contracting authority's sustainable procurement duty.

The sustainable procurement duty is an important provision and it is essential that the requirements are met. Amendment 39 would ensure that, for example, the duties to

“facilitate the involvement of small and medium enterprises”  
and

“improve the economic, social, and environmental wellbeing of the authority's area”

were well publicised, which would clarify public bodies' commitment to promoting positive social outcomes. The Scottish Council for Voluntary Organisations has repeatedly stressed the need to put sustainability centre stage, and a clear statement of intent on the public contracts website would ensure that that happened.

At stage 2, the Deputy First Minister voiced concern that such an approach would place an undue burden on public bodies, but my Scottish Labour colleagues and I still think that an explicit duty to publicise the measures that are taken to fulfil the sustainable procurement duty would reinforce the commitment and prevent it from being sidestepped. I hope that members will agree to amendment 39.

I support amendment 16, in Jackie Baillie's name. It is imperative that inequality is mentioned in the bill. I hope that all members will agree to the amendment.

**Nicola Sturgeon:** The sustainable procurement duty is not a small part of the bill, as Patrick Harvie seemed to suggest, but a vital element. Indeed, I would argue that it is the linchpin of the bill. It requires public bodies to think carefully about how the procurement process can make real improvements to their areas and how to enable SMEs, supported businesses and the third sector to access contract opportunities. However, as with every other section of the bill, we must ensure that the section is consistent with EU law, is reasonably simple to apply and does not impose disproportionate burdens on contracting authorities.

As I said at stage 2, I absolutely understand and appreciate Patrick Harvie's motivation in lodging amendment 30, but my objection to it is pretty fundamental. The general and sustainable procurement duties are framed with a view to helping public bodies to understand how they should be interpreted and applied within the overarching framework of EU law. Section 8(3) makes it clear to authorities that any action that they take under the sustainable procurement duty must be compatible with their duties under EU law.

Amendment 30 would have the effect of creating a bill that sought to impose requirements on public bodies to do things even if they were not compatible with European law. That is not acceptable, and we cannot place public bodies in such a position.

**Patrick Harvie:** That argument suggests that there are things that are necessary to do to achieve sustainable procurement but which in fact are prohibited by the general duty. What are those things?

**Nicola Sturgeon:** No—the bill says that, at all times, in implementing either the sustainable procurement duty or the general duties or specific duties, authorities must operate within the confines of European law. I would have thought that all members would acknowledge the importance of that.

Patrick Harvie made valid and legitimate comments about the guidance that we should give contracting authorities to help them to balance the different aspects of the sustainable procurement duty. He will be aware that section 9A provides for guidance. In developing that guidance, I would be happy to engage with Patrick Harvie on how we do so in a way that encourages contracting authorities to make the best and maximum use of the sustainable procurement duty. However, we cannot put public authorities in a position in which we require them to do things regardless of their compliance with EU law. That is a pretty simple point, I think.

Amendment 16 relates to considerations of wellbeing in the sustainable procurement duty and seeks to define wellbeing as including the reduction of inequality, an objective on which I think we all agree. Reducing inequality is clearly part of an authority's general duty in promoting the wellbeing of its area. Although there is an argument for the duty to be framed in general terms, as I said at stage 2, I am sympathetic to the intent of the amendment and, on further reflection, and at the risk of completely taking the feet away from Jackie Baillie, I confirm that I will support it, which demonstrates that her cynicism about ministers is, as usual, completely misplaced.

The purpose of amendment 32 is to place a duty on the Scottish ministers, when preparing guidance on the sustainable procurement duty, to consider the likely effects on global sustainability and the compliance by authorities with their duties under the Climate Change (Scotland) Act 2009 and the UN "Guiding Principles on Business and Human Rights". Again, I emphasise the need for the bill to be pragmatic and reasonably simple to comply with. The bill already provides a mechanism for dealing with companies that do not meet appropriate standards. Contracting authorities already have to comply with a range of requirements that are derived from EU law on equal treatment and from national equality legislation, in addition to being subject to obligations under the Human Rights Act 1998.

As everybody is aware, the public sector procures a diverse range of goods, services and works, so it is important that the statutory guidance that will support the duty is flexible and adaptable and is not seen to be disproportionate. Therefore, I do not support Patrick Harvie's amendment 32, but I reaffirm and reissue the invitation that I extended to him at stage 2 to discuss how we use the statutory guidance that will underpin the duty to encapsulate his points about the wider implications of procurement exercises, and indeed to be involved in the drafting of that guidance. I can give an assurance, which I know will be important to organisations such as Amnesty International, to which Patrick Harvie referred, that we see the development of guidance as an important opportunity to identify and explain how the UN guiding principles are best reflected in our procurement processes. I hope that Patrick Harvie will take up the offer to be involved in the next stage of the process.

On Sarah Boyack's amendment 39, I again stress the importance of keeping the burden on public bodies to a minimum. Section 14 will require contracting authorities to prepare and publish an annual report, which will include a summary of regulated procurements and a review of whether those procurements complied with the authorities' procurement strategies. It is therefore not

necessary or proportionate to require contracting authorities to state in every single contract award notice how the contract will contribute to improving the economic, social and environmental wellbeing of the authority's area. That would add an unnecessary and disproportionate burden of bureaucracy.

In conclusion, I ask Patrick Harvie to seek to withdraw amendment 30 and to not move amendment 32; I ask Claudia Beamish, on behalf of Sarah Boyack, not to move amendment 39; and I reiterate my willingness to support amendment 16 in the name of Jackie Baillie.

15:00

**Patrick Harvie:** The Deputy First Minister described the sustainable procurement duty as the "linchpin" of the bill. I cannot read the bill in any other way than that it suggests that the duties in section 8—the general duties—are the linchpin. They are the critical and vital element on which contracting authorities will primarily focus, with a secondary focus on the sustainable procurement duty. Therefore, I disagree that the Deputy First Minister's description of the bill is accurate.

Notwithstanding the smile on Jackie Baillie's face as she heard that her amendment 16 would be accepted, she made a decent point that, although ministers and civil servants often take the instinctive position that less is more in a bill and that we should leave everything to guidance, Parliament needs to steer the development of guidance. Even agreeing amendments to bills that indicate to ministers the issues that they ought to address when they draft guidance gives Parliament the ability to give that steer, which the Parliament should do on ethical issues as critical as inequality, sustainability, climate change and human rights.

Particularly in relation to amendment 32, the Deputy First Minister said that the bill needs to be simple to comply with. Amendment 32 would not add huge complexity for contracting authorities or people responsible for procurement processes; it would add one relatively simple task for ministers, not anyone else, to undertake. If the Government is serious about addressing in the guidance the ethical issues to which the amendment relates, having in the bill the requirement for it to do so seems a relatively simple and trivial task for Parliament to set it. Amendment 32 is about ministers' compliance with the legislation, not anything else.

I am grateful for the invitation to engage further. However, from stage 1 onwards, there have been continual indications that an attempt would be made to address the matter during the bill's passage but, I am afraid, that has not happened.



Therefore, I will press amendments 30 and—when it comes to the time—32 to the vote.

**The Deputy Presiding Officer:** The question is, that amendment 30 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)

Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 39, Against 80, Abstentions 0.

*Amendment 30 disagreed to.*

#### Section 9—Sustainable procurement duty

**The Deputy Presiding Officer:** Group 3 is on sustainable procurement duty and strategy: specific issues. Amendment 15, in the name of Jackie Baillie, is grouped with amendments 31, 19 and 37.

**Jackie Baillie:** I will speak to amendment 15 and all others in the group. The suggestion was made from a sedentary position that I should quit while I was ahead. Ever the optimist, while I am grateful for the cabinet secretary's support for amendment 16, I live in hope that she will continue her consensual manner with my remaining amendments.

Amendment 15 seeks to promote compliance with the public sector equality duty, and amendment 19 relates to public bodies setting out how they will promote such compliance.

It is perhaps worth explaining what the public sector equality duty requires. It is set out in section 149 of the Equality Act 2010, which requires that, when exercising their functions, listed public authorities must

“have due regard to”

matters such as

“the need to—

eliminate discrimination, harassment”

and

“victimisation ... advance equality of opportunity”

and

“foster good relations”.

The phrase “have due regard” means that, when public bodies make decisions, they must consciously consider the needs that are expressed in the duty. However, the amount of regard that they need to give depends very much on the nature of that decision. For example, a procurement decision on a service for older people would require far more consideration, rightly, than a procurement decision on purchasing stationery. The duty should, of course, be exercised in a proportionate manner.

I was driven to lodge amendments 15 and 19 because of an evaluation of the public sector equalities duties that was conducted by the Equality and Human Rights Commission. It would be fair to say that it reported a mixed picture and said that the good intentions were not backed by thought-through and measurable outcomes. We know that the main challenge lies in implementation. Therefore, making consideration of the public sector equality duty very much a key part of the procurement process will undoubtedly help us to move from those good intentions to practical application and implementation.

Finally, I take the view that this bill is about the delivery of good-quality public services. Irrespective of who delivers those public services—the private sector, the public sector or the voluntary sector—we should expect the same high standards of delivery.

I therefore urge support for my amendments 15 and 19 and for amendments 31 and 37, which Claudia Beamish will address.

I move amendment 15.

**Claudia Beamish:** I will speak to amendments 31 and 37, which I believe in strongly and which deal with standards of health and wellbeing and the education of communities, as well as animal welfare.

Amendment 31 seeks to alter section 9, placing on public bodies a requirement to consider their policy on food procurement. The policy aim behind the provision on health and wellbeing is mirrored by the Scottish Government's guidance document, “Catering for Change—Buying food sustainably in the public sector”, so I see no reason why it cannot be incorporated into the bill.

We have a lot of good examples of sustainable food procurement projects in Scotland. Examples that immediately spring to mind are the better eating, better learning campaign; the food for life programme; the food for change initiative; and, of course, the good work that is done by Nourish Scotland and the Soil Association. Amendments 31 and 37 seek to require public bodies to emulate those examples and work towards a truly sustainable food procurement policy, with local supply chains, while further educating the public on the benefits.

There is no reason why those methods of procurement cannot be universal, and, as I understand the situation, there need be no issues with EU compliance. East Ayrshire, for example, has demonstrated that the proposal is possible. A clear and explicit reference in the bill, backed by guidance, would ensure that we could make this happen, rather than being dependent on a few enthusiastic individuals.

Further, as vice-convenor of the cross-party group on animal welfare, I am keenly aware that there is always public interest in animal welfare issues. At present, there is debate about the labelling of non-stun slaughtered meat. More broadly, humane production is part of food quality, and consumers have a right to choose as individuals. Labelling is important. There have been many culture changes in recent years, such as with the consciousness of the welfare of chickens, which has led to free-range egg purchases. Further, the recent horsemeat scandal has shown that labelling standards must be far more proactively enforced.

Millions of animals are affected by the choices that public bodies, with their substantial purchasing power, make in the procurement process, so amendment 31 would ensure that animal welfare is a real consideration for public bodies. Consequently, passing the amendment would mean that a public body automatically needs to include in its procurement strategy, which it is required to have under section 11, information about how it intends to ensure compliance on those issues, as well as including mention of those issues in its annual report. That would further solidify the foundations upon which the bill is built.

Amendment 37 seeks to achieve the same policy aim as amendment 31, but it is designed in a more light-touch manner. Rather than requiring the public body to consider the health, wellbeing and education of communities and animal welfare standards during each individual food procurement, the amendment would require the public body to include a general statement on its overall approach.

My colleagues and I would, of course, prefer that the more focused and comprehensive amendment 31 is passed. However, if that proves not to be possible, I urge members to vote for the alternative that is provided by amendment 37, which I am sure they will agree is a wholly credible and reasonable compromise.

**Nicola Sturgeon:** I will deal first with amendments 15 and 19. Contractors that are performing what would otherwise be regarded as a public function, whether running a prison or another public building, are already subject to the public sector equality duty in relation to that function.

The application of the Equality Act 2010 will have been considered in detail during the consultation and scrutiny process that it went through, so I think that there is an argument that it would not be right to use this bill to seek to extend duties imposed by other legislation upon public bodies.

Fundamentally, equality is already an integral part of the bill. It is part of the sustainable procurement duty. The guidance that will follow will elaborate on that and will make clear the connection between the equality duty and procurement processes. After the passage of the bill—assuming that Parliament passes it—we will be focusing our energy on the development of the guidance and the regulations and on engaging with our stakeholders, including equality stakeholders, in their development. I am not able to support amendment 15 or amendment 19.

I turn to amendments 31 and 37. There is a reasonable issue here. The arguments that were put at stage 2—all of which I listened to very

carefully—have made me think that there is a need to do more to put a specific reference to food procurement on the face of the bill, given its importance.

Amendment 31 would amend the sustainable procurement duty to require purchasers to consider how, in conducting a procurement process involving the purchase of food, they can improve the health, wellbeing and education of communities and promote the highest standards of animal welfare.

Amendment 37 addresses the same issue but through the procurement strategy. Given some of the definitional issues here, I am of the view that it is more appropriate and proportionate to address these issues through the strategy in section 11 of the bill as opposed to creating a new duty under section 9. I am happy to support amendment 37, but I am not able to support amendment 31.

**Jackie Baillie:** Claudia Beamish set out very well the case for dealing with food provision on the face of the bill and for the compromise amendment that would put it within the procurement strategy. I am delighted that the cabinet secretary appears to be having a very consensual afternoon and that she agrees with amendment 37. I live in hope for the rest.

I recognise that the Scottish Government has already produced guidance on procurement—and welcome it is, too. However, it covers the planning of procurement services, developing a strategy and even encouraging public authorities to undertake equality impact assessments. What is less clear is whether any of those assessments have been undertaken and whether any measurable difference has been made. Is there a difference between the Government's good intentions and the practice and implementation? The truth is that we just do not know.

If we care, let us signal the importance of the issue by putting it on the face of the bill, not just in guidance. The cabinet secretary has done it once this afternoon; let me encourage her to do it again. If a service is a public service, irrespective of whether it is delivered by the public, private or voluntary sector, people have a right to expect the same high standard. Importantly, that includes compliance with public sector equality duties.

**The Deputy Presiding Officer:** The question is that amendment 15 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Baker, Richard (North East Scotland) (Lab)

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 15 disagreed to.*

15:15

*Amendment 31 moved—[Claudia Beamish].*

**The Deputy Presiding Officer:** The question is, that amendment 31 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)

Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 31 disagreed to.*

*Amendment 16 moved—[Jackie Baillie]—and agreed to.*

### Section 9A—Guidance on sustainable procurement duty

*Amendment 32 moved—[Patrick Harvie].*

**The Deputy Presiding Officer:** The question is, that amendment 32 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Finnie, John (Highlands and Islands) (Ind)  
 Harvie, Patrick (Glasgow) (Green)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 McArthur, Liam (Orkney Islands) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scott, Tavish (Shetland Islands) (LD)  
 Urquhart, Jean (Highlands and Islands) (Ind)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Etrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)

MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 10, Against 109, Abstentions 0.

*Amendment 32 disagreed to.*

### After section 9A

*Amendment 14 moved—[James Kelly].*

**The Deputy Presiding Officer:** The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMahon, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)

Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 14 disagreed to.*

#### After section 10

**The Deputy Presiding Officer:** That brings us to group 4, which is on circumstances where participation is restricted or no offers are sought. Amendment 33, in the name of Mary Fee, is grouped with amendments 35 and 36.

**Mary Fee (West Scotland) (Lab):** Amendment 33 aims to enable and support the third sector in the procurement process. The third sector provides higher levels of care and innovation

across a range of services, but it is often excluded because of the size of costs that are associated with participating in procurement contracts.

The Health and Social Care Alliance Scotland briefing on the bill states that

“a history of competitive tendering processes has acted as a barrier to the third sector’s engagement”

and that many organisations have disengaged completely from the process even when their service could have made a great contribution. We must support and protect our third sector, and excluding specific contracts in specific circumstances would do that. The proposal is similar to that of supported businesses and would bring long-lasting benefits to the third sector, which has had to work with tightened budgets and increasing pressure over recent years.

Amendment 35 would require ministers to lay regulations specifying what a health and social care service is for the purpose of the bill, instead of its specification being an option. That would guarantee clarity for contracting authorities. In my view, guidance cannot be an option in a health and social care service.

Amendment 36 would require ministers to lay regulation and guidance specifying what regulated contracts may be awarded without offers being sought. Again, that would enable and encourage participation.

I move amendment 33.

**Nicola Sturgeon:** Amendment 33 would allow public bodies to limit participation in a regulated procurement to third sector bodies. As I said at stage 2, I am sympathetic to the aim of the amendment but I do not believe that it would be EU law compliant. I will explain in detail why that is the case.

It might be possible in the case of some procurement exercises to restrict competition to the third sector, but that will depend on the particular circumstances of the competition. In some cases, the treaty obligations that flow from EU law will apply even at the contract values within the scope of the bill. Restricting competition in such cases would be discriminatory and therefore incompatible with EU law.

An obvious question is that of how we can limit competition to supported business, as we do in the bill, but not to the third sector. The straightforward answer is that EU procurement law makes specific provision to restrict competition to supported businesses. It does not make specific provision for the third sector, which is a much broader category of organisations.

Although we cannot accept amendment 33, I emphasise the importance that we attach to the

third sector’s role in delivering public services. Our response to the Christie commission’s report on the future delivery of public services emphasised that the third sector has a crucial role to play because of its specialist expertise, its ability to engage with vulnerable groups and—particularly important—its ability to be flexible and innovative. Indeed, one of the four priorities at the heart of the bill is improved access to public sector contracts, particularly for small businesses and third sector organisations.

On amendment 35, the power in subsection (3) of section 10A is drafted to be consistent with other subordinate legislation provisions in the bill. The Government intends to produce regulations under that power, so changing “may” to “must” will have no practical effect. The amendment is, therefore, unnecessary and would lead to inconsistent legislation.

In a similar vein, I do not think that amendment 36 is necessary. The power in section 10C is drafted to be consistent with other powers in the bill, and ministers have discretion in how that power is to be exercised, so the use of the term “may” in that section is appropriate.

I therefore ask that the amendments in the group be disagreed to.

**Mary Fee:** I thank the Deputy First Minister for her comments. In evidence, we heard a lot about the bill being an enabling piece of legislation. It is incumbent on us, as politicians, to encourage and support our third sector and the valuable work that it does. Restricting contracts to the third sector would level the playing field, as it does in helping supported businesses. Such restriction would also allow continuity of care and support, the value of which is immeasurable to those who receive care, including continuity for those who provide the care. Although I accept the sympathy offered by the Deputy First Minister, we need more than sympathy—we need action to support the sector.

