The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 9 March 2016

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE

9th Meeting 2016, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
*Jayne Baxter (Mid Scotland and Fife) (Lab)
*Cameron Buchanan (Lothian) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Cara Hilton (Dunfermline) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lesley Brennan (North East Scotland) (Lab)
Maureen Watt (Minister for Public Health)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 9 March 2016

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (Kevin Stewart): Good morning, and welcome to our ninth meeting in 2016 and our last of the session. Everyone present should switch off mobile phones and other electronic equipment because they affect the broadcasting system. Some committee members may consult tablets during the meeting, as we provide meeting papers in digital format.

The first item on the agenda is a decision on whether to consider item 4 in private. Item 4 is consideration of a draft annual report for this parliamentary year. Do members agree to do so?

Members *indicated agreement.*

Burial and Cremation (Scotland) Bill: Stage 2

09:32

The Convener: We move to our first substantive item. Item 2 is stage 2 consideration of the Burial and Cremation (Scotland) Bill.

I welcome back to the committee the Minister for Public Health, Maureen Watt. She is supported by Scottish Government officials.

Before we move to consideration of amendments, it will be helpful if I set out the procedure for stage 2. Everyone should have the bill, the marshalled list and the groupings of amendments, as published on Monday.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in each group to speak to and move their 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 that by catching my attention in the usual way.

If she has not already spoken on the group, I will invite the minister to contribute to the debate just before I move to the winding-up speech. As with a debate in the chamber, the member who is winding up on a group may take interventions from other members, if they wish to do so.

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 each group, I will check whether the member who moved the first amendment in the group wishes to press their amendment to a vote, or to seek to withdraw it. If they wish to press, I will put the question on the amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the committee's agreement to do so. If any committee member objects, the committee must immediately move to the vote on the amendment.

If a member does not want to move their amendment when I call it, they should say, "Not moved." Please remember that any other MSP may move the amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote at stage 2. Voting in all divisions is by show of hands—it is important that members keep their hands clearly raised until the clerk has recorded the vote.

The committee is required to indicate formally that it has considered and agreed each section of

the bill, so I will put the question on each section at the appropriate point.

Members will be aware that, as agreed by Parliament, consideration of the bill at stage 2 has been split between the Health and Sport Committee and this committee. At the Health and Sport Committee's meeting yesterday, it considered section 36 and sections 46 to 55 and amendments that related primarily to those sections or to the disposal of ashes by cremation authorities. That included agreeing to amendments to section 37 and section 75. This committee will consider the remainder of the bill today.

I hope that that is all pretty clear. I now move on to consideration of amendments.

Section 1—Meaning of "burial ground"

The Convener: Amendment 2, in the name of the minister, is grouped with amendments 3 to 7, 16 to 25, 56, 134, 139 and 140.

The Minister for Public Health (Maureen Watt): Good morning, members.

Amendment 2 ensures that the bill will apply to burial grounds that are no longer actively used for burial. That will mean, for example, that maintenance provisions and the provisions relating to restoration to use of lairs apply to such burial grounds.

The bill requires every authority to provide an open burial ground. It simply defines a burial authority as a

"person who owns a burial ground".

A local authority could argue that it is not a burial authority if it does not own any burial grounds. It is vital that burial continues to be an available option in every local authority area. Amendment 3 means that every local authority will be a burial authority and will be required to make burial an available option. As before, persons who are not a local authority will continue to be a burial authority if they own a burial ground.

Amendment 4 removes section 2(1), as a consequence of other amendments. Amendment 5 changes the reference in section 2(2) from "burial authority" to "local authority", to clarify that the duty to provide a burial ground is imposed on a local authority.

Amendment 6 removes section 5, which had been included in the bill to restate section 20 of the Burial Grounds (Scotland) Act 1855. The effect of section 5 would have been to require burial authorities to provide a place for storage of bodies before burial. After the bill's introduction, burial authorities informed officials that that has not been the practice for a number of years and that bodies are brought to the burial ground immediately before burial. Section 5 would place an unnecessary requirement on burial authorities to provide facilities that will not be needed. The removal of section 5 means that section 6(1)(b) is no longer required. Amendment 7 removes from the bill section 6(1)(b), which contains a reference to section 5.

Amendments 16 to 20 relate to section 12. As introduced, section 12 would require a local authority, in its capacity as a burial authority, to sell a right to burial to anyone who is resident in the local authority area. After consultation of burial authorities, we have concluded that that might hamper a local authority's ability to manage its burial capacity. The effect of amendments 16 to 20 will be to set out that a burial authority may sell a burial right on application. Amendment 21 sets out the circumstances in which a burial authority must sell a right of burial.

The bill requires a burial authority that is a local authority to sell a lair to an applicant who is a resident in the local authority area when they apply, whether the lair is being purchased in advance of need, or is for immediate use. Some burial authorities have advised that they currently do not sell lairs in advance but sell them only at the time of need. Requiring those authorities to sell lairs on demand could create a shortage of available lairs in burial grounds when there is immediate need. Amendment 21 introduces a new section that sets out when a local authority is required to sell a right of burial in one of its lairs. The duty will apply in two cases: first, where the lair is for imminent use and the person who has died was resident in the local authority area immediately before his or her death, and secondly, where the applicant is resident in the local authority area and wishes to use the lair to bury the remains of a foetus resulting from a pregnancy loss, or the remains of a stillborn child. At all other times, burial authorities will have discretion about whether or not to sell a right of burial.

Amendment 22 removes the requirement for the Commonwealth War Graves Commission to renew its interest in a lair when that interest is about to expire. The right of burial in any lair that is sold after the bill comes into force must be renewed 25 years after it was sold, and thereafter every 10 years. The purpose of that is to ensure a current link between the right-holder and the burial authority. The bill allows a person to give up their right of burial if they choose to do so. The Commonwealth War Graves Commission has an active and on-going interest in the lairs of war veterans and has indicated that it will never seek to relinquish its right of burial in a lair. I have listened to representations made by the CWGC on the issue, so amendment 22 ensures that that right will endure in perpetuity and so the bill will

not place an unnecessary burden on the commission. Amendment 24 means that lairs that are sold to the commission after the bill comes into force will not need to be renewed. That will provide useful administrative savings for the commission and burial authorities.

Amendment 23 is a minor change to section 13(2) to clarify that what may be extended by a right-holder is the period for which the right subsists, rather than the right itself.

Amendment 25 places on burial authorities a duty to give notice to a right-holder before expiry of that right. That notice will inform the right-holder that he or she may extend the right, and will indicate what will happen if the right-holder chooses not to extend the right or if an application to extend the right is refused. That notice must be given at least three months before the right is due to expire.

Amendment 56 removes the definition of "right-holder" from section 24, because it is now defined elsewhere in the bill.

