



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 20 January 2016

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
2nd Meeting 2016, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Sarah Boyack (Lothian) (Lab)

*Alex Fergusson (Galloway and West Dumfries) (Con)

*Jim Hume (South Scotland) (LD)

*Angus MacDonald (Falkirk East) (SNP)

*Michael Russell (Argyll and Bute) (SNP)

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Andrew Campbell (Scottish Government)

Patrick Harvie (Glasgow) (Green)

Johann Lamont (Glasgow Pollok) (Lab)

Richard Lochhead (Cabinet Secretary for Rural Affairs, Food and Environment)

Aileen McLeod (Minister for Environment, Climate Change and Land Reform)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 20 January 2016

[The Convener opened the meeting at 09:37]

Decision on Taking Business in Private

The Convener (Rob Gibson): Good morning and welcome to the second meeting in 2016 of the Rural Affairs, Climate Change and Environment Committee. Before we move on, I ask everyone to ensure that their phones have been switched to silent, but people will also notice that committee members are using tablets to conduct committee business.

Agenda item 1 is a decision on taking business in private. Do members agree to take in private item 5, which is consideration of a draft letter to the Devolution (Further Powers) Committee on Crown Estate issues, and to take in private at a future meeting consideration of a draft letter to the Scottish Government on wildlife crime?

Members *indicated agreement.*

Subordinate Legislation

Microchipping of Dogs (Scotland) Regulations 2016 [Draft]

09:38

The Convener: Agenda item 2 is an evidence-taking session on the draft Microchipping of Dogs (Scotland) Regulations. I very much welcome to the meeting Richard Lochhead, the Cabinet Secretary for Rural Affairs, Food and Environment. I am sorry for our being slightly late in starting, cabinet secretary, but I am sure that we will not detain you too long.

Mr Lochhead is joined by Dr Beverley Williams, Andrew Voas and Andrew Campbell. I ask the cabinet secretary to speak to the regulations, after which we will move to questions.

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): Good morning, convener and committee members, and thank you for inviting me to speak to you about the proposed regulations.

As I hope the committee will be aware, compulsory microchipping has been the subject of much campaigning by animal welfare stakeholders, most particularly the Dogs Trust, and was debated in the Scottish Parliament in May 2014. It is an issue that many constituents, too, have drawn to our attention.

On 4 March 2015, I announced that Scotland would be taking forward mandatory microchipping and would aim to do so in line with the timetables of England and Wales—in other words, by April 2016. That followed a Scottish Government public consultation, 83 per cent of respondents to which supported making microchipping mandatory. The regulations before you were drafted under powers in the Animal Health and Welfare (Scotland) Act 2006. They were laid before the Parliament on 10 December 2015.

The Scottish Government has long recommended microchipping as best practice in the identification of dogs in our code of practice for the welfare of dogs. We recognise the useful role that microchipping plays in reuniting lost pets with their owners if the dog has been registered on a microchip database and the details relating to the dog in question have been kept up to date.

Although it is thought that around two thirds of dogs in Scotland have already been voluntarily microchipped, it is also estimated that there are over 8,000 stray dogs in Scotland every year. The cost of dealing with them is estimated at not far off £4 million a year, with the largest financial burden falling on animal welfare charities.

The Scottish Government considers that those figures, and the successful reuniting of dogs with owners, could be improved by making it mandatory that all dogs are microchipped and owners and animals registered on a database on which the details are kept up to date.

Bringing in a legal requirement to microchip would also provide the opportunity to require standardised types of microchip, standardised information to be kept in the databases and appropriate access to the data held there, all of which would further improve the efficiency of reuniting dogs with their keepers.

The ultimate objective, however, is to ensure that the legislation secures the welfare of all dogs in Scotland. There are potentially wider benefits to microchipping, for example identifying the owner in the case of an animal welfare incident or an attack, and the general objective of promoting responsible dog ownership, as well as other benefits, such as deterring dog theft and helping to trace those who are breeding or dealing in dogs illegally.

The regulations are intended to help to achieve those aims. I hope that the information provided by my officials to accompany the draft regulations has proved useful to you all, and I am happy to do what I can to answer any questions that you have.

The Convener: Thank you very much, cabinet secretary. There are some questions, starting with Graeme Dey.

Graeme Dey (Angus South) (SNP): Thank you, convener, and good morning, cabinet secretary.

I want to explore the cost of the proposals for individual dog owners. We are told in the papers in front of us that the cost to an individual dog keeper would be between £10 and £30 for microchipping, with possible fees of between £10 and £16 for registration and keeping details on a database. Can you explain the range of possible charges? Why do they go from £10 to £30 rather than being a fixed fee?

Richard Lochhead: The majority of responsible dog owners have already registered their dogs and microchipped them, which is the responsible thing to do and, as I said in my opening remarks, it is part of the code of best practice for the welfare of dogs that is promoted by the Scottish Government.

The range of costs that you have quoted is correct, and it is a range because there are commercial providers of the various services. On the one hand, if someone is lucky enough to be able to attend a Dogs Trust event they can get the microchipping carried out free, whereas if they go to a private vet—as I did a few months ago with

our pet dog—they will pay a fee, as I did in Elgin, because there were no events in the area at that time. It depends what route people take to have their dogs microchipped.

Between now and April, I urge people to look at the websites of the animal welfare charities, particularly the Dogs Trust, to find out where those free microchipping events are taking place. I attended one a few weeks ago in Elgin, and there was a long queue of people from all over Moray and Aberdeenshire attending it to take advantage of the free microchipping.

The other costs relate to updating the database if there is a change of circumstances or change of owner. There may well be a fee for the database company. In some cases that is a one-off fixed fee for on-going updates over the life of the dog; other database companies charge a fee each time the records are updated. That is why there is a range.

Graeme Dey: I think that a number of members of the Parliament have hosted Dogs Trust events in their constituencies—they are very good.

I want to develop that a bit further, because I have been approached by the owner of a rehoming and retraining centre who has raised a concern with me. It might not be a valid concern, but I want to air it and get your views. The concern is that, if microchipping is mandatory, might we get to a point where those providing the service to microchip dogs could hike the fees? I realise that people will have a choice about which provider to go to, but is there a danger that, further down the line, the current reasonable charge of between £10 and £30 could become much more substantial? Are you aware of that issue?

09:45

Richard Lochhead: That issue applies to many things that we pay for in life. At present, we have six database companies, so there is competition, which I hope will help to keep prices down over time. I am sure that the animal welfare charities will pay attention to the issue and will, I hope, have an on-going role. Should prices ever increase to an unreasonable level, I am sure that animal welfare charities would step in to help with that. That issue applies across commercial life, full stop.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I have a quick follow-up question on that. You said that the Dogs Trust does microchipping for free and that other private sector organisations do it. Do you have any plans to assist the Dogs Trust, financially or in other ways, to allow it to expand what it does to more parts of Scotland so that more people will benefit from the free microchipping?

Richard Lochhead: We will certainly keep a close eye on the progress of the voluntary dog microchipping up to April and on what happens thereafter, but charities are charities, and animal welfare charities deserve a lot of praise. I commend what they have been doing, particularly in running free microchipping events. It is good to see charities occasionally going into more rural areas, which I would encourage them to continue. Ultimately, if someone chooses to own a dog and wishes to be a responsible dog owner, they know that that will come with a cost, from feeding their dog to vet bills or whatever. Of course, over many years, many responsible dog owners have been willing to pay out of their own pockets to voluntarily microchip their dogs.

Claudia Beamish (South Scotland) (Lab): I feel very positive about the regulations, but I have a small point of clarification. I see that, under regulation 10, a new keeper has to update the organisation that holds the records, for obvious reasons. I may have missed something, but do the regulations state somewhere that, if the present owner changes address, they, too, have to inform the database operator? I could not spot that, so it would be reassuring to know that it is there.

Richard Lochhead: It is there, but I ask Andrew Campbell to comment.

Andrew Campbell (Scottish Government): Perhaps I can help. Regulation 6(7) states:

“From 6th April 2016, every keeper of a dog which has been implanted with a compliant microchip must notify any change to the details that are to be recorded on the database”.

That is an on-going obligation to update the database.

Claudia Beamish: That is helpful—I missed that.

Sarah Boyack (Lothian) (Lab): Has the cabinet secretary or his officials spoken to local government about the administrative implications of the measure? Are there notional costs that you expect local government to shoulder in implementing the regulations?

Richard Lochhead: That is a good question. We have been speaking to local authorities. As part of the consultation process, officials had events or meetings with relevant local authority officers. On the financial implications, we anticipate savings to local authorities because, the quicker they can reunite stray dogs with their owners, the less they will have to pay towards kennel costs. Therefore, there could be savings. There is a fairly large degree of support among local authorities for making microchipping compulsory.

I understand that 84 officers who are either dog wardens or animal welfare officers are currently working in the 32 local authorities. Over and above that, I understand that there are around 100 authorised officers who can fulfil some of those duties. Staff are currently doing that job. I understand that they welcome the fact that there will be a law to support their good work in promoting responsible dog ownership.

Over time, I hope that there will be a cost saving for local authorities. There should not be too significant an increase in costs in the short term because, in most cases, the officers are already doing that job.

Sarah Boyack: That is very welcome. I suppose that the issue is about the cost of chipping provided by local authorities. Have you any thoughts on a notional cost for that? What would be a fair charge?

Richard Lochhead: May I clarify that your question is about local authorities carrying out microchipping?

Sarah Boyack: Yes. If they were involved in that, what notional cost would be acceptable?

Richard Lochhead: I do not pretend to know much about local authorities' direct role in microchipping.

Sarah Boyack: Do you see local authorities having a role, or is it a role only for vets or groups such as the Dogs Trust?

Richard Lochhead: It is primarily the responsibility of individual keepers to get their local vet to do the chipping, or it is a role for animal welfare charities.

The Convener: Local authorities charge people for reclaiming their dogs. There is a very wide range of fees, from £125 to, perhaps, zero. Does that charge penalise people who cannot afford to pay the reclaim fees? Poorer people might find that, rather than being reclaimed, their dogs are euthanised because they cannot afford the fee.

The fees range from £125 in North Lanarkshire to £25 in Glasgow city. The order does not deal with fees in a specific way. I want to raise that point because I am concerned that, with the best will in the world—even if dogs are microchipped—it will be an uneven experience for people whose dogs goes astray.

Richard Lochhead: If the committee feels that that is an issue, I am happy to look into it further. As things stand, local authorities have a statutory duty to deal with stray dogs and they have the right to claim back some of the costs that they have incurred—kennel costs and whatever other costs there may be.

I have no doubt that the reason why the costs are variable is that each local authority approaches the issue in a different way. The regulations do not deal with the costs for reclaiming and it is not an issue that has been brought to my attention before, so it is not being addressed at the moment. It is up to each individual authority. In some cases they will charge and in some cases they will not. They have the discretion to approach each case as they see fit.

The Convener: I think that the question is worth raising because it seems like quite an anomaly that people around the country could pay such varying amounts to reclaim their pet.

As there are no other questions, we will move on to the debate, under agenda item 3, to consider motion S4M-15056 and whether the committee should recommend approval of the draft Microchipping of Dogs (Scotland) Regulations 2016.

Only members and the cabinet secretary may speak. I invite Richard Lochhead to speak to and to move the motion.

Richard Lochhead: In moving the motion, I thank the committee for its support. I believe that the people of Scotland support the legislation. Of course, this is happening elsewhere in the United Kingdom and is very much seen as a modern approach to promoting responsible dog ownership. It also helps to reduce the heartache of people who have been separated from their dog and want to be reunited with their pet as quickly as possible. It should be a lot easier to reunite them if the dog is microchipped and the information is up to date. In the few cases of irresponsible dog ownership, the regulations will help the authorities to hold irresponsible dog owners to account.

I move,

That the Rural Affairs, Climate Change and Environment Committee recommends that the Microchipping of Dogs (Scotland) Regulations 2016 [draft] be approved.

Claudia Beamish: I would like to make a couple of quick points on the motion, about which I feel very positive.

It is heartening that 86 per cent of those consulted were positive about the new regulations. We have previously discussed costs, and I understand that a particular cost will be limited for people once the regulations come into effect because they will not necessarily have heavy costs if they lose their dog, as they will be able to be reunited with their pet much more quickly.

I commend the Dogs Trust and the vets across Scotland who have offered a free service and advertised it well in order to support people on a lower income as we move towards implementation in April.

The Convener: As members have no further points to make, I invite the cabinet secretary to wind up.

Richard Lochhead: I reiterate Claudia Beamish's point that the overall consultation that we had a year or two ago on responsible dog ownership showed that there was huge support for this measure.

The Convener: Indeed. Thank you very much.

Motion agreed to.

The Convener: We will note that the motion has been agreed to and will pass on that information. I thank Richard Lochhead and his officials.

There will be a brief suspension for the changeover of panels.

09:56

Meeting suspended.

09:59

On resuming—

Land Reform (Scotland) Bill: Stage 2

The Convener: Item 4 is consideration of amendments to the Land Reform (Scotland) Bill. Today we will consider amendments from part 1 up to no further than part 5, apart from chapter 3 of part 2, which we will consider after part 10.

I welcome Dr Aileen McLeod, Minister for Environment, Climate Change and Land Reform, and her officials: Fiona Taylor, Kate Thomson-McDermott, Rachel Rayner and Ian Young. We should note that officials are not allowed to speak on the record in the proceedings.

I expect that we will be joined later by two members who have lodged amendments: Johann Lamont and Patrick Harvie.

For people's benefit, I now have to describe the process. This will take a wee while—almost as long, no doubt, as some of the explanations that we will get from the minister.

Everyone should have with them a copy of the bill as introduced, the marshalled list of amendments, which sets out the amendments in the order in which they will be debated, and the groupings, which were published on Monday. There will be one debate for each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. Members who have not lodged amendments in the group but who wish to speak should indicate to me or the clerk. If the minister has not already spoken on the group, I will invite her to contribute to the debate just before we move to the winding-up speech. There might be times when I allow a little more flexibility for members to come back on points during a debate.

The debate on each group will be concluded by me inviting the member who moved the first amendment in the group to wind up. Following the debate on the group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to withdraw it. If the member wishes to press it, I will put the question on the amendment. If the member wishes to withdraw it, I will check whether any other member objects. If any member objects, the amendment is not withdrawn and the committee must immediately move to vote on it.

If any member does not wish to move their amendment when it is called, they should say “not moved”—and they should do so audibly. Any other

MSP present may move such an amendment. However, if no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting on any division is by a show of hands. It is important that members keep their hands clearly raised until the clerks have recorded the vote.

The committee is required to indicate formally that it has considered and agreed to each section of the bill, so I will put a question on each section at the appropriate point.

If we do not reach the end of part 5 today, we will stop at an appropriate point and pick up where we leave off on day 2 of consideration, which will be next week.

I hope that that is all clear to everybody.

Section 1—Land rights and responsibilities statement

The Convener: We turn to the marshalled list of amendments. The first group relates to the purpose, content and effect of the land rights and responsibilities statement and key definitions. Amendment 15, in the name of the minister, is grouped with amendments 16, 16A, 72, 17, 75, 78, 96, 97, 97A and 117.

The Minister for Environment, Climate Change and Land Reform (Aileen McLeod): Good morning. Amendment 15 will change the definition of the land rights and responsibilities statement so that, instead of being a statement of the Scottish ministers' objectives for land reform, it is a statement of principles for land rights and responsibilities. As we know, the land rights and responsibilities statement will provide a context in which we as a nation can consider the development of rights and responsibilities around land. It will also be an important part of our on-going programme of work to ensure that the full public benefits of land are realised.