On amendments 35 and 36, regarding the Deputy First Minister’s remarks about ministers’ discretion in producing guidance, I am not confident that allowing ministers to have discretion will give us the level of guidance that we need.

I therefore press amendment 33.

**The Deputy Presiding Officer:** The question is, that amendment 33 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Baker, Richard (North East Scotland) (Lab)



Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)

Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

#### Abstentions

Finnie, John (Highlands and Islands) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 76, Abstentions 1.

*Amendment 33 disagreed to.*

#### Section 10A—Contracts for health or social care services

*Amendment 35 moved—[Mary Fee].*

**The Deputy Presiding Officer:** The question is, that amendment 35 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)

FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

#### Abstentions

Finnie, John (Highlands and Islands) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 76, Abstentions 1.

*Amendment 35 disagreed to.*

#### Section 10C—Other circumstances in which contract can be awarded without competition

*Amendment 36 moved—[Mary Fee].*

**The Deputy Presiding Officer:** The question is, that amendment 36 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)

Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**Abstentions**

Finnie, John (Highlands and Islands) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 76, Abstentions 1.

*Amendment 36 disagreed to.*

**Section 11—Procurement strategy**

**The Deputy Presiding Officer:** Group 5 is on supported businesses. Amendment 2, in the name of Mark Griffin, is grouped with amendments 20 and 3.

**Mark Griffin (Central Scotland) (Lab):** I speak in support of amendments 2 and 3 in my name, which would apply only to public bodies in Scotland that engage in procurement activity with a value of £5 million or more. As I said at stage 2, I do not think that it is unreasonable of us to expect a public authority that spends more than £5 million to award at least one contract to a supported business.

My amendments seek to achieve the Government's stated policy ambition, as set out in the supported business framework, that public authorities should award "at least one contract" to a supported business. They do not say that an authority must award a contract to a supported business; they simply ask it to set out how it is working towards the Government's aim.

15:30

The Deputy First Minister commented at stage 2 on my amendments, which I have lodged again, and she has also lodged a Government amendment, which I support, as it is a move in the right direction.

The Deputy First Minister said that she had two issues with the drafting of my stage 2 amendments, but that she had sympathy with them. She said, first, that by asking public bodies to look ahead to what procurement activity they could restrict to supported business, the amendments were

"effectively asking public bodies to look into a crystal ball".—[*Official Report, Infrastructure and Capital Investment Committee*, 19 March 2014; c 2842.].

On the surface, that might seem a reasonable comment, but section 14(2)(d) of the bill, on annual procurement reports, states that an annual procurement report should include

"a summary of the regulated procurements the authority expects to commence in the next two financial years".

If contracting authorities can set out a summary of the regulated procurements that they expect to commence in the next two years, why would it be so difficult for an authority to set out where it intends to restrict procurement to a supported business in a single year?

The second point on which the Deputy First Minister objected to my amendments was that she did not want to set the bar too low in terms of procurement from supported business and that we should not simply allow public authorities to tick it off as a good deed done for the year. I completely agree with her, but there are public authorities in Scotland today that are not even clearing that low bar of a single contract with a supported business.

In response to freedom of information requests submitted to public authorities across Scotland, it

has emerged that there are 44 authorities in Scotland that do not have a single contract with a supported business. Those are not insignificant public authorities with low levels of procurement; they range from health boards to Government bodies and local authorities right across the country. Although I entirely agree with the Deputy First Minister that we do not want to set a minimum level so that authorities think that they do not have to go beyond that level, when so many large bodies are not awarding even a single contract it is time that we started pushing harder.

I move amendment 2.

**The Deputy Presiding Officer:** Before I call the Deputy First Minister, I ask members to take their conversations outside the chamber.

**Nicola Sturgeon:** Helping supported businesses is important to the Government generally and in relation to procurement, and that commitment was reflected in the bill as drafted, as I think all members would accept.

At stage 2, I gave a commitment to the Infrastructure and Capital Investment Committee that I would consider what more might be done, particularly in relation to the reporting of levels of engagement with supported business. Mark Griffin makes a reasonable point: we need to ensure that our expectations of public bodies are delivered in practice.

As a result, I am pleased to have lodged amendment 20, which will require public bodies who prepare an annual report to include in that report a summary of the steps taken to facilitate the involvement of supported businesses in regulated procurements during the year covered by the report. It has the same, or a very similar, overall effect to amendment 3, but I think that it is preferable to amendment 3.

As Mark Griffin has said, amendment 3 refers to the awarding of

"at least one contract to a supported business".

I absolutely agree that that is not an unreasonable expectation and that we should be firm in our expectation that public authorities that are doing procurement should have at least one contract with supported businesses. However, I want to be careful that we do not send a signal to public bodies that says that just one is enough. We should not be playing to the minimum on such an important issue. Amendment 20 gives Mark Griffin what he is seeking in terms of reporting, without the limitation that would be a concern.

I apologise to Mark Griffin if I have picked him up wrongly, but it is important to distinguish between procurement strategy and reports on procurement strategies, which I think he may have slightly mixed up in some of the points that he has

made. Amendment 2 would require public bodies to state in their strategy whether they intend to restrict competition to supported businesses and how they intend to ensure that they award at least one contract to a supported business.

I will not repeat my points about playing to the minimum and saying that one contract is enough. My objection here is the one that Mark Griffin described as the “crystal ball” objection. I think that that was quite a good description, to be fair to him. Because the amendment refers to the strategy that a public authority has to prepare at the start of the year, we would in effect be asking public authorities to decide at the start of the year whether at any point during that year they intended to run a procurement that it would be appropriate to restrict to supported businesses. If the amendment was agreed to, they would be expected in the procurement strategy to be pretty definitive about that.

However, at the start of the year, public authorities will not necessarily know what all their requirements for procurement throughout the year will be. We would be putting into the bill something that, in a practical sense, it would be difficult to the point of impossibility for public authorities meaningfully to deliver. I ask Mark Griffin, as I did at stage 2, to think about that practical objection to his amendments.

That said, and as I repeated today, I am more than sympathetic to—in fact, I am totally in agreement with—the intent behind the amendments, especially in relation to reporting, because it is that which will let us ensure that our expectations are being delivered, and that is precisely what amendment 20 seeks to address.

I ask Mark Griffin to withdraw amendment 2 and to not move amendment 3, and I ask the Parliament to support amendment 20.

**Mark Griffin:** I thank the cabinet secretary for her comments and, as I did earlier, for her movement in lodging amendment 20. The point that I made about procurement strategies and annual procurement reports was that, in the annual reports, public authorities will be expected to look forward two years to the procurement that they will carry out, so I do not find great difficulty in asking them in their procurement strategies to look forward one year to identify areas in which they could restrict procurement to supported businesses. That would allow the supported businesses in Scotland a lot more confidence about where their work is coming from.

However, the main thrust of my amendments is about allowing the Government to make, through a procurement strategy, its own policy of every public authority in Scotland having a contract with at least one supported business. I do not want

every public authority in Scotland simply to have one such contract, but I think that that step is required to push the ones that are falling below even that low bar to meet that standard. Some 44 public authorities in Scotland do not have a single contract with a supported business. As I said at the outset, they are not insignificant authorities. They are local authorities, health boards and central Government organisations. With that in mind, I press amendment 2.

**The Deputy Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)

Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 43, Against 76, Abstentions 0.

*Amendment 2 disagreed to.*

*Amendment 6 moved—[Nicola Sturgeon]—and agreed to.*

**The Deputy Presiding Officer:** Group 6 is on consideration to be given to various employment practices. Amendment 17, in the name of Jim Eadie, is grouped with amendments 24, 42 and 43.

**Jim Eadie (Edinburgh Southern) (SNP):** I welcome the opportunity to speak to amendment 17, which seeks to promote compliance by contractors and sub-contractors with the provisions of the Health and Safety at Work etc Act 1974.

The purpose of the amendment is to extend the minimum content that a corporate procurement strategy should contain to include a statement of the authority's general policy on promoting compliance with health and safety legislation. The amendment places a requirement on contracting authorities that are compelled by the bill to produce a corporate procurement strategy to include in it a statement of the authority's general policy on promoting compliance with the Health and Safety at Work etc Act 1974 and any provisions made under that act.

Health and safety did not feature in the public consultation on the policy content of the bill. I am therefore indebted to Kathy Jenkins of the Scottish Hazards campaign group and Louise Taggart of families against corporate killers, which are two campaign groups that are focused on improving health and safety in the workplace and thereby reducing the toll of work-related death, injury and illness. Both organisations recognise that good work has been done to date by the Scottish Government but believe that the additional step proposed in the amendment could further enhance the public sector's role in driving good health and safety practice.

Implementing the provisions in the amendment across the public sector in Scotland would be a very welcome development that would go some way towards helping to reduce the incidence of family members having to hear that a death could and should have been prevented, had an employer only complied with its health and safety duties.

The amendment would allow us to embed health and safety into the foundations of our procurement strategy. That being so, I hope that the Deputy First Minister will welcome my amendment and support its inclusion in the bill.

I move amendment 17.

**Jackie Baillie:** A postcard on the noticeboard in my office reads, “Prepare your daughter for working life—give her less pocket money than your son.” It is, disappointingly, still the case that there is a gender pay gap, with women on average earning less than men. That is despite good legislation in the Equal Pay Act 1970 and, undoubtedly, good intention in the chamber. However, the lesson is that it is not enough in and of itself to have legislation; it is the implementation that makes the difference.

Equal pay audits are a key implementation tool. Members will know that equal pay audits consider pay gaps by gender, ethnicity, disability and working pattern. They are relatively easy to carry out and there is a lot of support for employers, including toolkits and hands-on advice about how to conduct an equal pay audit and what to do with the results. It really is as easy as ABC. However, it is what employers do with the information that they get that is crucial.

The benefits for business are well documented: improved productivity, improved staff retention and improved performance. Those are all positives that we can agree on. Many employers recognise that their greatest asset is their workforce. It is therefore not good for the quality of their product or service if one set of employees is treated differently from another because they happen to be female or disabled. Taking action to close the gap sets businesses ahead of their competitors, so what is there not to like?

The cabinet secretary said at stage 2 that she was not sure that the proposal in an amendment that I lodged at that stage would be consistent with our obligations under EU law on equal treatment of suppliers. However, under the provisions in the bill, public bodies can and will make judgments about what matters to them in deciding contracts. They will decide who gets and does not get a contract according to a range of different criteria, all of which appear to fit with our EU obligations, so why not have an equal pay audit criterion? If the cabinet secretary was being consistent, she would recognise that it fits, too.

At stage 2, the cabinet secretary defaulted to her mantra that the issue will not be dealt with in the bill but will be considered in guidance. Let me encourage her to break free from her civil servants. By supporting amendment 24, she can make a positive difference to enhancing equality in relation to pay, which is something that would be warmly welcomed by women and disabled people across the country.

15:45

**Ken Macintosh (Eastwood) (Lab):** I will speak to my amendments 42 and 43. I support all the amendments in the group.

I draw members’ attention to my trade union membership, as declared in the register of members’ interests.

As with the bill as a whole, I am torn between praising the Scottish Government for recognising the power of procurement to shape the moral economy, and chastising it for not following its own reasoning and doing much more.

Amendments 42 and 43 are designed to help to capture in legislation the whole concept of the decent job—not work at any price or exploitative, demeaning or impoverishing jobs, but sustainable employment that recognises the importance and dignity of work.

Although the Scottish Government voted against the amendments that I lodged at stage 2, I am very pleased that it has recognised the strength of the arguments in favour of trade union recognition. Political discussion in our country often portrays the economy as riven by a clash of interests between employer and trade union, although all the evidence demonstrates that success and prosperity depend on a partnership between the two. Such a collaborative approach allowed the German economy to withstand the worst of the recession. Research overwhelmingly suggests that trade union recognition will improve the health and safety of our workplaces.

Amendment 43 will ensure that public funds are used more effectively. Trade unions remain at the heart of the efficient delivery of all Scotland’s public services, from the national health service to the rail industry. We need to extend that thinking so that Government in all its forms follows it. Quite simply, if companies such as Amazon fail to pay their taxes, refuse to recognise trade unions and employ workers on zero-hours contracts, they should not receive public funds.

I particularly thank my own trade union, Community, which is a progressive trade union that I am very proud to be a member of and which originally proposed amendment 43. I congratulate the Scottish Government on working with it and trade union colleagues in the STUC in drafting the amendment, which could be a landmark one in recognising trade unions in Scotland.

Amendment 42 is essentially about promoting equality. It would allow the Scottish Government to encourage employers to minimise wage ratios between the highest paid and the lowest paid. It is worth reminding ourselves that the majority of people who live in poverty in our country are not unemployed; rather, they come from working

households. The vast majority of Scots will be only too aware that, over the past four years, wages have failed to keep pace with rising prices, from food to fuel bills, but it is certainly not the case that we are all in this together. In 2012, the average chief executive of a FTSE 100 company was paid £4.8 million per year, or 185 times the average salary—an increase from £1.2 million in 1999. According to the Equality Trust, wage ratios are estimated to be around 10:1 in the voluntary sector, roughly 15:1 in the public sector, and approximately 262:1 in FTSE 100 companies.

There are many steps that the Scottish Government can take to reduce that wage gap and promote equality. In the education sector alone, I simply highlight the contrast between the pay and wage increases that university principals have enjoyed and the widespread use of zero-hours contracts.

In public procurement, the Equality Trust has estimated that none of the large public service industry organisations—those are the companies that carry out work in this area—paid its chief executive officer less than 59 times UK median earnings. For example, Serco's previous chief executive was paid an estimated £3.1 million in 2010, which is six times more than the highest-paid UK public servant and 11 times more than the highest-paid local authority chief executive.

Research demonstrates that reducing inequality is just one way in which we can promote faster and more durable economic growth. The cabinet secretary said that she agreed with my arguments on the amendments that I lodged at stage 2, but she then encouraged members to vote against them. If she shares Labour's desire to build a more resilient, sustainable and ethical economy, I urge her not just to have sympathy with the arguments, but to vote for both amendments.

**Nicola Sturgeon:** I will take the amendments in the group in turn, starting with amendment 17, in the name of Jim Eadie, which I support. Amendment 17 will ensure that public bodies set out their policies on the very important issue of health and safety. Nothing that we purchase should ever come at the expense of the safety of those who are involved in its manufacture, construction or provision.

On amendment 24, I hope that very few people—in fact, I hope that no one—would disagree that equal pay audits bring benefits and clarity to employer and employee alike. I hope that each and every one of us in the chamber would agree whole-heartedly with the promotion of equal pay for equal work. The Scottish Government is committed to the reduction of the gender pay gap. We have under way a significant work programme that is aimed at increasing women's economic participation, tackling occupational segregation

and reducing gender imbalances throughout public life. I take the view that it is outrageous that the Equal Pay Act 1970, which was passed in the year in which I was born—I say that without fear of giving away my age because everyone knows that anyway—is still not implemented fully. It speaks badly of successive Westminster Governments that the act has not been implemented fully over those nearly 44 years. Pay discrimination on the basis of any other protected characteristic is equally unacceptable.

Jackie Baillie rightly said—I will say it again—that we do not think that limiting competition to companies that have conducted an equal pay audit would be consistent with our obligations under EU law on the equal treatment of suppliers. For example, it could exclude bidders who have not carried out an audit but who comply fully with equal pay requirements.

Jackie Baillie said that the issue is not covered in the bill—I think that her speech in that respect was written before I conceded one of her earlier amendments—but the bill provides for guidance to be issued on how workforce-related matters should be considered in a procurement context. I am happy to repeat the commitment that I have given consistently throughout the bill process to consider the issue in the context of that guidance.

It is for very similar reasons that I am not able to support Ken Macintosh's amendment 42. Mandatory contractual obligations, whether we like it or not, can be imposed in procurement only where those are relevant and proportionate to the subject matter of the contract.

I turn to amendment 43. Ken Macintosh lodged an amendment at stage 2 on the notion that effective employee representation and trade union recognition are important and are to be supported. I said that I agreed with that amendment but had a reservation about it and highlighted that a clear regime is in place under the Trade Union and Labour Relations (Consolidation) Act 1992, which includes measures concerning the recognition of trade unions. However, I was keen to see whether we could reach agreement on an amendment about trade union recognition. Therefore, I was very pleased that Ken Macintosh took me up on the offer of further dialogue to see whether we could agree a positive approach that we would both find acceptable. In light of that dialogue, we have amendment 43, which I am very happy to support.

To conclude, I support Jim Eadie's amendment 17 and Ken Macintosh's amendment 43, but I do not support amendments 24 and 42.

**Jim Eadie:** I welcome the Deputy First Minister's comments and the support that has been forthcoming from the Scottish Government. I



am grateful that the Government has both listened to and acted on the representations that it has received on health and safety.

*Amendment 17 agreed to.*

**The Deputy Presiding Officer (John Scott):**

We move to group 7, which is on reducing greenhouse gas emissions. Amendment 18, in the name of Claudia Beamish, is grouped with amendments 21, 22, 26 and 27.

**Claudia Beamish:** My amendments 18, 21, 22, 26 and 27 all address climate change in the procurement process. The policy aim behind the amendments is to ensure that the greenhouse gas emissions that are associated with goods and services that are being procured are taken into account by the contracting authority when deciding who will be granted the contract.

At stage 2 I lodged amendments that were intended to place a climate change duty on contracting authorities, which would have required them to receive from the economic operator a statement setting out the climate change impact of any contract of greater or equal value to £4 million. The contracting authority would have also had to include in its award notice a statement on the climate change impact.

However, I have decided not to lodge such specific amendments again at stage 3, and have instead gone for a more light-touch set of amendments that still emphasise the importance of greenhouse gas emissions in the procurement process but in a way that will be more manageable for contracting authorities and operators. I see that as an initial step on which to build in the future.

One of the most evident ways in which greenhouse gas emissions can be reduced in the procurement process is by addressing transportation of goods. I recently met a group of medical students from the University of Edinburgh who have researched the possibility of sourcing hospital food more locally, and I am well convinced by their arguments.

Currently, some of the food that is provided in the Royal infirmary of Edinburgh is sourced from Trowbridge in the south of England. That process produces many unnecessary greenhouse gas emissions through fuel use and freezer storage. Sourcing more food from Scotland would not only have a positive impact on carbon emissions but would result in fresher local food for patients. Surely the NHS and other public bodies could look at that.

