



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 5 June 2019

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE

19th Meeting 2019, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)

*John Finnie (Highlands and Islands) (Green)

*Jamie Greene (West Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Mike Rumbles (North East Scotland) (LD)

*Colin Smyth (South Scotland) (Lab)

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

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Murdo Fraser (Mid Scotland and Fife) (Con)

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

Michael Matheson (Cabinet Secretary for Transport, Infrastructure and Connectivity)

Graham Simpson (Central Scotland) (Con)

David Stewart (Highlands and Islands) (Lab)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 5 June 2019

[The Convener opened the meeting at 09:02]

Subordinate Legislation

Motorways Traffic (Scotland) Amendment Regulations 2019 (SSI 2019/168)

A90 Trunk Road (Aberdeen Western Peripheral Route) (Stonehaven to Blackdog) (Prohibitions and Restrictions) Regulations 2019 (SSI 2019/166)

A956 Trunk Road (Aberdeen Western Peripheral Route) (Cleanhill to Charleston) (Prohibitions and Restrictions) Regulations 2019 (SSI 2019/167)

The Convener (Edward Mountain): Good morning, everyone, and welcome to the Rural Economy and Connectivity Committee's 19th meeting in 2019. I ask members to ensure that their mobile phones are on silent.

Agenda item 1 is the consideration of three negative instruments, in relation to which no motions to annul have been received. Are members agreed that they do not wish to make any recommendations?

Members indicated agreement.

The Convener: The Cabinet Secretary for Transport, Infrastructure and Connectivity has been delayed for our next agenda item. I will suspend the meeting while we wait for him to arrive.

09:03

Meeting suspended.

09:28

On resuming—

Transport (Scotland) Bill: Stage 2

The Convener: Agenda item 2 is consideration of stage 2 amendments to the Transport (Scotland) Bill.

I welcome the Cabinet Secretary for Transport, Infrastructure and Connectivity and his supporting officials.

I will explain the procedure briefly. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in a group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call any other members who have lodged amendments in the group. Members who have not lodged amendments in the group but who wish to speak should catch my attention. If he has not already spoken on the group, I will then invite the cabinet secretary to contribute to the debate. The debate on the group will be concluded by my 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 it to a vote or to withdraw it. If they wish to press ahead, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member present objects, the committee will move immediately to the vote on the amendment.

If any member does not want to move their amendment when called, they should say, "Not moved." Please note that any other member present may move such an 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. Voting in a division is by a 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 a question on each section at the appropriate point. Today, we hope to get through parts 1 and 2 of the bill.

Before section 1

09:30

The Convener: Amendment 40, in the name of Colin Smyth, is in a group on its own.

Colin Smyth (South Scotland) (Lab):

Amendment 40 sets out key principles that I believe should be at the heart of our transport system. The Transport (Scotland) Bill provides an opportunity to place those principles in legislation. Setting them in legislation would provide a long-term vision for our transport system at a time when the Government is about to embark on a review of national transport strategy.

Amendment 40 would place a duty on relevant bodies to act in line with those principles when carrying out such a review and would ensure that transport policy is guided in a meaningful way.

I believe that the principles reflect the priorities that most of us hold for transport, while being broad enough not to be restrictive. Putting the principles on a statutory footing would help to guide policy making to deliver the outcomes that we want to see.

Of course, if members have specific concerns about the wording of amendment 40, there will be an opportunity at stage 3 to add to or amend it.

There is precedent for setting out principles such as this in law. Section 1 of the Social Security (Scotland) Act 2018 clearly sets out the Scottish Government's Scottish social security principles.

I am sure that I will get unanimous support for the amendment to get us off to a winning start.

I move amendment 40.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a number of comments about the way in which this amendment is constructed. Subsection (2)(a) says:

"transport is a key enabler for the realisation of other human rights".

It is worth reminding ourselves that everything that we do in this Parliament is already covered by a requirement to conform to the European convention on human rights. Therefore, unless I hear otherwise, I believe that that statement is superfluous. For the reason that I have just stated, all legislation could equally be described thus.

Further on in the amendment, subsection (2)(b) states:

"the delivery of transport is a public service and supports the common good".

When it stands naked and without qualification, the word "transport" presents a substantial difficulty. My private car is transport and a commercial aircraft is transport. Moreover, subsection (2)(d)(iii) talks about ensuring

"that affordability does not act as a barrier to people accessing transport services".

Because of the term that is used, that would include my getting on a first-class flight from Scotland all the way to Australia; and there would be a requirement that the transport system makes that affordable for me.

I have not addressed the underlying policy issue that is associated with amendment 40, but its construction does not meet the needs of any policy that I could sensibly support.

Jamie Greene (West Scotland) (Con): I thank Colin Smyth for lodging his amendment. It is a good start to the session.

There are some admirable intentions in the wording. Delivering public transport that is accessible, universal, affordable, geographically consistent and sustainable are all themes that, since it started, this committee has debated in great detail. However, they are policies. I commend Mr Smyth for them, but I suggest that he puts them in his party's next manifesto rather than in the Transport (Scotland) Bill. The list of policies that he wants the Government to take on board is overly prescriptive and he does not provide any context as to how they would be achieved or how much that would cost. For that reason, the Conservatives are unable to support amendment 40.

John Finnie (Highlands and Islands) (Green): Like others, I think that the principles are admirable and I support them. I listened to what Mr Stevenson said, but that would not preclude support—or clarification, if that was thought to be necessary. I will certainly support Colin Smyth's amendment.

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): I welcome the fact that Mr Smyth's amendment looks at transport in its wider strategic context, because it is easy to get bogged down in the detail of legislation and lose sight of the bigger picture. Much of the language of the amendment reflects the work that the Government has been doing to review the national transport strategy, on which we are due to consult this summer. The strategy puts inequality and the promotion of fairness, accessibility, sustainability, health and wellbeing at the heart of transport, and all those themes are reflected in the provisions proposed by Mr Smyth.