The land rights and responsibilities statement will set out our vision for the relationship between the people of Scotland and the land of Scotland. It will provide a set of principles to guide the development of public policy on the nature and character of land rights and responsibilities. It will interrelate with other relevant policies, including the Scottish Government's economic strategy, the land use strategy, the Scottish biodiversity strategy and the national planning framework. Collectively, those documents will set out a consistent and holistic approach to how the land of Scotland should be used, controlled and managed.

Amendment 15 clarifies that the focus of the statement will be on providing a set of high-level

principles on land rights and responsibilities, and it aligns the name of the statement more clearly with its purpose.

Amendment 16 requires the Scottish ministers, in preparing the land rights and responsibilities statement, to have regard to the desirability of a range of factors, which are:

“(a) promoting respect for, and observance of, relevant human rights,

(b) encouraging equal opportunities ...

(c) furthering the reduction of inequalities of outcome which result from socio-economic disadvantage,

(d) increasing the diversity of land ownership, and

(e) furthering the achievement of sustainable development in relation to land.”

The Scottish Government has signalled its commitment to the encouragement and promotion of each of those factors throughout stage 1 and in the policy memorandum. Amendment 16 reiterates that commitment.

The first part of the amendment requires the Scottish ministers to have regard to the desirability of

“promoting respect for, and observance of, relevant human rights”.

Relevant human rights are rights that the Scottish ministers consider to be

“relevant to the preparation of the statement.”

Ministers consider that the International Covenant on Economic, Social and Cultural Rights and the Food and Agriculture Organization of the United Nations voluntary guidelines on the responsible governance of tenure are highly likely to be relevant to the preparation of the land rights and responsibilities statement and so would be “relevant human rights” for the purpose of amendment 16.

The international covenant requires states to take appropriate steps towards achieving certain rights to adequate standards of living, which include adequate food and housing. Those rights are linked to the use, control and ownership of land. The voluntary guidelines set out principles and internationally accepted standards of responsible practices for the use and control of land, fisheries and forests, which are of relevance to land policies in Scotland. Amendment 16 means that ministers will have regard to the desirability of

“promoting respect for, and observance of,”

the human rights that are contained in those documents when preparing the statement.

Other human rights instruments may also be considered to contain relevant human rights. They may include the United Nations Convention on the Rights of the Child and the United Nations

Convention on the Rights of Persons with Disabilities.

By using the term “relevant human rights”, the amendment avoids the difficulties that could arise from using a definitive list of instruments that relate to human rights. It also allows for future developments in relation to human rights to be taken into account. The approach will allow ministers to take account of future discussions on how human rights obligations interact with land rights and responsibilities, which might take place as part of the consultation process that is required on the first and future land rights and responsibilities statements.

The second part of amendment 16 requires the Scottish ministers to have regard to the desirability of “encouraging equal opportunities”. In this context, that means preventing or eliminating discrimination on various grounds, including the grounds of social or racial origin, as defined in section L2 of part II of schedule 5 to the Scotland Act 1998. That will involve consideration of how “encouraging equal opportunities” applies to how our land is owned, used and managed and who it is owned by.

The third part of the amendment requires the Scottish ministers to have regard to the desirability of

“furthering the reduction of inequalities of outcome which result from socio-economic disadvantage”.

The potential impact on reducing inequalities is a central consideration for the decision making of the Scottish ministers across all policy areas. The amendment recognises the importance of land to people’s wellbeing, opportunities and identity and recognises that the land is key to the success and development of our people, communities and economy. Ministers will consider how the statement can best encourage, in relation to land rights and responsibilities, the reduction of inequalities that exist in our society in relation to access to social justice, health and welfare by individuals and communities.

The fourth part of the amendment requires the Scottish ministers to have regard to the desirability of

“increasing the diversity of land ownership”.

The Scottish ministers consider that

“increasing the diversity of land ownership”

means encouraging diverse patterns of ownership with regard to who owns the land, how much land is owned and for what purposes that land is owned.

In relation to part 5 of the bill, which is on sustainable development, the amendment requires the Scottish ministers to

“have regard to ... furthering the achievement of sustainable development in relation to land.”

One of the aims of the Scottish ministers in preparing a land rights and responsibilities statement is to ensure that its policies on the use, management and ownership of land are designed to promote the sustainable development of Scotland’s land. The amendment therefore ensures that the Scottish ministers consider the desirability of that aim when they prepare the statement.

I thank Sarah Boyack for lodging amendment 16A, which seeks to include the concept of “fostering community resilience” as something that ministers should have regard to. It is a helpful addition to amendment 16, which requires ministers to

“have regard to ... furthering the reduction of inequalities of outcome which result from socio-economic disadvantage”

when preparing the land rights and responsibilities statement, and I am happy to support it.

Amendment 72, in the name of Michael Russell, is similar to the Government’s amendment 16 and seeks to achieve the same purpose, albeit with slightly different wording. Under amendment 16, the Scottish ministers must, in preparing the land rights and responsibilities statement,

“have regard to the desirability of—

(a) promoting respect for, and observance of, relevant human rights,

(b) encouraging equal opportunities ...

(c) furthering the reduction of inequalities of outcome which result from socio-economic disadvantage,

(d) increasing the diversity of land ownership, and

(e) furthering the achievement of sustainable development in relation to land.”

Our amendment goes further than amendment 72, because it also requires ministers to

“have regard to the desirability of ... furthering the reduction of inequalities of outcome which result from socio-economic disadvantage”.

As a result, ministers will consider how, in relation to land rights and responsibilities, the statement can best encourage the reduction of inequalities in our society with regard to access to social justice, health and welfare by individuals and communities.

In amendment 16, the Government uses different language from that used by Mr Russell in amendment 72. For example, our amendment talks about “encouraging equal opportunities” instead of

“the achievement of equal opportunities”.

The definition of equal opportunities that is used by our amendment and by Mr Russell can be

found in section L2 of part II of schedule 5 to the Scotland Act 1998. Given the reference in that definition to

“the prevention, elimination or regulation of discrimination between persons”

on various grounds, I think that using the term “encouraging” rather than “achievement” is perhaps more helpful in acknowledging that the statement can be only one part of reaching the aim. I certainly understand the sentiments that are behind Mr Russell’s amendment, and I hope that, as our amendments seek to achieve the same purpose, he will not move his amendment and will support amendment 16.

Amendment 17 would require the Scottish ministers to ensure that the land rights and responsibilities statement took account of and was integrated with the Scottish ministers’ other strategies, including the Scottish Government’s economic strategy, the land use strategy, the Scottish biodiversity strategy and the national planning framework. The Government considers the amendment not to be necessary, given our statements throughout stage 1 that the Scottish ministers intend to ensure that the land rights and responsibilities statement is consistent with and takes account of existing policies and strategies.

We intend the statement to interrelate with existing policies, including the Scottish Government’s economic strategy, the land use strategy, the Scottish biodiversity strategy and the national planning framework. Taken as a whole, they will set out a consistent and holistic approach to how the land of Scotland should be owned, used and managed.

It is important to recognise that there will be a wealth of ideas and views to be considered in detail when we take the statement forward. The consultation process will ensure that all options and interests can be considered, including the strategies and policies that are set out in amendment 17.

10:15

If we highlighted a list of strategies that the land rights and responsibilities statement must take account of and be integrated with, we would run the risk of other relevant strategies receiving less attention or being considered less important. For example, housing policy, our national performance framework, the historic environment strategy for Scotland and other policies might be just as interrelated with land rights and responsibilities as are the strategies and policies that are listed in Graeme Dey’s amendment 17.

Amendment 17 would require the Scottish ministers to ensure that the land rights and responsibilities statement took account of and was

integrated with all their other strategies, regardless of whether those strategies were relevant to the statement. That would be unworkable. The Scottish ministers always consider other relevant policies when they develop a new policy or strategy; for that to happen, we do not require the imposition of a duty in every piece of legislation that provides for a new Government policy or strategy. Given the Scottish ministers' commitment to taking account of the policies and strategies that are listed in amendment 17—and more policies and strategies, which are not listed in the amendment—when they prepare the land rights and responsibilities statement, I ask Graeme Dey not to move amendment 17.

Amendment 75 would require the Scottish ministers to

“further the objectives set out in the land rights and responsibilities statement.”

As members know, we are changing the description of the land rights and responsibilities statement from a statement of objectives to a statement of principles. We accept amendment 75 in principle and will consider whether further changes in wording need to be made at stage 3.

Amendment 78 would delete from section 9 the definitions of equal opportunities and equal opportunity requirements, which amendment 96 would insert into part 11. The amendments are consequential on Mr Russell's amendments 72, 77, 81 and 92. I have no objection to the definitions, but I think that the amendments are unnecessary. Our preferred approach is to define the terms “equal opportunities” and “equal opportunity requirements” in each section in which they are used, given the infrequency with which they appear. It is therefore unnecessary to restate the definitions at the end of the bill. I ask Mr Russell not to move those amendments.

Mr Russell's definition of human rights in amendment 97 includes

“economic, social and cultural rights as are referred to in—

- (a) the International Covenant on Economic, Social and Cultural Rights ... or
- (b) such other international covenants, conventions, agreements or EU documents as the Scottish Ministers ... consider to be relevant.”

Amendment 97A would extend that definition to include economic, social and cultural rights that are in

“the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests”.

Although the proposed new definition is wide, it is still in list form and is therefore problematic. It would be impossible and impractical to list all the relevant obligations, and listing some international obligations, such as those in the international

covenant and the voluntary guidelines, would probably raise questions about why others are not named.

The proposed approach would give the Scottish ministers fairly wide discretion to consider other instruments, but it highlights

“economic, social and cultural rights”.

Other rights, such as civil rights and political rights, might be equally relevant. For example, the voluntary guidelines seek to improve the governance of land tenure in the context of food security, because land is central to realising human rights and eradicating hunger and poverty.

The rights that the guidelines drive at are wider than

“economic, social and cultural rights”

because they are the fundamental rights of everyone to survive. Amendment 97's definition would not preclude considering such fundamental rights, but it does not include them, which gives them less prominence and might suggest that they are less important.

Amendment 97 would impose an unnecessary duty on the Scottish ministers to consult the Scottish Human Rights Commission when considering what other instruments are relevant. The Scottish ministers can consult any bodies or persons they consider appropriate without being required to do so by legislation. Indeed, it is the Scottish ministers' policy always to consult on matters of importance to the people of Scotland. Further, the Scottish Human Rights Commission already has the power to provide advice in connection with the promotion of human rights and the encouragement of best practice, and it could certainly seek to do so when the Scottish ministers are considering human rights in the context of land issues.

Amendments 18 and 21, which we have lodged, require the Scottish ministers to consult on the first land rights and responsibilities statement and to do so as part of the review process for the statement. There is already a similar requirement on the Scottish ministers under section 37(4) to consult before issuing the guidance that is to be created under part 4.

The requirements on the Scottish ministers under parts 1 and 4 of the bill are to consult such persons as ministers consider appropriate, and I confirm that that will include the Scottish Human Rights Commission. The Scottish ministers will seek the commission's expertise and knowledge when considering what rights are relevant to the preparation of the land rights and responsibilities statement and to the part 4 guidance.

The Government's amendments 16 and 38 set out the Scottish ministers' definition of relevant human rights. Those provisions avoid the difficulties that arise from using a list of instruments that relate to human rights and allow the Scottish ministers the discretion to consider other relevant rights as appropriate. That approach also enables the possibility of future debate on what is relevant and how human rights obligations interact with land issues.

For all the reasons that I have just set out, I ask Mr Russell and Sarah Boyack not to move amendments 97 and 97A and to support the approach to human rights that is set out in amendments 16 and 38.

Amendment 117, from Sarah Boyack, seeks to insert a definition of sustainable development. I understand where she is coming from, but I think that the amendment is unnecessary and potentially harmful, because it has an exhaustive definition. It would mean that sustainable development could be only development that was consistent with the principles in the amendment, not all of which might be relevant to how the term "sustainable development" is used in the bill. For example, it is unclear how using sound science responsibly is relevant to the Scottish ministers' decision making under section 47(2)(a). As I said throughout stage 1 and as I think the committee acknowledged in its stage 1 report, the term "sustainable development" in relation to land is widely understood and widely used in other legislation—particularly other right-to-buy legislation—and the courts have been able to interpret the term in relation to other legislation.

In the policy memorandum, we are clear that sustainable development is

"development that is planned with appropriate regard for its longer term consequences, and is geared towards assisting social and economic advancement that can lead to further opportunities and a higher quality of life for people whilst protecting the environment."

It is an advantage for the term "sustainable development" not to be defined in the bill, because not defining it means that the term is left deliberately broad. The Scottish ministers and, where necessary, the courts are able to determine what sustainable development means in a particular case, as they have done in relation to other legislation.

Defining sustainable development by reference to principles in a framework document is not appropriate. Although the document that is named is vital and demonstrates the commitment of the UK Government and the other devolved Administrations to working together to meet our shared goals on sustainable development, it has no legal effect or standing. The principles that are in that framework were drafted with a view to

forming the basis of sustainable development policy and not with a view to being used in legislation or interpretation by the courts. In addition, the document might change in the future, which could render the reference to it in the bill obsolete. I therefore ask Sarah Boyack not to move amendment 117.

I move amendment 15.

The Convener: I call Sarah Boyack to speak to amendment 16A and other amendments in the group.

Sarah Boyack: I listened with great interest to the minister's opening statement. There was a huge amount of information in it, but I will try to pick up a couple of her points as I speak to my amendment 16A and others in the group. One of the key debates that we had during evidence taking at stage 1 was about the importance of being clear about the objectives of the bill. We are conscious that the bill will become an act and that, when it is implemented, what is in the act and, maybe, what was said in committee or the chamber will be interpreted. Future decisions will be affected by what we say and what is in the bill. It is therefore important that we get real clarity.

I very much welcome the minister's amendment 16, which will put a range of objectives in the bill. That is helpful. I want to add "fostering community resilience" because it is important to emphasise individual human rights and collective human rights. Including the term "community resilience" would be very much in line with our other most recent land reform legislation, the Community Empowerment (Scotland) Act 2015. I am glad that the minister is happy to accept amendment 16A.

Our job is to test the words that ministers use in the bill process. I want to do that in relation to human rights because, as I said, the implementation of the bill will stand or fall by the strength of the intentions, the clarity of definitions and the political will that follows from the bill. Although I welcome much of what is in the minister's amendment 16, I think that amendment 97 by Mike Russell is absolutely crucial in relation to providing the wider framework.

One measure in the minister's amendment that I hesitated over is proposed new section 1(2B), which is right at the end of the amendment and which suggests that the term "human rights" means what the ministers think is relevant in preparation of the statement. Yesterday, we all received a letter from the Scottish Human Rights Commission, which is not happy with the Scottish Government's response to our stage 1 report in relation to human rights. The commission makes the point that

“the Scotland Act 1998 ... specifically calls on the Scottish Ministers to observe and implement international obligations, which includes the rights found in”

the International Covenant on Economic, Social and Cultural Rights. The minister needs to address the commission’s views.

The commission also makes the point that our Community Empowerment (Scotland) Act 2015 refers in schedule 4 to the ICESCR. It is important that we ensure that human rights are fully expressed, because the bill will become new and, potentially, radical legislation.

The strength of Mike Russell’s amendment 97 is that it uses an adopted statement that we all hope will be applied: indeed, it is used in the Land Reform (Scotland) Act 2003, so I cannot see why we should not have it in the bill. I support Mike Russell’s amendment 97, but I want to add reference to the “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security”. I am keen to have that up front and in the bill. We know that, as a country, we are increasingly importing food and that food security is hugely important not just for our nation, but for individual communities. I am keen for that to be taken on board. There are other amendments about agriculture that we might debate today, but I feel that it is important to ensure that the human rights of communities and people who depend on land, fisheries and forestry are part of the decision-making process. The minister is asking for flexibility, but I think that amendments 97 and 97A are consistent with what the minister says are her objectives.