Amendment 134 makes a minor adjustment to section 75 and ensures that references to "right-holder" are defined as mentioned in subsection (3) of the new section that is inserted by amendment 25.

Amendment 139 changes a textual reference to another section of the bill, and amendment 140 ensures that any reference to burial or reburial in the bill also includes

"references to burial (or reburial) on or above the ground."

That will have the effect of including burial methods such as tombs and mausoleums in the bill.

I move amendment 2.

Amendment 2 agreed to.

Section 1, as amended, agreed to.

After section 1

Amendment 3 moved—[Maureen Watt]—and agreed to.

Section 2—Provision of burial grounds

Amendments 4 and 5 moved—[Maureen Watt]—and agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

Section 5—Places to keep bodies before burial

Amendment 6 moved—[Maureen Watt]—and agreed to.

Section 6—Management of burial grounds

Amendment 7 moved—[Maureen Watt]—and agreed to.

Section 6, as amended, agreed to.

Section 7 agreed to.

Section 8—Application to carry out burial

The Convener: Amendment 8, in the name of the minister is grouped with amendments 10, 32, 44, 70, 74, 110, 126, 127 and 142 to 144.

09:45

Maureen Watt: Amendments 8, 10, 32, 44, 70, 74, 110 and 126 are minor drafting amendments that add the word "or" to various sections of the bill that confer powers to make regulations. That is to ensure consistency throughout the bill.

Amendment 127 removes subsection (3)(c) from section 70. The intended effect of the subsection can be achieved through subsection (3)(b), which enables criminal penalties to be imposed. As such, it is considered that subsection (3)(c), which would enable other penalties or sanctions to be imposed, is not required.

Amendments 142 and 144 are minor amendments to schedule 2. They add to the list of enactments that are to be repealed by the bill in consequence of repeals of older acts that are being swept away.

I move amendment 8.

The Convener: Members have no comments. Minister, do you wish to wind up?

Maureen Watt: No.

Amendment 8 agreed to.

The Convener: Amendment 9, in the name of the minister, is grouped with amendments 11, 12, 29, 40, 45, 46, 53, 65, 71, 75, 76, 82, 88 and 122.

Maureen Watt: The amendments in this group relate to offences. Many of the amendments have been lodged in response to concerns that were raised at stage 1 about the creation of offences in secondary legislation. The effect of amendment 9 is that regulations that are made under section 8 cannot provide for offences in relation to burial. Offence provisions in section 9 will provide the same effect.

The combined effect of amendments 11 and 12 is that regulations that are made under section 10 cannot provide for offences in relation to a burial register. It is considered that the offence relating to burial registers that is set out in section 11 is sufficient and that there is no need to create additional offences under section 10.

Amendment 29 makes it an offence for a burial authority to fail, without reasonable excuse, to prepare or maintain a register of rights of burial, as required by section 14. Amendment 40 makes it an offence for a local authority to fail, without reasonable excuse, to prepare or maintain a register of private burials, as required by section 19.

The effect of amendment 45 is that any regulations that are made under section 22 cannot make provision for offences.

Amendment 46 inserts after section 22 a new section that makes it an offence for a person to provide in, or in connection with, an application that is made for an exhumation under section 22, information that the person knows to be false or misleading in a material way. Amendment 53 inserts after section 23 a new section, the effect of which is that it will be an offence for a burial authority to fail, without reasonable excuse, to prepare or maintain an exhumation register.

Amendment 65 inserts after section 34 a new section, the effect of which is that it will be an offence for a burial authority to fail, without reasonable excuse, to prepare or maintain a register of restored lairs. The requirement to keep such a register is imposed by the new section that is inserted by amendment 64.

The effect of amendment 71 is that regulations that are made under section 38 cannot make provision for offences. The effect of amendments 75 and 76 will be that regulations that are made under section 41 cannot make provision for offences.

Amendment 82 inserts after section 43 a new section, the effect of which is that it will be an offence for a crematorium to begin operating without having approval from an inspector and, where an inspector has given approval, for it to do so before the date that has been specified by the inspector.

Amendment 88 inserts after section 44 a new section, the effect of which is that it will be an offence for a crematorium authority to fail to give notice about the closure of a crematorium three months before the intended closure, where it is practicable to do so. The duty to give such notice is imposed by amendment 83, which also requires a cremation authority to give notice of closure on the first day practicable, where three months' notice is not practicable. Failure to comply with the duty will also be an offence.

Amendment 122 inserts a new section after section 66. If we were to introduce a licensing scheme, the effect of the amendment would be that a person who knowingly operated as a funeral director without a licence would be committing an offence. The amendment also makes it an offence for a person "knowingly" or "recklessly" to provide in, or in connection with, an application for a licence under section 66, information that is false or misleading in a material way.

I move amendment 9.

The Convener: No other member has indicated that they wish to speak. Minister, do you wish to wind up?

Maureen Watt: No.

Amendment 9 agreed to.

Section 8, as amended, agreed to.

Section 9 agreed to.

Section 10—Burial register

Amendments 10 to 12 moved—[Maureen Watt]—and agreed to.

The Convener: Amendment 13, in the name of the minister, is grouped with amendments 14, 15, 26 to 28, 36 to 38, 52, 64, 77 to 79, 128, 136, 138 and 141.

Maureen Watt: Amendments 13 and 14 allow local authorities to charge for access to the burial register and to charge for the provision of extracts from the register. That reflects the fact that many local authorities already charge for the provision of such services.

Amendment 15 requires a burial authority to retain the burial register indefinitely. Section 14 sets out the details that are to be held in a burial register and the duty on a burial authority to maintain the register.

Amendments 26 to 28 update the requirements relating to the burial register and are intended to avoid the problems that have arisen in the past whereby details of the right owner have been lost. Amendment 26 is a minor drafting amendment that is intended to provide consistency of drafting in relation to some of the registered duties.

Amendment 27 makes it clear that the register should contain, in addition to the details of whom the right of burial was sold to, the details of the current owner of the right. That will be necessary in situations in which the original owner has died or has sold the right to someone else and may not have informed the burial authority of the change of ownership. The amendment at new subsection (2A) makes it clear that the burial authority is required only to make reasonable efforts to ascertain the contact details of whom the new right-holders are.

Amendment 28 puts it beyond doubt that a certified copy of an extract from a burial register can be considered to be sufficient for evidentiary purposes in any court proceedings.

Amendments 36 to 38 relate to the requirement on local authorities to prepare and maintain a register of private burials. The overall effect of the amendments is to provide consistency with requirements relating to other registers that are made under the bill.

Amendment 36 changes the way in which the duty of a local authority to keep a register of private burials is imposed. It will no longer be imposed under regulations but on the face of the bill. That provides consistency with the requirements for other registers. Amendment 37 gives the label "private burial register" to such registers. Amendment 38, among other things, provides that a copy of an entry in the register is to be regarded as sufficient evidence of the private burial for any court proceedings.