Our draft vision for the strategy is that we will have a sustainable, inclusive and accessible transport system helping to deliver a healthier, more prosperous and fairer Scotland for communities, businesses and visitors. The vision is underpinned by four themes. Those include a priority to promote equality, which is designed to achieve outcomes of affordability and accessibility of transport. That sits alongside three further

priorities relating to tackling climate change, helping our economy to prosper and improving our health and wellbeing. Many of the principles in Colin Smyth's amendment are, therefore, already at the heart of the work that the Government is taking forward through its review of the national transport strategy, and we will seek to embed them in a national strategic context when the review is concluded.

There is an argument that policy principles of that kind are better expressed in strategic guidance. Their lack of technical precision may sit uneasily in legislation and the relative certainty and rigidity with which they would require to be interpreted in that context may be counterproductive. Guidance documents—backed by statute, if necessary—offer a more flexible and responsive means by which to set out key strategic objectives for the delivery of public functions. I am, therefore, not persuaded that statutory duties are the most effective means of achieving the aims that Mr Smyth has in mind.

Those concerns aside, certain aspects of the way that the amendment is drafted are potentially problematic. The main duty in subsection (1) is that:

"The Scottish Ministers, local authorities, local transport authorities and Regional Transport Partnerships"

must, when exercising

"their functions in relation to transport"

do so

"with the objective of adhering to the principles set out in subsection (2)."

It is not clear what legal consequences are intended to follow if a person subject to the duty does not adhere, or can be shown not to have adhered, to the principles in taking forward their policy.

The functions to which the duty is to apply are also uncertain. The phrase

"functions in relation to transport"

may capture functions of a broadly strategic nature to which the principles in subsection (2) or ones like them may be relevant, but it may also encompass operational transport functions such as traffic regulation, for which obligations to adhere to principles of that kind may be inappropriate when set against the public safety imperative that underpins the exercise of those functions.

The general thrust of the principles in subsection (2) is commendable, but the specific framing of some of them could also cause some ambiguity and have consequences for their legal effect.

For all those reasons, although I am sympathetic to Mr Smyth's aims, I cannot support amendment 40. However, I would like to consider whether we can embed the principles in our national transport strategy or, alternatively, agree to return at stage 3 with a revised amendment. I hope that Colin Smyth will agree to work with me and my officials to consider that.

Additionally, I am aware that Mr Smyth has lodged amendments on accessibility and on meeting the needs of those living in poverty and, in relation to bus services, people on low incomes. The amendments will of course be debated later but, between now and stage 3, I would like to explore with Mr Smyth whether it may be more appropriate to set out issues of that kind in the transport principles, whatever form those may take.

I ask Colin Smyth not to press amendment 40 but, if he does so, I urge the committee to vote against it.

The Convener: Thank you for that comprehensive explanation.

Colin Smyth: As a nation, I think that we have lost sight of the bigger picture of what our transport system should be about, as was mentioned. In particular, there is the fact that the system is and should be a public service that is accessible to all. The specific points that Stewart Stevenson and the cabinet secretary raised sounded like concerns over specific wording, which can clearly be dealt with at stage 3. I give a commitment to Jamie Greene that the points will be in the next Labour manifesto, and I look forward to receiving his full support for them.

In light of the cabinet secretary's offer to work on the detail of the principles and, potentially, on an amendment at stage 3 or on setting out the principles in another way, I am happy not to press amendment 40 and to take up the offer to discuss the matter further.

Amendment 40, by agreement, withdrawn.

The Convener: Amendment 32, in the name of Jamie Greene, is grouped with amendments 220 and 201.

Jamie Greene: In relation to low-emission zones, I want to add from the outset a primary objective that sets out a clear purpose that each zone should follow. Amendment 32 stipulates:

"The purpose of a low emission zone ... is to reduce the transport-related emissions and ... particulate matter within and in the vicinity of the zone."

The wording has been lifted from the National Emission Ceilings Regulations 2018, which is United Kingdom legislation that transposes a European Union directive of a similar name and

nature and that provides an up-to-date definition of emission standards that is consistent across the UK and Europe. I realise that the amendment seems rather detailed and specific, but I feel that it is necessary for part 1 of the bill to contain an overarching and specific purpose.

My rationale for that is threefold. First, it would remove any ambiguity over what the zones are for and what they are trying to achieve. In my view, the whole point of low-emission zones is to improve air quality within and in proximity to the zone. Reducing congestion, improving average road speeds and generating revenue for local authorities are all by-products of zones, but I want public support for the zones and I want to take drivers and other road users with us on the journey. We need to make it clear to them that the measure is not just a tax on motorists and that the zones will have a positive and measurable impact on their cities.

Secondly, a defined purpose would allow us to monitor the success or otherwise of a zone. If nitrogen oxide emissions and particulate matter levels do not fall as a result of a zone, something is amiss. If we have a vague definition of what the zone is for, it will be virtually impossible to ascertain whether it has been successful and achieved its aims. When the committee questioned representatives of Nottingham City Council over the workplace parking levy, they found it difficult to pinpoint the specific environmental benefits of the measure, as it is part of a package of measures. Instead, the levy is seen largely as a revenue-generating activity, which low-emission zones are not—and nor should they be.

Thirdly, I have lodged later amendments that would mean that the revenue that was generated from fines under a zone would have to go towards meeting the overarching objective of the zone.

I hope that members agree that the bill should set out a purpose for low-emission zones. My wording tries to identify something that is measurable rather than a vague concept that is impossible to measure against or that could be used subjectively to decide whether a zone is working. I appreciate that Colin Smyth's amendment 220 tries to do something similar, but, in my view, the wording is such that it is helpful but unmeasurable. For that reason, I think that my wording is better.

09:45

I am proposing a primary objective for the zone. Amendment 201 relates to section 9, on setting up a zone, and requires that local authorities set objectives that complement and contribute towards the primary objective of the zone. The

amendment stipulates that any such secondary objectives that are set by local authorities must be aligned with the primary purpose in the bill.

I move amendment 32.

Colin Smyth: Amendment 220, in my name, introduces a definition of the purpose of an LEZ, which was one of the committee's recommendations at stage 1. Amendment 220 helps to clarify the purpose of LEZs and, in practical terms, it will ensure that all schemes are developed in line with that overall aim.

I appreciate that the bill already requires LEZs to contribute towards local authorities' objectives under the Environment Act 1995, but I believe that we should be clear about the specific role that is to be played by LEZs beyond local authorities' existing responsibilities.