My amendments seek to add to the duties in the bill; I have tried to keep them as simple as possible. Section 11 requires contracting authorities that expect to have significant procurement expenditure to produce a

procurement strategy, which I agree is sensible. Amendment 18 would ensure that the statement that the contracting authority is required to produce should include how its procurements can reduce greenhouse gas emissions. Given that the provisions as they stand will require the statement to address community benefit and—following stage 2—fair trade, I believe that it would be an appropriate place in which to incorporate climate change obligations.

Amendment 21 seeks to amend section 14, which requires the contracting authority to produce annual procurement reports that relate to its strategy. Again, I see no reason why climate change cannot be included in those reports, as would be consistent with my intention for climate change to be addressed in the strategy.

Amendments 22, 26 and 27 are consequential amendments that relate to amendments 18 and 21.

I am aware that, so far, the Scottish Government does not agree with my intentions on including climate change provisions. It has argued that the 2009 act already covers those issues, which would perhaps render my amendments a needless duplication. However, I believe that my amendments would highlight the importance of greenhouse gas emissions in the procurement process itself, and reinforce the provisions in the 2009 act in which procurement is not specifically addressed.

I recognise the challenges that public bodies such as the Convention of Scottish Local Authorities would face in implementing such a requirement. However, the amendments have been rethought and are drafted to enable relevant regulation to be implemented in a simple and time-sensitive way. Carbon assessment tools are available and are already in effective use, and the regulations could be revised as necessary.

I hope that members, and the cabinet secretary, will agree that if we are to achieve our climate change targets, greenhouse gas emissions must be addressed in other legislation where applicable, and not just in the 2009 act. We must underline the cross-party commitment to addressing that most pressing global challenge by including it in the bill. I hope the cabinet secretary will consider the amendments again today.

I move amendment 18.

**Nicola Sturgeon:** The purpose of amendments 18, 21, 22, 26 and 27 is to require public bodies to provide a statement on their approach to using procurement to reduce greenhouse gas emissions in their procurement strategy, and to require detailed reporting on the emissions that are produced and how those have been calculated.

I stressed at stage 2—Claudia Beamish covered some of this territory just now—that climate change duties already exist under the Climate Change (Scotland) Act 2009. Specifically, the 2009 act provides ministers with a power to make provision

“requiring relevant public bodies to prepare reports on compliance with climate change duties”

and states that any such report

“must, in particular, contain information relating to how procurement policies of relevant public bodies and procurement activity by relevant public bodies, have contributed to compliance with climate change duties”.

The recently established public sector climate leaders forum, on which Claudia Beamish sits as an observer, is currently looking at the issue of standardised reporting with regard to the public bodies duties in the 2009 act.

Claudia Beamish attributed to me the term “needless duplication” in relation to her amendments. I say as politely as possible, as I do not doubt the intention behind the amendments, that it is the appropriate description.

16:00

As we developed the bill, the strong view that was being expressed, especially by local government stakeholders, was that existing legislation on climate change and the environment already establishes significant duties—I have read out the terms of those duties—and that to impose additional duties would not necessarily add to what is in other legislation.

Of course, the bill specifically covers the environment through the general duty on sustainability, and in doing so will leave public bodies with an important degree of flexibility that will allow them to take a pragmatic and meaningful approach to dealing with environmental issues in their procurement activity.

Given those comments, and given in particular my quotations from the 2009 act, I ask Claudia Beamish to reflect on the fact that if we were to agree to her amendments we would be legislating for needless duplication, so I ask her to seek to withdraw amendment 18 and not to move amendments 21, 22, 26 and 27.

**Claudia Beamish:** I have listened with care to what the cabinet secretary has said, but I am still minded to press my amendments, which I have tried to make as light touch as possible. As the cabinet secretary said, there are duties in the Climate Change (Scotland) Act 2009, and I understand that delicacy is required in moving forward collectively with COSLA and other public bodies, but I want to see the requirement in the bill. It is a very important aspect that would send a

clear message and would enable us to continue to be leaders in the climate change field. The tools will be developed and become more sophisticated as time goes on, so it is important that I press my amendments.

**The Deputy Presiding Officer:** The question is, that amendment 18 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollak) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)

Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 18 disagreed to.*

*Amendment 19 moved—[Jackie Baillie].*

**The Deputy Presiding Officer:** The question is, that amendment 19 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 43, Against 75, Abstentions 0.

*Amendment 19 disagreed to.*

*Amendment 37 moved—[Claudia Beamish].*

**The Deputy Presiding Officer:** The question is, that amendment 37 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dugdale, Kezia (Lothian) (Lab)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)

Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

#### Against

Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 103, Against 12, Abstentions 0.

*Amendment 37 agreed to.*

*Amendment 7 moved—[Nicola Sturgeon]—and agreed to.*

#### Section 14—Annual procurement reports

*Amendment 20 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 21 moved—[Claudia Beamish].*

**The Deputy Presiding Officer:** The question is, that amendment 21 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-

shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 21 disagreed to.*

*Amendment 3 moved—[Mark Griffin].*

**The Deputy Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members: No.**

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Finnie, John (Highlands and Islands) (Ind)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 43, Against 76, Abstentions 0.

*Amendment 3 disagreed to.*

### Section 16—Guidance

*Amendment 22 moved—[Claudia Beamish].*

**The Deputy Presiding Officer:** The question is, that amendment 22 be agreed to. Are we agreed?

**Members: No.**

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)

Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and  
 Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)  
 (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine)  
 (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 45, Against 74, Abstentions 0.

*Amendment 22 disagreed to.*

#### After section 16

**The Deputy Presiding Officer:** We move on to group 8. Amendment 38, in the name of Jackie Baillie, is the only amendment in the group.

**Jackie Baillie:** Amendment 38 proves, if anything, that persistence pays off. I will explain. At stage 2, I lodged an amendment that called for an annual report so that we could measure activity throughout the public sector, and so that Parliament could consider the overall success of our approach and understand and tackle any shortcomings.

As the public sector spends £10 billion each year on procurement, it is right for us to have the highest standards of accountability and transparency. Amendment 38 will mean that rather than having to chase down reports from every public sector body, the information will be brought together in one report, which will paint a picture of Scotland as a whole.

There are precedents for the approach, which transcend political parties and Governments and which have occurred in every session of Parliament. At stage 2, I drew attention to amendments by Peter Peacock and Liam McArthur that called for annual reports. While they have been in the Government, Roseanna Cunningham and Paul Wheelhouse have lodged amendments on annual reports. Therefore, an amendment calling for an annual report is nothing unusual. Although the cabinet secretary declined the advances at stage 2, I am pleased that she has agreed with the proposition and that amendment 38 has Government approval. Let us be honest: this does not happen often, so I am extremely tempted to rush to the vote before the cabinet secretary changes her mind.

I should say that our colleagues in COSLA did not wish additional reporting burdens to be put in place and that a proportionate approach has been arrived at to capture the information that is required. I am grateful to the Government for securing that, and to COSLA and local authorities for their support.

When I lodged amendment 38, some civil servants had visions of masses of reports from every public sector body landing on their desks. Indeed, members of the bill team threatened the head of the procurement policy branch—one Iain Moore—with exactly that. On that basis, I am sure that the cabinet secretary will agree that we should henceforth call amendment 38 the Iain Moore amendment. That said, I hope that he is getting a bigger desk to receive all the reports.

I move amendment 38.

**Nigel Don (Angus North and Mearns) (SNP):** I want to consider briefly proposed subsection (3) in amendment 38, under which the Government will have to consider what it thinks will be appropriate for inclusion in the annual report, which might mean problems for small contractors. I want to discuss briefly the effectiveness of the policy and



the mechanisms for enforcement. I guess that I might be wearing my hat as convener of the cross-party group in the Scottish Parliament on construction. I want to reflect the concerns that small engineering contractors—they will be shared by all small contractors—have about the mechanisms in the bill to deal with situations in which public procurement is not handled properly. They believe that the reality is that small businesses will not take procurers to court, and that an ombudsman would be an appropriate way forward.

I have had discussions with the Government on that. The cabinet secretary is well aware of the issue and has given me a response that I understand and accept. I think that there will be an opportunity in the future to address the issue, so I will not press her to do so now. However, if annual reports are to be made, there is an opportunity to consider the issue as part of the process of seeing how the bill beds in, so that we can perhaps get to the right answer a bit more quickly.

**Nicola Sturgeon:** Earlier, Jackie Baillie said that I am taking an entirely consensual approach to the bill this afternoon. Amendment 38 is the second of Jackie Baillie's amendments that I am going to vote for, so in case any of my colleagues are wondering whether I have taken leave of my senses, I say that there is method in my madness: I have detected that it annoys Jackie Baillie more when I remove her ability to engage in unjustified rants against the Government, which is why I have decided to be so consensual. [*Laughter.*]

Seriously, though, I made clear at stage 2 that I agree that effective reporting on procurement performance is extremely important. It is only by reporting effectively that we will know whether our expectations and the obligations in the bill are being properly met. The reason why I declined Jackie Baillie's advances at stage 2 was that her amendment was, not to put too fine a point on it, badly drafted, and I thought that we could draft it in a slightly better way to make it more consistent with our aims and objectives.

I therefore offered to work with her prior to stage 3 and am pleased that, as a result, I am able to support amendment 38, which will result in the publication of annual reports in a manner that recognises and respects the ethos of the broader procurement reform agenda of working in partnership across all sectors. Time will tell whether it delivers more work for Iain Moore in the procurement division.

As he said, Nigel Don has taken great care to raise his issues of concern. There have been discussions between him and my officials about how we can address those issues as we move forward with the procurement reform agenda. I am happy that those discussions continue, and that

we seek to involve him in them, as we develop our thinking on an ombudsman and the points that he raised.

With those comments, I am happy to support amendment 38.

16:15

**Jackie Baillie:** I press amendment 38.

I reject the notion that my stage 2 amendment was badly drafted. We have superb Parliament staff who draft competent amendments. We should have moved on from that excuse a long time ago.

At the risk of misquoting the Deputy First Minister, I say that she has not been "entirely consensual" about the bill. However, I welcome the new-found consensus at which she has arrived with me. I would also welcome support for all the other amendments to which I draw her attention, but she seems to be unwilling to move on them.

I say in passing to the Deputy First Minister that my husband has always said that he found it preferable to agree with me rather than to disagree. I encourage her to do likewise.

*Amendment 38 agreed to.*

#### **Section 18—Publication of contract notices and award notices**

*Amendment 39 moved—[Claudia Beamish].*

**The Deputy Presiding Officer:** The question is, that amendment 39 be agreed to. Are we all agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)

Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 74, Abstentions 0.

*Amendment 39 disagreed to.*

### Section 20—Community benefit requirements in major contracts

**The Deputy Presiding Officer:** We move on to group 9. Amendment 41, in the name of Mary Fee, is grouped with amendment 23.

**Mary Fee:** As my amendment is fairly straightforward, I will be brief.

If the aim of the Procurement Reform (Scotland) Bill is to reform procurement and increase the economic, social and environmental wellbeing of communities, let us get behind that principle and reduce the community benefit threshold from £4 million to £2 million. That would greatly improve the opportunity to bring benefits to all our communities through economic, social and environmental action and would maximise the benefit that we could provide not only to communities but to individuals throughout Scotland.

Amendment 23, in the name of Jackie Baillie, would require data to be collected to demonstrate what benefits are being achieved as a result of a contract including a community benefit requirement and would allow those benefits to be assessed and monitored. We need clarity, transparency and accountability in procurement, and Jackie Baillie's amendment would assist in that.

I move amendment 41.

**Jackie Baillie:** There are, undoubtedly, some excellent community benefit policies and practices and we are learning all the time. I hope that the Procurement Reform (Scotland) Bill spreads that good practice more widely and that we become increasingly better at securing positive outcomes.

I was given a recent example of positive community benefit policies in relation to the Commonwealth games, but I was also told that we do not know the extent to which the organisations that are contracting for the games are improving, for example, women's chances in industries in which they are currently underrepresented, because we are not collecting the data that would help to make that assessment.

We know that there is a difficulty in getting workplace data, whether from the Commonwealth games or from arm's-length organisations. If we are to be able to judge whether community benefit clauses are truly effective, and to learn for the future, we absolutely need, as a baseline requirement, to collect appropriate data. It is a bit of a no-brainer.

At stage 1, the cabinet secretary appeared to support the approach that I had suggested. At stage 2, she was at pains to say that she and I were in agreement about the need for good-quality data collection and that the difference was in how we thought we should achieve that. She referred to blanket approaches to community benefit clauses being unhelpful in capturing the nuance and diversity of the data. However, I have to say—and I say this genuinely—that I think that she misunderstands the purpose of my amendment. The amendment sets out a requirement to collect data. It does not say exactly what data to collect or how to do so. That would be a matter of detail, which is properly for ministers, and properly for guidance. I even went so far as to give a power for ministers to set out in guidance how that should be done, so that the Government can collect data in a way that captures the nuance and the diversity in contracts.

There is no rational reason for resisting the amendment. The amendment is entirely motivated by a desire to understand and learn from our experience. It cannot be right that we should have community benefit clauses but do not measure them in a way that allows proper scrutiny and analysis.

I urge the cabinet secretary to change her mind and to support the amendment. I hope that, by supporting amendment 23, she will again demonstrate that, where we agree, she is willing to make progress.

**Nicola Sturgeon:** Amendment 41 seeks to reduce the threshold for contracts for which

contracting authorities must consider imposing community benefit requirements. As has been explained previously, the rationale behind the current threshold of £4 million is that that is the same level at which public works contracts are covered by the EU public procurement directive. The level is widely recognised and it seemed to be a fairly simple and straightforward approach. It is also important to point out that the threshold was subject to consultation, with the majority of respondents supporting the threshold that is set out in the bill.

That said, I have said repeatedly during the course of the bill that I am not wedded to the threshold and intend to keep it under review. It is worth reminding members that section 20 enables the threshold to be amended by order if, after review, that is considered appropriate.

However, any change to the threshold should follow such a review; it should not be made arbitrarily at this stage. Regardless of whether we agree with the threshold being at £4 million, there is a rationale for setting it at that level. There is no similar, easily understandable reason for setting the threshold at £2 million, other than the fact that it is half of the current figure.

As I said, the threshold will be kept under review and if, after due review, it is considered that it would be appropriate to change the threshold, we will use the powers that are already in the bill to do that by order.

Whatever figure the threshold is set at, we are emphatically not saying that only contracts above that value should be considered for community benefit clauses. That is the threshold at which the duty applies, but that does not mean that if public bodies are procuring below that threshold, they are not expected to have regard to community benefits. They absolutely are. Of course, we are already having significant success on community benefits in our major public contracts.

That is why we should take time to review the threshold and make changes if they are seen to be required. We should not arbitrarily make them at this stage.

On amendment 23, I recognise the importance of capturing reliable data on the achievement of community benefits, but I believe that the issue is addressed through other provisions in the bill. As I have no doubt that Jackie Baillie remembers, section 14(2) was amended at stage 2, so that annual reports will now include a summary of the community benefits that were fulfilled over the year. In addition to that, contract award notices for higher-value contracts will have to include a statement of what the authority believes the contract will deliver.

I would argue that Jackie Baillie's amendment is unnecessary, given other provisions in the bill. With the greatest of respect, I believe that that is an extremely rational reason for saying that we should not agree to the amendment that she proposes.

Against that background, I ask Mary Fee to withdraw amendment 41 and Jackie Baillie not to move amendment 23. If the amendments are pressed to a vote, I ask the chamber not to support them.

**Mary Fee:** I have listened carefully to the Deputy First Minister's comments. While I am pleased to hear her say that there is a commitment in Government to review the threshold that would be required for community benefit—*[Interruption.]* It would be beneficial if the Deputy First Minister could listen to my summing-up, as I had the courtesy to listen when she was speaking.

I look forward to the review that the Deputy First Minister has said that she is committed to having. Perhaps eventually the threshold for community benefit will be reduced. However, it is perhaps unfortunate that the review was not timed to finish before the bill went through Parliament, so that the bill could have done something about the threshold, to bring benefits to our communities.

**Nicola Sturgeon:** Surely Mary Fee would accept that one cannot have a review of a bill before the bill becomes legislation. The review must follow Parliament enacting the legislation.

**Mary Fee:** I absolutely accept that point. However, there is an acceptance that some stakeholders support the figure of £4 million and some do not and the Deputy First Minister is keeping that under review—

**Nicola Sturgeon:** Will the member take an intervention?

**Mary Fee:** No. I am sorry.

I am quite sure that this is not an issue that has just suddenly arisen during the consultation.

**Nicola Sturgeon:** Will the member take an intervention?

**Mary Fee:** No. I am sorry.

I am sure that the Government will have been aware of the issues around procurement and community benefit.

**Nicola Sturgeon:** Will the member take a brief intervention?

**Mary Fee:** No, sorry. I want to move on.

It does seem that the Government picks and chooses which EU regulations it decides to abide by and which not to abide by. We need a bit of

consistency in the approach that we take to EU regulations. I am disappointed in the approach taken and I will be pressing my amendment.

As Jackie Baillie said, her amendment is a bit of a no-brainer. It is a sound amendment. We need to be able to assess the benefits to know that we are doing the right thing.

While I accept the words that the Deputy First Minister has offered, I am not entirely convinced that we will get the outcome and the benefits that we need.

**The Deputy Presiding Officer:** Unusually, I call Nicola Sturgeon and I will, of course, revert to Mary Fee after that.

**Nicola Sturgeon:** There are two points worth making, just for clarity. First, I point out to Mary Fee that this has nothing to do with EU regulations. We have simply set the threshold at the same level as that for public works contracts. It is not an issue of compliance with EU regulations.

The other point is on this issue about a review. We have a review of legislation after the legislation is enacted and is in force. Mary Fee said that we should have considered these issues during the passage of the legislation. We had a consultation in advance of introducing the bill. That is the normal way in which these things are done. We specifically asked the question whether respondents thought that the threshold was set at the right level and a clear majority of respondents said, "Yes we think that it's set at the right level." So, this idea that we somehow did not go through due process simply does not withstand scrutiny.

My point is that we have set a threshold and we have based it on a clear rationale, but we have built into the legislation the ability to review it against experience and change it by subordinate legislation if that seems appropriate. Surely that is a better and far more orderly way of proceeding than simply to pluck a new figure out of thin air that has not been consulted on and stick it into the legislation today.