The bill will place a duty on burial authorities to create and maintain a register of burials and will create a legal framework for exhumations that do not involve the police or the Crown Office. In order to ensure that burial records are accurate, it is vital that any exhumations are also recorded. Amendment 52 will require burial authorities to create and maintain a register of exhumation.

Amendment 64, which replaces section 34, relates to the requirement on burial authorities to prepare and maintain a register of lairs that have been restored to use. The overall effect of the amendment is to provide consistency with the requirements relating to other registers that are made under the bill, both in the drafting of the bill and in its effect. The amendment gives ministers the power to make regulations for the register, including regulations that prescribe the information to be recorded and the form in which it is to be recorded.

The amendment requires that the registers be made accessible to the public. Burial authorities may set and charge a fee for doing that. They must provide copies of entries in the register, and they may also charge for doing that. Any copy of an entry in the register is to be regarded as sufficient evidence for any court proceedings. The amendment requires the register to be kept indefinitely. That requirement is consistently set in all registers that are made under the bill.

Amendments 77 and 78 allow a cremation authority to charge for access to the cremation register and for the provision of copies of entries in the cremation register. Amendment 79 inserts a provision that requires the cremation register to be kept indefinitely. It is intended that all registers that are covered under the bill should be kept indefinitely.

Amendment 128 requires that any information that is required to be kept, and any register that is required to be prepared and maintained under the bill, must be kept in electronic form.

Amendments 136 and 138 make changes to the bill's interpretation section. They are largely consequential on other amendments that are being made to the bill, specifically in the sections that relate to registers and records.

Amendment 141 removes the reference to electronic record keeping in section 75. It is a consequence of other amendments.

I will ensure that there is an appropriate implementation period, so that anyone who is required to keep information under the bill can ensure that they are able to meet those requirements.

I move amendment 13.

The Convener: If no one else wishes to enter the debate, does the minister wish to forgo her right to sum up?

Maureen Watt: Yes.

Amendment 13 agreed to.

Amendments 14 and 15 moved—[Maureen Watt]—and agreed to.

Section 10, as amended, agreed to.

Section 11 agreed to.

Section 12—Right of burial

Amendments 16 to 20 moved—[Maureen Watt]—and agreed to.

Section 12, as amended, agreed to.

After section 12

Amendment 21 moved—[Maureen Watt]—and agreed to.

Section 13—Duration and extension of right of burial

Amendments 22 and 23 moved—[Maureen Watt]—and agreed to.

Section 13, as amended, agreed to.

After section 13

Amendments 24 and 25 moved—[Maureen Watt]—and agreed to.

Section 14—Register of rights of burial

Amendments 26 to 28 moved—[Maureen Watt]—and agreed to.

Section 14, as amended, agreed to.

After section 14

Amendment 29 moved—[Maureen Watt]—and agreed to.

Section 15 agreed to.

After section 15

The Convener: Amendment 30, in the name of the minister, is grouped with amendments 91 and 123 to 125.

10:00

Maureen Watt: The Delegated Powers and Law Reform Committee recommended that codes of practice that are issued under the bill should be approved by the Scottish Parliament before coming into force. This group of amendments gives effect to that recommendation.

Amendment 30 relates to codes of practice for burial authorities. Amendment 91 relates to codes of practice for cremation authorities. Amendment 123 relates to codes of practice for funeral directors. In each case, ministers must consult relevant sectors and lay drafts of the codes of practice before the Scottish Parliament. Such codes of practice must be approved by resolution of the Scottish Parliament before coming into force.

Amendments 124 and 125 remove sections 67 and 68 respectively. Those sections are no longer necessary because of the new sections inserted about the codes of practice.

I move amendment 30.

Amendment 30 agreed to.

Section 16—Private burial

The Convener: Amendment 31, in the name of the minister, is grouped with amendments 41, 42, 89, 145 and 90.

Maureen Watt: The amendments in this group relate to the charging of fees relating to burial and cremation by local authorities, including placing duties on local authorities to publish such fees.

Amendment 42 requires local authorities to publish fees in relation to burial. Amendment 90 requires local authorities to publish fees in relation to cremation. In both instances, local authorities must publish such fees in paper form and on their websites and may publish the fees anywhere else they consider appropriate.

Amendment 31 allows a local authority to charge in respect of applications for private burials. Amendment 145 confers power on local authority cremation authorities to additionally charge fees for services related to cremation.

Amendment 89 is a consequential amendment. Amendment 41 inserts into section 20 a reference to a new section inserted by amendment 21, which was debated with group 1. It is consequential upon amendment 21 to ensure that fees for sale of right of burial may be charged following sale of right of burial under the new section.

I move amendment 31.

Amendment 31 agreed to.

Amendment 32 moved—[Maureen Watt]—and agreed to.

The Convener: Amendment 33, in the name of the minister, is grouped with amendments 34, 35, 39, 129 and 133.

Maureen Watt: Amendments 33 to 35 relate to the private burial of the remains of a pregnancy loss. The effect of the amendments is to exclude such a burial from the requirement to be authorised by a local authority and from having to comply with regulations on private burial. We do not believe that it is necessary for that kind of burial to be subject to that process or the regulations.

Amendment 39 removes section 18 from the bill. Providing for applications for and recording the location of private burials in legislation is new and when the bill was being prepared, all aspects of private burial were placed together in one part of the bill. However, following further consideration and after discussion at the Delegated Powers and Law Reform Committee, it is clear that the same outcome can be achieved by removing section 18 and relying on powers under section 70. That will also reduce the number of delegated powers being created in the bill, which I know committees were concerned about.

Amendment 129 adjusts section 73(2), which requires ministers to consult local authorities and others before making regulations under sections 16(1) and 17(1). The regulation-making power in section 17(1) is being removed by amendment 36 and section 17(2) is being expanded by amendment 38 to provide greater specifications on regulations about private burial registers. Amendment 129 therefore replaces the reference in section 73(2) to section 17(1) with a reference to section 17(2).

Amendment 133 updates section 74, which sets out the parliamentary procedure that will apply to regulations made under the bill. The amendment ensures that section 74 accurately reflects some sections that provide regulation-making powers to ensure that the correct parliamentary procedure applies.

I move amendment 33.

Amendment 33 agreed to.

Amendments 34 and 35 moved—[Maureen Watt]—and agreed to.

Section 16, as amended, agreed to.

Section 17—Register of private burials

Amendments 36 to 38 moved—[Maureen Watt]—and agreed to.

Section 17, as amended, agreed to.

Section 18—Suspension of private burials

Amendment 39 moved—[Maureen Watt]—and agreed to.

Section 19 agreed to.

After section 19

Amendment 40 moved—[Maureen Watt]—and agreed to.