10:30

At one point, the Scottish Human Rights Commission’s letter criticises a reference in the stage 1 response from the Scottish ministers that suggests that the rights in ICESCR are

“aspirational and not matters which can be enforced by individuals.”

The SCHR disputes that point and comments that the First Minister has been very strongly in support of human rights in the bill. Therefore I cannot see why amendment 97A is not acceptable. Major evidence was led during stage 1, in particular by Megan MacInnes of Community Land Scotland. I hope that the minister will accept the amendment, after reflection.

Amendment 117, on sustainable development, is a probing amendment. I was only partly reassured by what the minister said, and I accept that we do not define “sustainable development” in every bill where it is relevant. The point that I want to put to the minister is the concern that has been raised by Scottish Environment LINK about the

definition in the policy memorandum that is attached to the bill. That organisation believes that that definition does not equally apply the three pillars of sustainable development—the social, the economic and the environmental—and that its wording in the policy memorandum suggests that more weight is to be given to the economic and social aspects of sustainable development. I hope that the minister will put on the record that that is not her intention and that it is not how the bill is intended to be implemented.

It is very important that the three pillars are equal, so that the environment is part of the consideration process and is not seen as something to be thought about afterwards. I could have picked the Brundtland definition, but I picked one from the UK Government that all the Governments of the UK have signed up to. That is the particular point that I would like the minister to address in her summing up.

I support Graeme Dey’s amendment 17, which is also on an issue that we discussed in our stage 1 report. I do not see that it contradicts what the minister says she is trying to achieve; rather, it suggests that particular statutory Government documents must be considered in the context of the bill. I think that the economic strategy, the land use strategy that is provided for in the Climate Change (Scotland) Act 2009, our biodiversity strategy and the national planning framework are documents that will greatly strengthen future work on land reform. Graeme Dey’s amendment would certainly add something that would help in that regard.

Michael Russell (Argyll and Bute) (SNP): I thank the minister for the major step forward in amendment 16. She asserts that it is better than my amendment 72. I would not say “better”; it is equally good. It will be included at the very beginning of the bill, however, which is extremely important because the bill will say what the land statement will do. It will also say what the objectives of land reform are and what the land commission will do. It is extremely important that, at the very start of the bill, we know that land reform is about human rights, equal opportunities, reduction of inequalities, diversity in land ownership and the achievement of sustainable development. Those are vital. It will be welcome to see them expressed in the bill in that way, so I will not move amendment 72. I could express them differently, but I think that amendment 16 is a very good start.

However, the nub of the argument comes in my amendment 97 and Sarah Boyack’s amendment 97A. I am pleased that the minister said that she is going to accept my amendment 75, because—although I do not question the bona fides of any Scottish minister past, present or even future—it is

important that the bill ties them down to actually achieving the things that Parliament says it wants to achieve. The nub of the matter is what human rights are. It is important to pay attention to the letter that Sarah Boyack quoted from Alan Miller about human rights that we all saw yesterday.

In her statement, the minister said that she would pay attention to the advice of the Scottish Human Rights Commission. I am sure that that is absolutely true and that every minister will do so—the advice of the Human Rights Commission is very important. That advice is here now: the letter that was received yesterday from Alan Miller of the Human Rights Commission gives it. The letter states that the international convention should have legal force, should be included in the legal documentation and be should a guiding document. However, it is important that the letter quotes the First Minister referring to existing rights as being the “floor not the ceiling”. It is regrettable that what we have heard today is about the proposals on rights being a ceiling that would confine the Scottish Government.

Amendment 97 would not confine the Scottish Government, but would give a basis on which the Scottish Government could build a set of activities. However, the amendment makes it very clear what the Scottish Government and the land commission should consider in respect of land issues. I think that Sarah Boyack’s amendment 16A—if I might return her compliment—would be an important addition to the bill, and I would certainly support it.

It will be a while before we vote on amendment 97; I doubt that we will get to it today, as it seeks to amend a section towards the end of the bill. However, I hope that the minister will reconsider her view of the amendment, because it is designed to be helpful and is certainly not designed to be constraining. It is designed to say, “Look, here are a range of things that we can consider, here are some opportunities to have international best practice and here is the floor from which we should operate”, exactly as Alan Miller said. I think that far from being something that should be resisted because it is too specific, the amendment should be welcomed because it would give very clear guidance on where to start from but would not constrain the issue of human rights.

It is immensely welcome that the minister has said absolutely clearly—she led the way on this during the passage of the Community Empowerment (Scotland) Act 2015—that human rights are central to land reform. Now, we need to embed that in the Land Reform (Scotland) Bill. The Scottish Human Rights Commission has given its advice and will go on giving that advice. I think that the committee should heed that advice—which came as recently as yesterday—about what

we should be trying to do. We have an opportunity to do that.

Graeme Dey: I will be brief. Amendment 17 seeks to make absolutely clear the interrelation that exists, which I think the minister has acknowledged, between land reform and other Scottish Government land-related strategies and policies—namely, the economic, biodiversity and land-use strategies and the national planning framework. Amendment 17 is, in essence, a probing amendment. Given that the minister’s confirmation that those strategies and policies will be taken account of, the amendment has achieved its purpose. Although I welcome the support that was voiced by Sarah Boyack, I think that we have a commitment on the record from the Government, which is what I was looking for at the very least. I am therefore minded not to move amendment 17 when the time comes to do so.

The Convener: Do any other members wish to speak on the amendments?

Alex Fergusson (Galloway and West Dumfries) (Con): I start by saying that I am very disappointed that Graeme Dey will not move amendment 17, because I would have supported it as it addresses an issue that has been raised with us from day 1. I very much welcomed amendment 17 when I saw that it had been lodged and I am very sorry that Graeme Dey will not move it. I think that the bill will be weaker without it.

I am largely supportive of the group of amendments, but I would be grateful if the minister could address a couple of points when she winds up. The points relate to the phrase “relevant human rights”, which I am a bit concerned about. That phrase seems to me to suggest that ministers could pick and choose—if you like—which human rights are applicable to the legislation. I find that a difficult concept to get my head round.

From very early on in the Community Empowerment (Scotland) Bill process I raised concerns about the status of the covenants, agreements and documents that are referred to in amendments 97 and 97A. I understand that there would be a desire to include them in the bill so that they would be brought into consideration. However, I would be grateful if the minister could confirm that when it comes to their legal status, the overarching convention that must be applied to all Scottish legislation is the European convention on human rights. I believe that I am right in saying that that is the one that has legal status, in a way that those that are mentioned in amendments 97 and 97A do not. I do not intend to oppose the amendments, but I would be grateful if the minister could address those points in her summing up.

Jim Hume (South Scotland) (LD): I would reiterate some of what Alex Fergusson has said

about amendment 17, in the name of Graeme Dey. I appreciate the minister's point that listing some strategies and so on could exclude others, but I do not think that it needs to. To list some strategies would ensure that those were taken into account; other strategies that come in the future could also be taken into account. Therefore, if Graeme Dey had been minded to move the amendment I would have supported it.

Claudia Beamish: I, too, am disappointed that Graeme Dey has chosen not to move amendment 17. I understand the reasons that he gave for that, but amendment 17 says "including in particular" before the list. I think that those are exactly the strategies and documents that should be referred to in relation to the future of our land. I am not going to list them again because they have been listed already, but I think that it would be really significant and important to have them on the face of the bill.

I also want to associate myself with points made by my colleagues Sarah Boyack and Mike Russell about human rights. I believe that it is absolutely essential that the human rights that have been identified by them are on the face of the bill.

The Convener: Thank you. No other members have comments, so I ask the minister to wind up.

Aileen McLeod: I appreciate all the comments that have been made by committee members. I hope that my opening statement and our amendment 16 have very clearly responded to some of the concerns that were raised by the committee in its stage 1 report, and also to the issues that have helpfully been raised by the Scottish Human Rights Commission. The Scottish Government welcomes the progressive approach of the SHRC to a wider human rights framework and is absolutely committed to giving effect to human rights in a way that works for Scotland—which obviously includes the context of land reform. As Mr Russell rightly said, our human rights are embedded in land reform.

We acknowledge that a wide range of human rights are relevant to the land reform debate, including those that have not been incorporated as matters of domestic Scots law—among them those that are contained in the International Covenant on Economic, Social and Cultural Rights, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities.

It is worth pointing out for the record that, under the Scottish ministerial code, Scottish ministers already have—unlike our UK counterparts—explicit duties to comply with international law,

including international treaties and human rights instruments such as the International Covenant on Economic, Social and Cultural Rights.

Given that we will accept a later amendment to the bill—I think I am right that it is in part 4, Mr Russell, on economic, social and cultural rights—I would be happy to accept both Michael Russell's amendment 97 and Sarah Boyack's amendment 97A. I hope that that will send a very strong signal about the importance of ensuring that promotion and realisation of human rights are central to our land reform.

In response to Sarah Boyack's comments about sustainable development and the concerns that were raised by Scottish Environment LINK, I am happy to say on the record that all three pillars—social, economic and environmental—are equal and will receive equal attention. I hope that that goes some way towards reassuring Sarah Boyack about the sustainable development amendment.

As for Alex Ferguson's point, the Scottish ministers will, as I have said, have to comply with the ECHR and international law. Indeed, that is set out in the Scottish ministerial code. It is also important that we remember that the legislation must be compatible with the ECHR and be within competence, as provided for under the Scotland Act 1998.

10:45

Amendment 15 agreed to.

Amendment 16 moved—[Aileen McLeod].

Amendment 16A moved—[Sarah Boyack]—and agreed to.

Amendment 16, as amended, agreed to.

Amendment 72 not moved.

The Convener: I call amendment 17 in the name of Graeme Dey.

Graeme Dey: Not moved, convener.

Alex Fergusson: I would like to move it, convener.

Amendment 17 moved—[Alex Fergusson].

For

Beamish, Claudia (South Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Hume, Jim (South Scotland) (LD)

Against

Dey, Graeme (Angus South) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 17 disagreed to.

The Convener: The next group of amendments is on consultation, procedure and so on on the land rights and responsibilities statement. Amendment 18, in the name of the minister, is grouped with amendments 19, 20, 73, 21, 7, 74 and 100.

Aileen McLeod: The purpose of amendment 18 is to require the Scottish ministers to

“consult such persons as they consider appropriate”

on a draft of the first land rights and responsibilities statement. The amendment also requires the Scottish ministers, when laying the statement before Parliament, to lay a report that will set out the consultation process that was undertaken and the ways in which the views expressed in the consultation have been taken into account in preparing the statement. Alternatively, if no account has been taken of such views, that, too, will have to be stated in the report. Amendment 18 is linked with amendment 21, which requires ministers to consult as part of the review of the statement and imposes a similar reporting requirement following that review.

As I have said, amendment 18 requires ministers to

“consult such persons as they consider appropriate.”

It is intended that the Scottish ministers will publicly consult on the first land rights and responsibilities statement, given the wide range of parties interested in such rights and responsibilities. Public consultation will be necessary to ensure that the statement is credible and effective, and that consultation will assist ministers in drafting and finalising the statement, which will then be laid before Parliament.

If ministers decide not to take account of views that are given in the consultation, the amendment requires that to be set out in the accompanying report. We envisage that the provision might apply, for example, when views are received that are not relevant to land rights and responsibilities.

The Parliament will then have the opportunity to take evidence on and debate the first statement, which might include consideration of the consultation process that was undertaken and the views that were received.

Amendment 18 will ensure that the statement is subject to an appropriate level of public scrutiny, through consultation. The information that is provided will aid parliamentary scrutiny of the statement.

Amendments 19 and 20, together with amendment 21, set out the process for reviewing the land rights and responsibilities statement. Amendments 19 and 20 provide that section 1(4) will set out the timing only of the first review of the statement, which must take place within five years of the first statement being published. The duty to review the statement after the first review, and the timing of subsequent reviews, will be set out in section 1 as amended by amendment 21.

I understand the spirit and intention behind Mr Russell’s amendment 73. However, as I said, the land rights and responsibilities statement is intended to set out a vision for the relationship between the people of Scotland and the land of Scotland. It is not the type of document in relation to which it would be easy or even possible to assess achievement. As we clarified to the committee in our response to its stage 1 report and by lodging amendment 15, it is not intended that the statement will contain objectives for land reform; rather, it will set out principles of land rights and responsibilities in Scotland, which will guide the development of public policy on the nature and character of land rights and responsibilities. The principles are high level and their purpose is to guide other relevant policies. As a result, I do not think that it will be possible to assess the extent to which the principles in the statement have been achieved.

Amendment 21 will require ministers, following review of the statement, to lay before the Scottish Parliament a report on the consultation process, which sets out why ministers consider that it is or is not appropriate to prepare a revised statement. The reporting requirement in amendment 21 is a more realistic and accurate representation of what reports about the statement can assess. Therefore, I ask Mr Russell not to move amendment 73.

Amendment 21 will replace section 1(5) with new provisions that set out the process for the review of the land rights and responsibilities statement. It provides that:

“In carrying out the review of the statement, the Scottish Ministers must consult such persons as they consider appropriate.”

The consultation will ensure that there is appropriate public engagement in the review of the statement.

In the proposed review process, there will be no requirement for the Scottish ministers to publish a draft statement prior to consultation. It is intended that the consultation on review will ask for opinions on the principles in the statement and whether changes are required. That is different from the position in relation to the first statement, when it will likely be useful for the public to see a draft prior to giving their views, so that they can see the

statement's intended format and structure. In the review process, the publication of a draft in advance of the consultation would not be appropriate, as the consultation itself will help ministers to decide whether a revised statement is necessary.

Amendment 21 provides that, following a review of the statement, the Scottish ministers are not required to publish a revised statement, but if they choose to do so they must lay the revised statement before the Scottish Parliament. If they decide not to revise the statement, they must lay before the Scottish Parliament a report that sets out the consultation process that was undertaken and the reasons why they thought that it was not appropriate to prepare a revised statement. Ministers may decide not to revise the statement, for example, where the responses to the consultation have indicated that the statement remains an up-to-date presentation of the appropriate principles for land rights and responsibilities.

If the Scottish ministers consider that it is appropriate to prepare a revised statement, when that revised statement is laid before the Scottish Parliament it must be accompanied by a report that sets out the consultation process that has been undertaken and why ministers considered that it was appropriate to prepare a revised statement.

The first review of the statement must take place within five years of the first statement being published. The amendment requires subsequent reviews of the statement to take place within five years of the date on which ministers last laid before the Scottish Parliament either a revised statement or—where the statement has remained unchanged—a report. As a report will always be laid before Parliament following a review, it is considered that that is a clear and certain point from which the review period should run.

Finally, amendment 21 states that the consultation and reporting requirements detailed in the amendment apply to each subsequent review of the statement.

I thank Sarah Boyack for lodging amendment 7, the purpose of which is to require the Scottish ministers,

“In preparing or reviewing a land rights and responsibilities statement,”

to

“consult such persons as they consider appropriate.”

However, we have lodged similar amendments to hers—amendments 18 and 21—which collectively impose statutory duties on the Scottish ministers to consult on the first statement and as part of the

review process for the statement and report on the results of those consultations.

Amendments 18 and 21 are more extensive than Sarah Boyack's amendment 7, because they impose further requirements on the Scottish ministers to lay a report on the consultation process before the Scottish Parliament. Our amendments are also very detailed because they replace and clarify the whole review process of the land rights and responsibilities statement.