As we have heard, Jamie Greene has lodged a similar amendment—amendment 32—but I have some concerns about the specific wording of that amendment, which excludes PM₁₀ particulate matter. PM₁₀ particles are among the most dangerous elements of air pollution, and reducing them is crucial to having a successful LEZ. If amendment 32 is agreed to, it is critical that reference to PM₁₀ is added at stage 3.

However, I also have a broader concern about how specific amendment 32 is. As new technologies are developed, there is a chance that new pollutants will be released into the atmosphere. If we detail in the bill what constitutes air pollution, there is a risk that the bill will not be fit for purpose in the long term. I believe that the language that is used in my amendment provides a more comprehensive and more future-proofed definition. To use Jamie Greene's phrase, I think that my wording is better.

Additionally, my amendment calls for

"ongoing improvements to ... air quality".

That is important. There is no safe level of air pollution, and LEZs should seek to continually improve air quality as long as they are in place, not simply to reduce pollution on a one-off basis.

Stewart Stevenson: Like Colin Smyth, I think that the omission of the PM₁₀ particles from Jamie Greene's amendment 32 is quite serious. I had a quick look at the legislation that Jamie Greene referred to, but, in the one minute that was available, I was not able to read it comprehensively.

The definition of "fine particulate matter" in Jamie Greene's amendment, which describes it as

"being particles with an aerodynamic diameter equal to or less than 2.5 micrometres"

presents a substantial difficulty. The definition of a particle includes the words “atom” and “molecule”. Of necessity, emissions from a vehicle in an LEZ will contain atoms and particles even if they happen to be benign rather than malevolent. Therefore, as a definition, it fails the test—unless Jamie Greene can point me to a further qualification in the legislation that he referred to. I was having a quick look at it to see whether there is a definition of “particle” that makes more sense than the common dictionary definition.

I also have difficulties with the construction of Colin Smyth’s amendment 220—although I have no objection to the underlying policy objective—in that it refers to

“ongoing improvements to the level of air quality”.

I am not sure that “the level of” is required, and I do not know what it means. I have a suspicion that the word “level” creates an ambiguity that is unhelpful to the policy intention.

I have a difficulty with putting “ongoing improvements” on the face of the bill, because the ultimate success of a low-emission zone scheme is that there are zero harmful emissions. At that point, on-going improvements will cease to be possible.

Although we understand the policy intention, the construction of the amendment does not adequately support it.

John Finnie: Jamie Greene’s amendment 32 is the first of a series of amendments that, despite his apparent enthusiasm for low-emission zones, dilute the purpose of the bill. I am not remotely technical, but others have alluded to the science of the issue, and it is my understanding that, because his amendment is so narrowly defined, it misses some of the pollutants that we are concerned about.

Inevitably, we get into discussions about the competence of amendments. They are competent; otherwise, they would not be here. If people take exception to what they do or suggest that they are not comprehensive enough, so be it. My view is that Colin Smyth’s amendment is broad enough for the purpose, and I will be supporting his and not Jamie Greene’s amendment.

Michael Matheson: Amendments 32, 220 and 201 call for the purpose of an LEZ to be included in the bill. In my view, the amendments are too restrictive. Amendment 32 would set the purpose of an LEZ around the reduction of two types of transport-related emissions: nitrogen oxide and particulate matter with a diameter that is

“equal to or less than 2.5 micrometres.”

As other emission types might come into scope in the future, confining the purpose of an LEZ to

addressing only those two types of pollutant is far too restrictive.

Amendment 201 would limit any objective that was specified for a scheme to ensure that it related to the purpose of a scheme as set out by amendment 32: improving air quality through the reduction of two types of pollutants. As before, that would produce quite restrictive boundaries in the framing of an LEZ and, in my view, would potentially compromise its effectiveness.

Amendment 220 would be an alternative to amendments 32 and 201, restricting the purpose of an LEZ to the improvement

“of air quality in all or part of a local authority area”

only. The amendment is broader than the other two amendments in the group, but it would still result in the restriction of how LEZs could be formulated. I agree that low-emission zones must be implemented where appropriate to improve air quality. That is why section 9(4) sets out a clear requirement that local authorities put in place LEZs that help to meet

“the air quality objectives prescribed under section 87(1) of the Environment Act 1995”.

However, in implying that that is the sole purpose of an LEZ, amendment 220 ignores the opportunity—both now and in the future—for other benefits to be realised in some shape or form by a local authority introducing an LEZ—for example, through better place making. Such benefits might include congestion management and bus prioritisation. It is important that local authorities have the flexibility to set their scheme objectives, and thus their LEZ purpose, as they see fit.

I suggest that we outline the purpose of an LEZ and how to set objectives in the forthcoming LEZ guidance. Sections 1(1) and 9(4) can also be used to explain the purpose of an LEZ. It is clear that LEZs must be put in place, first and foremost, to improve local air quality. If stakeholders continue to feel that the purpose should be outlined in the bill, that could be considered and developed in conjunction with the Government ahead of stage 3. However, as the three amendments are currently written, the purpose is too restrictive and would hinder future flexibility in the development and purpose of LEZs.

For those reasons, I cannot support amendments 32, 201 and 220 at this stage, but I am open to considering how they could be progressed ahead of stage 3. I therefore ask Colin Smyth not to press amendments 201 and 222. If they are pressed, I urge the committee to reject them.

Jamie Greene: I thank members for their comments and for the spirit in which their feedback was given.

The purpose of amendment 32 was not to be overly prescriptive and unhelpful, although I accept that my approach is prescriptive in that there are a number of other ways in which air quality can be measured. The point that I am trying to make, which I hope the cabinet secretary will pick up on, is that the purpose of a low-emission zone should be directly linked to air quality.

It is interesting that the cabinet secretary said that a local authority might have other reasons for setting up a zone, such as managing congestion. If that is the case, the local authority should look at the measures that are best suited to its objectives, such as congestion charging, parking levies and other forms of management of traffic flow and volume in city centres.