**The Deputy Presiding Officer:** I give the final word to Mary Fee.

**Mary Fee:** I struggle to understand—*[Interruption.]*

**The Deputy Presiding Officer:** Order!

**Mary Fee:** I struggle to understand the logic behind the Deputy First Minister's response. She said that the threshold was in accordance with guidelines set by the EU. Then she said that it had nothing to do with the EU—

**Nicola Sturgeon:** No I did not.

**Mary Fee:** Yes, you did. The confusion is not helpful.

**Nicola Sturgeon:** Will the member give way?

**Mary Fee:** No, I am sorry. The threshold is either in line with EU guidance or it is not. Perhaps this demonstrates where we are with procurement. It is some kind of grey area and there is little clarity around.

16:30

**The Deputy Presiding Officer:** I take it that you wish to press amendment 41.

**Mary Fee:** I do.

**The Deputy Presiding Officer:** The question is, that amendment 41 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Buchanan, Cameron (Lothian) (Con)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 75, Abstentions 0.

*Amendment 41 disagreed to.*

*Amendment 23 moved—[Jackie Baillie].*

**The Deputy Presiding Officer:** The question is, that amendment 23 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)

Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 71, Abstentions 0.

*Amendment 23 disagreed to.*

#### After section 21

*Amendment 24 moved—[Jackie Baillie].*

**The Deputy Presiding Officer:** The question is, that amendment 24 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)

Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 44, Against 73, Abstentions 0.

*Amendment 24 disagreed to.*

*Amendment 42 moved—[Ken Macintosh].*

**The Deputy Presiding Officer:** The question is, that amendment 42 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rennie, Willie (Mid Scotland and Fife) (LD)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Urquhart, Jean (Highlands and Islands) (Ind)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
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 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** To thunderous applause, the result of the division is: For 45, Against 73, Abstentions 0.

*Amendment 42 disagreed to.*



## Before section 22

**The Deputy Presiding Officer:** Group 10 is on selection of tenderers. Amendment 1, in the name of Jayne Baxter, is grouped with amendments 4, 5, 25 and 8.

**Jayne Baxter (Mid Scotland and Fife) (Lab):** As has become increasingly clear over the weeks since stage 2, there is widespread public concern about and condemnation of zero-hours contracts when they are imposed on employees with no guarantee of a minimum number of hours of work and when the employees are restricted by their contracts from seeking other work with which to supplement their incomes.

Recently published research by the Advisory, Conciliation and Arbitration Service highlights the findings that employees who are on zero-hours contracts are too afraid to search for new jobs and feel excluded from the sense of security that other full-time workers enjoy. Members will be aware that, for many workers, zero-hours contracts often mean people working to earn their poverty and, despite technically being employed, being forced to use food banks just to get by.

There are some limited circumstances in which zero-hours contracts suit both the employer and the employee, and my amendment seeks to make allowances for such mutually agreeable circumstances. In the main, however, it is important that appropriate provisions are made to ensure that those exploitative employers who wrongly force employees into zero-hours contracts are prevented from bidding for public sector contracts.

When I moved the amendment at stage 2, I was disappointed that it was not supported by colleagues across the chamber. At that time, the cabinet secretary indicated that the Scottish Government will deal with the matter through workforce-related guidance, but in my view that does not go far enough. I am keen to see the amendment included in the bill.

I move amendment 1.

**Neil Findlay:** I begin with amendment 4. The Scottish Government, public and local authorities, health authorities and so on tender a huge number of public contracts. Therefore, surely it is right that all the companies that win public contracts should pay their fair share of tax—the very tax that pays for the public contracts that they benefit from.

The organisation Ethical Consumer recently carried out UK-wide research to evaluate the behaviour of 20 major companies that are beneficiaries of public authority contracts. It reported that 14 of those companies, many of which have been recipients of public contracts in Scotland, were involved in avoiding tax. That

cannot be right. As a Parliament that is considering procurement, it is surely correct that we legislate where we can, using the powers that we have to develop policy that excludes those companies that we know are involved in tax avoidance.

A similar point was made in an early-day motion at Westminster, which was lodged in the light of the Ethical Consumer report. The motion called on the UK Government

“to bring forward a set of legally binding procurement rules that subject companies delivering and bidding for the delivery of public service contracts to high ethical, environmental and anti-tax avoidance standards”.

That seems an entirely legitimate aspiration.

It is not just me who agrees with the sentiment of that motion. The SNP at Westminster, no less, also believes that that is a worthy aspiration. In fact, Angus Robertson, the SNP leader at Westminster, and his colleague Mike Weir both signed the motion. Indeed, Mike Weir was a co-sponsor. I ask the Scottish ministers whether they are in agreement with their Westminster colleagues and ready to legislate when they have the power to do so, or whether the SNP says and does one thing at Westminster, where it has no power, and does something completely different here, where it has the power to deal with such matters.

I declare an interest in amendment 5 as a member of Unite the Union. I pay tribute to the outstanding work that has been done on blacklisting by the Scottish Affairs Committee at Westminster, under the excellent chairmanship of Ian Davidson MP. I am sure that the cabinet secretary will want to pay tribute to Mr Davidson's stewardship of that committee and the work that he has done. The committee's work has exposed the activity of some of the biggest names that are operating in the UK and Scottish construction industry.

Companies such as McAlpine, Kier, Skanska, Balfour Beatty, Amey, the Forth crossing bridge constructors joint venture and many, many more all bought into and were up to their necks in a conspiracy against workers whose only crime was to stand up for their workmates by raising concerns about health and safety, site conditions, washing and toilet facilities or wages and rights at work. Those companies created, funded and sustained an illegal list of those whom they saw as undesirables. People were banned from working on construction projects because they were—or were alleged to be—trade union, political or environmental activists. Many were victimised for the most spurious of reasons.

That was victimisation and it was McCarthyism, but it is not over yet. Blacklisting was and still is a

major human rights abuse, and no one has yet been held to account for their actions. Since such activity was first exposed, I have worked closely with colleagues on the Scottish Affairs Committee and with the Union of Construction, Allied Trades and Technicians, the GMB and Unite to raise the profile of the issue in the Parliament and across Scotland. I welcome members of those unions to the gallery. It is their campaign that has moved the Government to take some limited action in the bill, and I commend them for it.

We have come a long way since the issue was first raised in the Parliament. I regret the fact that the cabinet secretary's offer to meet me earlier in the process was withdrawn; I do not know why that happened, but that was, of course, her prerogative. However, I feel that although the Government has gone some way on the issue, it could go further still by accepting amendment 5. That would make it crystal clear to employers what was expected and what would happen if they had blacklisted workers and they wanted to secure public sector contracts in the future.

Amendment 5 would mean that such companies would have nowhere to hide. They would have to own up to what they had done, apologise to the victims and pay adequate compensation that would be negotiated by the victims' representatives. If they failed to do so, no contracts would be awarded to them. Amendment 5 provides an opportunity for the companies concerned to clean themselves up. If they failed to do so, they would, in effect, be blacklisting themselves.

Siobhan Reardon, who is the programme director at Amnesty International Scotland, says:

"The right to form and join trade unions is a fundamental human right ... To discriminate against someone on that basis, including the use of blacklisting, is a violation of that human right. As the Bill stands, it does not go far enough".

I agree with her.

Four hundred Scots were on the Consulting Association's blacklist. I believe that to be the tip of a very large iceberg. We will never know the true extent of the scandal, but I want to pay tribute to the real heroes of this story, who are not politicians or trade union leaders but the ordinary electricians, joiners, steel erectors and scaffolders who, in upholding health and safety standards and the principles and values of trade unionism of looking out for their fellow workers, were victimised and, as a result, had their livelihoods taken from them. They refused to be beaten, and I hope that, as a result of their actions and the actions of their trade unions, the construction industry of the future will be better than the industry of the past.

**Nicola Sturgeon:** The amendments in this group are extremely important, because they deal with practices that I hope all members will agree are totally unacceptable: tax avoidance, blacklisting and the inappropriate use of zero-hours contracts.

Sections 22 and 23 of the bill allow the Government to make regulations that specify the circumstances in which economic operators should be excluded from competition for public sector contracts. I have already made it clear that we intend to make regulations regarding blacklisting, and when the Revenue Scotland and Tax Powers Bill becomes law, we will consider what the regulations can do to maximise our actions to eliminate tax avoidance. In addition, we will consider how the guidance on workforce matters for which the bill legislates can help us to address the issue of zero-hours contracts. The Government agrees with many of the comments that have been made by Opposition members on those three matters, and we stand firm in our determination to tackle them.

Amendment 25 in my name seeks to strengthen the bill's provisions on tax avoidance. It makes it clear that the regulations will address instances in which there has been a failure in relation to any matter of tax compliance, whether that is a failure to submit a tax return or a failure to pay tax on time, and not just a failure to pay tax generally. I think that amendment 25 is preferable to Neil Findlay's amendment 4, although I make it absolutely clear that the objectives behind those two amendments are the same. The Scottish Government will take whatever steps are necessary to ensure that tax avoidance will not succeed in Scotland. We have made our position consistently clear over a prolonged period of time, and we will continue to do so.

16:45

The Government has been equally clear that it is totally opposed to the practice of blacklisting. I hope that Neil Findlay will acknowledge the work that the Government has done, and will continue to do, with the trade unions on that matter. I welcome trade union members to the gallery and pay tribute to those workers in many parts of the country and in many different sectors who were victims of the practice of blacklisting but have worked bravely to bring the practice to light and to help us all resolve to address the issue for the future.

I do not support amendment 5, not for a principled reason—I ask Neil Findlay to reflect carefully on that—but for a practical reason. We need flexibility in the legislation to ensure that we can respond quickly if there are changes to legislation in reserved areas—changes that I very

much hope we will see. For example, in the context of blacklisting, some trade unions have argued that the Employment Relations Act 1999 (Blacklists) Regulations 2010, commonly referred to as the blacklisting regulations, need to be strengthened. If that happened—and we are advocates of that happening—we would need to adapt our approach quickly to bring it into line. That is why proceeding on the basis of strong, robust regulations that give us that flexibility is preferable to the route that Neil Findlay proposes.

**Neil Findlay:** I do not see why accepting my amendment precludes a change in the guidance whenever one is needed.

**Nicola Sturgeon:** Depending on the nature of the change that was made to other legislation, Mr Findlay's amendment could also require us to change primary legislation and, as all members are aware, that takes more time. The Government's amendments fulfil the objective, and I tell Neil Findlay in all sincerity that there is not a single shred of difference between us in our abhorrence of blacklisting and our determination to do everything that we can to tackle it. I want to do it in a way that is effective and to ensure that we are able to respond to changes that we are not in control of, so that at any given time our legislation here in Scotland is as robust as it possibly can be. I ask him to reflect on those comments in the spirit in which they are offered to him. We will continue to work with Mr Findlay, with other members and with trade unions to ensure that we are responding as quickly and effectively as possible.

I turn to amendment 1, in the name of Jayne Baxter, on zero-hours contracts. The Government has made clear our opposition to the inappropriate use of zero-hours contracts and I have no issue at all with the sentiment behind amendment 1. However, the drafting of amendment 1 raises a serious and fundamental question about the practical workability of the amendment. It is simply not realistic to ask a purchaser, as amendment 1 would do, to monitor, for every contract, whether a bidder employs staff on zero-hours contracts and to assess whether they signed up to such contracts willingly and whether they did so following legal or trade union advice. It would place burdens on purchasers that they could not reasonably be expected to discharge, and that would not make for good legislation.

That is why the approach that I propose—to use the guidance on workforce matters that is provided for by section 24 of the bill and to look at what we can do through procurement to tackle the inappropriate use of zero-hours contracts, in addition to our other steps in that area—is much better. As I have said, in all areas where we refer to guidance I am happy to continue to work with members and with the Infrastructure and Capital

Investment Committee to ensure that we get that right.

I hope that there will be an understanding and appreciation across the chamber that what we are talking about in relation to this group of amendments is not in any way a dispute on the principles of tax avoidance, blacklisting or the inappropriate use of zero-hours contracts. My proposal is that we tackle those issues in a way that gives us flexibility and allows us to ensure that our provisions are as effective as possible, and I believe that amendments 25 and 8, in my name, do that; I ask members to support those amendments over amendments 1, 4 and 5, which do not fulfil the same purpose as effectively.

**Tavish Scott:** I support Neil Findlay's amendment on blacklisting, but I acknowledge the sentiment and the position expressed by the Deputy First Minister.

I seek clarification on amendment 1, in the name of Jayne Baxter, on zero-hours contracts. I totally accept the reasoned way in which she expressed her case, which is fundamentally about ending exploitation of working men and women, but I am slightly puzzled by the contrast between subsections (2) and (3) in amendment 1, in relation to how subsection (6) would work in practice. Can she shed any light as to the point that subsection (6) makes? In effect, it gives an opt-out in relation to zero-hours contracts covering "legal advice",

"the advice of a trade union"

or indeed where

"an employee agrees to accept a contract that fails to specify guaranteed working hours."

It would be enormously helpful if Jayne Baxter could explain that to enable us to understand the purpose of her amendment 1.

**Jayne Baxter:** I listened to the cabinet secretary's response with interest and am pleased that she agrees that the amendments in the group are important, but I am very disappointed that she indicated that the Scottish Government will not support amendment 1. I am not convinced that practicability is a barrier to taking forward my proposal on zero-hours contracts. Inclusion in guidance is to be welcomed, but it does not go far enough. I still wish to see my amendment included in the bill.

Similarly, I am disappointed that the Scottish Government will not accept my colleague Neil Findlay's amendments 4 and 5.

I believe that the Parliament has a clear responsibility to send out to employers a message that restrictive, unwieldy and unfair zero-hours

contracts are not acceptable and that public money should not be used to support them.

I am grateful to Tavish Scott for asking such a complicated question shortly before I was due to respond. For the purposes of information, subsection (6) in my amendment 1 states:

“A contract is not, for the purposes of this section, a zero hours contract if, after being given the opportunity to seek—

(a) legal advice, or

(b) the advice of a trade union or other elected representative of employees,

an employee agrees to accept a contract that fails to specify guaranteed working hours.”

I suppose that it is about at least ensuring that, if an employee makes that decision, it is an informed decision that is based on accurate information and good advice.

Having said that, I press amendment 1.

**The Deputy Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
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 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
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 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, Tavish (Shetland Islands) (LD)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 39, Against 78, Abstentions 0.

*Amendment 1 disagreed to.*

*Amendment 4 moved—[Neil Findlay].*

**The Deputy Presiding Officer:** The question is, that amendment 4 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hume, Jim (South Scotland) (LD)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)

Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 75, Abstentions 0.

*Amendment 4 disagreed to.*

*Amendment 5 moved—[Neil Findlay].*

**The Deputy Presiding Officer:** The question is, that amendment 5 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)

Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Gavin (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Carlaw, Jackson (West Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Salmond, Alex (Aberdeenshire East) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)  
Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 74, Abstentions 0.

*Amendment 5 disagreed to.*

### Section 23—Selection of tenderers

*Amendment 25 moved—[Nicola Sturgeon]—and agreed to.*

### Section 24—Guidance on selection of tenderers

*Amendments 8 and 9 moved—[Nicola Sturgeon]—and agreed to.*

*Amendment 43 moved—[Ken Macintosh].*

**The Deputy Presiding Officer:** The question is, that amendment 43 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Adam, George (Paisley) (SNP)  
Adamson, Clare (Central Scotland) (SNP)  
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
Allard, Christian (North East Scotland) (SNP)  
Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Baker, Richard (North East Scotland) (Lab)  
Baxter, Jayne (Mid Scotland and Fife) (Lab)  
Beamish, Claudia (South Scotland) (Lab)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Bibby, Neil (West Scotland) (Lab)  
Brodie, Chic (South Scotland) (SNP)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Burgess, Margaret (Cunninghame South) (SNP)  
Campbell, Aileen (Clydesdale) (SNP)  
Campbell, Roderick (North East Fife) (SNP)  
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Constance, Angela (Almond Valley) (SNP)  
Crawford, Bruce (Stirling) (SNP)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Dey, Graeme (Angus South) (SNP)  
Don, Nigel (Angus North and Mearns) (SNP)  
Doris, Bob (Glasgow) (SNP)  
Dornan, James (Glasgow Cathcart) (SNP)  
Eadie, Jim (Edinburgh Southern) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Fee, Mary (West Scotland) (Lab)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Findlay, Neil (Lothian) (Lab)  
Finnie, John (Highlands and Islands) (Ind)  
FitzPatrick, Joe (Dundee City West) (SNP)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)  
Griffin, Mark (Central Scotland) (Lab)

Harvie, Patrick (Glasgow) (Green)  
Henry, Hugh (Renfrewshire South) (Lab)  
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
Hilton, Cara (Dunfermline) (Lab)  
Hume, Jim (South Scotland) (LD)  
Hyslop, Fiona (Linlithgow) (SNP)  
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
Johnstone, Alison (Lothian) (Green)  
Keir, Colin (Edinburgh Western) (SNP)  
Kelly, James (Rutherglen) (Lab)  
Kidd, Bill (Glasgow Anniesland) (SNP)  
Lamont, Johann (Glasgow Pollok) (Lab)  
Lochhead, Richard (Moray) (SNP)  
Lyle, Richard (Central Scotland) (SNP)  
MacAskill, Kenny (Edinburgh Eastern) (SNP)  
MacDonald, Angus (Falkirk East) (SNP)  
MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
Macdonald, Lewis (North East Scotland) (Lab)  
Macintosh, Ken (Eastwood) (Lab)  
Mackay, Derek (Renfrewshire North and West) (SNP)  
MacKenzie, Mike (Highlands and Islands) (SNP)  
Malik, Hanzala (Glasgow) (Lab)  
Marra, Jenny (North East Scotland) (Lab)  
Martin, Paul (Glasgow Provan) (Lab)  
Mason, John (Glasgow Shettleston) (SNP)  
Matheson, Michael (Falkirk West) (SNP)  
Maxwell, Stewart (West Scotland) (SNP)  
McAlpine, Joan (South Scotland) (SNP)  
McArthur, Liam (Orkney Islands) (LD)  
McCulloch, Margaret (Central Scotland) (Lab)  
McDonald, Mark (Aberdeen Donside) (SNP)  
McDougall, Margaret (West Scotland) (Lab)  
McInnes, Alison (North East Scotland) (LD)  
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
McLeod, Aileen (South Scotland) (SNP)  
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
McMahon, Michael (Uddingston and Bellshill) (Lab)  
McMahon, Siobhan (Central Scotland) (Lab)  
McMillan, Stuart (West Scotland) (SNP)  
McNeil, Duncan (Greenock and Inverclyde) (Lab)  
McTaggart, Anne (Glasgow) (Lab)  
Murray, Elaine (Dumfriesshire) (Lab)  
Paterson, Gil (Clydebank and Milngavie) (SNP)  
Pearson, Graeme (South Scotland) (Lab)  
Pentland, John (Motherwell and Wishaw) (Lab)  
Robertson, Dennis (Aberdeenshire West) (SNP)  
Robison, Shona (Dundee City East) (SNP)  
Rowley, Alex (Cowdenbeath) (Lab)  
Russell, Michael (Argyll and Bute) (SNP)  
Salmond, Alex (Aberdeenshire East) (SNP)  
Scott, Tavish (Shetland Islands) (LD)  
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
Smith, Drew (Glasgow) (Lab)  
Smith, Elaine (Coatbridge and Chryston) (Lab)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
Stewart, Kevin (Aberdeen Central) (SNP)  
Sturgeon, Nicola (Glasgow Southside) (SNP)  
Swinney, John (Perthshire North) (SNP)  
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
Torrance, David (Kirkcaldy) (SNP)  
Urquhart, Jean (Highlands and Islands) (Ind)  
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
Wheelhouse, Paul (South Scotland) (SNP)  
White, Sandra (Glasgow Kelvin) (SNP)  
Yousaf, Humza (Glasgow) (SNP)

#### Against

Brown, Gavin (Lothian) (Con)  
Buchanan, Cameron (Lothian) (Con)  
Carlaw, Jackson (West Scotland) (Con)

Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 105, Against 12, Abstentions 0.