Section 20—Fees for burials

Amendments 41 and 42 moved—[Maureen Watt]—and agreed to.

Section 20, as amended, agreed to.

Section 21 agreed to.

Section 22—Exhumation of human remains

The Convener: Amendment 43, in the name of the minister, is grouped with amendments 47 to 51.

Maureen Watt: Applications for routine exhumation are being removed from the court process by the bill, although appeals about decisions will still be heard by the sheriff. It is important that the application and decision-making procedure is seen to be impartial. It is therefore appropriate to remove the ability for local authorities to make decisions on applications for exhumation from a list of detailed matters that regulations made under section 22 may contain. Amendment 43 achieves that.

Decisions to either grant or refuse an application for exhumation made under the terms of section 23 may be appealed to the sheriff. The bill as introduced provides for four possible options for the sheriff considering the appeal. However, on reflection, it is appropriate that the sheriff is not restricted to only one of the options, as there may be occasions when the decision about the appeal should be able to be varied. Amendments 47 to 50 increase the flexibility of options available to the sheriff under section 23. The amendments enable the sheriff to vary any conditions that are attached to the original decision, as well as imposing additional conditions if doing so is considered appropriate.

The bill as introduced stated that the decision of the sheriff is final. That was done to help minimise the bureaucracy and the time taken for any court process, with a view to reducing stress for the family at a difficult time. However, on reflection, there is no strong reason to exclude a further right of appeal from the sheriff to the Sheriff Appeal Court. Amendment 51 provides for that, in accordance with section 110 of the Courts Reform (Scotland) Act 2014.

I move amendment 43.

Amendment 43 agreed to.

Amendments 44 and 45 moved—[Maureen Watt]—and agreed to.

Section 22, as amended, agreed to.

After section 22

Amendment 46 moved—[Maureen Watt]—and agreed to.

Section 23—Appeal to sheriff

Amendments 47 to 51 moved—[Maureen Watt]—and agreed to.

Section 23, as amended, agreed to.

After section 23

Amendments 52 and 53 moved—[Maureen Watt]—and agreed to.

Section 24—Restoration to use of lair: consultation

The Convener: Amendment 54, in the name of the minister, is grouped with amendments 55 and 57 to 63.

Maureen Watt: The amendments in this group make various changes and clarifications for the process of restoring lairs to use. Amendment 54 sets out the initial test that burial authorities must apply in deciding whether a lair may be suitable for restoration to use. That requires the burial authority to determine whether the lair is in a poor state of repair or no one appears to have an interest in the lair. That is only one of three initial considerations set out in section 24, and each must be met. That should help to identify relevant lairs, but the safeguards attached to the process will still ensure that lairs are not restored to use without a thorough process to give people the opportunity to object to the proposal.

Amendments 55, 59 and 62 ensure that any structures or tombs above ground may be included in the restoration-to-use process. Amendments 57 and 58 clarify how a spouse, partner or civil partner should be regarded in relation to the right to object to a lair being

restored to use, including where that person was separated from the deceased by, for example, divorce. Amendments 60, 61 and 63 make minor drafting adjustments to provide additional clarity.

I move amendment 54.

Amendment 54 agreed to.

Amendments 55 and 56 moved—[Maureen Watt]—and agreed to.

Section 24, as amended, agreed to.

Sections 25 and 26 agreed to.

Section 27—Section 26: effect of objection

Amendments 57 and 58 moved—[Maureen Watt]—and agreed to.

Section 27, as amended, agreed to.

Section 28 agreed to.

Section 29—Restoration to use

Amendments 59 to 61 moved—[Maureen Watt]—and agreed to.

Section 29, as amended, agreed to.

Section 30—Restoration to use without extinguishment of right

Amendments 62 and 63 moved—[Maureen Watt]—and agreed to.

Section 30, as amended, agreed to.

Sections 31 to 33 agreed to.

10:15

Section 34—Records

Amendment 64 moved—[Maureen Watt]—and agreed to.

Section 34, as amended, agreed to.

After section 34

Amendment 65 moved—[Maureen Watt]—and agreed to.

Section 35 agreed to.

After section 36

The Convener: Amendment 66, in the name of the minister, is grouped with amendments 67 to 69, 72, 73, 80, 81, 83 to 87, 131 and 135.

Maureen Watt: Amendments 66 to 69, 72, 73, 80, 81 and 83 to 87 make various changes to the responsibilities of cremation authorities.

Amendment 66 enables a local authority to provide a crematorium and to enter into arrangements with another person to provide a crematorium on its behalf. Amendment 68 is consequential to that amendment.

By virtue of amendment 67, a cremation authority, rather than the person who owns the crematorium, will be the person who is responsible for the management of the crematorium. Amendments 69 and 73 are consequential to amendment 67.

The amendments provide two separate definitions of a crematorium, which apply for different purposes. Amendment 66 defines a crematorium as a building that is fitted with machinery for cremation and the grounds pertaining to that building, excluding any burial ground that might be located in those grounds. That definition applies to the general responsibilities of a cremation authority.

A second definition is provided by amendment 72, which defines a crematorium, in relation to the lawful carrying out of a cremation, as a building that is fitted with machinery for cremation. The effect of that definition, which excludes a reference to the grounds of the crematorium, is to ensure that lawful cremations take place inside a crematorium building.

Amendments 81 and 83 to 87 make changes to the notification processes that apply to the opening and closing of a crematorium, which require notice to be given to an inspector of cremation at particular times.

Amendment 81 requires a person proposing to establish a crematorium to give written notice of the proposed date on which the person will begin to determine applications for cremation. The notice must be given to an inspector of cremation at least three months before the proposed date. The person must not determine applications until a day specified by an inspector of cremation.

Amendment 83 provides that, where a crematorium is to close, the cremation authority must give an inspector of cremation notice of the closure. The notice must be given at least three months before the day on which the crematorium is to close, if that is practicable. If that is not practicable, as much notice of the closure as is practicable is to be provided. That reflects the fact that flexibility is required and a closure might happen unexpectedly.

Amendments 84 to 87 allow the Scottish ministers to make further provision in regulations about the closure of crematoriums. The intention is to specify what should be done with cremation registers and other information where a crematorium is to close. Requirements about other matters could also be imposed.

Amendment 131 updates section 74 to provide that regulations under section 37(1) will be subject to affirmative parliamentary procedure. Amendment 135 updates section 75 and is consequential to other amendments.

I move amendment 66.

Amendment 66 agreed to.

Section 37—Cremation authority: duties

Amendments 67 and 68 moved—[Maureen Watt]—and agreed to.

Section 37, as amended, agreed to.

Section 38—Application for cremation

Amendments 69 to 71 moved—[Maureen Watt]—and agreed to.

Section 38, as amended, agreed to.

Section 39 agreed to.

Section 40—Requirements for carrying out cremation

Amendment 72 moved—[Maureen Watt]—and agreed to.