From day 1, I have thought that the purpose of a low-emission zone is to improve air quality in the cities or zones in which they operate. The point of amendment 32, albeit that the wording is perhaps misguided, was to ensure that we put something measurable in the bill—because, if nothing is measurable, we will never know whether the zones have succeeded. It is not about how much money a zone raises or how many fewer cars there are in the cities and their average speed; it is about improving air quality.

If the Government is willing to work with the members who lodged amendments because they take the view that the bill should contain a provision that allows us to reflect on the purpose of the zone and send the public the message that the purpose is to improve air quality in the cities in which they live, I am sure that we will be happy to work with the Government.

The provision that is buried away in section 9, on page 5, which requires one of the objectives to include a reference to another piece of legislation, is not strong enough. I hope that the Government will reflect on that. On that basis I will not press amendment 32.

Amendment 32, by agreement, withdrawn.

Colin Smyth: In the light of the cabinet secretary's commitment to work on the wording of a potential amendment at stage 3, I will not move amendment 220.

Amendment 220 not moved.

Section 1—Restriction on driving within a zone

The Convener: The next group is on low-emission zones: exemptions. Amendment 221, in the name of Rachael Hamilton, is grouped with amendments 33, 34, 2, 30, 31, 203, 56, 57, 3 and 3A.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I recognise the importance of low-emission zones and the purpose that they will strive to achieve in relation to air quality.

However, community transport operators who access city centres to bring service users to essential health and social appointments must not be penalised for and obstructed in carrying out their duties.

Currently, there is only one electric minibus on the market, and the Energy Saving Trust's previous bus retrofit fund did not apply to minibuses. Community bus operators are not well placed to embrace technology and will need time to raise funds to invest in cleaner vehicles. Therefore, the Government should commit to an exemption for community bus operators. I hope that the committee will support amendment 221.

I move amendment 221.

Jamie Greene: I will be happy to support Rachael Hamilton's amendment 221 and amendments 30 and 31, in the name of Murdo Fraser—I am sure that Murdo will speak eloquently to them. In the interests of time, I will speak only to the three amendments in my name in the group: amendments 33, 34 and 203.

In essence, amendment 33 provides for an exemption to allow emergency services to enter and exit low-emission zones without incurring fees. The amendment proposes that we exempt police who enter the zones for official purposes, ambulances that are carrying out their functions, the Scottish Fire and Rescue Service and Her Majesty's Coastguard.

10:00

The wording of amendment 33 has been taken almost verbatim from another part of the bill. I feel that the exemptions that are offered and enjoyed in relation to pavement parking in part 4 of the bill should be enjoyed by the same bodies in section 1. I hope that the minister will find that request to be reasonable. It seems to be only reasonable to allow those types of vehicles an exemption in order to allow them to enter zones as required. It is hoped that, in time, they will operate fully compliant fleets, but I hope that amendment 33 gives them some comfort, until they do.

Amendment 34 might strike some people as odd, but I will explain to the minister and the committee why I would include an exemption for diplomatic vehicles. Members might be aware that when the congestion charge was introduced in London, foreign diplomats argued that it was a tax and that, therefore, under the 1961 Vienna Convention on Diplomatic Relations, they were exempt from paying it. The authority believed that

it was a charge and that diplomats should have to pay for entering the zone. As of May 2019, it is estimated that £116 million is owed in unpaid fees. That has resulted in a lengthy, often amusing and, at times, public dispute, which has caused quite substantial legal costs for the public authority concerned.

In order to avoid such a dispute occurring north of the border, we should simply decide whether diplomatic vehicles should be excluded from the emissions zones. I have no preference or view, but I have lodged amendment 34 to ensure that we settle the matter by making it clear whether they are in or out.

John Finnie: Jamie Greene says that he has no view one way or another, although he has lodged the amendment. Is that your position?

Jamie Greene: Yes. Let me explain why. It is for the Government to take a view on whether diplomatic vehicles should be exempt from paying the fees. I am trying to ensure that we do not end up in a situation in which there is ambiguity, with people arguing that the fines should not be paid. The scale is different in London, as there are far more diplomatic vehicles there, and the scale of the unpaid charges and fines is, accordingly, substantial. However, the purpose of the amendment is to give the Scottish Government the opportunity to reflect on the issue and to take a view on it. I would be interested to hear the minister's response.

My final amendment in the group, amendment 203, is on time-limited exemptions. The purpose of the amendment is to give the Government the opportunity to explain what it thinks the practical implications of time-limited exemptions are. When we reviewed the bill, we thought that section 18, on temporary suspensions for events, was logical and clear. However, it was unclear to many of us what the time-limited exemptions could or would be used for and, therefore, why a one-year cap was required. I hope that the proposal that the cap be removed will prompt some debate around what the purpose of the time-limited exemption is, and provide some clarity around the Government's logic behind the one-year cap. When we have that clarity, the committee could take an informed view about whether there is a need for such a cap.

Richard Lyle (Uddingston and Bellshill) (SNP): I declare that I am the convener of the cross-party group on the Scottish Showmen's Guild.

I support the introduction of low-emission zones in cities, towns and villages, where required, but I have lodged amendment 2 on behalf of the Scottish section of the Showmen's Guild because its members might have to drive through low-emission zones to erect funfairs at certain times of

the year. Before anyone asks me what a funfair is, I will give you the "Oxford English Dictionary" definition. It is:

"a fair consisting of rides, sideshows, and other amusements".

Due to the type of equipment that showmen have to erect, their vehicles can be large, and most run on diesel. Showmen have types of vehicle that are not on the road every day of the week, so they might keep a vehicle longer than other companies will, which means that a vehicle that they use might not comply with low-emission standards.

Showmen have been allocated exemptions in most low-emission zones in England. The Transport for London website says that showmen's vehicles

"are eligible for a 100% discount from the LEZ daily charge if they are registered to a person following the business of a travelling showman"

and are

"Used during the performance, or ... Used for the purpose of providing the performance, or ... Used for carrying performance equipment".

Amendments 3 and 3A specify that local authorities must grant exemptions to showmen's vehicles that are being driven through low-emission zones to set up or dismantle funfairs. A showman may have several pieces of equipment to take to the fairground and have to transport each ride separately. He or she might go through the zone on the same day towing a piece of equipment one way and coming back with no equipment attached. He or she might have to go through the zone many times, so I have lodged amendment 3A, which seeks to amend amendment 3, in order to cover that.