*Amendment 43 agreed to.*

*Amendment 10 moved—[Nicola Sturgeon]—and agreed to.*

### Section 36—General interpretation

*Amendments 26 and 27 not moved.*

**The Deputy Presiding Officer:** We move to group 11. Amendment 44, in the name of Patrick Harvie, is the only amendment in the group.

**Patrick Harvie:** The bill describes the sustainability duty and the community benefit requirements as being to

“improve the economic, social, and environmental wellbeing of the authority’s area”.

The bill describes that area as

“the area by reference to which the contracting authority primarily exercises its functions, disregarding any areas outside Scotland.”

My amendment 44 would remove the words

“disregarding any areas outside Scotland.”

It is intended to remove ambiguity about the permissibility of ethical and fair trade procurement practices. The Scottish Fair Trade Forum and Amnesty International have highlighted how the definition in the bill could be a barrier to considering the global impacts of purchasing decisions.

I am aware that some changes were made to the bill at stage 2, and the Scottish Fair Trade Forum has welcomed the inclusion of a statement of a public authority’s general policy on fairly and ethically traded goods. I, too, welcome that, but a statement of policy is not necessarily the same as a clear commitment to action. The forum says that the bill’s

“wording may cause confusion about what it is possible to procure and could unintentionally reduce the procurement of ethical and Fair Trade goods.”

17:00

I will give a few examples. In its evidence to the Infrastructure and Capital Investment Committee, the British Medical Association Scotland highlighted the estimated 10 million surgical instruments used in the UK each year that are

manufactured in northern Pakistan. It said that most of the 50,000 manual labourers in that industry are paid less than a dollar a day for 12 hours of work, there is little job security, there are serious health and safety risks, and the approach contributes to the proliferation of child labour.

Other examples include the sexual and physical harassment of workers, people being expected to work for over 80 hours a week, illegal working hours and a ban on unionisation. That indicates that some of the issues that Neil Findlay sought to raise in his amendment at a domestic level are also global issues that we should seek to address.

Obviously, procuring or contracting authorities may not have access to all the relevant information about global impacts when they make a decision, but, as far as I can see, the bill prohibits them from taking any such information into account by using the phrase,

“disregarding any areas outside Scotland.”

My amendment simply seeks to allow those decisions to be fully informed by the information about global impacts that is available at the time when they are being made.

I move amendment 44.

**Nicola Sturgeon:** I thank Patrick Harvie for lodging amendment 44, and I absolutely agree with him on the importance of recognising and understanding the global impact of procurement. He was right to point to the fact that we made changes at stage 2 specifically in relation to fair trade. I would be very happy to speak further with the Scottish Fair Trade Forum about any concerns that it has. It is clear that we were anxious to respond to the issues that it raised in an appropriate way, and I think that we have done that with some of the changes that we have made.

The point that the BMA made, which Patrick Harvie referred to, is a good illustration of the general point that he is trying to make. There is nothing in the bill, as it currently stands, that prevents public bodies from acting in a manner to secure improvements in economic, social and environmental wellbeing wherever they may arise. At stage 2, I made the point that, specifically, the bill as it stands does not prevent an authority from taking account of wider global or international issues if it considers that to be appropriate. However, section 9 places a duty on public bodies, and it is right that we ensure that that duty strikes the right balance—a balance that is both proportionate and manageable in a meaningful way at a practical level. That is what section 9, as currently drafted, seeks to do.

My concern about Patrick Harvie’s amendment is that the scope is so wide. For example, it could lead to challenges against a public body that it



failed to consider a perceived benefit that might accrue from literally anywhere in the world. Placing a duty on public authorities with a scope as wide as that would make it very difficult for them to discharge their duties in a way in which they could be reasonably confident did not open them up to legal challenge.

That is not to say that I do not think that we have an obligation to address the issues that Patrick Harvie has talked about. I repeat the offer that I made to him at stage 2 to discuss how we can use the statutory guidance that will underpin the sustainable procurement duty to try to encapsulate the perfectly legitimate points that he has made about the wider implications of procurement exercises. That is particularly relevant when we are talking about large procurement exercises. I hope that he will take up that offer.

Patrick Harvie has made legitimate points, but the translation of his argument into the specific amendment that he has lodged would result in legislation that was drafted so widely that it would hinder rather than help public authorities. I think that there is a more effective way in which we can try to deliver the ends that he has rightly talked about.

**The Deputy Presiding Officer (Elaine Smith):** I have a late bid to speak from Mark Griffin, who should be very brief, please.

**Mark Griffin:** I apologise for being slow at pressing my button, Presiding Officer.

As Patrick Harvie mentioned, amendment 44 would remove the words

“disregarding any areas outside Scotland”

from the definition of a contracting authority’s area. We will not support the amendment, as we feel that it would be too vague to implement in practice and would make the scope of a contracting authority’s area too uncertain. We agree with the principles and have lodged amendments around global sustainability and taking into account the environment, fair trade and other issues, but, as I said, the amendment is not a practical step. It is a burden too far for local authorities.

**The Deputy Presiding Officer:** As the Deputy First Minister has no comments to make, I call Patrick Harvie to wind up and press or withdraw his amendment.

**Patrick Harvie:** I am sorry that the Government and the Labour Party do not seem to be open to the argument. The central part of the Deputy First Minister’s argument against amendment 44 is that it would be very difficult to take account of impacts anywhere in the world, but we need to do that if we are to have a global approach to sustainability. That is the intention of the amendment, which the

Deputy First Minister seems to agree with. The practical reality is that that would be difficult and challenging, but that is the task at hand. Either we need to set that challenge to ourselves and public bodies, or we do not.

I will press the amendment. However, assuming that the Government’s support continues to be robust, I would be happy to have a discussion with the Deputy First Minister after the bill has passed to see whether approaches can be taken.

**The Deputy Presiding Officer:** The question is, that amendment 44 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Finnie, John (Highlands and Islands) (Ind)  
Harvie, Patrick (Glasgow) (Green)  
Hume, Jim (South Scotland) (LD)  
Johnstone, Alison (Lothian) (Green)  
McArthur, Liam (Orkney Islands) (LD)  
McInnes, Alison (North East Scotland) (LD)  
Scott, Tavish (Shetland Islands) (LD)  
Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
Adamson, Clare (Central Scotland) (SNP)  
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
Allard, Christian (North East Scotland) (SNP)  
Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Baker, Richard (North East Scotland) (Lab)  
Baxter, Jayne (Mid Scotland and Fife) (Lab)  
Beamish, Claudia (South Scotland) (Lab)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Bibby, Neil (West Scotland) (Lab)  
Brodie, Chic (South Scotland) (SNP)  
Brown, Gavin (Lothian) (Con)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Buchanan, Cameron (Lothian) (Con)  
Burgess, Margaret (Cunninghame South) (SNP)  
Campbell, Aileen (Clydesdale) (SNP)  
Campbell, Roderick (North East Fife) (SNP)  
Carlaw, Jackson (West Scotland) (Con)  
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Constance, Angela (Almond Valley) (SNP)  
Crawford, Bruce (Stirling) (SNP)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Dey, Graeme (Angus South) (SNP)  
Don, Nigel (Angus North and Mearns) (SNP)  
Doris, Bob (Glasgow) (SNP)  
Dornan, James (Glasgow Cathcart) (SNP)  
Dugdale, Kezia (Lothian) (Lab)  
Eadie, Jim (Edinburgh Southern) (SNP)  
Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Fee, Mary (West Scotland) (Lab)  
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
Fergusson, Alex (Galloway and West Dumfries) (Con)  
Findlay, Neil (Lothian) (Lab)  
FitzPatrick, Joe (Dundee City West) (SNP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)

Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Goldie, Annabel (West Scotland) (Con)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kelly, James (Rutherglen) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 8, Against 109, Abstentions 0.

*Amendment 44 disagreed to.*

### Schedule—Contracting authorities

**The Deputy Presiding Officer:** Group 12, on contracting authorities, is the final group. If members are brief, we may be able to keep to the indicated timings. Amendment 28, in the name of Tavish Scott, is grouped with amendment 29.

**Tavish Scott:** I thank James Kelly for giving the issue an airing at stage 2 and for lodging amendment 29. Amendment 28 would ensure that the procurement provisions that we agree today cover the spending of £1 billion of taxpayers' money.

The Government created the Scottish Futures Trust, which in turn created a financial model known as the hubco model, which builds schools and hospitals. Hubcos are managed and led by large private sector businesses—businesses that make profit and charge management fees for building a school or a health centre. However, it does not appear that the taxpayer, the Parliament or Audit Scotland know how much profit they make or what fee is levied. I suggest that that financial secrecy needs to be replaced by the financial transparency that the Deputy First Minister rightly described in her opening speech when she introduced the bill to Parliament.

Scotland's five hubcos are led by 15 main corporate businesses. Under the model, small businesses in Scotland such as builders, conveyors, construction companies and architects can only hope to be a subcontractor or a subcontractor of a subcontractor. Therefore, by definition, hubcos exclude thousands of Scottish businesses from tendering for work.

That means that the Parliament and Audit Scotland do not know whether we achieve value for money. Under the hubco model that is never tested. For example, there was no tender to build the six schools in the north of Scotland by the Miller Group-led north Scotland hubco. There is a lack of financial transparency: there is a belief that economies of scale may deliver better value for money, but we simply do not know whether that is the case. How much profit will the Miller Group make on the building of those six schools? Parliament simply does not know. What management fee is the Miller Group receiving for the contract? Parliament does not know.

Hubcos are not financially accountable, despite the vast amount of public money that is spent across Scotland on projects that we would all wish

to see happen. Will hubco businesses be subject to the policies on the living wage and community benefit that we have discussed in Parliament this afternoon? They surely should be.

Finally, I ask members to consider the views of the Federation of Small Businesses on hubcos. Just this week, Andy Willox of the FSB said:

"I'm astonished the Scottish Government is deliberately excluding so much tax-payer-funded buying from the scope of their reforms. We are urging MSPs to look again at the legislation and ask if it is really appropriate for us to turn a blind eye to the purchasing practices of arms-length bodies and HubCos."

The FSB supports the bill, but it believes that the issues in that area need to be addressed. I hope that, given its fair observations about the importance of financial accountability, the Government will, even at this late stage, extend the provisions in the bill to cover that particular group of organisations.

I move amendment 28.

**James Kelly:** I support amendments 29 and 28. The bill's premise is to promote good procurement practice covering £10 billion of public contracts. It therefore seems strange that it does not cover Scottish Water, which has a capital expenditure programme of £500 million and had revenue expenditure last year of £837 million. The Government's loan obviously contributed to that capital expenditure, so there is public money flowing through Scottish Water. It is therefore right not only that there is accountability but that we can influence Scottish Water through the provisions in the bill.

The same should apply to the Scottish Futures Trust. Tavish Scott correctly pinpoints that the SFT oversees £1 billion of public expenditure, which would be a 10th again of the amount that the bill already covers. There are real issues with regard to accountability for how the money is spent and with some of the SFT's claims in relation to savings.

Amendments 29 and 28 address a weakness in the bill. Not only are the bodies that I have mentioned not accountable for their expenditure, but all the other provisions that we are trying to introduce in the bill on issues such as blacklisting and zero-hours contracts are not covered. It is a real glitch that Scottish Water and the SFT hubcos are not included, and I urge members to support both amendments.

**The Deputy Presiding Officer:** Alex Johnstone can come in very briefly.

**Alex Johnstone:** I will try to be as brief as possible.

The failure to include the SFT hubcos and Scottish Water in the list of organisations in the

schedule to the bill was a surprise to many. During the bill process from committee to stage 3 today, questions have been asked and re-asked about why they are not in the bill.

The matter was addressed to some extent in the Deputy First Minister's letter to Maureen Watt, convener of the Infrastructure and Capital Investment Committee, in which she points out that Scottish Water will abide roughly by the rules that exist in the bill and that the SFT hubcos have agreed to do something similar. That raises the question of why those bodies are not included in the list of organisations that will be covered.

The question has been asked repeatedly and has never been answered to my satisfaction. For that reason, I will support amendments 28 and 29 today.

**Nicola Sturgeon:** I think that it would be helpful for members in the chamber if I explain, as I have done at previous stages of the bill process, why hubcos and Scottish Water are not included in the bill's ambit.

I seem to recall—I am sure that Tavish Scott will correct me if I am wrong—that the concept of hubcos was first developed by the previous Administration before being progressed by the current Administration. Hubcos are not public bodies but institutionalised private-public bodies, and their private partners are procured after open and competitive processes. Scottish Water is publicly owned but is subject to a very different regime under EU legislation.

The bill, the regulations and the guidance have and will be drafted to dovetail with EU public procurement rules. Indeed, the bill currently does that, as it would relate to Scottish Water, by excluding utilities contracts. That is consistent with the existing EU procurement law approach, in which such contracts are subject to a separate legal regime. Applying the bill to a body that is subject to a different EU law framework would create considerable complexity and some risk for all concerned, as it would require work with two very different EU legal regimes.

17:15

That said, at stage 2 I undertook to write to the committee after further dialogue with the Scottish Futures Trust and Scottish Water, which I did on 6 May. The letter makes it clear that the SFT intends to work with hubcos, to encourage them to adopt the good practice in the bill where that is appropriate. Indeed, I should point out to the chamber that that is already happening in a number of areas—community benefit clauses being one example.

**Liam McArthur (Orkney Islands) (LD):** The cabinet secretary will be aware—from our correspondence on the point that Tavish Scott made about the involvement of smaller firms in constituencies that he, I and others in the Parliament represent—that the notion of Scottish Water using rural frameworks might be a way of getting round this problem. They have the transparency that both James Kelly and Tavish Scott referred to, would allow companies more of an involvement, and can have a multiplier effect on our local economies.

**Nicola Sturgeon:** I am more than happy to discuss the issue about Scottish Water with Liam McArthur, if he would find that helpful. If I have understood his point correctly, I point out that nothing in the bill would prevent the use of framework contracts, so I am not sure that his point hangs together in that respect. If I have misunderstood him, I am more than happy to engage further with him.

I was pointing out, in relation to SFT and hubcos, that a number of areas covered by the bill are already in use: I would cite the example of community benefit clauses.

Scottish Water has provided an assurance that it supports the general principles of the bill and will continue to adhere to its key components. Again, I highlight that Scottish Water already adheres to many of the bill's key components: it advertises via the public contracts Scotland website, it uses standard pre-qualification questionnaires, and it uses community benefit clauses in its major contracts. Those are all components of the bill that Scottish Water already adheres to, even though it is not part of the overall framework of the bill.

I ask Tavish Scott to withdraw amendment 28 and James Kelly not to move amendment 29, and I ask the chamber not to support either of those amendments.

**Tavish Scott:** I take the Deputy First Minister's remarks in relation to some of the bill's provisions, which do, as she has described, apply to some of these bodies. That is progress. However, it is interesting that the Deputy First Minister did not respond to the major concern that many of us have, which is financial accountability to this Parliament.

I would hate to repeat all the same points, but because of the structure of the hubcos—I take the Deputy First Minister's point about when the structure was introduced, but this point is right whenever it was introduced—we do not know whether they can deliver value for money. When schools are put into the programme, we do not know whether we achieve value for money because there is not a tender at that stage. It seems to be in the Government's interests to seek

to have that, so that, if the hubco model is not achieving value for money, perhaps it should be considered again from first principles.

For many of the reasons that James Kelly, Alex Johnstone and others have expressed, there appears to be a fundamental point: that £1 billion of public spending should be covered by the bill, and we should support its inclusion.

**The Deputy Presiding Officer:** Members will note that we have passed the agreed time limit for the debate on this group to finish. I exercise my power under rule 9.8.4A(c) to allow the debate on the group to continue beyond the time limit, in order to avoid the debate being unreasonably curtailed.

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

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Fergusson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)

Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)

Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 56, Against 61, Abstentions 0.

*Amendment 28 disagreed to.*

*Amendment 29 moved—[James Kelly].*

**The Deputy Presiding Officer:** The question is, that amendment 29 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (Con)  
 Carlaw, Jackson (West Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Dugdale, Kezia (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Fergusson, Alex (Galloway and West Dumfries) (Con)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Goldie, Annabel (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hilton, Cara (Dunfermline) (Lab)  
 Hume, Jim (South Scotland) (LD)  
 Johnstone, Alex (North East Scotland) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Malik, Hanzala (Glasgow) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 Martin, Paul (Glasgow Provan) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 McDougall, Margaret (West Scotland) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahan, Michael (Uddingston and Bellshill) (Lab)  
 McMahan, Siobhan (Central Scotland) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McTaggart, Anne (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Pearson, Graeme (South Scotland) (Lab)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 Rowley, Alex (Cowdenbeath) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland Islands) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Drew (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Urquhart, Jean (Highlands and Islands) (Ind)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burgess, Margaret (Cunninghame South) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)  
 Keir, Colin (Edinburgh Western) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Central Scotland) (SNP)  
 MacAskill, Kenny (Edinburgh Eastern) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 MacKenzie, Mike (Highlands and Islands) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West Scotland) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McLeod, Aileen (South Scotland) (SNP)  
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)  
 McMillan, Stuart (West Scotland) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robertson, Dennis (Aberdeenshire West) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 56, Against 61, Abstentions 0.