Section 40, as amended, agreed to.

Section 41—Cremation register

Amendments 73 to 79 moved—[Maureen Watt]—and agreed to.

Section 41, as amended, agreed to.

Section 42 agreed to.

After section 42

The Convener: Amendment 1, in the name of John Wilson, is in a group on its own.

John Wilson (Central Scotland) (Ind): Amendment 1 arose from discussions about the Cremation Act 1902 when the committee took evidence from witnesses. We learned that the Government has not taken the opportunity to update or amend the legislation in the way that we would expect it to do when a comprehensive new bill comes before the Parliament. The issue is the removal of the 200-yard rule that is in the 1902 act. A number of witnesses said that they wanted the rule to be restated in the bill.

Amendment 1 is in line with the committee's recommendation in the stage 1 report, in which we said:

"The overwhelming majority of the evidence we received asked for the 200 yard rule to be retained and strengthened. We also noted the substantial confusion around how this rule works in conjunction with the planning system. We find it undesirable that the Bill does nothing to tackle this level of confusion."

In paragraph 89, we concluded:

"We therefore recommend the Scottish Government takes cognisance of the issues raised and, in discussion with planning colleagues, brings forward an amendment at stage 2 which addresses these concerns."

The Government has not lodged such an amendment at stage 2, hence my lodging amendment 1.

In oral and in written evidence, a number of local authorities asked for the 200-yard rule to be maintained in the bill and asked for clarification on its enforcement. The Federation of Burial and Cremation Authorities also said that it wanted the rule to be included in the bill and enforced.

Falkirk Council said in its written submission:

"We disagree with removing the existing provision which restricts the proximity of new crematorium to housing. In our view there are risks involved in reducing or removing the 200 yards limit. In the case of Falkirk Council's crematorium, an extensive area of new housing has been developed to within 110 yards of the crematorium buildings. This has lead to a number of unexpected issues such as the increased use of the crematorium grounds by the new residents and their dogs. Even when dogs are kept on a lead their barking has caused disturbance to Crematorium Services. We believe that future new crematoriums should have a substantial buffer of grounds which are secluded and kept separate from everyday activities. This degree of separation should not be determined by the planning process alone, because policies and provisions in Local Development Plan can be overturned on appeal by developers."

That issue is crucial in relation to this debate. It would be extremely useful for a buffer zone to be contained within the legislation, so that planning authorities and others—particularly developers—are aware of it. If a buffer zone is set out in the legislation, it cannot be encroached upon.

I spoke to the author of the submission from Falkirk Council, who indicated that the council has had to undertake substantial work to put in screening and ensure that other issues are dealt with, particularly in relation to residents using the crematorium grounds for walking their dogs.

I move amendment 1.

The Convener: No one else wishes to enter the debate on this amendment but, before calling the minister, I ask her to give an indication of whether there has been any discussion with planning colleagues. Obviously, there are two sets of relevant legislation, which may conflict. From previous experience, I feel that it is best to deal with such issues in a oner, rather than doing things separately. I will be very grateful if the minister will include that indication in her speech.

Maureen Watt: Thank you, convener.

I consider amendment 1 to be unnecessary. Decisions about the location of crematoriums are rightly a matter for the planning system, as are

decisions about development adjacent to crematoriums. A statutory minimum distance serves no particular purpose. It is an arbitrary and rigid restriction that will undermine the functioning of the planning system and place unnecessary restrictions on the provision of both crematoriums and housing.

The proposed siting and location of a new crematorium is a matter properly dealt with by the planning system. All planning applications are determined on their individual merits in accordance with the local development plan and all material considerations. What may be regarded as a material consideration is a matter for the planning authority concerned, but may include matters such as privacy and decency, preservation of sanctity, tranquillity, traffic and increased footfall—all matters relevant to crematoriums.

Location and the individual characteristics of the site and proposal are likely to be key considerations in decision making. None of that will be taken into account by a statutory minimum distance, which will simply be a rigid and arbitrary distance with no particular justification or purpose.

Some people have expressed concerns about emissions from crematoriums. Such emissions are monitored and controlled by the Scottish Environment Protection Agency, and breaches of regulations can result in a crematorium having its operating level reduced or its operating permit revoked. As such, I do not believe that a statutory minimum distance is necessary in response to emissions.

The amendment has a number of flaws. While it seeks to control the location of crematoriums and housing in relation to each other, it makes no mention of any other type of development. As such, anything else could be built within the proposed 200m distance. We would look to the planning system to consider whether such development would be appropriate, so that decisions can be taken locally, based on the circumstances of the case. It is right that we trust the planning system in that regard, and we should trust it to make evidence-based decisions about the location of crematoriums.

The proposed distance is overly restrictive, creating a greater distance than is set out in the Cremation Act 1902 and removing any option for a householder to consent to the construction of a crematorium, as the 1902 act allows. For comparison, the proposed distance of 200m is roughly equivalent to 20 city buses, or more than 12 times the length of this room.

10:30

I am particularly concerned about the potential impact of the amendment on housing supply and delivery. Although the Cremation Act 1902 seeks to control the location of crematoriums in relation to housing, it says nothing about the construction of housing near an existing crematorium. Amendment 1 would prevent the construction of housing within 200m of a crematorium. As drafted that would apply not only to crematoriums constructed after the bill comes into force, but all current crematoriums, even though many already have housing built close by.

That may have a negative impact on housing supply. There is currently considerable pressure on housing supply and the provision of sufficient land to meet housing needs. Amendment 1 would further restrict the availability of land for housing, preventing large amounts of land being used for new or replacement housing for no purpose that cannot already be achieved through the planning system and SEPA.

I am also concerned about the potential effect of the amendment on planning authorities, which has not been considered. If amendment 1 is supported, more work will need to be done to assess how it would affect planning authorities.

The amendment says nothing about enforcement or penalties. As drafted the amendment relates to the construction of a crematorium or housing. As such, planning permission could still be granted legitimately. It would be the act of constructing the crematorium within 200m of a house or a house within 200m of a crematorium that would constitute a breach. Although the inspector of cremation could be expected to refuse to authorise the operation of a crematorium that was in breach of the distance, there is no clear obstacle to housing being built in breach, or penalty for building such housing. As such, it is difficult to see how the minimum distance would be enforceable.

I have been clear that decisions about where crematoriums are built should be made by the planning system, with SEPA having responsibility for monitoring emissions. As such, a statutory minimum distance is unnecessary. There are a number of problematic flaws in the amendment. Nonetheless, I recognise that Mr Wilson's amendment 1 seeks to address real concerns that have been raised by members of the public.

Rather than include a minimum distance in the bill, I will commit the Scottish Government to developing specific guidance for planning authorities to assist in considering planning applications for crematoriums. That could address the kind of issues that planning authorities must

take into account when identifying sites and considering planning applications for crematoriums.