I point out again that low-emission zones in England have granted showmen and persons who are employed in the erection of funfairs a 100 per cent discount from LEZ charges.

With regard to the other amendments in the group, unfortunately I cannot support any of them.

The Convener: Oh, well. There you go, Mr Lyle.

Murdo Fraser (Mid Scotland and Fife) (Con): Like other members, I support the principle of LEZs. My amendment 30 is intended to exempt historic vehicles from the rules on LEZs—a historic vehicle being defined as any vehicle that was

"constructed more than 30 years before 1 January of the year in which it is driven ... within a low emission zone."

My amendment 31 would extend that provision to vehicles from other countries that meet the same criterion.

I state that I have a personal interest in historic vehicles as the owner of a classic car and a member of the Stag Owners Club. I am grateful to the Federation of British Historic Vehicle Clubs for its assistance in drafting my amendments and making the arguments. I know that its members have been energetically lobbying MSPs on the issue over the past few days. The FBHVC is an umbrella group that represents over 540 member clubs throughout the United Kingdom that have a total membership of more than a quarter of a million historic vehicle owners and enthusiasts. Interest in historic vehicles sustains economic activity that is worth £5.5 billion annually to the UK economy, and supports the employment of nearly 35,000 people right across the country.

Historic vehicles include cars, motorcycles, buses, coaches, lorries, vans, military vehicles, tractors and steam engines. Such vehicles are no longer used primarily, if at all, as means of transportation, but are preserved, and in many cases have been restored, for their historic interest. Their owners exhibit them at exhibitions, shows, community fêtes and so on, and they have to use the highways in order to attend those events, but also to participate in touring events and for general leisure purposes.

Without an exemption, individuals who live within an LEZ would not be able to own or operate a historic vehicle, which in my view would be an unreasonable restriction. Moreover, historic vehicles would no longer be able to drive through an LEZ, which would mean that historic vehicle exhibitions, rallies and events could no longer be held at venues in such places. The events are popular with the public and have major economic benefits. I feel that it would be an unintended consequence of the introduction of LEZs if historic vehicles were excluded in that fashion.

I will give two other brief examples. The first is military vehicles. Today is the 75th anniversary of D day, as part of which we will see a parade of historic military vehicles on the south coast. If we do not exempt historic vehicles from LEZs, we will not be able to have parades of historic military vehicles down Princes Street or other streets in the centres of our cities.

The other example is wedding cars. People like turning up for their wedding in a historic Rolls-Royce or Daimler bedecked with ribbons. If we do not exempt historic vehicles from LEZs, people will not be able to turn up for their weddings in churches, hotels or other wedding venues in the city centre in such style. That would be to the detriment of society as a whole, and not what was intended from the legislation.

It goes without saying that the great majority of historic vehicles will not meet modern emissions standards, and it will therefore be the case that

there will be higher pollution from a historic vehicle in an LEZ than from a more modern vehicle. However, we have to put that in perspective. Historic vehicles are seldom in regular use and tend to do very low mileage—commonly, no more than a few hundred miles per year. In total, historic vehicles represent 0.2 per cent of total traffic on UK roads. I do not think that there is a credible argument that a substantial pollution problem is likely to arise as a result of exempting historic vehicles, given how little they contribute to overall traffic.

Amendment 30 seeks to exclude all historic vehicles that were registered more than 30 years ago, on a rolling basis. The Vehicle Excise and Registration Act 1994 describes historic vehicles as those that are at least 40 years old, on a rolling basis. The DVLA uses that definition and currently all vehicles that are more than 40 years old are exempt from road tax and annual MOT. However, the international definition of historic vehicles applies to those that were built more than 30 years ago. That definition is recognised by the United Nations Educational, Scientific and Cultural Organization and by the Fédération Internationale des Véhicules Anciens—FIVA, which is the international umbrella organisation for historic vehicle owners. I believe that, in line with international practice, the 30-year cut-off point is the appropriate one.

There is precedent for my proposal. The LEZs in England—the new London LEZ and the others that are being set up pursuant to the “Clean Air Strategy 2019”, by the Department for Environment, Food and Rural Affairs—all exempt historic vehicles. Therefore it would be appropriate for historic vehicles to be exempted from the LEZs that are to be established in Scotland.

I hope that my comments were helpful. I am happy to respond to members’ comments.

Michael Matheson: We heard a lot of views on proposed LEZ exemptions during stage 1, and there have been some interesting additional proposals made by members this morning. I will be clear. I accept that there will be vehicle-based exemptions in relation to LEZs. There are a range of circumstances in which it would be right and proper that an LEZ exemption for certain vehicles, used for certain purposes, would be justified.

During Government evidence at stage 1, it was made clear that emergency services and blue badge holders were high on our consideration list. Some interesting proposals have been made today in relation to fairly niche areas. For example, amendments 2, 3 and 3A relate to transportation equipment for funfairs, amendments 30 and 31 are concerned with historic vehicles and amendment 221 relates to community bus services. Amendment 33 covers blue-light services—first

responders—and amendment 34 concerns diplomatic vehicles.

It is evident from that wide variety of interests that this all needs careful thought and consideration, in conjunction with interested parties who have specialist knowledge in those areas. It would not be in our collective interest arbitrarily to extend exemptions in some areas to quite nuanced groups of vehicles, at stage 2. My officials are currently undertaking extensive engagement on proposed regulations on LEZ exemptions. We do not want to pre-empt that process.

Richard Lyle: This provision might answer every call for an exemption, including mine. Under the heading, “Time-limited exemptions”, section 12 of the bill says:

“A low emission zone scheme may provide for the granting and renewal, by the local authority which made the scheme, of a time-limited exemption in respect of a vehicle or type of vehicle for the purpose of section 1(1)(b).”

If a local council were approached by a historic vehicles association, community transport body, or the Showmen’s Guild, in respect of a particular function—such as a fair, funfair or show of historic vehicles going down Princes Street—could it grant an exemption in respect of any LEZ for a particular time, day, or period?

Michael Matheson: There is provision in the bill to allow a local authority to suspend the provisions of an LEZ for a particular event to take place. If there was to be a parade of historic military vehicles, for example, the local authority could suspend the LEZ to allow that to happen. There is provision in the bill to allow a council to do that.