*Amendment 29 disagreed to.*

**The Deputy Presiding Officer:** That ends consideration of amendments.

## Procurement Reform (Scotland) Bill

### **The Deputy Presiding Officer (Elaine Smith):**

The next item of business is a debate on motion S4M-10005, in the name of Nicola Sturgeon, on the Procurement Reform (Scotland) Bill. I advise members that we are tight for time. Deputy First Minister, if you could speak to and move the motion in around eight minutes, I would be most grateful.

17:21

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** I begin the debate by thanking everyone who contributed to the bill's development, including members of all parties and a range of stakeholders. Stakeholders with an interest in procurement from various perspectives have contributed hugely to our procurement reform agenda. I know that they will continue to do so and I am grateful to them. I also thank the Infrastructure and Capital Investment Committee, whose scrutiny led to a significant number of improvements. Finally, I thank my officials and bill team, who worked very hard on what has been, at times, a technical and complex area of law.

It is fair to say that as the bill progressed through the parliamentary process it stimulated passionate and lively discussion. That is a good thing. I want to focus on what I think is a remarkable degree of consensus about what our ambitions should be in relation to public procurement. I think that all members, across party divides, support the bill's broad aims, which are to ensure that the £10 billion that the public sector in Scotland spends every year is spent wisely and fairly and that, wherever possible, we use that spending to generate additional benefits for our communities, our businesses and our citizens—and indeed for the wider world, as Patrick Harvie sought to highlight in amendments that he lodged.

The bill contains a strong statement of our intent that good procurement practice must involve thinking about the bigger picture for Scotland when a procurement exercise is planned. The new general duties in the bill will help to achieve that, and the greater transparency that will be created by the requirements on advertising, contract registers and published strategies will help us to understand how procurement is performing and what it is delivering or not delivering—we will be able to take action if the latter is the case. Amendment 38, in Jackie Baillie's name, which was agreed to today, provides for national reports to Parliament, which will help to ensure that we

can monitor performance and strive for ever greater results.

As we debate the bill it is important that we remember that procurement must continue to deliver value for the taxpayer. The Scottish model of procurement, as it is increasingly being recognised, has at its heart the need to strike the best balance between cost, quality and sustainability. Delivering savings, reducing waste and improving quality through innovation are all vital objectives for our public services and are at the heart of what professional procurement staff are employed to do. The bill needs to help staff to perform that vital role, not hinder them in doing so.

We also have to remember that the public bodies that we are asking to embrace the requirements in the bill already have a complex and demanding set of rules with which they must comply in the overarching European law on procurement. I know that it has not always been popular when I have used this explanation, but we have therefore had to work hard, in framing the bill, to keep the new rules as simple and as easy to understand as we can and to keep them compliant with EU law.

Some stakeholders think that the bill does not go far enough and an equal number think that it goes far too far. Perhaps I am just an eternal optimist, but I take that as a sign that we have struck a reasonable balance in the bill. I believe that we all share the ambition that public procurement in Scotland should be business friendly by standardising processes, streamlining bureaucracy and encouraging innovation. The business-friendly aspects of the bill are particularly important when it comes to small businesses, third sector organisations and supported businesses, and I want to ensure that the bill delivers real improvements in their ability to access public contracts.

I believe that we all want companies that bid for public contracts to conduct their business in an ethical manner. I certainly want it to be the case that only businesses that comply with their obligations in law are successful in winning public contracts. In providing the power to make regulations and issue guidance on the selection of bidders and the exclusion of companies from procurement exercises, the bill will address those issues and will help us to ensure that only reputable companies win public contracts. I assure Parliament that addressing issues such as the living wage, blacklisting and inappropriate use of zero-hours contracts as well as issues to do with promoting equality generally will be central to the way in which we frame the regulations and guidance that will underpin the legislation.

I firmly believe that the bill will establish a national legislative framework for public

procurement that is business friendly and socially responsible. Achieving such a balance is not always easy. I remember saying in the stage 1 debate that there are tensions running through the agenda that can often feel difficult to reconcile, but reconcile them we must. It is important to emphasise both sides of the equation and to be both business friendly and socially responsible so that we strike an appropriate balance. I believe that the bill does that, but the regulations and the guidance will be crucial to ensuring that we continue to get that right.

The contribution of stakeholders in the next stages of the process will be extremely important in ensuring that the commitments that I have given during the process on reflecting particular priorities in guidance are delivered and that we do that in a meaningful and robust way. We had a huge number of responses—more than 250—to the consultation on the bill, and we need to harness all that expertise as we move into the next stage.

I believe that, when we pass the bill—as I hope we will—we will deliver a piece of legislation that can make a big contribution to improving procurement performance and which, importantly, will deliver those improvements without imposing unnecessary or disproportionate burdens or opening our public bodies to substantial legal risk.

As I have alluded to, given that much of the bill is very deliberately couched in terms of enabling powers, stage 3 perhaps feels more like the start of a process rather than the end. As we work through the various pieces of regulation and guidance for which the bill provides, it is important that we continue to engage comprehensively with all stakeholders. I have given a number of commitments to partnership and cross-party working, and I am happy to restate that the Government will continue to approach all its work on procurement reform in a fully inclusive manner.

The bill will be a good piece of legislation that will make a difference. One point that was made at an earlier stage is that legislation is but one part of our procurement reform agenda. We were never going to resolve all the ills relating to procurement or some of the wider social and economic issues that we have touched on through one piece of legislation. We have done a good job in giving ourselves the tools to do so, but our wider programme of procurement reform continues to be very important.

Scotland is rightly gaining a good international reputation for its record and work on public procurement. The bill will contribute to that, but the work that comes after it on the guidance and regulations and on our wider agenda will ensure that we continue to get better at procurement so that the £10 billion that we spend every year is

spent well and in a way that delivers benefits right across our society.

I move,

That the Parliament agrees that the Procurement Reform (Scotland) Bill be passed.

**The Deputy Presiding Officer:** I am grateful to the Deputy First Minister for curtailing her speech. However, I must notify back-bench members that I will have to give them three and a half minutes if I am to call everyone.

I call James Kelly. You have a maximum of seven minutes, Mr Kelly.

17:30

**James Kelly (Rutherglen) (Lab):** I welcome the opportunity to take part in the stage 3 debate on the Procurement Reform (Scotland) Bill and indicate that the Labour Party will support the bill when decision time comes round at quarter past 6.

I agree with Nicola Sturgeon that the bill provides the £10 billion that the public sector spends with an opportunity not only to influence good procurement practice but to implement more fairness in our communities throughout Scotland. However, although we support the bill, it is a missed opportunity in that regard.

Labour interacted seriously with the bill throughout. We submitted a suite of amendments at stage 2, all except one of which the Government rejected. Although there has been some progress this afternoon on a number of amendments from Jackie Baillie and Ken Macintosh, if we were to compare the bill as introduced with the final version on which we will vote shortly, we would see very little difference. That makes us wonder how good the parliamentary process has been for such an important bill.

I will not rerun the arguments that we have had on the living wage—I am sure that members will be delighted to know that. I am obviously disappointed that the Labour amendments on that were not agreed to. I genuinely believed that this was a real opportunity to extend the living wage.

The Scottish National Party approach to the living wage is a result of pressure from campaigning groups such as the Scottish Trades Union Congress and the Scottish Council for Voluntary Organisations. As I said earlier, I am not convinced that the approach is strong enough and I remain to be convinced as to how much difference it will make.

On moving the living wage forward, I will be really interested in monitoring the impact of the bill and the changes that Nicola Sturgeon announced earlier. It would be useful if there could be a living



wage unit that could do that, because we want to see whether the changes will result in more people being paid the living wage.

There remains a big issue, which I have consistently raised in recent weeks, in relation to people working on Scottish Government contracts in prisons. A couple of weeks ago, we had the example of National Museums Scotland shop staff, who are not paid the living wage. If Nicola Sturgeon is to match her rhetoric with implementation of the amendments that she lodged, there must be movement for those workers.

We also need a national living wage strategy. It is interesting that, in recent weeks, more businesses, such as KPMG and Nationwide, have come out for the living wage. There is an opportunity to extend the payment of the living wage, not only in the public sector but in the private sector throughout Scotland.

I regret that the bill's provisions on community benefit were not strengthened to cover more contracts through a reduction in the threshold. An amendment on community benefit in relation to apprentices was not selected for debate, but I would have liked that measure to have been included in the bill. That could have been a real opportunity.

We could have been stronger on aggressive tax avoidance. We should have more control over those who practise aggressive tax avoidance and then take money from the public purse.

I welcome the movement on trade union recognition, with regard to Kenneth Macintosh's amendment, and the movement on Jackie Baillie's amendment on annual reporting. Annual reporting and monitoring are important to the implementation of the bill, and will enable us to see the effect of the £10 billion spend and some of the changes that have been made. However, movement on those issues was not matched by support for amendments on blacklisting, zero-hours contracts and supported businesses.

Jackie Baillie's point about equal pay audits was important, particularly when we consider that 64 per cent of workers—256,000 people—who are not on the living wage are women. As Jackie Baillie said, that shows that there is still a long way to go.

I agree with Nicola Sturgeon that this is about not only a procurement bill but the procurement process. Businesses bring to MSPs their frustration with the process, which they feel is too complicated and needs to be simplified. Legislation aside, the process must be simplified.

To sum up, we will support the bill at stage 3. We have attempted to introduce robust

amendments that would have made the bill and the procurement process stronger. I will be interested to see how the implementation of the bill plays out and what impact it has on that £10 billion of spend. I look forward to examining that in Parliament and throughout the country.

17:36

**Alex Johnstone (North East Scotland) (Con):**

I rise to support the bill. I think that we have come to a position in which we have something that we can all agree on. Of course, if I had been doing this myself—if I had ever had the chance to be cabinet secretary—I might have done something very different. However, my additional chapter on compulsory competitive tendering remains in the desk drawer, where it may stay for some time.

The priority in getting the bill through Parliament and on to the statute book was to ensure that we had a procurement system that was simple to understand and easy to access and which maximised the opportunities for and minimised the burdens on companies that bid for contracts. Although we have been talking about big companies in many cases, I have had small companies on my mind. My concern has always been to do with the fact that small businesses often miss the opportunity to participate in Government contracts. If we can change that, we will have done something very worth while.

During the process, the Government has introduced some changes that will strengthen the position of the third sector and will do something for supported businesses, too. In their evidence to the committee, those groups said that they felt they had been disadvantaged by the process in the past, and I hope that they feel that their position has been strengthened, to some extent.

There is a significant case to be made for the view that the bill will require fine-tuning through regulation. Indeed, the minister has made it clear that the nature of the bill will enable that to happen, as the process continues. At stage 2 and stage 3, the Labour Party has tried particularly hard to introduce a series of other issues that, in my view, would have taken the bill beyond the issue of procurement. I would like to take this opportunity to apologise—almost—for voting against all Labour's proposals. The reason I did so was that I want the bill to be about procurement and to be simple and easy to understand. Although I do not agree with all the principles that Labour brought forward, I think that it is essential for the good of Scotland, as we go forward, that those issues are all addressed. I hope that the Labour Party will find opportunities to bring them to the chamber and force them on to the political agenda so that we can discuss them in that

environment. However, I do not believe that the bill was the place to have those arguments.

I think that we have a piece of legislation that is fit for purpose. It will find supporters and detractors among those who are likely to take advantage of it. At the end of the day, the bill will deliver a framework on which we can build over time. I genuinely hope that it will deliver efficient use of public money and a fair distribution of contracts across Scotland's many businesses, supported businesses and third sector organisations. If we can look back and see that we have achieved that, we will have a great deal to be proud of.

**The Deputy Presiding Officer:** We now come to the open debate. We are very tight for time. Speeches should be a maximum of three and a half minutes. I call Jim Eadie, to be followed by Hugh Henry.

17:40

**Jim Eadie (Edinburgh Southern) (SNP):** I am pleased to have the opportunity to take part in this stage 3 debate. I pay tribute to all individuals and stakeholders who have contributed to the process of scrutinising and strengthening the provisions of the bill.

I believe that the bill at stage 3 is a better bill than the one that was first published. On fair trade and ethical practice, I argued at stage 2, with the support of the Scottish Fair Trade Forum, for measures to strengthen the bill. I was therefore pleased that the Government responded by lodging an amendment to require inclusion, as part of its procurement strategy, of a statement of a public authority's general policy on fairly and ethically traded goods and services. In the words of the Scottish Fair Trade Forum, that will

"help build on the significant progress Scotland has already made"

as a fair trade nation. The bill, as amended at stage 2, will compel public authorities for the first time to state their policy towards ethical and fair trade. I very much welcome that and I am pleased to have had the opportunity to work alongside the Scottish Fair Trade Forum to make it possible.

I was also pleased that the amendment that I lodged for today, seeking to promote compliance by contractors and subcontractors with the provisions of health and safety legislation, has been incorporated in the bill. I record my thanks to the Scottish Hazards campaign group and families against corporate killers for highlighting that issue.

The Government has made it clear throughout the passage of the bill that it is totally opposed to the unacceptable practice of blacklisting and has worked closely with the trade unions to develop comprehensive guidance, which will require

companies that are seeking public sector contracts to disclose whether they have been involved in blacklisting. That guidance includes a new standard prequalification questionnaire, which will require suppliers to disclose whether they have breached laws to outlaw blacklisting.

No one should doubt the Deputy First Minister's commitment on that issue. Asked by me at the Infrastructure and Capital Investment Committee on 11 December whether the Government had gone as far it is possible to go, she stated:

"anything we can do to banish blacklisting will be done."—[*Official Report, Infrastructure and Capital Investment Committee*, 11 December 2013; c 2353.]

I am pleased that the Government has followed through on that commitment this afternoon by outlining how that can be done most effectively. The Government's approach has been welcomed by families against corporate killers, which stated:

"We have also been heartened by the recent announcement on the exclusion from public sector contracts of companies which engage in blacklisting, particularly because so many of those blacklisted have been so because of their health and safety activities."

There has been much discussion of the living wage this afternoon. James Kelly said that the bill had not changed substantially since stage 1, but then proceeded to say that the amendment on the living wage was a result of pressure from the Scottish Trades Union Congress and others. The Government's amendment, which was agreed to today, has placed in the bill an explicit reference to the living wage. Whatever differences we have, we should welcome that.

The Scottish Government is doing all that it can with the powers that it currently has to address low pay. The amendments that have been agreed to this afternoon will mean that businesses that want to work on public sector contracts will have to demonstrate clearly how they plan to remunerate their staff.

The test that must be applied to the bill is whether it will make a difference. Will it improve the pay and working conditions of people in Scotland? Will it drive economic activity across the supply chain? Can it strengthen the position of small businesses and the third sector? Does it promote fairness in employment, and does it promote fair trade practices? I believe that on all those crucial tests, the bill has succeeded. For that reason, it deserves to pass stage 3 tonight.

17:44

**Hugh Henry (Renfrewshire South) (Lab):** We should not underestimate the power and the sheer scale of what the public sector can do using its purchasing power. The sector affects every aspect of life in Scotland, and because of its significance,

it has the opportunity to make a difference. One of the problems over the years has been that we have underestimated how we can use procurement as a force for positive change.

Alex Johnstone said that he does not support much of what the Labour Party is trying to do because he does not see its significance or relevance to procurement. In fact, if Jim Eadie is right to say that we can use procurement to effect changes in relation to health and safety, we can use it to effect changes in a raft of things across the public sector.

The cabinet secretary and Jim Eadie referred to the fact that we have moved forward as a result of what the Government has included in the bill about the living wage; a number of positive changes have been made. There is a genuine acceptance that procurement can make a difference and that we should use the powers of Parliament to improve things.

However, we should not underestimate what we can do. It is disappointing that we have pulled back from using those powers to their full extent. It is all very well to say that there will be a reference to the living wage in the bill, but we could have gone much further. Whether guidance will do anything remains to be seen, although I hope that it does. We could have gone much further and specified a legal requirement that would have forced the Scottish Government to say to its contractors and subcontractors that one of the conditions of their winning contracts would be that they would have to pay the living wage. That might well have a financial consequence, but it would be for the Scottish Government to ensure that the price is paid for the contract that would allow the living wage to be paid.

There is a good example of that happening already: Renfrewshire Council. In response to the Unison care campaign, Renfrewshire Council specified that contractors for care services must pay the living wage. There is a cost to the council for that.

**Nicola Sturgeon:** Will Hugh Henry concede that at no point during the bill process have I used a financial argument against there being a mandatory requirement for the living wage? My argument has been entirely about the legal point. I agree that we should use the bill to the maximum in promotion of the living wage. He has never heard a financial argument from me.

**Hugh Henry:** The fact is that use of financial clout could have been underpinned legally, as Renfrewshire Council is doing, to make sure that the Scottish Government and every public sector provider did the same. The Government could do it, and it is being done; it is a shame that councils such as Renfrewshire Council are being left to do

it on their own. We should have the full force of the public sector lined up in support of that initiative.

Let us support the bill. It brings positive changes, but we could have done much more.

17:47

**Linda Fabiani (East Kilbride) (SNP):** I know that we are short of time, but in response to Hugh Henry, I say that I have not seen an awful lot of councils—Labour or otherwise—coming forward and pushing for the living wage. When we investigate them, some of their procurement practices leave a lot to be desired.

**Hugh Henry:** Will Linda Fabiani give way?

**Linda Fabiani:** I do not have time. Having looked at all the work that has been done during the bill process, I am not convinced that we could have put the requirement on the living wage in the bill.

I am really pleased with what the cabinet secretary has proposed; she is absolutely right that public procurement already has a complex and demanding set of rules, but the bill has achieved a balance. It has been a long time coming, since the cabinet secretary's Government came in in 2007 and started to revise procurement—to make it better and to streamline it by cutting down on bureaucracy. It is wonderful to have that two-pronged approach: it is business friendly as well as socially responsible, which is extremely important. Legislation is only one part of the reform agenda. I am glad to hear that we can look forward to more proposals, so that we can achieve our aims.

One of the things that I believe is business friendly and socially responsible is the emphasis on small and medium-sized enterprises in relation to public procurement in Scotland, which has defined localities and parts of local authorities doing a lot of public procurement. It means that the wellbeing of communities and the support for SMEs can be combined.

It is difficult in that we operate under European procurement rules, which can make it hard, but there are innovative ways of managing that. After all, small and medium-sized enterprises account for more than 99 per cent of enterprises in Scotland, more than 53 per cent of employment and 36.5 per cent of turnover. They are very important. There has been a lot of discussion about the possibility of breaking contracts into smaller lots in order that we can take best advantage of small and medium-sized enterprises, but European directives will have to be looked at carefully if we are to allow that to happen. We are, therefore, right to have fairly straightforward procurement legislation that allows us to look

carefully at future directives in order that we can transpose them to the best possible advantage.