Guidance could be introduced through the next revision of Scottish planning policy, which sets out national planning policy. That promotes consistency, while allowing sufficient flexibility to reflect local circumstances. That would be the most effective way to ensure that planning authorities consistently consider relevant issues in the context of specific locations when assessing development applications for crematoriums.

That approach has been taken to other types of development. For example, the Scottish planning policy advises planning authorities to consider buffer zones between dwellings and some waste management facilities. Similarly, community separation is one factor to be considered when planning for the location of onshore wind farms. Such issues are dealt with well by the planning system, and guidance is an appropriate way to address the issues raised in relation to crematoriums.

I want decisions about where crematoriums are sited to be handled sensitively and consistently by the planning system. The approach that I have outlined will achieve that. I have taken the opportunity in the bill to address the issue. In answer to your question, convener, I have consulted with planning colleagues. That is why I have suggested that guidance can be put in future Scottish planning policy.

The majority of local authorities, although in favour of a minimum distance, also thought that the decisions about it should remain with the planning authorities and that it should be a planning decision. Risk management has been mentioned, and that is something that is also considered when authorities are considering a planning application, and I think that such a planning application is the best way to address that, with specific planning guidance. I therefore ask Mr Wilson to withdraw amendment 1.

John Wilson: I will press my amendment. I remind the minister and members of the comments made by Falkirk Council. I accept that the minister is genuinely trying to find a way to deal with the issue, but unfortunately the planning process does not at present give me comfort that crematoria and the grounds of crematoria would be sufficiently protected.

As the Falkirk submission made quite clear,

"This degree of separation should not be determined by the planning process alone, because policies and provisions in Local Development Plan can be overturned on appeal by developers."

The difficulty is that, although we have planning guidance and planning policy, a developer can come along at any point in the process and ask a local authority to amend the local plan to make provision for additional housing, and the developer can then appeal in the first instance to the director of planning and environmental appeals and can get a ministerial decision. I know that a number of such appeals have been made, and granted, in the region that I represent.

Although I respect the right of the minister to present her case and to say that we must deal with it as a planning matter, there has been a disjuncture for the past 114 years between the legislation that introduced the 200-yard rule and what we see at present, where developers, on appeal, can be granted permission despite the local plan or local planning process wanting to maintain the separation between crematoria and other buildings. That is the issue for me, convener, so I must press the amendment, and I hope that members of the committee will support it.

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

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Adam, George (Paisley) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

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

Amendment 1 agreed to.

Section 43—New crematorium: notice

Amendments 80 and 81 moved—[Maureen Watt]—and agreed to.

Section 43, as amended, agreed to.

After section 43

Amendment 82 moved—[Maureen Watt]—and agreed to.

Section 44—Closure of crematorium

Amendments 83 to 87 moved—[Maureen Watt]—and agreed to.

Section 44, as amended, agreed to.

After section 44

Amendment 88 moved—[Maureen Watt]—and agreed to.

Section 45—Fees for cremations

Amendments 89, 145 and 90 moved—[Maureen Watt]—and agreed to.

Section 45, as amended, agreed to.

After section 45

Amendment 91 moved—[Maureen Watt]—and agreed to.

Section 56—Disposal of remains: duty of local authority

The Convener: Amendment 92, in the name of the minister, is grouped with amendments 93 to 97.

Maureen Watt: Section 57(2) contains a power for a local authority to make arrangements for the burial or cremation of persons who received assistance from the authority before their death. This group of amendments changes that power to a duty, so that, when it appears that no other arrangements are being made, local authorities must ensure that arrangements are made for the burial or cremation of a person who has died.

Amendment 97 removes section 57. Amendments 92 and 93 insert the substance of section 57 into section 56.

Amendment 95 makes a minor drafting adjustment.

Amendment 94 requires a local authority to have regard to the religion or beliefs of the person who has died—as far as those details are known to the local authority—when it considers the appropriate method of disposal. The amendment addresses comments that were raised about that issue at stage 1.

Amendment 96 inserts some definitions into section 56. “Religion” and “belief” have the same meaning as in the Equality Act 2010, and a child who is “looked after” has the same meaning as in the Children (Scotland) Act 1995.

I move amendment 92.

Amendment 92 agreed to.

Amendments 93 to 96 moved—[Maureen Watt]—and agreed to.

Section 56, as amended, agreed to.

Section 57—Disposal of remains: power of local authority

Amendment 97 moved—[Maureen Watt]—and agreed to.

Section 58 agreed to.

Section 59—Appointment of inspectors

The Convener: Amendment 98, in the name of the minister, is grouped with amendments 99 to 109, 111 to 117, 130, 132 and 137.

Maureen Watt: Amendment 98 changes the job title of inspectors of crematoriums at section 59 to inspectors of cremation. The policy intention has always been that the inspector should be able to inspect any part of the cremation process, including records relating to decisions about the burial and cremation of the remains of pregnancy losses. The amendment removes any uncertainty about that right. It also brings the job title into line with the broader remit, which is reflected in the roles of inspector of burial and inspector of funeral directors.

Amendment 99 removes section 60. The amendment, in conjunction with some of the amendments to section 61—amendments 100 to 109—provides greater clarity as to the provisions that can be made about the powers of inspectors in regulations.

Amendments 100 to 109 make changes to section 61 to provide additional detail about what regulations that are made under that section may provide for in relation to inspections carried out by inspectors of burials, inspectors of cremation and inspectors of funeral directors.

Amendments 111 to 115 ensure that inspectors are able to inspect any documents, records or registers held by health authorities about decisions relating to the disposal of the remains of a pregnancy loss.

Amendment 111 adds a health authority to the list of premises that an inspector may enter in the course of carrying out his or her duties.

10:45

Amendment 114 adds a further purpose for which an inspector may exercise that power of entry and the other powers conferred by section 62(1) in relation to a health authority. It must only be for the purpose of determining whether the health authority is complying with duties that are imposed on it by the bill in relation to such records or registers.

Amendments 112 and 113 change references to “documents or records” to add “registers”. That ensures that all relevant information can be inspected, regardless of the form in which it is held.

Amendment 115 defines a “health authority” as having, in effect, the same meaning as that provided in section 50(6), which refers to

“a Health Board, or ... an independent health care service”.

Amendment 116 removes a reference to section 60 from section 63, in consequence of amendment 99.

Amendment 117 gives inspectors powers to make recommendations in relation to record keeping, in addition to the matters listed in the bill as introduced. The amendment enables inspectors to make recommendations to any of the bodies that are listed in section 62 about how they might improve the keeping of relevant documents, records and registers.

Amendment 130 changes the reference to sections that provide regulation-making powers to apply consultation requirements to the exercise of those powers. That is necessary in light of other amendments.

Amendment 132 deletes the reference to section 60 in section 74, in consequence of amendment 99.