I very much welcome the intention of Sarah Boyack's amendment. I hope that Sarah Boyack agrees that our amendments capture the purpose of her amendment more fully as part of comprehensive provisions on the process of the review of the land rights and responsibilities statement and also go further by imposing a reporting requirement, so she may wish not to move amendment 7.

Mr Russell's amendment 74 is similar to my amendment 21. Amendment 21 provides that both where ministers decide it is appropriate to revise a statement and where they consider that it is not appropriate to revise a statement, ministers must lay a report on the consultation process and the reasons for their decision to revise or not to revise that statement.

As a result, our amendment goes further than Mr Russell's, which imposes a requirement to lay a report only when a revised statement is laid before Parliament, even though that may not always be the result of the review. I hope that Mr Russell would agree that amendment 21 captures the purpose and spirit behind his amendment and I suggest that it would enable Parliament to undertake greater scrutiny of the review process, as it affords Parliament information to enable it to scrutinise both the consultation process undertaken as part of the review and the ministers' reasoning as to why they have decided to revise or not to revise the statement. In light of that, I ask Mr Russell not to move amendment 74 and to support amendment 21 in its place.

I greatly appreciate the sentiment behind Claudia Beamish's amendment 100 and the desire for there to be greater parliamentary scrutiny of the land rights and responsibilities statement. However, I suggest that there is already appropriate wording in part 1 to allow for parliamentary scrutiny of the statement without the need for further amendment.

11:00

The spirit of Claudia Beamish's amendment is also largely captured in our amendments 18 to 21. One of the differences between my amendments and amendment 100 is that amendment 100 requires that ministers publish a draft statement as

part of the review process, while amendments 18 to 21 require only that a draft is consulted on for the preparation of the first statement. The intention is that the consultation on the review will ask for opinions on the principles contained in the statement and whether any changes are required. Publishing a draft in advance of the consultation in the review process would not be appropriate as it is the consultation that will help ministers to consider whether publishing a revised statement is appropriate.

For similar reasons, it would be inappropriate to require that ministers lay a draft statement before Parliament as part of the review process. As I have said, the review process will inform whether that statement is to be revised. Parliament will have adequate opportunity to scrutinise the first statement and any revised statement when they are laid before Parliament. In the event that ministers decide that it is not appropriate to revise the statement, they will lay a report that includes their reasoning for not revising the statement. That will afford Parliament effective and appropriate levels of scrutiny of the decision.

Another difference is that amendment 100 would restrict ministers from completing their preparation or review of the statement for a set period of 60 days, which does not include days when Parliament is in recess or dissolved. That requirement would risk undue delay to the creation and review of the statement. Ministers would wish to see those statements drafted as soon as possible to ensure continuing consideration of land rights and responsibilities in the creation of public policy.

I appreciate the sentiment behind Claudia Beamish's amendment 100, but I submit that amendments 18 to 21 strike the right balance to enable appropriate levels of both public and parliamentary engagement with, and scrutiny of, the statement. With that in mind, I ask Claudia Beamish not to move her amendment and to support amendments 18 to 21.

I move amendment 18.

Michael Russell: Amendment 21 deals, for the greatest part, with my concerns about this issue for two reasons. The minister indicated that amendment 73 would tie down the statement, which is of a high level, further than it should be tied down: I accept that. It is possible to review a high-level statement and see what progress has been made with it but it is important, as the bill progresses, that the Government emphasises the high-level nature of the statement's vision. If it does not emphasise that, there will be constant views that it should be more detailed than it will end up. Therefore, I accept that amendment 73 is inappropriate.

I also accept that my amendment 74 is no longer necessary because new subsection (4E), as inserted by amendment 21, covers what I was trying to achieve. I am grateful that the minister brought forward those significant changes. It is important that there is an indication of progress from statement to statement; that there is an indication of how the vision has developed and built; and that there is an understanding of what the Scottish Government and the land commission are attempting to do, as well as the policies and principles on which they operate.

For those reasons, I think that amendments 18 and 21 greatly improve the situation, so I will not pursue my amendments.

Sarah Boyack: My amendment 7 is a relatively small amendment. Its intention is to make sure that we have a proper debate, discussion and review of the land rights and responsibilities statement. I will not push my amendment. I want to see where the bill ends up following the committee's votes today. We have quite a range of amendments in front of us. I think that Claudia Beamish's amendment 100 is quite an accessible alternative.

I very much welcome the ministers putting their amendments forward today and I want to see how everything stacks up after the votes. There may be other issues that we want to tidy up when we get to stage 3.

Claudia Beamish: The initial land rights and responsibilities statement and subsequent reviewed statements are significant documents that will underpin our future ownership and use of land. I recognise what the minister said about her amendments 18 and 21, which focus on this issue. The detail of amendment 100 would bring clarity to the process, and it is important that the bill has that.

It is important that a draft is published for the initial statement and for each review. The reviews will take place only every five years, and it is important that the public are consulted on the changes and can make suggestions. Amendment 100 states that the Scottish ministers must

"lay a copy of the draft statement before the Scottish Parliament"

and that they

"must not complete their preparation or revision of the statement until the period for Parliamentary consideration has expired."

Sixty days is a reasonable length of time for that period, given that the reviews will take place only every five years and that the statement is a very important document that will underpin the future of land in Scotland.

I acknowledge that aspects of amendment 100, such as the need for a report and a consultation process, are covered in the minister's amendments. However, it is important that a draft can be published, and the period for parliamentary consideration that is specified in amendment 100 is appropriate.

Aileen McLeod: I thank Michael Russell and Sarah Boyack for agreeing not to move their amendments. I am happy to take on board some of the points that Claudia Beamish raised around her amendment 100, which I will be quite happy to consider.

Amendment 18 agreed to.

Amendments 19 and 20 moved—[Aileen McLeod]—and agreed to.

Amendment 73 not moved.

Amendment 21 moved—[Aileen McLeod]—and agreed to.

Amendments 7 and 74 not moved.

Claudia Beamish: In view of the minister's comments, which I appreciate, I will not move amendment 100. I look forward to hearing from the minister.

Amendment 100 not moved.

Amendment 75 moved—[Michael Russell]—and agreed to.

Section 1, as amended, agreed to.

The Convener: Well, there are only nine parts to go.

Section 2—The Scottish Land Commission

The Convener: We move to the group on the Scottish land commission's title. Amendment 101, in the name of Sarah Boyack, is the only amendment in the group.

Sarah Boyack: I want to add the word "reform" to the Scottish land commission's title because I want it to reflect where the commission has come from. The commission is being proposed after three pieces of land reform legislation: the Land Reform (Scotland) Act 2003, the Community Empowerment (Scotland) Act 2015 and this bill, which I hope will become an act later this year. We have already debated at length the importance of having objectives set out in the bill, but it is important to record that we are talking about more than just physical land; we need to capture how rights and the land are used to benefit communities.

The commission's job will be crucial if we are to regenerate our communities and increase their resilience. It therefore seems to me that it would be symbolic, if nothing else, to put the word

"reform" in the title of the Scottish land commission.

I am interested to hear colleagues' and the minister's views about that. The land commission, or, as I hope it can be called, the land reform commission, will identify and steer change and add impetus that goes beyond the mere fact of a third land reform bill. We have already debated the importance of ministerial documents such as the economic strategy, the land use strategy, the national planning framework and the biodiversity strategy. The commission will have regard to those and many other Government documents, but it will have a different and additional purpose, which is to drive change, not to manage the status quo.

For all those reasons, I think it is important to add the word "reform" to the Scottish land commission's title so that it lives up to its billing in the bill, which I hope will become an act.

I move amendment 101.

Michael Russell: I was initially sympathetic to the amendment, but I take the opposite view to that of Sarah Boyack. The time has come to see the word "reform" as something from the past; there is a continuous process of making sure that land in Scotland is treated as an asset and is modernised and developed as time goes on. I therefore think that we should be quite proud of the title of Scottish land commission. I say reluctantly that I cannot support amendment 101, although there is an argument for it.

Aileen McLeod: I am grateful to Sarah Boyack for what she said about amendment 101. I agree absolutely that the land commission's job is crucial to add impetus to change. It is an asset that will ensure that the focus is maintained and it underlines the Government's commitment to land reform by putting an end to the stop-start nature of land reform, which has limited progress in Scotland.

However, I want to clarify the rationale behind the title of the Scottish land commission and say why the Scottish ministers decided that it is a better title than Scottish land reform commission. Since the public consultation on the proposals for the Land Reform (Scotland) Bill, the agricultural holdings legislation review group has published a report that recommends the establishment of a tenant farming commissioner. Given that the Scottish Government's policy is to minimise as far as possible the creation of new public bodies, the Scottish ministers took the decision to establish one new public body that comprises the five land commissioners and the tenant farming commissioner, which is to be called the Scottish land commission. Given the body's broader remit, the Government considers that that title is more

suitable, but that in no way signifies that it is not committed to the Land Reform (Scotland) Bill.

11:15

Sarah Boyack: I take the minister's point that the intention is to make the land commission's objective broader in light of the agricultural holdings legislation review group's recommendation that a tenant farming commissioner be established. I hope that it is on the record that the commission is to be a radical group and that it is not there simply to administer the status quo. The fact that it has taken three land reform bills before we have managed to get a land commission in place makes its creation not just symbolic but a potential driver for change.

I will seek to withdraw amendment 101 at this stage and see what other strengthening moves might emerge in advance of stage 3.

Amendment 101, by agreement, withdrawn.

Section 2 agreed to.

Sections 3 to 5 agreed to.

Section 6—Strategic plan

The Convener: The next group of amendments is on the Scottish land commission's strategic plans and programmes of work. Amendment 8, in the name of Sarah Boyack, is grouped with amendments 9, 22, 26 and 27.

Sarah Boyack: We have already debated the importance of the land rights and responsibilities statement and the fact that there should be debate, discussion and wide consultation. As far as the Scottish land commission's work is concerned, it is absolutely crucial that its strategic plan is properly consulted on, because it will provide the nuts and bolts of how the commission will move forward. It is important that any consultation is effective and that its work programme, which I mention in my amendment 9, is consulted on, too.

That will be particularly important in the early days. After all, there has been a huge amount of debate across the country on the importance of this bill and, in its early days, the commission will need to draw on that energy and enthusiasm and the ideas that have come from different communities and stakeholders across the country.

Other amendments in this group refer to the need for consultation and submissions of revised work programmes. My main aim in lodging the amendments is to ensure that accountability and consultation go with the land commissioners' work and that it is open and transparent to everyone who is interested, whether they be a stakeholder, a landowner or a community group with a strong

interest in seeing the commissioners' work progress.

I move amendment 8.

Aileen McLeod: Amendment 22 seeks to add a further subsection to section 7 to give the land commissioners the freedom and flexibility to be more responsive to emerging land reform issues by enabling them to submit a revised programme of work to Scottish ministers. The amendment will also ensure that there is a duty on the commission to publish a revised programme of work and to lay a copy before the Scottish Parliament.

Amendment 26 is a technical amendment to section 18(1)(b) that will ensure that, in preparing the annual report, the commission is able to reflect fully every and any strategic plan that might have had effect within a given financial year. The precise wording in the bill did not necessarily provide for a scenario in which the strategic plan changed in the course of a financial year, and I think that amendment 26 will clarify that.

Amendment 27 is a technical amendment akin to amendment 26 that will make the same provision for the land commissioners' programme of work. Both amendments were lodged following a review of the bill's provisions in light of stakeholder evidence to the committee during stage 1.

Would you like me to speak to amendments 8 and 9, too, convener?

The Convener: Certainly.

Aileen McLeod: I thank Sarah Boyack for giving careful consideration to part 2 of the bill and the process in respect of the strategic plan in section 6 and the land commissioners' programme of work in section 7.

I confirm that we intend that the commission will consult the persons it thinks appropriate before submitting a strategic plan and the programme of work—certainly, there is nothing in the bill that prevents that. We therefore consider that amendments 8 and 9 are unnecessary and should not be agreed to. I ask Sarah Boyack to consider withdrawing amendment 8 and not moving amendment 9.

Sarah Boyack: I am glad that I have prompted the minister to lodge her own amendments, as she has more firepower to draft perfect amendments. I am glad that the sentiment in my amendments has been taken on board. I look forward to the commission's programme of work being widely consulted on and published. With the committee's permission, I will withdraw amendment 8 and I will not move amendment 9.

Amendment 8, by agreement, withdrawn.

Section 6 agreed to.

Section 7—Programme of work

Amendment 9 not moved.

Amendment 22 moved—[Aileen McLeod]—and agreed to.

Section 7, as amended, agreed to.

Section 8—Membership

The Convener: The next group of amendments is on the reappointment of members to the Scottish land commission. Amendment 5, in the name of Jim Hume, is grouped with amendment 76.

Jim Hume: My amendment 5 is fairly simple: it would mean that a commissioner could serve a maximum of two terms. At present, the bill could be read as saying that a land commission member could be reappointed ad infinitum. Amendment 5 would restrict ministers' ability to reappoint a member or former member so that that could be done once only. A member or former member could therefore be appointed to the role only twice in total, which means that people would be able to serve no longer than 10 years as a member.

That would ensure that there was new blood in order to meet the challenges of the plan and the programme of work, which will be subject to review and update. It would also prevent entrenchment or long-term domination of views or approaches by particular individuals, but it would also allow the members to serve for a sufficient period of time so as not to create difficulties with the smooth operation of the commission or the delivery of its objectives.

I move amendment 5.

Alex Fergusson: I support Jim Hume's amendment 5. Through amendment 76, I seek simply to impose the same conditions on the reappointment of commissioners as are already imposed on their appointment. I do not think that I need say any more than that.

Claudia Beamish: I have a slight concern to highlight about amendments 5 and 76. Someone with a commitment to land reform and land issues might be appointed, and then reappointed, to the commission early on in life and then, later in life, they might wish to reapply, having had other experiences and involvement. I would not want such experience to be lost.

The Convener: We welcome Johann Lamont to the committee.

Johann Lamont (Glasgow Pollok) (Lab): Thank you, convener. I do not have an amendment in this group and I am not sure whether now is the appropriate time to raise this point, but I want to ask the minister to reflect on an

issue that has struck me around membership and disqualification from membership of the commission. Along with members of the House of Commons, the Scottish Parliament, the European Parliament and so on, the bill excludes from membership any employee of a local authority.

I simply flag up the point that in many of our remote, rural and island communities, a disproportionate number of people rely on employment from a local authority, so that provision could mean that we are excluding people in those areas from the possibility of being involved in the commission, given that it is more likely that they might be working within a local authority.

Related to that point is the fact that if a care worker was employed by the council, for example, they would be excluded but if they were doing exactly the same job but it was contracted out, they would not be excluded. Perhaps that is something that we should reflect on if we want to make sure that we are harnessing expertise within our communities around the whole land question.

Aileen McLeod: I am grateful to Jim Hume for the background to his amendment 5. The Scottish Government does not consider that the amendment is necessary. I assure Mr Hume that the public appointments process will be regulated by the Commissioner for Ethical Standards in Public Life in Scotland. The commissioner's code of practice for ministerial public appointments allows for reappointments as long as there is evidence of effective performance and the member meets the skills that the board requires at the point of reappointment.

The code of practice does not state how many times a member can be reappointed. Instead, it caps the total period for which a member can serve at eight years. The bill would allow for the Scottish ministers to adhere to that, as it allows them to determine the length of appointment up to a maximum of five years. That approach would keep the flexibility to try to address the issues that Claudia Beamish raised. We would be happy to consider further the very good points that Johann Lamont made.