In East Kilbride, a task force has been set up by South Lanarkshire Council. Unfortunately, I am not allowed to go along to its meetings, because it seems to have a problem in respect of whether I can keep things commercially confidential—that is an argument that I will have with the council. I hope that the task force takes the issue on board and that South Lanarkshire, in looking at East Kilbride, considers the importance of small and medium-sized enterprises. That could be done with communities throughout Scotland for the wellbeing of those communities and their economic success.

17:51

**Tavish Scott (Shetland Islands) (LD):** Like Jim Eadie, I will apply the test of whether the bill will make a difference. He is quite right in doing that.

Some years ago, a bright and impressive school cook on the island on which I live and where my children went to school tried to introduce local lamb to the school menu. She went through hoops and hoops and hoops to overcome local government procurement policy. However, to this day, in Shetland—I hope to use the bill to encourage Shetland Islands Council to do a heck of a lot better on this—beef, lamb and fish for local schools, care centres and other public sector providers are not sourced locally. I hope that the community benefit regime that the Government is introducing and which all parties have supported in the passing of the bill, and the other measures in the bill, will help our councils and other public sector providers to ensure that procurement helps the local economy—in the case that I mentioned it was local agriculture—because that would be beneficial for many reasons, not least of which would be the food-miles argument that we make in a different context.

I hope that the bill is a considerable step forward, and I thank the Deputy First Minister for the spirit in which she has led on it. I look forward especially to Jackie Baillie's annual report being used. She will forgive me if I hope that hubcos come under a degree more scrutiny than they have in the past. The Government has supported that mechanism today, which I applaud. It is a good step forward.

Linda Fabiani rightly pointed to the need for access to contracts for the small business sector. I do not think that any Government has gone far enough in that area. We have these big framework documents, and the big procurement structures that are now in place throughout Scotland make access tricky—to put it mildly—for smaller businesses of all kinds, including construction

businesses, white-collar businesses, blue-collar businesses and professional businesses such as those that provide architectural services. I am sure that the Deputy First Minister has been on the end of numerous representations on the matter, and I hope that the Government is able to take a big step forward using the measures that we are going to pass today.

When we pass legislation such as this, much will depend on the secondary legislation that will subsequently be considered by Parliament, as the Deputy First Minister illustrated in her opening speech, so there is a job for all of us to do. I suspect that that is where we can genuinely make a difference on the issues that many members have raised this afternoon.

17:54

**Jackie Baillie (Dumbarton) (Lab):** In the interests of time, I will dispense with the customary thanks, and will just say "Thank you. You know who you are."

At its heart, the bill is about improving procurement in the public sector and getting the maximum advantage from expenditure of some £10 billion each year. However, for me and other members it is about much more than that; it is about how we use that substantial amount of money and the influence of the public sector to drive change in the standard and quality of services, and change in the rights of the people who are employed to deliver those services.

How staff are valued and treated matters, so the living wage, equal pay audits and public sector equality duties are all issues that should be dealt with in legislation rather than just in guidance. The one thing that I learned from my time as a minister is that it is what you put on the face of a bill that matters. That is a political choice, and I am disappointed that the cabinet secretary does not believe that the areas that I have mentioned are of sufficient importance to merit inclusion in the bill.

I want to touch on equality and the equal pay gap. In rejecting equal pay audits, the cabinet secretary could not help herself—she mounted the usual attack on Westminster. I have a question for members: how many times are equal pay, gender pay gaps and the pay gap itself mentioned in the body of the white paper? Is it once, twice or three times? They are not mentioned at all. It is necessary to go to annex D on page 607 to find a mention of wage equality. That tells us all that we need to know about the Scottish National Party's priorities. Women are included in an annex simply as an afterthought.

I turn to the living wage. The cabinet secretary has portfolio responsibility for tackling child poverty and she would agree that there is

unanimous agreement in report after report on both the scale of the problem and what we need to do to begin to tackle it. The majority of those reports say that there is much that the Scottish Government could do now, including implementing the living wage. We need look only at the sharp increase in in-work poverty and the lengthening queues at food banks to realise the importance of making work pay.

As James Kelly said, that would have a greater impact on women, who make up 64 per cent of the 400,000 workers who would benefit from it. The cabinet secretary knows that women are more generally employed in low-paid jobs and that many women work part-time. The bill could have made a huge difference to them; it could have been so much bolder on the living wage, on equal pay, on the public sector equality duty and on improving women's lives.

The bill is not a bad one, and I welcome the cabinet secretary's agreement to a number of amendments from across the chamber, but I think that it is a missed opportunity.

In advance of the referendum, the SNP has discovered women. I welcome that new-found interest. I am always delighted to see more women in the Cabinet, but that is no substitute for taking practical action to improve the lives of thousands of women right now.

**The Deputy Presiding Officer:** We move to closing speeches.

17:57

**Gavin Brown (Lothian) (Con):** In closing the debate for the Scottish Conservatives, I want to make two points. First, we broadly support the approach that the Government has taken to the bill as a whole and the approach that it has taken to the amendment process at stage 2 and stage 3.

The Labour Party, the Green Party and, indeed, the Liberal Democrats put forward a number of powerful arguments on amendments, but had we agreed to all those amendments, it would have had a negative consequence for business across Scotland. Had we imposed additional requirements in relation to the living wage, sustainability, animal welfare, reducing inequality, climate change, the third sector, wage ratios, equalities, zero-hours contracts, equal pay, tax avoidance and blacklisting all in one go, there would have been a significant risk that many businesses would have increased their costs and that the £10 billion of procurement that has been mentioned by all parties would not have gone nearly as far as we all want it to go. In particular, I think that even fewer small businesses and microbusinesses would have engaged with the

public sector or even have attempted to win public sector contracts.

I think that there is broad agreement across the chamber that not enough small and medium-sized enterprises are doing business with the public sector; everyone wants to see them getting a larger slice of the pie and doing more business. However, had we implemented all the measures that members wanted to implement, the process would have been made more complex, rather than simplified. In the absence of a formal impact assessment, we might well have lived to regret making all those decisions.

My second point involves a plea to the cabinet secretary. She was right when she said that this is not the end of the process; in some ways, it is the beginning. An issue that I hope the Government will address when it comes to produce guidance and regulations is one that Linda Fabiani touched on in her speech—the size of contracts. The most common complaint that small businesses make is that they are precluded from getting involved not on official or legal grounds, but because the contract is simply too large for their business. That is an issue for businesses in almost every constituency in Scotland. The key question is how we can unbundle more large contracts so that small businesses have a fighting chance.

SMEs do not want special treatment; they just want the ability to compete against the bigger players and the opportunity to win more business. The Federation of Small Businesses Scotland put it well in its briefing for the stage 3 debate, in saying that the statutory guidance on procurement strategies and annual reports will be vital to ensuring that businesses get smaller lots and better small business access. Section 9 of the bill talks about facilitating the involvement of small and medium enterprises, but my plea to the Scottish Government is to go a step further. Under section 9A, guidance can be published on that point, so I ask the Government to think carefully about that in the coming months, so that we can get formal guidance that unbundles the size of contracts and gives smaller businesses the opportunity to compete.

18:00

**Mark Griffin (Central Scotland) (Lab):** As has already been said, Labour members will support the Procurement Reform (Scotland) Bill at decision time because we feel that public sector procurement can achieve much more than the positive effect of an individual contract. It has been said repeatedly that we spend £10 billion a year on procuring goods and services in Scotland and we need to see the full economic, environmental and social benefits that that vast sum of money can bring.

The Procurement Reform (Scotland) Bill could and should have been used to ensure the payment of the living wage in public contracts, to maximise community benefit from procurement, to demonstrate the Scottish Government's commitment to meeting its climate change targets, to condemn the use of exploitative zero-hours contracts, tax avoidance and blacklisting, to promote equality and support contractors committed to achieving equality, to encourage sustainable food procurement, to support skills development with apprenticeships, to support the third sector and to support people with disabilities into employment.

Those are the areas in which we have sought to strengthen the legislation, and we feel that the Procurement Reform (Scotland) Bill could have been a much more ambitious piece of work if the amendments lodged by Labour members had been taken on board completely. We do, however, welcome the Scottish Government's support for Jackie Baillie's amendments on equality, Ken Macintosh's amendment protecting trade unions, and Sarah Boyack's amendment on food procurement.

We also note the Scottish Government amendments passed this afternoon on the living wage, following the campaigning that we have done alongside trade unions and the Poverty Alliance on the issue. We also note the Government amendment on supported workplaces. Although those amendments are an improvement, we still feel that the Government could have gone further by accepting our amendments.

The Scottish Government's amendment on the living wage requires contractors only to include a general policy statement on the living wage in their procurement strategies. Our amendment would have required the payment of the living wage to workers. The Scottish Government itself recognises that its amendment does not require the payment of the living wage to workers, so I have to ask what practical effect it can have.

**Kevin Stewart (Aberdeen Central) (SNP):** In all the debates that have taken place in this Parliament on the living wage and procurement, the case of *Rüffert v Niedersachsen* has been mentioned. The Labour Party has proposed no practical way of getting over that, so can Mr Griffin explain how we can deal with the existing case law and the current rules in Europe?

**Mark Griffin:** Evidence was submitted by Thompsons Solicitors to the Local Government and Regeneration Committee, which Mr Stewart chairs, and I am sure that he would wish the Government to be as ambitious on the living wage as it was on minimum alcohol pricing. If it had been, the bill would have been stronger and the

take-home pay packets of thousands of people who are on public contracts would have been boosted as a result.

The bill could also have been strengthened around zero-hours contracts and I ask the cabinet secretary why the Government could not commit to introducing contract performance clauses stipulating that successful bidders must not use zero-hours contracts, since contractors already have to demonstrate through key performance indicators how they are meeting the requirements of contract performance clauses. Could the Scottish Government not have used those KPIs to monitor zero-hours contracts? It would be helpful if the cabinet secretary could clarify that.

Procurement strategies and annual reports are another area in which we have welcomed developments. They cover community benefit requirements to deliver value for money, timescales for payments and a summary of procurement activity in the next two years. That is a lot of good information, which should drive up best practice and should help companies in bidding for work. However, a reference to supported businesses, which I pushed for in my amendments, is still missing from those procurement strategies.

We have spoken about the Government's policy that every public authority should have at least one contract with a supported business, and it seems strange that we have a Procurement Reform (Scotland) Bill that does not set that commitment in legislation. We debated that issue earlier. If there are 44 public authorities that do not award a single contract to supported businesses, we really should have a stronger commitment.

The Scottish Government has worked to ensure that staff members who are directly employed get the living wage. Local authorities have taken a lead, too. Although there have recently been some moves in the private sector, it has not kept pace with the public sector on the living wage as much as we would have liked, considering what the Scottish Government and local authorities have done in areas such as Renfrewshire. The bill gave us the opportunity to force private companies bidding for contracts to pay staff the living wage and to bring about a transformational knock-on effect in the private sector. For that reason alone, we will look back and say that the bill was a £10 billion opportunity missed.

18:07

**Nicola Sturgeon:** I again thank everybody who has contributed to not just the process of scrutinising the bill, but the debate.

I will pick up on a few themes that have been raised. The first theme is the process that the bill

has gone through. I agree entirely with Jim Eadie: the bill has improved during its parliamentary progress. James Kelly managed to say both that the bill had barely changed during its progress, due to Scottish Government resistance to change, and that the Scottish Government had been forced into making changes on the living wage due to pressure. The reality is that we have made changes where the case for change has been made, in principle, in practice and in legal terms. We have made important changes on the living wage and the bill is now stronger in respect of the living wage. We have made changes on tax avoidance, reporting requirements, trade union recognition, and health and safety, just to name a few of the areas in which the bill has been strengthened. That is a credit to not just the Government, but everybody who has been involved in the scrutiny of the bill.

The second theme relates to the importance of the bill. I made this point in my opening remarks, but it bears repetition. Many members who have spoken in the debate have made this point. We spend £10 billion through the public sector every year, and it is vital that we ensure that that spend delivers economic and social benefits. That is what we have sought to do through the bill and what we will continue to seek to do through the regulations and guidance that will flow from it.

I accept the reality that Labour needs to manufacture divisions with the SNP. In fact, opposing the SNP now seems to be Labour's only real purpose in life. Notwithstanding that, it is interesting that many of the so-called divisions that have arisen during consideration of the bill have involved how we achieve change, not whether we should achieve that change. Because of legal constraints, we might not always have agreed with Labour—and we might not always have felt able to agree—about how to advance certain priorities, but we have nevertheless sought at every turn to find the best way possible to achieve the same objectives.

The living wage is a case in point. I say with the greatest respect to Alex Johnstone that, unlike him, I have no objection to using the bill to advance the objective of the living wage; on the contrary, I would like to have supported Labour's amendments. If I had felt that the proposed provisions were legally competent, I would have put them in the bill as introduced. I could not do that because of the legal restrictions that I have already outlined, which I will not rehearse.

I say to Hugh Henry that the guidance's purpose is to support councils such as Renfrewshire Council further in doing what they are doing. The restriction is not on encouraging and supporting councils but on making the requirement mandatory under the bill. The objective is shared, but how we

achieve it is the point of division. I hope that we can all unite on achieving the objective in the way that the bill enables.

It has on occasion been a bit amusing to hear Labour members talk about minimum pricing for alcohol—Mark Griffin used that argument in summing up. The issues are different, but I recall the debates on minimum pricing. Labour—with the honourable exception of Malcolm Chisholm—opposed the legislation to introduce that measure tooth and nail, because it thought that the legislation would breach European law and would risk a challenge on the grounds of European law. Labour members demanded to see our legal advice and said that, in all conscience, they could not pass the legislation because of the risk that it would breach European law. It is therefore a bit rich for them to make the arguments that they have now made about the Procurement Reform (Scotland) Bill.

I hope that all members will work with us on developing the guidance. The STUC, Unison and the Poverty Alliance, which I had a productive meeting with last week, have agreed to do that. Tavish Scott made the good point that the Parliament has a big job to do in scrutinising the secondary legislation.

Another theme has been striking a balance. I have always been clear that tensions run through the agenda and there are competing interests. Public authorities want value for money and must think about affordability. Bidders want simplicity and ease of access to contracts. Taxpayers rightly want value for money in its widest sense. Those different interests do not always align easily. We have done our best in the bill and we will continue to do our best to strike the right balance between them.

I will say a word about SMEs, on which Gavin Brown made points. I absolutely endorse the desire for SMEs to get a bigger slice of the public procurement cake. However, I will share some figures. SMEs make up 37 per cent of our economy and get 46 per cent of the £10 billion in public contracts. I would like that share to be bigger. Section 9 says that, when public authorities undertake a regulated procurement, they must look at how they facilitate SME involvement. Gavin Brown is right that the guidance will be important and I give him an undertaking that we will seriously consider the issue.

We have done a difficult job well. We have provided a framework for public procurement that allows us to develop the guidance and the regulations that will give effect to the economic and social objectives that many people rightly want public procurement to deliver. I have said repeatedly and I repeat that we are determined to

ensure that the £10 billion of public sector spend on contracts is spent in a way that delivers economic growth, advantages and benefits for our businesses and social benefits and which ensures that disreputable companies do not get their hands on public money. We are determined to clamp down on tax avoidance, blacklisting and the inappropriate use of zero-hours contracts and to do everything that we can to promote and further the living wage.

Now that the bill is to be on the statute book, all of us can sign up to those objectives and we can get on with the job of ensuring that the bill delivers on them. I thank all the members who have contributed to the process and I encourage them to continue to do so. I ask the Parliament to pass the bill in a few seconds' time in order to make big improvements in the agenda.

**The Presiding Officer (Tricia Marwick):** Members will wish to note that the members' business debate that will take place immediately after decision time, at 6.15, is on a motion in the name of Bill Kidd, on recovering health costs for asbestos-related conditions and diseases.

## Decision Time

18:15

**The Presiding Officer (Tricia Marwick):** There is one question to be put as a result of today's business. The question is, that motion S4M-10005, in the name of Nicola Sturgeon, on the Procurement Reform (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Procurement Reform (Scotland) Bill be passed.

[*Applause.*]



## Asbestos-related Conditions (Healthcare Costs Recovery)

### **The Deputy Presiding Officer (John Scott):**

The final item of business is a members' business debate on motion S4M-09697, in the name of Bill Kidd, on recovering health costs for asbestos-related conditions and diseases. The debate will be concluded without any question being put.

#### *Motion debated,*

That the Parliament welcomes the proposals by Clydeside Action on Asbestos regarding the recovery of costs to the NHS of treating people with asbestos-related conditions and diseases and considers that these proposals would address these health issues here in Scotland and, in doing so, help the constituents of Glasgow Anniesland, the home of generations of shipyard and engineering workers and their families, many of whom were exposed to asbestos-related illness during their lives.

18:16

**Bill Kidd (Glasgow Anniesland) (SNP):** As members can see, the sun shines on the righteous. Perhaps I should move to another desk.

I am both pleased and saddened to bring this members' business debate to the chamber. I am pleased because I am very proud of the Scottish Parliament's commitment across the parties to see justice done for the victims of asbestos exposure and asbestos-related illnesses, but I am, obviously, saddened because I know that we will hear from other members that the rate of deaths from asbestos exposure continues to rise.

The disease can work on a victim without there being many—if any—outward signs for a long period of time, and it can therefore lead to diagnosis and registration as a victim of asbestosis well after the initial exposure occurred. People with asbestos-related symptoms therefore continue to be identified. As well as that, there is often, even now, asbestos in the fabric of public buildings, including schools, and there are continuing dangers of exposure if it is disturbed in any way.

It is therefore incumbent on us in the Parliament to speak out on behalf of our fellow citizens who, through the work of generations, built the economy of our country and, in doing so, were left exposed to that dangerous material and to suffer the consequences later in life. That is consistent with calls from Clydeside Action on Asbestos, the Scottish hazards campaign and the Scottish Trades Union Congress for the recovery of costs and compensation for those who are affected. The medical evidence is very complex, but the truth is that a large number of people are ill, very ill or even terminally ill and need a swift resolution to any claims for compensation.

The dangers of asbestos have been known since at least 1945, but there are difficulties of diagnosis due to the conditions' similarities with other conditions, and issues of legal divisibility, which arise from workers having had a number of employers with which they may have been exposed to asbestos and may have contracted illness from it, are often raised. In spite of all that, we still know that asbestos diseases exercise a terrible hold on the lives of many. I have therefore felt the need to raise in the Parliament again the issue of asbestos in the lives of Scottish communities, such as those in my constituency of Glasgow Anniesland, which, as most people know, has a shipbuilding and heavy engineering background in which asbestos exposure was rife over many years.