Amendment 137 defines "inspector of cremation" as

"an inspector of cremation appointed under section 59(1)".

I move amendment 98.

Amendment 98 agreed to.

Section 59, as amended, agreed to.

Section 60—Functions of inspectors

Amendment 99 moved—[Maureen Watt]—and agreed to.

Section 61—Inspections: regulations

Amendments 100 to 110 moved—[Maureen Watt]—and agreed to.

Section 61, as amended, agreed to.

Section 62—Powers of entry and inspection

Amendments 111 to 115 moved—[Maureen Watt]—and agreed to.

Section 62, as amended, agreed to.

Section 63—Section 62: offences

Amendment 116 moved—[Maureen Watt]—and agreed to.

Section 63, as amended, agreed to.

Section 64—Reports

Amendment 117 moved—[Maureen Watt]—and agreed to.

Section 64, as amended, agreed to.

Section 65—Funeral directors' premises: licences

The Convener: Amendment 118, in the name of the minister, is grouped with amendments 119 to 121.

Maureen Watt: This group of amendments refines the proposals in section 65 in relation to the licensing of funeral directors.

Amendments 118 and 119 mean that each funeral director's business will require to be licensed, should ministers choose to introduce licensing. That is a change to the bill as introduced, which would have required a separate licence for each premises operated by a funeral director. The provisions in the bill as introduced sought to allow a single licence fee to be established, with the different size of businesses reflected in the number of licences that would be required. For example, a business that operated a single funeral parlour would require one licence, while a business that operated five funeral parlours would require five.

Amendments 118 and 119 require a single licence for each business. If a licensing scheme is introduced, a sliding scale of fees can be developed to reflect the different size of businesses.

Amendment 120 amends the conditions that may be attached to a licence. As introduced, the bill allowed the licensing authority to attach such conditions as it saw fit. The amendment restricts the conditions to those that are specified in regulations by ministers. That will improve consistency, because only those specified conditions can be attached to a licence.

Amendment 121 removes references to funeral directors' premises. Such references are no longer needed, because the intention is to license businesses rather than premises.

I move amendment 118.

John Wilson: In relation to there being one licence for an operator of several funeral premises, what would be the situation if the inspector identified that one of the premises was not operating in a manner that was conducive to delivering the expected service? Would the licence for all the funeral director's premises be revoked? Would we revoke the licence to operate the business if we issue just one licence for multiple premises?

The Convener: No one else wishes to enter the debate, minister, so please answer Mr Wilson's question and wind up.

Maureen Watt: Because the licence is for the business, the licence would not be revoked, but it would be up to the inspector to make

recommendations to the minister on what should happen. The inspector could propose conditions in relation to the particular premises where there was concern about what was happening, which would not need to affect the other parts of the business. However, if what was happening at that one premises reflected something that was happening across the business, the whole business could be shut down.

Amendment 118 agreed to.

Amendment 119 moved—[Maureen Watt]—and agreed to.

Section 65, as amended, agreed to.

Section 66—Licensing scheme: regulations

Amendments 120 and 121 moved—[Maureen Watt]—and agreed to.

Section 66, as amended, agreed to.

After section 66

Amendments 122 and 123 moved—[Maureen Watt]—and agreed to.

Section 67—Codes of practice

Amendment 124 moved—[Maureen Watt]—and agreed to.

Section 68—Codes of practice: consultation

Amendment 125 moved—[Maureen Watt]—and agreed to.

After section 68

The Convener: Amendment 146, in the name of Lesley Brennan, is—[*Interruption*]—in a group on its own.

Lesley Brennan (North East Scotland) (Lab): During stage 1, I strongly urged the Scottish Government to go further on funeral poverty than its current commitment, because grieving families on low incomes need action now.

I welcome the Scottish Government's announcement that it will host the first national conference on tackling funeral poverty. I accept that there is a timing issue in relation to the Scotland Bill, but the Government's amendments could have gone further on funeral costs. I lodged amendment 146 so that we can start the process of addressing funeral costs. I have experience of people seeking help when they are in critical need, and I hope that the committee will support amendment 146, given the cradle-to-grave philosophy of the welfare state and in light of rising funeral costs and our ageing population.

Academics Dr Christine Valentine and Dr Kate Woodthorpe, of the centre for death and society at the University of Bath, said in their paper in *Social Policy & Administration* in 2014:

"funeral costs may impose considerable financial burden on those left behind ... This burden not only reflects that funeral costs are subject to market forces, but also that bereavement, in itself, may cause financial hardship."

They went on to say, in relation to social fund funeral payments:

"the process of applying for a FP was uncertain and complicated, due to confusion around eligibility, the way in which familial relationships were assessed, and how decisions regarding responsibility for funeral costs were made. As a result, FP claimants were often left feeling frustrated, with an increased sense of shame for being unable to afford the funeral."

Research suggests that for 55 per cent of claimants who receive a funeral payment, the award falls substantially short of the amount that is required to meet the cost of the funeral. Scottish Government data show that the typical award in 2014-15 was approximately £1,300, whereas the average cost of a funeral in the same year was £3,500. The situation is compounded by the perception of death as a private and highly individual event and the lack of a widespread culture of preparing for death.

The findings have important implications for existing and future demand for public health funerals, which are the basic funerals that local authorities have a statutory duty to provide, under the National Assistance Act 1948, in circumstances in which no one is willing or able to organise and pay for an individual's funeral.

There are on-going issues with funeral payments, and there is concern that local authorities will be required to provide more public health funerals as the number of deaths per year increases. The issue needs to be resolved, and I hope that in the next parliamentary session the Parliament will address funeral payments.

In the meantime, the bill presents an opportunity to start to address the issue. Amendment 146 would provide that

"The Scottish Ministers may publish guidance on the costs associated with making arrangements for a funeral",

which

"may in particular cover the desirability of such costs being affordable."

Before issuing such guidance, the Scottish ministers would have to consult burial authorities, cremation authorities, funeral directors and

"any other persons they consider appropriate."

I hope that the committee will think that amendment 146 is reasonable, given that it is similar in structure to the provision in section 20 of the Procurement Reform (Scotland) Act 2014. I hope that members will support amendment 146

and, in so doing, take the first step on the path to eradicating funeral poverty.

I move amendment 146.

The Convener: I apologise for all the coughing when I called your amendment, Ms Brennan. That was a rather strange introduction.

In your comments, minister, can you tell us what the Government's intention is with regard to funeral costs? As things stand, we do not have the powers to deal with certain aspects of the issue. When the Cabinet Secretary for Social Justice, Communities and Pensioners' Rights, Alex Neil, appeared before the Welfare Reform Committee recently, he said that the Government would look at the issue as powers were devolved. Can we look at funeral costs at the moment? Is it the intention of the Government, if it is re-elected, to look at the issue in some depth?