As I mentioned, my officials have been undertaking extensive work with interested parties. A stakeholder workshop on the topic of regulations was hosted by Transport Scotland last month, and it included the issue of exemptions. A detailed report of findings from the workshop will be published shortly. That approach is helping us to gather a full picture from key interest groups and to test opinion properly in a considered forum. I am happy to update Parliament on how that develops as we move towards stage 3, but we need to give that process some space and to avoid addressing the issue of exemptions in a piecemeal fashion.

10:15

Amendments 56 and 57, which do not relate to vehicle type, have been lodged by the Government to address issues that were raised with us during stage 1. It seems not to be appropriate that, in the event of an unavoidable road closure that might divert traffic into an LEZ, a registered keeper of a non-compliant vehicle

would receive a penalty when they had no alternative but to enter the LEZ. Amendment 56 will allow local authorities to create time-limited exemptions for such scenarios. However, the amendment has been drafted to ensure that the exemption would apply only if the driver entered the LEZ “following a signed diversion”.

The four cities LEZ consistency group is comprised of representatives from Aberdeen, Dundee, Edinburgh and Glasgow. It told my officials that it would not be desirable for the appeals process to be used in such scenarios, and that its primary function should be reviews or appeals in connection with alleged erroneous issuing of penalty charge notices. We have, therefore, acted on the matter. Amendment 57 is consequential on amendment 56 and will allow local authorities to make time-limited exemptions for road closures, subject to conditions or restrictions.

Amendment 203 also concerns time-limited exemptions. It aims to remove the one-year time limit for exemptions other than those for road closures, thereby leaving them open-ended. I think that a time limit is appropriate, to make it clear that such exemptions should not carry on indefinitely and to encourage people, particularly fleet operators that receive a time-limited exemption, to prepare for LEZ compliance in the shortest time possible.

Jamie Greene: I am finding the discussion to be extremely helpful and useful. However, in relation to permanent exemptions, amendment 203 and time-limited exemptions, Mr Lyle made the point that the legislation already allows exemptions to be made to cover specific events, either under a time-limited exemption or a temporary suspension. The point of Mr Fraser’s, Rachael Hamilton’s and my amendments, and some of Mr Lyle’s, is to give permanent rather than time-limited exemptions to vehicle categories, either by removal of the cap on the time-limited exemption or by including permanent exemption in the bill. In section 47, on parking prohibitions, the Government has specified types of vehicles. It seems to be happy to do that in that section but unhappy about doing it in section 12, so I am a bit confused. Can you clarify the matter for me?

Michael Matheson: I can see where your confusion arises. It is because the exemptions will be dealt with by regulation. The work that we are currently undertaking will, rather than doing it in a piecemeal fashion by introducing elements to the bill, bring together all the issues relating to exemptions so that they are based in regulations that will be subject to affirmative procedure, so Parliament will have to approve them.

Local authorities will be able to suspend LEZ provisions for the purposes of major events that

involve bringing in vehicles that would not comply with the LEZ. That gives local authorities some flexibility. However, we believe that there should be a limit on the length of time for which the local authority can suspend the LEZ, in order to ensure that it is not suspended indefinitely. That is to address the issue that I mentioned in my comments. I hope that that has clarified the matter for Jamie Greene.

I ask the committee to support amendments 56 and 57, and I ask Richard Lyle, Murdo Fraser, Jamie Greene and Rachael Hamilton not to press their amendments. If they are pressed, I urge the committee to reject them.

The Convener: A number of committee members wish to speak. I remind them that it is helpful if they are succinct and to the point, which will mean that I will not have to limit the amount of time that they have to speak. I will try that gentle approach first.

Stewart Stevenson: On Rachael Hamilton's amendment 221, I absolutely share with her the desire to support community bus services in the best possible way. Indeed, on 15 March 2006, I had a members' business debate on the subject, and it is worth repeating some of the statistics that I used then relating to Aberdeenshire, where 44 per cent of passengers have to wait more than 64 minutes for the bus while another 15 per cent have to walk more than 14 minutes to a bus stop. Community bus services are an important part of the rural transport infrastructure. However, I want to be clear that people who use community bus services are as entitled as anyone else is to use modern, efficient and comfortable transport. Community bus services, which on occasion travel significant distances to events in cities and so forth, should not expose people to the pollutants that come from rather old vehicles. I just leave that sticking to the wall while making the general point.

On Jamie Greene's amendment 33, there is an omission from the list that he proposes. I imagine that, if we are to have such a list, we might include military vehicles, because that will be necessary on occasions, albeit I suspect that military vehicles are covered by Crown immunity and would not necessarily require to be—

Jamie Greene: Will the member take a brief intervention?

Stewart Stevenson: I will in a minute. No, sorry, I will take it now.

Jamie Greene: It is on that specific point. I appreciate the point about the omission of military vehicles, although those are mentioned in part 4, which I referred to. Does the member agree that he has the ability to add a suitable vehicle type at stage 3 if he deems it to be omitted from amendment 33? As I said, the wording in the

amendment is used in another part of the bill. Does he agree that, if we put that wording in the bill now, members will have the opportunity to amend it or add to it as they see fit?

Stewart Stevenson: I listened carefully to what the cabinet secretary said about dealing with exemptions through regulations, which I think is a much more flexible way of dealing with lists in general in legislation, so I am pretty much persuaded by that.

Jamie Greene's amendment 34 would exempt diplomatic vehicles. It may be worth saying that, under the diplomatic code, which I have read on the United States Government website, diplomatic vehicles may be issued with traffic citations. In other words, they are not exempt from the law. In addition, the diplomatic code makes it clear that the state can intervene for reasons of public safety, and there is hardly a more omnipresent and regular threat to public safety than pollutants. Therefore, it would be entirely inappropriate to embed in primary legislation a specific exemption for diplomatic vehicles, which we expect to set an example to everyone in our community and to perform to the highest standards. Therefore, I would not support amendment 34 under any circumstances.