It is important to retain flexibility within the public appointments process. In a hypothetical scenario in which an applicant had been a member for two appointment rounds and there were no other suitable applicants, we would not wish to prevent the appointment of a member to the commission who had met the standards within the code of practice. We think that such a scenario is unlikely to arise in practice, but if it did, we would certainly not wish there to be any statutory impediment that could prevent the land commissioners or the tenant farming commissioner from exercising their functions. On the back of what I have just said, I

invite Jim Hume to consider withdrawing his amendment.

I thank Alex Fergusson for amendment 76. It is the policy intention for sections 8(2) and 8(3) to apply to a reappointment of any member of the commission as well as to a first appointment. The Scottish Government supports the amendment, given that it would make that intention clearer and that the statutory duty that it would place on Scottish ministers is proportionate.

The Convener: Jim Hume has a chance to wind up now.

Jim Hume: Would it be okay to ask the minister a question about what I perceive to be an anomaly?

The Convener: For clarity, please do.

Jim Hume: Minister, if I have understood you correctly, the ethical standards commissioner's code of practice states that members should serve a maximum of eight years. With this bill, we have five-year terms, so two terms would be 10 years. Is that an anomaly in the bill that we could perhaps address at stage 3? Would you let a commissioner serve two terms of five years, which would be 10 years, or would you stop people serving after eight years?

Aileen McLeod: The bill allows a tenure of up to five years so flexibility is already built into it.

Jim Hume: Would a reappointment just be for a further three years, which would therefore be in line with the code of practice that it should be for a maximum of eight years in all, or do you foresee a commissioner potentially having two terms of five years?

Aileen McLeod: Ministers would have the flexibility to look at that on a case-by-case basis because the bill allows a tenure of up to five years.

11:30

Jim Hume: Okay. I will seek to withdraw amendment 5 at this stage, but I will seek further clarification and consider lodging an amendment with the same effect—or a slightly amended version—at stage 3.

Amendment 5, by agreement, withdrawn.

Amendment 76 moved—[Alex Fergusson]—and agreed to.

Section 8, as amended, agreed to.

Section 9—Eligibility for appointment

The Convener: We move on to the expertise or experience of members of the Scottish land commission. Amendment 23, in the name of the minister, is grouped with amendment 77.

Aileen McLeod: We lodged amendment 23 in response to the committee's recommendation that the Scottish Government give further consideration to how to ensure that

“the Commissioners collectively have some general land management experience and/or expertise and that the Commissioners have experience of understanding, working with and empowering communities.”

In our response, we committed to lodging an amendment at stage 2. Amendment 23 will insert “land management” and “community empowerment” to the list of factors in section 9(1) in relation to which the Scottish ministers must

“have regard ... to the desirability of the Commission (taken as a whole) having expertise or experience in”.

The list is currently land reform; law; finance; economic issues; planning and development; and environmental issues.

I thank Mr Russell for lodging a package of amendments that seek to strengthen the bill's provisions in respect of the Scottish land commission. I am pleased that the Scottish Government's proposed amendments to part 2 seek to achieve similar aims, and I hope that Mr Russell will support the Government amendments in that regard.

Amendment 77, in the name of Mr Russell, is similar in aim to amendment 23. However, the list in section 9(1) is not exhaustive, and too many additions to it would potentially increase the complexity of the appointments process and lead to delays in setting up the commission.

As the committee said in its report,

“What is of utmost importance is that the Commissioners are people of integrity, principle and vision that are respected and trusted by the people of Scotland.”

Members of the commission will be supported by the expertise and experience of commission staff and will be able to request advice and input from a range of experts as they carry out their functions. Under section 8(2), the Parliament must approve the appointment of members of the commission. In doing that, the Parliament will be able to assess whether the Scottish ministers have complied with their duty under section 9(1).

I reassure Mr Russell that the Scottish Government will be happy to lodge an amendment at stage 3 to add “human rights” to the list. I hope that he will take comfort from that reassurance about the seriousness with which we approach human rights in relation to land reform, and I hope that he will be persuaded of the merit of the Government's approach in that regard.

I move amendment 23.

Michael Russell: We are again seeing significant progress, for which I am grateful to the

minister. There was a widespread view at stage 1 that section 9 required to be expanded, not to provide an exhaustive list—and certainly not to be exclusive—but to indicate areas in which the commission must have expertise if it is successfully to take forward the objectives that are now set out at the start of the bill. As those objectives include human rights, I think that it is important that they are referred to. I think that most of the others dovetail in; maybe some of the words are slightly different, but the intention is there. The missing element in the list, as it would be amended by amendment 23, is human rights.

The minister has indicated that, apart from amendment 23, she is prepared to consider supporting somebody else's amendment to include a reference to human rights in section 9(1), so I am prepared not to move amendment 77 on that understanding. We will therefore get at stage 3 a reference in this section to human rights, which will add another lock-in of human rights as a key issue in land reform in Scotland.

Sarah Boyack: I welcome amendments 23 and 77 because I think that they would broaden the extent of the experience that we would seek from the commissioners. Given what is in the bill, they will need to have a huge range of experience. When we consulted on the bill at stage 1, we found that there was a clear issue about experience with regard to the barriers to community development and to communities making the most of the Land Reform (Scotland) Act 2003. The issues of skills and inequalities are important in that context.

Obviously, Mike Russell can decide what to do with amendment 77, as it is his amendment, but I would seek to have amendments at stage 3 on more than just human rights. I would like to know from the minister why we could not also have amendments on equal opportunities, social and community development, and sustainable development. The fact that those issues have not been taken into account has created barriers that have made it hard for communities to make the most of the 2003 act.

The minister said that adding such issues to the list of factors in section 9(1) might lead to delays because of the complexity of the appointments process. We want a robust process, but we have to get the right outcome from it. Appointing people cannot be done just through a tick-box exercise; there must be consideration of their range of skills, their experience and their potential for doing the job of work required. I think that amendment 77 would strengthen the list of factors regarding the range and type of people who we are after as commissioners. I will be interested to hear the minister's comments in winding up, and I will certainly look in detail at the stage 3 amendments.

Claudia Beamish: I have just a quick addition to the comments that have been made on amendment 77. I would be concerned if the list was amended at stage 3 to include the issue of human rights, as the minister has highlighted it will be, but the issue of equal opportunities was excluded—that would not seem right to me. Of course, the issue of equal opportunities falls within the human rights remit to a degree. However, it is important that the bill takes account of equal opportunities in the context of protected characteristics and socioeconomic issues.

Alex Fergusson: I would have had difficulty in supporting amendment 77. I can see where it is coming from and I understand other members' arguments about it, but I wonder whether we are in danger of becoming a bit too prescriptive about the people who get appointed to the wide-ranging position of commissioner. I think that we need to be a little bit wary, even at stage 3, of becoming too prescriptive about who can and cannot be appointed.

The Convener: As no other member wishes to speak on the amendments, I invite the minister to wind up.

Aileen McLeod: I welcome all the contributions to the debate on section 9. On the comments that have been made about equal opportunities, I remind members that section 9(1) states:

"In appointing members to the Commission, the Scottish Ministers must ... encourage equal opportunities and in particular the observance of the equal opportunity requirements."

We regard our addition of community empowerment as a factor in the list as achieving the same aim as adding social and community development. However, we ensure in any case that all public bodies adhere to equal opportunities requirements.

Amendment 23 agreed to.

Amendment 77 not moved.

The Convener: The next group of amendments concerns the proposal that one member of the Scottish land commission should be a Gaelic speaker. Amendment 24, in the name of the minister, is grouped with amendments 24A and 25.

Aileen McLeod: Amendment 24 has also been lodged to address a recommendation that was made by the committee. The committee recommended that one of the land commissioners should be a speaker of the Gaelic language. In our response to the stage 1 report we stated that we would amend the bill to ensure that Scottish ministers are under a duty to have regard to the desirability of one of the commissioners being a Gaelic speaker. The amendment will ensure that,

in the public appointments process, all reasonable steps are taken to ensure that at least one of the commission's members is a Gaelic speaker, as well as having other relevant skills and qualifications.

I put on the record that I welcome amendment 24A, in the name of Angus MacDonald, and I reiterate to him our desire to see a Gaelic speaker as a member of the land commission. I hope that he sees that the Scottish Government amendment 24 also demonstrates our commitment to that. Amendment 24A seeks to amend our amendment 24 to require Scottish ministers to take every reasonable step to ensure that one of the commissioners is a speaker of the Gaelic language. I am happy to say that we will accept Mr MacDonald's amendment.

Amendment 25 is very minor and technical in nature, and simply replaces "and" with "to", in order to take account of the insertion of the new subsection by amendment 24.

I move amendment 24.

Angus MacDonald (Falkirk East) (SNP): I take on board the minister's view and welcome the Government's position. My explanation for lodging the amendment to amendment 24 is that the amendment that was lodged by the Government was not entirely in the spirit of the assurance that I received from the minister in the chamber during the debate on 16 December 2015.

I am glad to hear that the minister is willing to accept amendment 24A. I remind the committee that there is also a stipulation that there should be a Gaelic speaker on the Scottish Land Court and on the Crofting Commission. Therefore, I see no reason why every effort should not be made to ensure that there is a Gaelic speaker who understands the complexities of land use in the Highlands and Islands to serve on the new land commission.

I move amendment 24A.

Aileen McLeod: There is nothing to add. I am happy to accept amendment 24A.

Amendment 24A agreed to.

Amendment 24, as amended, agreed to.

Amendment 25 moved—[Aileen McLeod]—and agreed to.

The Convener: Amendment 78, in the name of Michael Russell, has already been debated with amendment 15.

Michael Russell: I do not know whether to raise a point of order, because there is some confusion about this. The minister has accepted amendment 97, but it will not be voted on until much later. That amendment inserts essentially the same definition

at the end of the bill. I do not know whether that makes it difficult to remove section 9(4) or not. Whether it should be removed or whether it can remain at this point in the bill is a technical issue, because the minister has accepted that it will be inserted elsewhere in the bill.

11:45

The Convener: Indeed. It is possible for you to reflect on that matter so that it is discussed at stage 3. However, you have to decide now whether to move the amendment.

Michael Russell: Can the minister give me any assistance in making that decision?

The Convener: The minister can do so in this circumstance. What can she tell us?

Aileen McLeod: I would be very happy to have a further discussion with Mr Russell on the amendments to ensure that we have the technicalities right.

Michael Russell: In that case, I will not move the amendment at this stage, simply because we have to clarify whether the provision should be there or not.

Amendment 78 not moved.

Section 9, as amended, agreed to.

Sections 10 to 17 agreed to.

Section 18—Annual report

Amendments 26 and 27 moved—[Aileen McLeod]—and agreed to.

The Convener: Group 8 is on the promotion of community benefit societies as a form of land ownership. Amendment 102, in the name of Johann Lamont, is the only amendment in the group.

Johann Lamont: I thank the clerking team for the speed with which it was able to produce suitable wording for the amendment, which I really appreciated, and for facilitating my getting here on time.

Perhaps I should declare an interest as a Labour and Co-operative member of the Parliament and a member of the Scottish Co-operative Party, which is particularly interested in the issue of land reform and in the promotion of community benefit societies as the bill progresses through the Parliament.

Amendment 102 is fairly straightforward. It seeks to have included in the land commission's annual report

"a review of progress ... in the promotion of community benefit societies as a form of land ownership."

With the opportunity of land reform, I am very keen to see the development of community benefit societies as a form of land ownership. I would certainly argue that the community benefit societies option has clear strengths in sustaining communities and creating economic opportunities.

The purpose of asking for progress to be reported on is to give focus on and expectation of what the bill quite rightly does, which is to promote community benefit societies. We hope that that would not be a theoretical right; the implication of asking for an annual review of progress is that it is important to underpin that right by securing support for communities that want to develop those land ownership options. Therefore, it is a bridge between the right and the reality for communities in being able to exercise that right. The report is a mechanism for focusing the expectation on the commission to have an active role in the development of community benefit societies as a form of land ownership. I hope that the minister sees that as a small but important means by which the rights that we have talked about would give real opportunities in communities.

I move amendment 102.

Alex Fergusson: I seek clarification from the mover of the amendment, if I may. There are many types of vehicle to further community ownership. Why is Ms Lamont singling out bencoms? I think that that is what they are called.

The Convener: I will give Johann Lamont a chance to come back in afterwards.

Sarah Boyack: I support my colleague's amendment, which goes back to the resilience of communities, equalities and the promotion of benefits being captured in community areas. Johann Lamont's point about the bridge between having a right and the reality is important. We do not see community benefit societies as the only form of community structures, but they have potential benefits that have maybe been underdeveloped in the past. Quite a lot of renewables are co-operatively owned or in community ownership, but there has been far less of that with food. In Europe, many more farming communities are involved in co-operative structures at local level. There are opportunities for our urban and rural communities that are not currently being taken.

I put it on the record that, potentially, the work of co-operative development Scotland could be helpful in developing new opportunities that will come from the implementation of the bill.

The Convener: I ask the minister to comment on the Community Empowerment (Scotland) Act 2015, which talks about various vehicles for communities to take ownership. I think that

community benefit societies are one of those vehicles.

Aileen McLeod: I thank Johann Lamont for her patience in waiting for as long as she has for her amendment to be discussed. I also thank her for lodging the amendment and I am grateful to her for explaining the context for it.

I stress that the Scottish Government encourages all types of land tenure and of course supports community benefit societies as well as other land ownership vehicles. As the convener has rightly pointed out, the Community Empowerment (Scotland) Act 2015 expanded the structures that community groups could use under the community right to buy to include community benefit societies, or bencoms, and Scottish charitable incorporated organisations, or SCIOs. The decision on what format is best suited to a particular community group is for each group to take itself. The Scottish Government will certainly promote all forms of structure to help to achieve our target of 1 million acres of land in community ownership by 2020.

Part 5 includes community benefit schemes among the bodies that can make an application. Obviously, the short-life working group on the 1 million acre target looked at how best to support communities and made a number of recommendations on that. I am more than happy to have further discussion with Sarah Boyack and Johann Lamont around those recommendations and how we might best support community benefit societies.

Section 18 sets out what the annual report must include. The annual report is concerned with the running and corporate governance of the commission and is not the place to measure progress on or to promote any particular type of land tenure. Therefore, I consider that amendment 102 is not appropriate in the context of section 18 and I invite Johann Lamont to seek to withdraw it. However, I am happy to have further discussion with her and Sarah Boyack on the short life working group strategy and recommendations on how best to support communities.

Johann Lamont: I have not often been commended for my patience, so I am grateful for that. I have found it interesting to tune into the debate on land reform.

To answer Alex Fergusson's point, the intention is not to single out community benefit societies; the intention is to recognise that the Community Empowerment (Scotland) Act 2015 and the bill highlight those organisations. My focus is on making a right real, and amendment 102 is a mechanism for that. The purpose is to explore how, if not through the mechanism of the annual report, we can do more than simply have Scottish

Government policy and a right enacted and can make that real and consider what support is required. Sarah Boyack's point about the role of co-operative development Scotland is important. We might want to reflect on that further, because it could be an active agent in the process.

I welcome the minister's offer of further discussion. There is a question about whether the amendment is properly sited in section 18. I want to take up that issue, so I do not intend to press the amendment. However, I am keen that, between now and stage 3, we look at a means by which communities can be properly supported to make real those rights, which we know are important because of their social and economic benefits in rural and urban areas.

Amendment 102 withdrawn.

Section 18 agreed to.

Section 19 agreed to.

Section 20—Functions of the Land Commissioners

The Convener: We will deal with the section on the functions of the land commissioners and then have a short comfort break. Amendment 10, in the name of Sarah Boyack, is grouped with amendments 11, 12, 79, 80 and 28.