11:00

Maureen Watt: Funeral costs have been debated repeatedly throughout the bill's passage. The bill's central purpose is to improve legislation governing burial and cremation, and I remain of the view that the bill is not the right vehicle to tackle funeral costs. Nonetheless, I recognise that funeral costs are of increasing concern.

There are some provisions in the bill that I think will have an effect on the transparency of funeral costs. For example, I have lodged amendments that will require local authorities to publish full lists of the costs associated with burial and cremation. Many local authorities already do that but some do not, so I think that the bill's provisions will be a valuable step towards creating greater transparency around funeral costs.

The amendments in group 12, which we dealt with earlier, will place duties on local authorities to bury or cremate where no one else is able to do so, which covers some of the aspects that Lesley Brennan has raised. However, we are unable to force private burial and cremation authorities or funeral directors to publish their costs, because that would be straying into reserved matters. For example, matters related to consumer protection are reserved and cannot be included in the bill. For the same reason, the bill cannot address funeral costs more directly.

However, I believe that there are other ways in which we can seek to influence funeral costs. The Scottish Government has worked closely with funeral directors, burial authorities and cremation authorities in developing the bill and will continue to do so when implementing it. As the new legislation comes into force, I will expect those sectors to continue to work with us to consider how best to address issues surrounding the variation in funeral costs, the transparency of funeral costs and the provision of low-cost funerals. The bill will allow various inspectors to be appointed and will introduce codes of practice and guidance, which I think will help to encourage consistent best practice, including in relation to funeral costs.

The Scottish Government is undertaking other work to address funeral costs and funeral poverty in particular. The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights commissioned specific work on funeral poverty, which reported on 3 February. In response to the report's publication, the cabinet secretary has indicated that he will undertake a range of work to address funeral poverty, including speeding up the time taken to make decisions about funeral payments once responsibility for that issue is devolved to Scotland. He also intends to work with stakeholders to develop other ways to support people to plan ahead for the cost of a funeral. In addition, he has recently published advice to the general public about what to do when faced with having to organise a funeral, which includes advice on costs and ways to reduce them while still providing a dignified and respectful funeral. That is important work that should have a significant impact on funeral poverty in the long term.

Lesley Brennan's amendment 146 seeks to allow ministers to publish guidance on funeral costs. I support the principle behind the amendment, but I believe that the work that has already been undertaken by the Scottish Government will achieve the same end. I do not believe that amendment 146 is the right way in which to achieve those outcomes. I therefore invite Lesley Brennan to withdraw amendment 146.

The Convener: I ask Ms Brennan to wind up and say whether she wishes to press or withdraw amendment 146.

Lesley Brennan: It is disappointing that the minister is not willing to support amendment 146. When I went through the issues with the legal team, we were very aware of the Parliament's remit and the time constraints on it. However, a large number of respondents to the consultation really wanted action to be taken in the bill to address funeral poverty, and amendment 146 would be a step in that direction. Although I accept that the Scottish Government is taking other steps, the amendment is about putting something in legislation and actually consulting—and not just consulting local authorities. The local authority charge for a funeral is only about a third of the total cost, so we need to consult funeral directors and other appropriate persons. The minister should maybe get in touch with the centre at the

University of Bath that I mentioned, which has a lot of data on the full costs of funerals.

I will press the amendment. It is not outwith the Parliament's remit. It would be a step in the right direction and would actually put something in the bill.

The Convener: The question is, that amendment 146 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Baxter, Jayne (Mid Scotland and Fife) (Lab)
Hilton, Cara (Dunfermline) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Adam, George (Paisley) (SNP)
Buchanan, Cameron (Lothian) (Con)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: I will wait for the bit of paper with the result, even though Ah ken the scores on the doors, as would have been said in "The Generation Game".

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

Amendment 146 disagreed to.

Section 69 agreed to.

Section 70—Power to suspend or modify certain enactments

Amendments 126 and 127 moved—[Maureen Watt]—and agreed to.

Section 70, as amended, agreed to.

Section 71 agreed to.

Before section 72

Amendment 128 moved—[Maureen Watt]—and agreed to.

Section 72 agreed to.

Section 73—Regulations: consultation requirements

Amendments 129 and 130 moved—[Maureen Watt]—and agreed to.

Section 73, as amended, agreed to.

Section 74—Regulations: parliamentary procedure

Amendments 131 to 133 moved—[Maureen Watt]—and agreed to.

Section 74, as amended, agreed to.

Section 75—Interpretation

Amendments 134 to 141 moved—[Maureen Watt]—and agreed to.

Section 75, as amended, agreed to.

Sections 76 and 77 agreed to.

Schedule 1 agreed to.

Section 78 agreed to.

Schedule 2—Repeals

Amendments 142 to 144 moved—[Maureen Watt]—and agreed to.

Schedule 2, as amended, agreed to.

Sections 79 to 81 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank you all very much for your forbearance, particularly during the coughing fits.

I suspend the meeting to allow the minister and her officials to leave.

11:10

Meeting suspended.

11:11

On resuming—

Subordinate Legislation

Non-Domestic Rate (Scotland) Order 2016 (SSI 2016/113)

Non-Domestic Rates (Levying) (Scotland) Regulations 2016 (SSI 2016/114)

Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016 (SSI 2016/119)

Non-Domestic Rates (Steel Sites) (Scotland) Regulations 2016 (SSI 2016/120)

Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Amendment Regulations 2016 (SSI 2016/121)

Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016 (SSI 2016/122)

Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2016 (SSI 2016/124)

Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2016 (SSI 2016/126)

Non-Domestic Rates (Telecommunications and Canals) (Scotland) Amendment Order 2016 (SSI 2016/129)

The Convener: Agenda item 3 is consideration of nine negative Scottish statutory instruments.

Members will note that the Delegated Powers and Law Reform Committee considered three of the instruments—SSI 2016/121, SSI 2016/124 and SSI 2016/126—at its meeting yesterday. That committee had no comments to make in relation to SSI 2016/121 and SSI 2016/124, but it agreed to draw to the Parliament's attention SSI 2016/126 under the general reporting ground, as it includes a minor drafting error. The committee highlighted that the word "if" is missing from regulation 3(2) of the instrument.

As no members have any comments, is the committee content to agree that it has no recommendations to make to Parliament on all the instruments?

Members *indicated agreement.*

The Convener: Thank you. Before we move into private as agreed, as this is the last meeting of the Local Government and Regeneration Committee of the session, I would like to thank all past and present members for their hard work and good company over the past five years.

I would also like to thank all the staff who have been involved in facilitating this committee, including the clerking and the Scottish Parliament information centre staff and others, including our official report team, who have been with us throughout almost the whole period. My special thanks go to Steven Iserhoff who is leaving to go back to Canada.

11:14

Meeting continued in private until 11:28.

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