As I said, it is worrying that there is also the issue of potential and actual exposure of pupils and teachers in school buildings of a certain vintage where maintenance has not been done to the standards that we might hope for. The issue will not go away and the numbers affected are rising; my colleague Stuart McMillan will pick up on that issue.

Meanwhile, the national health service is left to pick up the medical costs that, by rights, should be covered by the employing companies and their insurers. Therefore, I support fully Clydeside Action on Asbestos's considered proposals for the recovery of the treatment costs to the NHS and for compensation to be consistent with the damage suffered by victims and their families.

We owe a very great deal to those people who, over the years, worked long and hard in very difficult industries. We also owe their families, who were often exposed to the asbestos dust that was brought home on people's boiler suits, which were then washed at home; that exposed wives, partners and children to the dust. It is incredibly important that we do not forget, under any circumstances, the duty that we owe to people who have suffered, whether from pleural plaques, asbestosis or mesothelioma. Everyone who has suffered from the outrage of being exposed to asbestos and has not been properly recompensed deserves our support. The NHS, which finds itself having to care for people in those circumstances, should not be left unsupported financially by those who should have given a greater duty of care to their workers.

18:21

**Stuart McMillan (West Scotland) (SNP):** First, I refer members to my entry in the register of members' interests.

I congratulate Bill Kidd on securing this members' business debate and commend him for

raising this important issue. I have been working closely with Clydeside Action on Asbestos and Thompsons Solicitors to introduce a member's bill on this very issue and I want to highlight a few key points surrounding the proposed bill.

As Bill Kidd said, Scotland's proud industrial history is scarred by the legacy of asbestos-related disease, which has caused so much harm to so many over the years. It is easy to assume that the health impact of our industrial past is nearing an end and that the number of Scottish citizens and families who will be damaged and killed by asbestos-related diseases will diminish in number and reach zero in the near future. However, that is not the nature of the diseases. Scottish families and communities will continue to suffer because of asbestos-related disease and the NHS, which provides immeasurable care and support to those families, will continue to bear the financial cost for decades to come.

Everyone in Scotland agrees that what the victims of asbestos-related disease have been forced to suffer is wrong; everyone in Scotland agrees that they require the best care and attention that only the Scottish NHS can provide. Nevertheless, it is not fair that the financial burden of providing that care should rest solely on the taxpayer when the companies that exposed our workers to asbestos are well insured, particularly in these financially austere times.

The bill that I propose, with the support of Clydeside Action on Asbestos and Thompsons, is intended to help NHS Scotland recover the costs of treating people with asbestos-related conditions from insurance companies that have settled civil claims with victims. It is estimated that the NHS spends around £20 million a year on diagnosing and treating people who are suffering as a result of asbestos exposure, and that money would be freed up to treat more people were the bill to be successful.

The bill is in its early stages—it is being prepared for consultation—but the powers that are called for in it are within the Parliament's legal competence. I would hope that there would be no attempt by insurance companies or anyone else to drag the bill through the courts to delay implementation or to attempt to overturn the decisions of this Parliament, as has been the case in the past.

There are many reasons why the bill is necessary, desirable and entirely appropriate. First, Scottish society and industry, and our economy, have benefited from a proud industrial history, but that history is scarred by industrial injury and disease. Nowhere is that seen more acutely than in the cases of the workers who were exposed to asbestos at work.

Secondly, in these financially austere times it is wrong that the taxpayer should bear the full financial burden of caring for victims of asbestos-related disease when there are compensators who have insurance and on whom the burden ought more fairly and appropriately to fall.

Thirdly, although the care that the victims of asbestos-related disease receive is among the highest-quality care in Scotland, more can always be done. Research on asbestos-related cancer must be undertaken and new forms of treatment and care must be found and administered.

It is important to recognise that my proposed member's bill will not create any new class of person who would be required to pay compensation arising from asbestos-related disease. With regard to the obligation to pay the NHS, benefits would arise only where there is negligence or a breach of a statutory obligation that would give rise to a primary obligation to compensate the victim or, in cases in which exposure to asbestos has caused death, the victim's family.

We should not underestimate the need to bring the issue before the Scottish Parliament. The emotional and physical cost of being diagnosed with an asbestos-related condition can be significant, and the welfare of the person with the illness is paramount. However, there is a substantial cost to the NHS in diagnosing and managing asbestos-related conditions, and that certainly needs to be addressed.

18:26

**Hanzala Malik (Glasgow) (Lab):** I thank Des McNulty and Bill Butler, who historically brought the issue to the Scottish Parliament, and I now thank Bill Kidd for bringing today's debate to the chamber. I cannot miss the opportunity to take part in the debate as I feel that the issue needs to be discussed as openly and widely as possible.

I love the NHS—indeed, I am a regular customer. I am sure that every member in the chamber would agree that it is one of the best institutions in our country. The principle of treatment that is free at the point of use is something that I would fight vigorously to protect. That said, I recognise that it is an institution that has been struggling at its limits in the past few years.

Some may feel that it is time to start looking at how the NHS can recover costs, but I worry about how the proposal would work in a practical sense. Many of the companies whose employees are suffering from asbestos-related illnesses have disappeared. Those companies that have survived and are still operating are struggling in a climate in which budgets are tight, and large unexpected

costs would lead to their closure. The difficulties in affordability would crumble those small companies and organisations, which are struggling to ensure that their monthly wage bills are paid so that they do not fail.

I therefore question how reasonable and economically feasible it is to try to recoup costs that have been incurred due to working practices that we did not know were harmful. We do not have a checklist before treatment, and I fear that, depending on the cost, implementing the proposal would start us on the slope of charging for treatment.

I recognise that the NHS is struggling to provide costly treatment to many people who suffer from asbestos-related illnesses, and I understand that something needs to be done, but I do not accept that this proposal is the only way forward. I make it clear on the record that I lend my support to those who are suffering as a result of asbestos-related illnesses—and of any other serious illnesses, for that matter—and to their families, because that is important and it is our duty to do so.

We need to be careful to be fair and transparent. If companies that were guilty in the past no longer exist, there is no way of recovering those costs. If companies are still in operation, we are endangering them. It is the duty of the Government, and not of the companies, to meet those costs. There are many other examples of work-related illnesses that people suffer from, such as passive smoking. Therefore, while I am very supportive not only on this issue but on other related issues, it is the duty of the Government—and not the companies—to look after its communities.

18:30

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** The subject that we debate tonight is one that I and others have spoken on over the past decade. Hanzala Malik mentioned a couple of our predecessors: Des McNulty and Bill Butler. It is worth saying that on the Tory benches Bill Aitken was assiduous in pursuit of this issue and, on my own benches, the late Margaret Ewing pursued the interests of her constituents, who were mainly in the defence-related industries, on this issue.

In addition, on this one occasion—if on no other—I commend the actions of Johann Lamont, who was the Deputy Minister for Justice when the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill was taken through this Parliament in 2007. She was very much on the case and supportive of what we needed to do.

Hanzala Malik focused on some of the practical difficulties that there may be for those who end up

having to pay, in terms of the motion before us. Let me just say that I have rather less sympathy than perhaps he has. We have heard that awareness of the dangers associated with asbestos dates back to 1946. We have learned more in the meantime, but we have known about the dangers since then. Someone who started work in 1946 is unlikely to be any younger than about 85 or 86 today, so very few people will suffer disease from industrial exposure to asbestos that predates our knowledge of its risk in 1946. Let us get that on the record and in our minds right at the outset.

Let me compare and contrast with another way that the health service pays out costs needlessly: in relation to road traffic accidents. There is already legislation on that, and if members read their insurance policies very carefully, they will see that the NHS can claim against their car insurance to pay for the costs that it incurs. We are not breaching a new principle here: that is already the case in law, and we are extending the principle to people affected by asbestos.

The debate is timely and appropriate. Mesothelioma, which was the subject of the 2007 bill, is a very unusual disease: a condition of the mesothelium, which sits between the lungs and the outside part of the body, which is only caused by asbestos. There is no other known cause, so the responsibility for either of the variants of mesothelioma should be entirely at the door of those who caused it.

How many people will be affected? In 2006 the *British Journal of Cancer* suggested that there would be 90,000 deaths between 1968 and 2050. However, the numbers in any given year are not many. In 2007, when the regime changed, Frank Maguire from Thompsons Solicitors said that he reckoned that he had 100 active cases. There may not be many at any one particular time, but there are significant numbers over the considerable length of time concerned.

In this Parliament we often have quite robust debates, but there has always been very significant consensus across the Parliament that this is an important issue on which we can seriously contribute something.

In 2006, Johann Lamont said:

“It is only right that we do all we can to minimise the distress this problem causes to those suffering from this disease and to their families as speedily as possible.”

It is now the NHS's turn to have its rights respected. I have great pleasure in supporting the motion that is the subject of tonight's debate.

18:34

**Jackson Carlaw (West Scotland) (Con):** I congratulate Bill Kidd on securing the debate.

I am a 55-year-old proud Glaswegian, so—whatever the political tumult around the subject—I am old enough to have great respect and affection for and pride in Scotland's industrial heritage and particularly all that Glasgow contributed. I remember the excitement and pride that I felt as a young boy when going through the Clyde tunnel, which had just opened. I appreciate and respect the enormous shipbuilding industry that was the source of all that we enjoyed on the Clyde. When men were achieving those things, John Wayne was the number 1 box office star.

This week, I read a newspaper report about a film that has been released, which shows the construction of the Erskine bridge. The film shows a man 150 feet above the ground, moving across a gap along a suspended and rather bendy bit of wood. That represents an approach to health and safety that we do not recognise today. I have tremendous respect for the people who worked in such conditions.

Stewart Stevenson was right to comment on the cross-party consensus that there is, not around the risk attached to walking across a plank 150 feet above the ground but around the unknowing use of materials that were the source of mesothelioma, which has proved to be a ghastly and fatal illness for so many individuals and their families.

That is why members in the previous parliamentary session agreed that it was important to ensure that the proper level of compensation was paid and that issues to do with pleural plaques were properly debated. Along with Bill Aitken and other Conservative Party members, I, as the party's health spokesman at the time, was happy to put the Conservatives' support behind the proposition.

The proposal in the motion is interesting. I am not yet persuaded, but at this stage I will not say that I am not interested in looking further at the detail. I suppose that my concern rests in the area in which Hanzala Malik pitched his contribution. It might be a little disingenuous to suggest that the proposed approach would not breach an established principle, because it would represent a considerable extension to the current approach. Should the health service have recourse against the manufacturers of food, in relation to people who suffer from obesity? Should the NHS recover from the alcohol industry the costs of treating people who suffer from alcoholism? There might be some attractions in such a proposition, but it would represent a fairly dramatic extension of current practice.

I am not a regular user of the national health service; I have used it occasionally and it has been enormously valuable to me. The NHS is funded by our national insurance contributions, and the word "insurance" implies to me that it is a health service that we fund to meet the costs of various risks that arise. Recovering costs in the way that is suggested would not in itself benefit the individuals who have suffered, for whom I have the greatest respect and wish to see everything possible done—indeed, I am concerned that the Courts Reform (Scotland) Bill might make access to justice that bit more difficult by increasing the value of cases that can come before the Court of Session from £5,000 to £150,000.

The proposal in the motion has an interesting aspect, which I would like to see explored. However, at this stage I am not convinced that it is the right approach for us to take, given the precedent that it would set and the temptations that it might offer. We contribute to a national health service, which is there to meet emergencies. What is important is that the people who deserve support and compensation throughout their lives as a result of what they did on behalf of our country are given adequate support.

18:38

**Gil Paterson (Clydebank and Milngavie) (SNP):** Like other members, I congratulate Bill Kidd on securing this debate on an important issue. I also commend everyone who is involved in Clydeside Action on Asbestos for their sterling work over decades in supporting people who are affected with asbestos-related conditions. There is not a shadow of a doubt that Clydeside Action on Asbestos has made a difference.

It is pleasing to note that, whatever our political beliefs and party membership, members can unite to support sufferers and attempt to get justice for them, given what they have suffered as a result of not having had a safe environment in which to go to work—something that we regard as normal.

It is worth repeating Bill Kidd's point that, when discussing the effects of asbestos, it is important that we acknowledge that it was not only those who worked in our factories and shipyards who suffered but whole families, as people were affected when the work clothes were washed and then hung out to dry. No one was safe.

That is why I support the motion and the proposals by Clydeside Action on Asbestos. It was not just individual workers who were affected by asbestos-related illnesses. Everyone was affected—men, women and children. Whole generations of Scots have been affected, as well as people further afield. We owe it to those

generations to do everything in our power to bring some comfort and give justice on an issue that is a sad reflection of our past.

As the constituency member for Clydebank and Milngavie, I regularly come into contact with large numbers of people who grew up working in the John Brown shipyard and the Singer sewing machine factory. There is still great pride among those people about not only the ships and sewing machines that they built but the strong community that they established in which people looked out for one another. However, there is pride, but there is also anger—anger that they were subjected to working conditions that left long-term scars not only on their bodies but in the lives of their families and loved ones.

With anger comes action. I take this opportunity to praise the volunteers of the Clydebank Asbestos Group, who have played a vital role locally and nationally in fighting for those who suffer from asbestos-related illnesses. I am pleased that, over the past seven years, the Scottish Government has expended a great deal of energy in supporting the compensation claims of those who have suffered from the condition. That was not politically motivated; it was morally motivated, and the Government should be congratulated on what it has done.

As the motion sets out, however, there is work still to be done. Our NHS is under a great deal of strain because of the knock-on effects of welfare cuts. The proposals of Clydeside Action on Asbestos would have a valuable impact on the NHS and would help to address our country's health issues.

18:42

**The Minister for Public Health (Michael Matheson):** Like other members, I congratulate Bill Kidd on securing time for the debate. He and others were right to highlight the significant number of workers in Scotland who, over several generations, have been exposed to asbestos-based materials in their workplaces. For many of those individuals, that has caused a great deal of harm. Through exposure to those materials, they have suffered terrible and debilitating illnesses, which in some cases have been terminal. When we are considering the issues, whether they are to do with compensation, legal action or the NHS's ability to recover costs, it is extremely important that we never lose sight of the people and families who have suffered as a result of asbestos-related diseases.

To a degree, Jackson Carlaw showed his age, but he illustrated clearly how the traditional heavy industries in the west of Scotland, particularly in greater Glasgow and on the Clyde, exposed

workers to asbestos. Although a significant number of people in the greater Glasgow area were, and still are, affected by asbestos-related diseases, the issue is not exclusive to Glasgow and the west coast. As Stewart Stevenson correctly pointed out, my late colleague Margaret Ewing pursued the issue for her constituents who were affected by asbestos-related diseases associated with the defence industry. The issue affects the whole of Scotland, although I recognise that it does so to different degrees in different parts of the country.

Members would expect the Government to take the matter seriously and, as a Government, we recognise that it is an issue of particular importance. We should consider the possibility of the NHS being able to recover costs and, more important, ensuring that those who have asbestos-related illnesses receive the best possible healthcare.

**Stewart Stevenson:** The minister might care to note that Crown immunity has, in effect, prevented many of those who were involved in defence from having the kind of recourse that has been available to those who worked in the shipyards.

**Michael Matheson:** I am aware of that, but it was useful to illustrate that asbestos was not peculiar to Glasgow and the west coast of Scotland.

Members will also recall that, since coming to power in 2007, we have been proactive. With cross-party support, we introduced the Damages (Asbestos-related Conditions) (Scotland) Act 2009, which protected the rights of those who have suffered from asbestos-related conditions to claim the damages that are due to them.

In his speech, Stuart McMillan highlighted the work that he has been doing with Clydeside Action on Asbestos on the proposal that, in cases in which individuals with an asbestos-related illness receive compensation for their condition, the NHS should be given the power to recover from the compensator—not the company or the individual, but the insurance company that provides the compensation—the costs of treating the individual.

Clydeside Action on Asbestos estimates that the NHS spends more than £20 million a year diagnosing and treating people suffering from asbestos-related conditions. Although the amount that would be recovered by the NHS in Scotland would depend on the approach that was taken, the recovery of funds would allow for that money to be reinvested in front-line NHS services. We do that with our existing NHS cost recovery scheme, to which Stewart Stevenson referred. Last year, we recovered more than £14 million through it and, since the scheme was introduced in 2007, the

NHS has been able to recover £86.5 million through it.

Members will be aware that that is not a new idea. The Welsh Assembly has passed a bill introducing such measures. The Welsh bill allows for a tariff-based system that is very similar to the cost recovery system that we already have in the NHS for personal injuries.

**The Deputy Presiding Officer:** Minister, I draw to your attention the sub judice issues with regard to the Welsh bill at the moment, although I am sure that you are aware of them.

**Michael Matheson:** I am aware of that.

The Welsh Assembly estimates that the scheme will draw in around £1 million. However, it has been referred to the Supreme Court, which is due to consider it this week. We are watching the outcome of the Supreme Court's deliberations carefully and will consider the issue once it has ruled, which is expected to be in June or July this year.

Any proposals that may provide additional resources to the NHS have obviously to be welcomed because those resources could be invested in front-line patient care. The Cabinet Secretary for Health and Wellbeing met Stuart McMillan and Clydeside Action on Asbestos last year to discuss the issue and has given an assurance that we will consider some of the issues around their proposal.

A number of questions would clearly have to be considered. Among them are questions about who would administer such a scheme and the cost of administering it. They also include questions on operational aspects, such as the treatment period over which costs may be recovered, and on the total amount that the NHS is likely to recover.

Those issues and many more would have to be explored. However, I can inform members that Government officials are already considering them.

I am sure that all members recognise that, since its inception, Clydeside Action on Asbestos has been a tireless campaigner on behalf of those affected by asbestos-related diseases. The campaigning of this particular charity has led to many successful outcomes, improving the lives of many who have suffered a great deal. It is important that, tonight, we recognise the work that Clydeside Action on Asbestos has done—not only in terms of the campaigning that it has undertaken over the past 30 years but also in terms of the practical, day-to-day support that it has provided to individuals and families, whose quality of life has been improved by the organisation's provision of resources and information. I wish it well in that continued work, and I hope that members are

reassured that the Government will continue to do what we can to ensure that patients who suffer from asbestos-related illnesses receive the best possible care within our national health service. Of course, we will continue to consider Stuart McMillan's proposal as it is brought forward to see whether it can add value to the existing scheme for compensation in NHS Scotland.

*Meeting closed at 18:50.*

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