Sarah Boyack: Having read the bill, I wanted to test but also to expand the options that would be available to the land commissioners in their work. I felt that section 20 was the best place to amend the bill in that way.

Amendment 10 highlights the importance of reviewing whether a lack of law or policy has had an effect on the implementation of the bill. I can think of numerous occasions when proposals for new legislation have been brought forward and recommended by commissioners, short-life working groups or groups that were set up by the Scottish Government. I feel that, to make sure that we keep the legal framework and policies under review, it is important to flag that up as a potential job for the land commissioners, among all the other functions that the Scottish Government will give them. I also feel that it is important that they always have at the forefront of their minds questions as to whether more needs to be done and whether more can be done.

We are talking about new legislation, but it comes on the back of two previous bills. I will be looking for the land commissioners to come up with practical suggestions and not to feel hidebound by the thought that if there is not currently a law on something, it is not their job to recommend one. From that point of view, this is about developing a future legal and policy

framework and ensuring that the land commissioners have an active role in that regard.

I also want to highlight the importance of the land commissioners working with other stakeholders, as one or two of us have mentioned already this morning. The work of the land commissioners will be absolutely key, but a whole range of parties and community groups will be able to help them in that process, to add value and to improve future work on land reform.

I think that Mike Russell's amendment 79 would reinforce our international obligations. I very much welcome amendment 80, because, as convener of the cross-party group on international development, I can say that sometimes we can learn from other communities and countries where we least expect to do so. When it comes to land reform, there are many examples from across the world that are worth drawing on. Sometimes they come from unlikely sources, such as communities that may be less well developed economically than our own, and they can include important human lessons for us to learn. That amendment is definitely worth adding to our discussion today.

Amendment 28, from Graeme Dey, refers to the land use strategy under the Climate Change (Scotland) Act 2009 and is an important amendment to slot in at this point, because it concentrates the mind. I think that the connectivity between those two pieces of work is important.

I move amendment 10.

Michael Russell: Sarah Boyack's amendments and mine are broadly similar. They are designed to say that we need some reassurance about what the commission will actually do. While the minister will no doubt define those amendments as unnecessary, I will be looking to her to accept that they are unnecessary because the commission will do those things, and to place on the record the fact that they are things that can and should be done. For example, international rights and obligations are very important in terms of human rights legislation. It is also important that we take the opportunity to look at issues elsewhere and to consider legislation that does not yet exist.

Graeme Dey's amendment 28 is of a different nature and would embed the Climate Change (Scotland) Act 2009 in the bill. Most members of the committee have been on the committee for longer than I have been and they do not need me to tell them about the difficulty of persuading others to embed the 2009 act in their actions and practices. This is an ideal opportunity to embed that act in the Land Reform (Scotland) Bill and to say that the land commission—an important new body—will be fully mindful of it and have it at the forefront of its thinking.

Although I am happy to move amendments 79 and 80, I do not expect to press them if I have assurances from the minister. I hope that the minister will listen to what Graeme Dey says about amendment 28, which lays out a crucial issue and puts it right at the heart of the work of the commission.

12:00

Graeme Dey: The justification for amendment 28 is quite clear cut, as both Mike Russell and Sarah Boyack said. It refers to section 20, which defines the commissioners' functions in relation to

"any matter relating to land in Scotland",

including

(a) ownership and other rights in land,

(b) management of land,

(c) use of land."

It would be valuable and entirely appropriate to add reference to the land use strategy prepared under the Climate Change (Scotland) Act 2009, which is in the process of being refreshed and will, without doubt, be a hugely important policy.

It is proposed that the revised strategy, which is currently out for consultation, will

"further consider the relationship between current land related policies and the potential advantages of a single policy statement about land which deals with ownership, use and management."

We have an opportunity to establish clearly the obvious tie-up between the bill, the work of the land commissioners and the strategy. The minister has previously commented on that opportunity, which is one that should be taken. Amendment 28 would mean that the bill refers to the Climate Change (Scotland) Act 2009 in relation to the work of the land commissioners, adding further merit. As we have seen over recent months, tackling climate change and the management and use of land are inextricably linked.

Alex Fergusson: I support amendment 28 in Graeme Dey's name. The points that he made are absolutely relevant. It is important that the bill is tied into the Climate Change (Scotland) Act 2009.

I am somewhat bemused by amendments 10 and 11. It strikes me that the commission will look at current legislation and its impact, and, in doing so, it will also look at the lack of legislation. Therefore I do not see how amendment 10 could do anything to improve the situation once the commission is in place.

I also have reservations about amendment 11, in that it is unnecessarily bureaucratic and cuts down on regional flexibility. Such flexibility needs to be part of the land commissioners' functions. I

will listen with interest to what the minister has to say, but I am not sure that I can support amendments 10 and 11.

Aileen McLeod: I thank Sarah Boyack again for giving careful consideration to part 2 of the bill. We have given full consideration to amendments 10 to 12, which would give the land commissioners additional statutory functions and duties. However, we consider that the three amendments are unnecessary.

Amendment 10 would insert an activity that is already covered by the function of recommending changes to law and policy in section 20(1)(b).

Similarly, amendment 11 is already covered by the drafting of section 20(1)(f). Furthermore, throughout stage 1, we emphasised that the land commissioners should have operational independence. At the same time, we fully anticipate that they will be open and consultative in their approach to their work, just as both the land reform review group and the agricultural holdings legislation review group were. Therefore, we do not consider that amendments 11 and 12 are necessary or appropriate.

On amendments 79 and 80, which were lodged by Mike Russell, I can reassure the committee that under the current drafting of section 20, the land commissioners are able to consider relevant international obligations and rights in exercising their functions in relation to matters relating to land in Scotland. I agree with the sentiment behind amendments 79 and 80 because, as Mr Russell quite rightly said, they refer to things that can and should be done.

I again reassure members that there is nothing in the bill that would prevent the land commissioners or the commission from giving consideration to law and policy outwith Scotland when they conduct research work. It is anticipated that, in exercising their function under section 20(1)(d) to carry out research, they will inevitably consider matters in other jurisdictions. I thank Mr Russell for lodging amendments 79 and 80 and giving me the opportunity to clarify the issue on the record.

I thank Mr Dey for amendment 28, which would add

"the implementation and monitoring of the land use strategy prepared under section 57(1) of the Climate Change (Scotland) Act 2009"

to the list in section 20. That list defines what is included in

"matters relating to land in Scotland",

which is relevant to the scope of the land commissioners' functions. I absolutely agree with the comments that were made by Graeme Dey, Michael Russell and Sarah Boyack. I have listened

to them carefully and I assure them that I believe that we should embed the 2009 act in the bill. Our land commissioners will be fully mindful of the 2009 act. Land use and management are inextricably linked to tackling climate change. With that in mind, I am happy to accept amendment 28.

Sarah Boyack: In lodging my amendments, I was seeking clarification of the opportunities that would be available to the commissioners if they did not feel that the law or policy was adequate, because I do not want them to feel held back in arguing for change. That clarification has been put on the record.

I welcome the fact that the minister will support Graeme Dey's important amendment.

I understand that Michael Russell lodged probing amendments. I would have liked the bill to include those issues, but at least we have some good words on the record that people can come back to in future.

Amendment 10, by agreement, withdrawn.

Amendments 11, 12, 79 and 80 not moved.

Amendment 28 moved—[Graeme Dey]—and agreed to.

Section 20, as amended, agreed to.

Section 21 agreed to.

12:08

Meeting suspended.

12:16

On resuming—

Before section 35

The Convener: The next group is on transparency of information about control of land, completion of the land register, information about persons with significant control, restriction of ownership to EU entities, et cetera. Amendment 103, in the name of Sarah Boyack, is grouped with amendments 104, 29, 30, 30A, 105, 106, 106A, 107, 36 and 69.

Sarah Boyack: This is a key aspect of the bill, as is clear from the range of amendments. Given the ambitions and hopes of everyone who supports the bill, it is important that we get the right amendments passed today.

In some ways, it has been a bizarre debate, because we have been teasing out the Scottish Government's position as we go, and every day the Scottish Government has moved a bit further. I hope that, by the end of today's discussions, we will be in a stronger position. In the stage 1 debate and the committee's stage 1 report, we were all

clear that there should be maximum transparency. We have to deliver that as far as we can, and the amendments in the group all seek to enable that.

It is clear that ministers have been prepared to go further and, when we had our private meeting the day after we saw the Government response to the committee's stage 1 report, it was clear that thinking was going on. That debate was not held in public, however, so the amendments are crucial to tease out what would be the most transparent position. To increase transparency is what all the committee members want and what the Parliament should want.

My amendment 103 sets concrete dates for the completion of the land register. It is clearly a big task—that point was made to us when we visited Registers of Scotland—and resources are needed if it is to happen. I want to concentrate ministers' minds to ensure that all public land is entered into the land register by 2019. That sounds a long way off, but it is not, and it is important to have a date. All other land should be registered by 2024—that is a longer way off, being eight years away. Again, it is a big task, but having a date will concentrate the minds of both the Government and those who should be registering land.

I do not support Alex Fergusson's amendment 104. People should not have to give a reason for wanting to know who owns land. There are a myriad of reasons why people might want to know who owns land in an area, whether it is for research and analysis or because somebody might be seeking to buy it. The amendments that we moved earlier today were all about greater transparency and enabling people to exercise their human rights. Surely one such right is for people to know who owns the land, potentially where they live.

Graeme Dey's amendment 30 and Patrick Harvie's amendments 105 and 106 offer two solutions to the aspiration to deliver the transparency that we clearly need the bill to deliver, and they both have strengths, so I will be interested to hear what those members say when they speak to their amendments. I lodged amendments to amendments 30 and 106 because I feel that there are areas that need to be strengthened and clarified.

I know about the work that has been done with Community Land Scotland, and I think that Graeme Dey's amendment 30 represents a huge improvement on what is proposed in the bill. In our private session with the ministers in January, they offered to work up ideas for stage 3. I am not clear how far they have got with that, but today is our chance to test the detail. We do not know which direction ministers will go in between now and stage 3, so we need to tease out the different

elements of Graeme Dey's and Patrick Harvie's amendments.

The idea is proposed of having a register of the persons of significant control who lie—or hide, depending on our interpretation—behind the various legal entities and own a big chunk of Scotland. I will be interested to hear how Graeme Dey envisages progress being made with what he proposes. In our discussion on wildlife crime last week, it was clear that the police think that who is in charge of land is important when it comes to investigating potential criminality, so we should be in no doubt that Graeme Dey's and Patrick Harvie's amendments are important.

I lodged amendment 30A because I was worried that there might be a loophole in amendment 30. I suggest that amendment 30A would close that loophole and strengthen Graeme Dey's proposal. I do not think that it is acceptable for owners to be able to argue that their proprietorship need not be made public. Amendment 30A suggests that that should happen only in "exceptional" circumstances. Otherwise, there is a danger that the provision will become a get-out clause. I cannot think of any routine circumstances in which it would be acceptable for an owner's proprietorship not to be made public. I do not know whether Graeme Dey has any thoughts on that. It would certainly be worth teasing that out.

Patrick Harvie's amendments 105 and 106 use the route that the land reform review group suggested. The committee was interested in that route as a way of ensuring that we secure transparency and accountability and link into the wider agenda of people paying their taxes, which we surely all want to support.

In its response to our stage 1 report, the Government did not really offer a strong argument on why it thought that taking action in that way was not within the Scottish Parliament's competence, so I will listen carefully to the arguments that the Government makes today. I say that because, when we met in private after we had had time to read the Government's response to our stage 1 report, the ministers had already moved on from the position in their response. I do not know whether they will do that again today or what they will say in public. It is important that the process is transparent, and it is ironic that the committee's discussions on the issue were not held in public, which meant that those who have been campaigning for transparency were not able to find out about them. That is a problem.

The ministers told us that they would give us a detailed response on why they did not think that it would be proportionate to deal with the EU entities in the bill. They said that we would get a response "in due course". I hope that today is that time and that we will get the Government's reasoning on the

record and take a judgment. I do not want us to have to wait until the amendment process at stage 3 to get that detail, because it is crucial. The land reform review group did an excellent job, and it is our job to test what it came up with.

The ministers suggested that the need to provide the opportunity for the free movement of capital would be a reason for not using the proposed vehicle on EU entities. From the point of view of public debate, we need to be assured that there are objective reasons for not proceeding in the way that has been proposed and that it is not being dismissed just because it is complex and difficult. I do not think that the proposed route automatically goes beyond what is reasonable and necessary to achieve transparency of ownership.

What the ministers say to us today will be hugely important for not just committee members and other members of the Parliament but members of the public. The purpose of amendment 106A is to ensure that there is clarity on the legal and financial penalties that the Government will establish to implement the proposal. We need to concentrate people's minds on the fact that there are consequences for not abiding by the laws that the Parliament passes.

Amendment 107 aims to provide clarity that there should be contact details with clear registration in the proprietorship section of people's title sheets. Where an entity is incorporated or established outwith the UK, it is vital that a legal point of contact in the UK is named on the title sheet. We have had problems with that in the past. If a community wants to discuss something with a landowner or to buy the land in future, it needs to know who to speak to, so it is really important that there is clarity on that.

The proposal is not unreasonable; in fact, it is a way of ensuring that the bill can be implemented effectively. It is all about assisting with transparency and ensuring that contact with owners or legal representatives can be achieved and delivered whenever somebody is looking for information or wants to have a discussion about how the land in question might be used, and when there might be a discussion about land ownership in the future.

Amendment 107 would help communities to deliver the objectives that ministers set out when introducing the bill. I am not thinking of it as a probing amendment; I am keen for the minister to give us a commitment, because the issue is hugely important.

Graeme Dey's amendments to delete sections 35 and 36 make sense. As shown in our committee report, we all felt that sections 35 and 36 were not fit for purpose, and they need to be improved. I will be interested to hear Graeme

Dey's comments on his amendments, which provide one way forward, and Patrick Harvie's comments on his amendments, which provide another. I also want to put on the record that they are not mutually exclusive.

It is difficult to have this discussion without knowing exactly what the ministers think. I respect the fact that the minister has been keen to work with the committee and to move, but it is difficult to do that when we are discussing amendments. We want as much as possible to go on the record today because it will influence how we vote on the amendments.

I am keen to support the ambitions behind Graeme Dey's and Patrick Harvie's proposals and I want to ensure that, when we get to stage 3, we have as much clarity as possible—in public—on our thoughts on the issue. Previous legislation has fallen because the drafting was not clear enough. As members of the Parliament, we are clear that we want maximum transparency in the bill, we want it to be transformative and, crucially, we want it to be able to pass future legal tests.

I am keen to hear colleagues' views. I think that this will be the most important debate that we have this morning and we need to get the aspirations and the detail right. I hope that today's discussion will help us to secure that for future communities who will want to use the bill's radical powers to the best effect to improve their communities and make them more resilient.

I move amendment 103.

Alex Fergusson: It is important to put on the record that there is total agreement on the subject, not just in the committee and among all political parties, but among all the stakeholders who are involved.

In that light, I note that my amendment 104 does not in any way seek to be a barrier to openness and transparency. However, it does not take a huge amount of imagination to visualise a situation in which the intentions of the requester are not altogether benign. In 99.5 per cent of cases, they will be, but there will be instances where there is some mischief behind the request for details of ownership and benefit.

I lodged amendment 104 to introduce a little balance to the situation. It is not unreasonable to ask a requester to give a simple reason for their request. The amendment simply does what it says on the tin—it asks for a reason to be given when a request about ownership is made—and I intend to move it.