I welcome Mr Fraser's explanation of the proposed period of 30 years. I was aware of the 40-year period. Of course, a period of 40 years would not affect Mr Fraser personally because, as the last Triumph Stag was manufactured in 1977—some websites say that it was 1978—they are all more than 40 years old. However, I do not think that it is proper to have the figure of 30 years in the bill, and nor would any number be proper because, if we are to make an exemption, we should link it to something else. Were we to support such an amendment, I would prefer it to be linked to the exemption from vehicle excise duty so that, when and if that changes, that would carry with it changes in relation to low-emission zones. However, that is a drafting issue rather than anything else.

Like others, I have been contacted by the Bon Accord Steam Engine Club of Aberdeen—

The Convener: Mr Stevenson, I absolutely understand that you have a lot to get through, but I have a lot of members to get through, so I would be grateful if you could be succinct on each point.

Stewart Stevenson: Well—

The Convener: You have had five minutes.

Stewart Stevenson: I have spoken on four amendments so far, convener.

The Convener: No, you have had five minutes on this group, Mr Stevenson. I will let you continue, but I ask you to be brief.

Stewart Stevenson: The point is well made on steam engines. Murdo Fraser made a point, which perhaps I have not heard the answer to, about people who own an historic vehicle and live in a low-emission zone. That is something to be dealt with, although the rest of what Mr Fraser said can sensibly be dealt with elsewhere.

Colin Smyth: For the purposes of simplicity and the effectiveness of LEZs, and as a point of principle, I think that exemptions should be kept to a minimum. I am uncomfortable with the idea of the bill permanently exempting any vehicle. The legislation is expected to be in place for the foreseeable future, and most of—although, I appreciate, not all—the vehicles that are being suggested for exemption are capable of being LEZ compliant eventually, even if they face challenges in the short term.

I accept that the proposed exemptions have merit, but ministers already have the power to regulate exempt vehicles. In many ways, I think that secondary legislation may be the more appropriate place to put those exemptions, so that they can be revoked if they become unnecessary, not least because we should support people and organisations to upgrade their vehicles, rather than exempting those vehicles.

Amendments 30 and 31 relate to classic vehicles, which I appreciate present a unique challenge, because replacing or upgrading such vehicles is not an option in the same way that it might be in other instances. As the cabinet secretary said, I wonder whether the way forward is to have targeted exemption provisions in regulations, for example to allow classic vehicles to be driven for a specific purpose—such as at a classic car show—or for classic vehicles owned by residents in an LEZ. I make the general point that regulations are the best way forward for such exemptions, and we should not be putting them on the face of the bill.

John Mason (Glasgow Shettleston) (SNP): The cabinet secretary's comments have been helpful and have certainly clarified things a bit for me. However, I feel that there are too many issues here. One issue is whether there should be exemptions for some vehicles all the time—which I think is what Murdo Fraser is arguing for—and another is time-limited exemptions, which are covered by section 12.

I have a specific interest, because there is a bus museum in my constituency. Representatives of the bus museum would consider that a bus becomes a vintage bus after 20 years, so they would argue with the 30-year line that has been taken by Murdo Fraser. I am happy to accept that it would not be 20 years for every vehicle, but it would be 20 years for some. Like Colin Smyth, I feel that we do not want all those details on the

face of the bill, although we may need some reference in the bill to the exemption. Section 12 is very specific about time-limited exemptions, but I do not think that there are equivalent provisions for exempting certain categories of vehicle, albeit that those would be better placed in regulations.

We need to remember that low-emission zones are intended to be quite tight, small areas. Murdo Fraser made an argument about a vehicle having to travel through Glasgow, but it would not have to go through the LEZ in order to do so. In addition, the likelihood that someone who lives in the small LEZ in Glasgow also has a vintage vehicle is pretty small, although it is not impossible.

Murdo Fraser: Will Mr Mason reflect on the point that I made about wedding cars? Does he not think that it would be unfortunate for someone who wants to get married in a city centre church in Glasgow to have to rock up in a modern car as opposed to a vintage Rolls Royce?

John Mason: That question relates to my final point, which is about how cumbersome the council system of time-limited exemptions would be. If it was quite straightforward, it could easily cover Mr Fraser's example as well as my example of a bus going into the city centre to pick up passengers to take to the museum, which might happen about 15 times a year at the most. Often, those buses are run by volunteers or small businesses, so I would hope that any system that the councils put in place would be fairly simple.

10:30

Mike Rumbles (North East Scotland) (LD): We have a climate emergency; I am surprised that that has not been flagged up already. That is partly why we are looking at LEZs, so I am not in favour of general exemptions.

I will come to Murdo Fraser's amendments in a minute but the whole point of an LEZ is about moving to low-emission vehicles. When vehicles are exempted, that causes a problem.

On the Government's amendments 56 and 57, if someone has no intention of going into the LEZ area but is forced into it, it seems eminently sensible that they should not be considered to be breaking the law. Unlike in London, where there is a charge, we have decided in Scotland to go down the route that this is the law. I therefore think that amendments 56 and 57 are very sensible.

Unlike Colin Smyth, I am not a fan of Government regulations. It is our job as MSPs, when we are looking at primary legislation, to get it right. I am well aware that, under section 1(4)(b),

"The Scottish Ministers may by regulations ... specify vehicles or types of vehicle which are exempt",

so they will have that power. The problem with regulations is that we cannot amend them. However, we can amend proposed primary legislation—as in the bill before us—so I understand why Murdo Fraser lodged his amendments on classic cars. I hold my hand up—I used to have a classic car. I do not anymore so I do not have a pecuniary interest in that regard. However, I understand that a classic car cannot be changed to meet the LEZ requirements, so there is an issue there.

I am worried about the issue of process, which I would like to have addressed at stage 1—we did not do so because it was not brought to our attention at stage 1. I think that we have missed a trick in not examining that in detail. We are being asked to vote on Murdo Fraser's amendments having not taken evidence or examined the situation. There is a case to be made for adding the exemption at stage 3, and I urge Murdo Fraser to have discussions with the cabinet secretary on the issue of classic cars.

I would hope that, apart from the Government's amendments 56 and 57, members do not press the other amendments in the group so that we can have a look at the issues in more detail at stage 3. I will certainly support amendments 56 and 57. I will not support the other amendments in the group. I am reserving my position on classic cars because I think that we need to examine the issue further.