I agree that this is an extraordinarily important debate. I look forward to the rest of it and will listen carefully to members' points before voting on the amendments.

12:30

Graeme Dey: I welcome the Scottish Government's commitment on transparency of ownership, which the committee received in the formal response to our stage 1 report. The fact that the minister has indicated an intention to lodge amendments in that regard at stage 3 represents progress on reaching the goal—which is shared by stakeholders, the committee, the wider public and the Government—of us as a nation having a far clearer idea of who owns and controls land in Scotland.

Given the complex nature of the issue and the fact that my amendments may have flaws—despite the considerable work that Megan MacInnes of Global Witness and Peter Peacock of Community Land Scotland did on them—I recognise that the minister may not be entirely comfortable with accepting them, not least because the Government has had only a week to consider them. However, I lodged them in the spirit of common purpose on the principles of transparency and because I believe that they point to a possible and implementable way forward.

We all agree that the bill as drafted does not deliver appropriate transparency. Amendment 30 would create a register of persons of significant control in relation to the proprietors of land, including persons who are currently unidentified and lie behind various ownership vehicles. A wide range of public interest justifications warrant full transparency about the human beings who really own Scotland's land, and I argue that those justifications outweigh the arguments for retaining secrecy except in limited and justified circumstances. I will come back to that.

The Government rightly noted in its response to the committee's stage 1 report that this is a legally and practically complex area. However, I hope that my amendments can, at the very least, form the basis of a way of achieving full transparency of ownership.

It will be best if we have as complete a set of provisions as possible in the bill, and my amendments are offered in the spirit of seeking to demonstrate a route for how that can be achieved. Amendment 30 seeks to provide a mechanism for acquiring information about the natural persons behind the companies and other legal entities that own a great deal of Scotland, and for keeping that information up to date and making it publicly accessible as part of the land register. Rather than place additional burdens on the keeper or authorities, it aims to build on the existing administrative systems of Registers of Scotland.

To answer Sarah Boyack's query, I add that the amendment also provides for circumstances where there may be a legitimate reason for a

person of significant control being protected from a disclosure being made public. An example might be where someone has been a victim of domestic abuse.

Whether I move amendment 36, which seeks to leave out section 36, will depend on where we end up in relation to the amendments in the group. On reflection, it may be that parts of section 36 will require to be retained, so I will hold fire on that. I look forward to hearing the minister's response.

The Convener: I welcome Patrick Harvie to the committee and ask him to speak to amendment 105 and any other amendments in the group.

Patrick Harvie (Glasgow) (Green): Good afternoon. I welcome the opportunity to contribute to the debate.

I am sure that the committee does not need a great deal of explanation of amendments 105 and 106, as it is familiar with the issues. Amendment 105 creates a condition of EU proprietorship before registration of a deed will have the effect of transferring ownership of land or conferring a real right in respect of a lease over land.

Amendment 106 introduces a retrospective application period of five years for the owners of land that is held by an entity that is not registered in an EU member state; the amendment aims to remedy the current situation. Sarah Boyack's amendment 106A is a helpful refinement of the framing of amendment 106 and I will have no objection if the committee sees fit to support it.

I first took an interest in the debate on these issues during consideration of the provisions in the Land Registration etc (Scotland) Act 2012, as it is now. However, the issue has moved on considerably since then, not least with the land reform review group's final report, which included support for a measure along these lines.

We also had the bill consultation, in which strong support was expressed for a measure along the lines that I suggest, and the committee's stage 1 report, in which you not only agreed that transparency and accountability require strengthening but set out a package of measures that would achieve that, including that those who wish to buy land and register title in Scotland should be registered EU entities. You also suggested a five-year period to allow for registration.

The proposed provisions sit well alongside the others that are being debated in the group. I agree with Sarah Boyack in that I do not see any contradiction between the different approaches—they are complementary.

Many people will have an instinctive response to the issue and react with astonishment to the idea that land can be owned by an entity that is

registered in an offshore tax haven. Many people will instinctively ask, "Is that not wrong and should we not rule it out?" However, I want to respond to some of the counterarguments that have been made.

The Government has suggested that there is no evidence of detriment arising from the ownership of land by non-EU bodies. Given that we are all agreed on the need for transparency, I make the case that the lack of transparency that exists in many cases is itself detrimental. If we are committed to the purpose of achieving transparency, we should regard the situation as a problem.

Reference has been made to the free movement of capital. Of course there will be political debate about whether the principle of free movement of capital should have the primacy that it does at present, but I do not see the proposals as a huge barrier to it. Indeed, landowners who responded to the consultation and the committee's inquiry made the case that they do not see a requirement to create an entity that is registered in an EU country as a serious barrier to an organisation that has a committed interest in owning land in Scotland for legitimate purposes.

It has been suggested that the provision could increase the incentive to use trusts or other complex vehicles. I find that argument slightly peculiar, given that trusts are already a devolved responsibility. If there is a problem with the use of trusts in land ownership—many who have argued for land reform legislation acknowledge that there is—the Scottish Parliament and Government can address that problem with existing devolved competence.

It has also been suggested that the rules and regulations around EU entities are not themselves perfect. I agree with that but, in the current status quo, we have the opportunity to argue, through the Scottish Government and the UK Government, for changes to those EU rules. Members will be aware of the development of that agenda at EU level, particularly in relation to money laundering, and that the moves are in the right direction.

I was surprised that the Scottish Government appeared to suggest that the UK or other EU countries are little different from some tax havens, and that it referred to the financial secrecy index. I hope that the minister will acknowledge that the secrecy element of that index shows a huge and stark difference between the tax havens that many people are concerned about—where we know next to nothing about the companies or entities that are involved—and the situation in the UK or other EU countries. The reason why the financial secrecy index does not necessarily show that relates to the flow of transactions rather than the level of secrecy.

I commend the committee for the decision that it took, after giving careful consideration to the Scottish Government's arguments, in its stage 1 report. Alongside the proposals on a deadline for completing the land register and a requirement to have beneficial ownership information on the register, my proposal would ensure that we not only lock in the provisions on beneficial ownership but put them in the context of the on-going improvements at EU level on the issues of transparency. I hope that the committee remains convinced that that is not only achievable but necessary, and that it will come to support amendment 106.

The Convener: So far, two members have said that they want to comment. I am conscious of the time, so we should try to be as focused as possible.

Claudia Beamish: I do not want to repeat arguments that my colleague Sarah Boyack, Graeme Dey and Patrick Harvie have put forward on the details of the amendments. However, I stress that I, too, believe that the issue of ownership transparency is absolutely at the heart of the bill. I reiterate the point that my colleague Alex Fergusson made about the fact that all the stakeholders agreed on the importance of the issue.

I do not see the two main amendments—Graeme Dey's amendment on the register and Patrick Harvie's amendment on EU transparency—as being mutually exclusive, and I hope that it will be possible to take both forward, because it is absolutely imperative that, if the bill is going to work, communities have the opportunity to really be able to find out as simply as possible who is the owner of the land that they may wish to register an interest in for the future, otherwise a lot of the work that has been done by stakeholders, the land reform review group, which supported EU registration, and many others in Scotland will be quite damaged.

Sarah Boyack's amendment 107, which is about title sheets and a contact in the UK, is also important for simplicity and the speed at which those who are interested can find out about ownership.

I have concerns about Alex Fergusson's amendment 104, because I believe that the definition of reasons for requests could lead to legal challenges, and that would not be helpful at all. There are very few reasons why land ownership should be secret in Scotland. I am searching for openness in the public interest so that in the future we can have fair and just ownership of land in Scotland.

The Convener: I am conscious of the time. Can members try to address the specifics?

Michael Russell: I do not believe that anybody in this room—certainly not on the committee, and absolutely not the minister—wishes to have anything other than complete transparency of land ownership in Scotland. I wanted to put that on the record because there have been all sorts of allegations on the fringes of the debate about double dealing and secrecy, and conspiracy theories about people hiding behind the ECHR. I do not think that that is true, but the issue is incredibly difficult to resolve. I respect the minister for that. I have been an environment minister and have confronted some of those issues.

There is an imperative to resolve the issue, and there is no wriggle room at all. There has to be absolute openness on beneficial ownership of land in Scotland. That is the key principle.

In the stage 1 debate, I made the point that John McEwen did the real pioneering work on the matter throughout his life. He was a forester who knew how important land is; he knew that knowing and saying who owns the land and progressively putting it into democratic hands is the basis of changing people in Scotland's relationship with land. The bill is part of that process; we should be unashamed about that. It is not just about knowing who has the land; it is about changing Scotland's relationship with land. That is what we require to do.

Although there is a barrier in a lot of the current legislation—I made the point in a previous debate in the committee that getting the crofting acts of the 1880s on to the statute book would be made immeasurably harder now by the existence of the ECHR—there are many changes. That is not a flippant remark—the issue has been addressed by those working on such bills for more than a decade.

We need to find a way round the barrier. We must ensure that the outcome of the bill at the end of stage 3 is complete transparency on ownership. To that extent—I am not diminishing the issue of ownership in and outside the EU—once the principle is established and it is known that there is no getting round it, the question of where that land is owned becomes less important, because no one can own land in Scotland unless they are completely open and transparent about its ownership.

12:45

I will be interested to hear what the minister's response is to the two approaches that have been taken today. I do not criticise either of those different approaches, but neither is fully satisfactory, and we must go a bit further. Although one or other—or both—of them may end up in the bill as amended at stage 2, there will be

a need at stage 3 to go further, to make sure that it is absolutely impossible to get round the issue of transparent ownership in Scotland. That would be a huge achievement for the bill.

I look forward to hearing what the minister has to say. As Alex Fergusson has indicated, those involved right across the committee have been in favour of absolute transparency, and I know that the ministers will be, too.

The Convener: Mike Russell mentioned Alex Fergusson, and he wants to come back on that.

Alex Fergusson: No—it is Claudia Beamish's point about amendment 104 that I would like to address, if I may.

The Convener: That is fine.

Alex Fergusson: My amendment 104 is not about ensuring secrecy of ownership at all, which Claudia Beamish implied in her comments; rather, it is about ensuring that the person who is seeking the information that they are requesting has the proper intentions. I just wanted to make that clear.

Claudia Beamish: I need to clarify that it was not my intention to make such an inference.

Alex Fergusson: That is good to know.

Claudia Beamish: My point was about the complexity of assessing the reasons for a request and how that could hold up the process.

Dave Thompson: I agree with the comments on transparency. It is vital that we have transparency on land ownership. I was struck by the broad agreement right across society that that is essential.

One does not need to look far in my constituency at this very moment to find situations in which transparency would be helpful. A couple of estates have changed hands recently—indeed, one has changed hands in the past few days—where the companies buying them are registered in Jersey. Those are not isolated examples of the difficulties that we face. It is essential that we have information on who owns land in Scotland.

There are also implications for wider issues to do with land use. My understanding is that some of the estates that are being bought now have been used in recent years for agriculture. They will no longer be used for agriculture, because the folk who are buying them want a big house with a big garden—10,000 acres—for their private use, and they do not want anything happening on it.

The land commission will deal with such issues, because land use, who is buying our land and what they are going to do with it will be crucially important in the future. I, too, wait to hear what the minister will say, but I reiterate that transparency is essential.

The Convener: Members have had their say for the moment, so I invite the minister to speak. I ask you to be as brief as possible, minister.

Aileen McLeod: You have just asked me for as much detail as possible.

The Convener: I know that you have “War and Peace” there, but we need answers to the points.

Aileen McLeod: There is a lot of detail, as you will appreciate. As Claudia Beamish has said, it is important for us to be able to put our position on the record. This is a key section of the bill, so I hope that members will bear with me.

In order for us to understand how land is owned and used in Scotland, we need to know who owns the land, who controls the decisions over the land, and how changes in our laws and policies relating to land influence those who own and control our land.

As Sarah Boyack has explained, amendment 103 would impose a statutory duty on the keeper of the registers of Scotland to complete the land register in respect of all publicly owned land by 2019 and all other land by 2024. That is exactly the target that ministers have set and which the keeper accepted in 2014; we are all agreed on the importance and desirability of completing the land register within those timescales.

A great deal of work is already under way to accelerate progress towards land register completion. The keeper has published a consultation paper that sets out proposals for using the powers of keeper-induced registration that Parliament provided in the Land Registration etc (Scotland) Act 2012. That consultation closed on 8 January, and within a matter of weeks the keeper will announce how she will take matters forward. Registers of Scotland is also in discussion with a large number of major public and private sector landlords with a view to facilitating the voluntary registration of their titles.

Against that background, I think that it is unnecessary for Parliament to legislate further at this stage. However, I am happy and keen to give Sarah Boyack an undertaking that we will keep the committee and Parliament informed of progress, and I do not rule out the possibility of further legislation in due course, if that proves to be necessary. On that basis, I invite Sarah Boyack to withdraw amendment 103.

I note what Alex Fergusson has said in relation to amendment 104 and its purpose and effect. I want to take the opportunity to confirm to the committee the Government's approach to section 35 of the bill. As I said in my letter to the committee of 13 January, which followed the meeting that we had on 6 January in which I discussed the approach rather than the detail, it is

our intention to lodge amendments at stage 3 to provide a regulation-making power that will enable provision to be made for a public register of persons with a controlling interest in landowners. That will replace the provisions that are currently in section 35 of the bill.

Where an individual or community wants to find out if there are persons with a controlling interest in a landowner, they will be able to consult the new register. In any case, if an individual or community were to make a request under the current provisions in section 35, they would have to show that they were being affected by the land, as the regulation-making power only allows provision to be made for access to information by persons affected by land. Exactly what information would need to be provided and how that information would require to be presented in the application would be best set out in the regulations, as the detail of the process is developed through consultation.

Section 35(2)(c) makes it clear that any regulations could specify the circumstances in which a person affected by land could make a request, and paragraph (d) would allow for the regulations to set out the form and content of requests. The bill as drafted already makes sufficient provision for any requester to have to provide reasons for making the request. Therefore, amendment 104 is unnecessary, and I ask Alex Fergusson not to move it.

Before I speak to Graeme Dey's amendments 29, 30, 36 and 69 and Sarah Boyack's amendment 30A, I would like to put on record that I welcome the intention behind Graeme Dey's amendments. As we have heard, it is clear that we are all absolutely committed to achieving greater transparency of land ownership in Scotland, so it would probably be helpful for me to outline to the committee the approach that the Government is planning to take to strengthen part 3 of the bill.

We believe that, in principle, it is possible to increase the transparency of land ownership in Scotland through requiring the public disclosure of information about persons who control land. I would therefore like to reconfirm to the committee that the Government will lodge amendments at stage 3 in the form of a power to make regulations to provide for the creation of a public register that will contain the information that is required to provide greater transparency on who controls the land in Scotland. As the committee is aware, providing greater transparency of land ownership gives rise to many complex legal issues that we have been trying to work our way through, most notably the right to free movement of capital under EU law—which has been mentioned already—and the interaction with rights that are protected under the ECHR.

There are also considerable practical difficulties to overcome in ensuring that we provide a robust and viable solution that will provide the greater transparency of land ownership that we all seek to achieve. We are confident that we can map out the overall scope of a requirement to provide such information in a public register that will allow us to produce a regulation-making power at stage 3. Some issues that we are looking at include what information should be disclosed and in what circumstances disclosure should be required; how any requirement to provide the information would interact with registration law and our commitment to complete the land register; how the information should be obtained and kept up to date; fees and charges; what provisions would be necessary to protect the legitimate interests of individuals in maintaining their privacy; whether there should be any exceptions on *de minimis* grounds—for example, flats and houses owned by private individuals; how requirements to disclose and update information could be enforced; and how we could ensure that landowners could not avoid the disclosure requirements.

As part of all that, we will consult key stakeholders. Given the significance and importance of the proposed regulations and the details of the proposed register, it is important that the Government consults widely on them. This policy development and consultation cannot be carried out within the timetable for the bill, given that we have only a number of weeks between now and March. Therefore, introducing a regulation-making power will allow further policy work to be undertaken on the issues that I have outlined and further consultation to be carried out so that we can introduce detailed regulations at the earliest opportunity in the next session of Parliament.

The Government recognises the concerns that both the committee and the Delegated Powers and Law Reform Committee have expressed in relation to regulation-making powers being taken in the bill. Given those concerns, I confirm that the regulation-making power that will be brought forward at stage 3 will be subject to an enhanced form of parliamentary procedure to ensure that there is an appropriate level of scrutiny when the regulations are introduced in the next session of Parliament.

Because it plans to introduce the proposed regulation-making power at stage 3, the Government does not feel that it will be necessary for the current provisions in section 35 to remain in the bill. If information about persons in control of land was publicly available, there would be no need for people to make requests for information on persons with control over land on a case-by-case basis. That is why the Government has not lodged any amendments to section 35 at stage 2

but will lodge amendments at stage 3 to remove section 35 from the bill, replacing it with the new regulation-making power.

In the light of our proposals to introduce the regulation-making power, it will no longer be necessary for the keeper to request information about individuals with a controlling interest in landowners. Therefore, we will lodge appropriate amendments to section 36 at stage 3. Section 36 also enables regulations to be made to allow the keeper to request information about the category of landowners, and it is the Government's intention to retain those provisions in the bill. Having information about the category of landowners will be very useful in establishing further information on the pattern of land ownership, which will help in developing policies on the use and management of land.

13:00

The amendments in the name of Graeme Dey outline a potential scheme for disclosing the names of persons with significant control on the land register. It is clear that significant consideration has been given to those proposals. I also put on record my thanks to Community Land Scotland, Global Witness, Megan MacInnes and Peter Peacock for all the work that they have done in the area.

Amendment 36 seeks to remove the current provisions in section 36. I highlight to Graeme Dey that amendment 36 would remove an important power enabling the keeper to request information on the category of landowners that amendment 30 would not replace.

Amendment 30 provides for the disclosure on the land register of the names of persons with significant control in relation to proprietors on the land register. The amendment would constitute a fundamental change in the purpose of land registration in Scotland. As we know, the land register plays a pivotal role in the Scottish conveyancing system by providing the mechanism for a person to obtain the real right in land, so the existence or otherwise of a "person in significant control" is not required under Scots property law for the legal rights that are created by registration. The amendment also restricts the potential for disclosure to land that is registered in the land register, and only 28 per cent of the landmass of Scotland is currently on the land register. The Government's proposal to legislate for a separate register of controlling interests early in the next session of Parliament potentially avoids unnecessary consequences for registration law and leaves open the potential for the new register to include information about controlling interests in land that is still held on a sasine register title.

In response to concerns that separate registers will mean that it will be more difficult to access information, I highlight the development by Registers of Scotland of a digital land and property information system—Scotland's land information system, or ScotLIS—which is due to be launched in 2017. The system is intended to allow information from all the different registers and sources that relates to the same land to be disclosed in a single inquiry, so it should be easy to access information about controlling interest in landowners alongside details of the legal title to land that is held in the land register.

In order to identify persons with control over land, one first needs to clearly identify the legal owners of land. One of the measures that Registers of Scotland is taking to increase the transparency of land ownership in Scotland is the completion of the land register by 2024. Any measures that are introduced to identify individuals who have a controlling interest in landowners must be considered alongside that commitment to complete the land register and may have significant impacts on the ability of both voluntary registration and keeper-induced registration to meet the 2024 target. The effect that amendment 30 would have on the keeper's current work on completion needs to be considered further.

We understand the intention behind amendments 29, 30 and 30A, and given that a series of major amendments will be lodged at stage 3, I do not oppose those amendments. I reiterate my absolute commitment to work closely with the committee as we develop effective and competent proposals that will allow for the development of a public register of controlling interests in landowners to be brought forward at stage 3. Given the work that has gone into amendments 29, 30 and 30A, I want to work with the committee in this area to produce the amendment that we will lodge at stage 3.

I also say to Graeme Dey that, although we do not oppose amendment 30, we have some serious concerns with it. Its drafting does not provide appropriate protections for individuals' rights to privacy under article 8 of the ECHR.

For example, the amendment does not require a proprietor or the keeper to remove a person's name from the title sheet when that person has ceased to be a person of significant control. It would not be reasonable for information about a person to continue to be disclosed if they are no longer a person of significant control. The amendment also does not provide an appropriate means for a person of significant control to engage with the keeper on whether the information disclosed is correct or to assert why the

information should not be disclosed for legitimate privacy reasons.

Amendment 30 also provides that churches are to be excluded from the obligations to disclose information. I am not clear what the basis for that is. In the absence of further justification for that measure, I am concerned that it would give rise to issues under article 14 of the ECHR concerning the prohibition of discrimination.

My intention is that the regulation-making power that we will introduce at stage 3 will be capable of being exercised in a way that is within the legislative competence of the Parliament and compatible with EU law and the ECHR.

I welcome the intentions behind Patrick Harvie's amendments 105 and 106 and Sarah Boyack's amendment 106A. When the land reform review group recommended that only legal entities registered in a member state of the EU should be able to own land in Scotland, the purpose of that was said to be that it would increase the transparency and accountability of land ownership in Scotland. It is evident that we are all committed to increasing the transparency of land ownership in Scotland, but perhaps we have differing views on how that can be achieved.

The Scottish Government believes that our proposal to lodge amendments at stage 3 for a regulation-making power that will provide for a public register of persons that have a controlling interest in landowners, taken together with the measures by the Registers of Scotland to complete the land register by 2024 and set up Scotland's land information system, will significantly increase the transparency of land ownership in Scotland. We carefully considered the land reform review group's EU legal entities proposal, which amendments 105, 106 and 106A attempt to implement. However, I strongly believe that the proposal and the amendments would fail to increase significantly the accountability and transparency of land ownership in Scotland and that they are, in fact, outwith the competence of the Parliament.

My officials wrote to the committee on 10 September setting out the Scottish Government's analysis of the EU legal entities proposal, and I restated the Government's position in my evidence to the committee when we were in Dumfries in November. There are varying requirements in relation to the transparency of legal entities in the EU. We are not convinced that simply setting up a shell company within the EU, the shares and directors of which could still be based in offshore tax havens and obscured through complex corporate structures, would provide the greater transparency of land ownership that people who support the EU legal entities measure suggest that it would achieve.

Some stakeholders support the proposal because they perceive that it would prevent land in Scotland from being owned by companies that are based in tax havens. We also have to bear in mind the fact that the Scottish Parliament has limited competence to legislate in relation to reserved taxes such as capital gains tax, inheritance taxes and corporation taxes. That means that, if the purpose of a measure is to prevent tax evasion or the avoidance of reserved taxes, that measure would be outwith the competence of the Scottish Parliament.

Patrick Harvie: It is very clear that, regardless of whether there is a disagreement about the effectiveness of the amendments, their purpose is to increase the transparency of land ownership. The intention clearly relates to a devolved matter. If the minister considers the ownership of land by entities that are registered in tax havens to be compatible with her view on the transparency of land ownership, I urge her to explain how she reaches that conclusion.

Aileen McLeod: The amendments would still be considered to be outwith the Parliament's competence if their purpose is solely to do with transparency. If it was argued that their purpose is to prevent tax evasion or the avoidance of reserved taxes, that would raise concerns and we would need to consider that further.

The UK Government has taken forward measures to improve the corporate transparency of UK companies for separate reasons, partly to do with improving corporate governance and partly in response to the EU's fourth money laundering directive. It has indicated an intention to consider greater transparency in relation to the foreign ownership of land. I make the point that measures are therefore being introduced at the UK and EU levels.

I assure the committee that the Scottish Government will support the measures that the UK Government and the international community take and will play its part in combating tax avoidance. The UK Government has indicated that it intends to publish a consultation paper on the matter but, as yet, it has not done so. At the moment, therefore, the UK Government's intentions on tax avoidance are still unclear.

As the report of the land reform review group acknowledged, under EU law, the rules that relate to the free movement of capital apply to the movement of capital not only between member states but between member states and third countries. Amendments 105 and 106 would restrict the free movement of capital, which is protected by article 63 of the Treaty on the Functioning of the European Union. Such a restriction is compatible with EU law only if it pursues a public interest objective and does so in

a way that complies with the principle of proportionality.

The amendments seek to limit the ownership of land in Scotland to entities that are incorporated or established in a member state of the EU. We do not consider that the amendments would be a proportionate way of achieving the benefits that can arise from increasing the transparency of land ownership or that they would be a reasonable way of seeking to increase the transparency of land ownership. It is possible that some landowners that are entities incorporated outwith the EU will be at least as transparent as some landowners that are incorporated within a member state—possibly more so. A landowner that is an entity incorporated outwith the EU may not become any more transparent by transferring the land to a subsidiary that is established in a member state. An entity that is incorporated or established in the EU will not necessarily be more transparent than entities that are incorporated or established outwith the EU. That is why we do not consider that the amendments meet the requirements of proportionality in relation to the free movement of capital. We also consider that there are less restrictive ways of increasing the transparency of land ownership than the one that the amendments propose.

We therefore consider that amendments 105 and 106 are outwith the legislative competence of the Scottish Parliament because they are not compatible with EU law relating to the free movement of capital.

Amendment 106A works only by reference to amendment 106 and, therefore, cannot be considered on its own.

As the committee is aware, we made it clear in our response to the stage 1 report that a proposal to limit those who can register title to land in Scotland to individuals and entities that come within the description of an EU legal entity would be outwith the competence of the Parliament.

13:15

I will try to address the questions raised by Patrick Harvie on amendments 105 and 106. We talked about attempted tax avoidance being a reserved matter, and I clarify that although increasing the transparency of land ownership is a devolved matter, even if the purpose of amendments 105 and 106 is solely related to transparency, the amendments are still outwith the competence of the Parliament on the ground that they are incompatible with EU law. That is why I ask Patrick Harvie and Sarah Boyack to not move their respective amendments.

It has been suggested that article 345 of the Treaty on the Functioning of the European Union

can be relied on to argue that a restriction on the type of entities that can own land in Scotland would be compatible with EU law on the free movement of capital. However, article 345 provides that the EU treaties do not in any way prejudice the rules that a member state may have that govern the system of property ownership in that state. It is clear that that does not mean that article 345 can be relied on to exempt a member state from the EU rules on restrictions of free movement of capital. In that context, article 345 is concerned with making clear that member states are not required to have any particular system of land ownership.

Amendment 107 is designed to provide both what Sarah Boyack has described as a “legal contact point” for proprietors where they are an entity that is incorporated or otherwise established outwith the UK and for that information to be included on the title sheet of the land register and so be publicly available. There are some technical difficulties with amendment 107, in that it does not define “entity”, so it is not clear who that duty would apply to, nor is it clear what a “legal contact point” is. There is also no mechanism for keeping the information updated and so it would only ever be correct as of the date of registration.

It may be helpful to remind the committee that the land register is made up of four parts: the cadastral map, the title sheet record, the application record and the archive record. Every application for registration is accompanied by an application form, which in nearly all cases is submitted by a firm of solicitors—in most cases, that will be a Scottish firm, as the solicitor would require to be qualified in Scots law in order to undertake conveyancing in Scotland. The name of the firm and their contact details are included on the form. The 2012 act provides that the keeper must include in the archive record copies of all documents submitted to the keeper, which includes the application form. Therefore, in practice, the land register already includes the contact details for the solicitors who last acted for the proprietor and, as those details are included in the register, the information is publicly accessible.

It is difficult to see what amendment 107 would add to existing practices or to information that is already available. I ask Sarah Boyack to consider not moving the amendment, although I am happy to work with her and other committee members to consider and discuss the specific issue of contact details further as we develop improved proposals on transparency ahead of stage 3.

Amendment 69 is consequential to amendment 36 and removes the reference to section 36 in section 99. As I have said, the Government’s position is that section 36 should remain in the bill, so I ask Graeme Dey not to move amendment 69.

Sarah Boyack: I will not follow that marathon session with a marathon summing-up speech; I will keep my comments relatively sharp.

It has been good to deal with this subject at reasonable length. That is really important for transparency; it is also important for those of us who might pull our amendments at this stage and come back with others at stage 3.

I want to read the *Official Report* at my leisure because I do not really have a sense of the issues around the ECHR and competence in relation to the amendments, particularly in light of the Scottish Human Rights Commission's letter, which we discussed earlier. Perhaps we could do some fresh thinking about the extent to which the worries about competence and legal issues may be overstated or overcautious. I certainly want to have another look at the minister's comments after we have dealt with the amendments today.

Amendment 103 is not a probing amendment. The minister commented that, if things did not appear to be happening fast enough, she would certainly consider future legal provisions—she would not rule them out. She said that she would

“not rule out the possibility of further legislation in due course”.

I cannot think how many times we have been here before. Can we not just say, “These are the deadlines. Get them done. We will resource you to make it happen. Everyone knows where things stand”?

I press amendment 103.

The Convener: The question is, that amendment 103 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Beamish, Claudia (South Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)

Against

Dey, Graeme (Angus South) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Hume, Jim (South Scotland) (LD)
MacDonald, Angus (Falkirk East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 103 disagreed to.

Section 35—Right of access to information on persons in control of land

Amendment 104 not moved.

Amendment 29 moved—[Graeme Dey]—and agreed to.

After section 35

The Convener: I call amendment 30, in the name of Graeme Dey.

Graeme Dey: I welcome the minister's comments and thank her for them. I acknowledge that there are flaws in the amendment, but there is a commitment to develop it further.

Amendment 30 moved—[Graeme Dey].

Amendment 30A moved—[Sarah Boyack]—and agreed to.

Amendment 30, as amended, agreed to.

Amendment 105 moved—[Patrick Harvie].

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

Members: No.

The Convener: There will be a division.

For

Beamish, Claudia (South Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)

Against

Dey, Graeme (Angus South) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Hume, Jim (South Scotland) (LD)
MacDonald, Angus (Falkirk East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 105 disagreed to.

Amendment 106 moved—[Patrick Harvie].

Amendment 106A moved—[Sarah Boyack].

The Convener: The question is, that amendment 106A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Beamish, Claudia (South Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)

Against

Dey, Graeme (Angus South) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Hume, Jim (South Scotland) (LD)
MacDonald, Angus (Falkirk East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 106A disagreed to.

The Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Beamish, Claudia (South Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)

Against

Dey, Graeme (Angus South) (SNP)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Hume, Jim (South Scotland) (LD)
MacDonald, Angus (Falkirk East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 106 disagreed to.

The Convener: I think that we will have to stop at that point—wait a minute, there is one more amendment. I call amendment 107, in the name of Sarah Boyack.

Sarah Boyack: I very much welcome the minister's comments and hope that, if I do not move amendment 107, she will take steps to make the drafting acceptable for stage 3. I think that that is what she said that she intended to do—did I get that right?

Aileen McLeod: No—I asked you not to move the amendment, so that I could work with you on amendment 107.

Sarah Boyack: Now that I have that on the record, I will not move the amendment.

Amendment 107 not moved.

The Convener: We have reached the end of this set of amendments. We will now move into private briefly, to discuss the letter on Crown Estate issues. At the next meeting of the committee, we will consider various pieces of subordinate legislation as well as more stage 2 amendments to the Land Reform (Scotland) Bill.

13:27

Meeting continued in private until 13:31.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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