Peter Chapman (North East Scotland) (Con): I will be brief. I am also a collector and owner of classic cars. I therefore support Murdo Fraser's amendments 30 and 31 to create an LEZ exemption for classic cars. Since he has made the case very well, I add only that classic car rallies are great cultural events and it is important that we do not ban them from our towns and cities. We must remember that classic cars have very small annual mileages.

I also support the amendments from my colleagues Rachael Hamilton and Jamie Greene.

Rachael Hamilton: Although I accept the cabinet secretary's wish to deal with the exemptions through regulations, I do not accept his comment that community transport is a "niche" area. Community bus operators are not well placed to embrace technology and they offer an integral service to vulnerable individuals in local communities and those living in social isolation.

There will be an opportunity for members to add to my amendment at stage 3.

I press amendment 221.

The Convener: The question is, that amendment 221 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Finnie, John (Highlands and Islands) (Green)
Greene, Jamie (West Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 4, Against 7, Abstentions 0.

Amendment 221 disagreed to.

Amendments 33 and 34 not moved.

Amendment 2 moved—[Richard Lyle].

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

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Finnie, John (Highlands and Islands) (Green)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mountain, Edward (Highlands and Islands) (Con)

Against

Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Abstentions

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

The Convener: The result of the division is: For 5, Against 5, Abstentions 1. I have the casting vote and, as I always do, I cast my vote in the way that I did originally.

Amendment 2 agreed to.

The Convener: I call amendment 30.

Murdo Fraser: Convener, may I respond briefly to what we have heard?

The Convener: I ask you just to move or not move the amendment.

Murdo Fraser: Okay. Given what the minister said about further consideration, and his very reasonable point in that regard, I am happy not to move amendment 30 and to reserve the right to lodge a similar amendment at stage 3.

Amendments 30 and 31 not moved.

The Convener: The next group is on low-emission zones: penalty charges payable. Amendment 185, in the name of John Finnie, is grouped with amendments 186 to 188, 199, 200 and 202.

If amendment 186 is agreed to, I cannot call amendments 187 and 188.

John Finnie: Amendment 185 relates to a provision that is right at the front of the bill, in part 1, chapter 1, section 1. Section 1(3) provides that

“only one penalty charge is payable in respect of the contraventions.”

Amendment 185 would amend that to “up to three” penalty charges per day.

Members will be aware that, in the United Kingdom, 40,000 deaths each year are directly attributable to poor air quality. The British Lung Foundation has shared widely with members its briefings, in which it expresses concern about multiple contraventions. I think that members understand the point. I am keen to hear what the Scottish Government has to say about that. I anticipate that the cabinet secretary might talk about the potential for secondary legislation to cover the matter.

I will not support Jamie Greene’s amendments 186 and 187, but I am keen to hear what Peter Chapman has to say about the data on vehicles, and I will decide thereafter about his amendment.

I move amendment 185.

Jamie Greene: In this group, there are two sets of amendments in my name, one of which pre-empt the other. If I talk about the first one, it might help members to understand my approach.

I should put on record my huge thanks to the legislation team, which has been extremely helpful throughout. Navigating the bill process is difficult for members and their staff. Having spoken to the team, I have taken two different approaches in amendment 186 and amendments 187 and 188.

Section 1(4)(c) provides that the Scottish ministers may, by regulations

“make provision for or in connection with the amount that may be imposed as a penalty charge under subsection (2) (which may include provision for discounts and surcharges).”

Amendment 186 would simply remove subsection 4(c) in its entirety. It is my view that ministers should not dictate the amount of the penalty charge but that it would be best to give local authorities that power. That is the approach that amendment 186 takes.

However, amendments 187 and 188 take a different approach, which I will be keen to hear

members’ thoughts on. Amendment 187 would give ministers the power to set a “maximum” penalty charge but does not specify a range or a minimum. It seems sensible for the Government to specify the top end of what a charge could be, to ensure that there is consistency and fairness across Scotland regardless of where we live. However, in my view, local authorities should determine the penalty that best meets the needs of their city and their zone.

Amendment 188 would remove the ministers’ ability to determine discounts and surcharge levels, in line with my theory that the level of fines, discounts and surcharges should be down to the local authority that is running the scheme and not down to central Government. What is right for Dundee to charge might not be right for Edinburgh. Nevertheless, I would like a national cap on the amount that can be charged, to ensure that any individual local authority is not able to introduce overly exorbitant fines that could reach hundreds of pounds per day.

That is the rationale behind those two approaches.

Amendments 199 and 200 are similar. Amendment 200 would reflect the passing of amendment 187, around the maximum charge, so it is technically different from amendment 199. In that respect, I will take a view on which amendment to move. In section 9, which lists what local authorities should detail when setting up a zone, including the geographic area of a zone, which roads it will operate on, the date on which it will come into effect and its objectives, the amendments would insert

“the amount that is to be imposed as a penalty charge”,

although they do not specify what that amount should be. It is correct not to do so but to state that the required content of the scheme should specify, at the outset, when a local authority comes to the ministers to request a scheme, what the proposed penalty will be. It seems sensible to request that it does that.

I will speak briefly to amendment 202, which is also in this group. As the bill stands, individuals are responsible for meeting the costs of a penalty charge, and amendment 202 would technically allow other methods of payment. For example, it would allow a company or organisation to set up an arrangement whereby it would pay the charge on behalf of its employees. I will give some examples that might be helpful to the committee. A national health service board might choose to enter into an arrangement with the local authority that operates the scheme to meet the costs of individual drivers—for example, doctors and nurses—who travel into a low-emission zone. Similarly, a local authority might use a range of

contractors to provide services such as—as is common—outsourced waste collection. Part of the commercial agreement between those parties might be that the cost of non-compliant vehicles entering the zone will be met by the local authority or another body. Amendment 202 would allow that to happen, whereas, at the moment, the bill puts the onus on the driver.

John Finnie: That is an interesting principle. Has Mr Greene reflected on whether that could apply to other provisions in the bill? For example, will he lodge an amendment of that nature in respect of the workplace parking levy?

Jamie Greene: When we get to that part of the bill, I will be happy to have that debate with Mr Finnie. However, at the moment, I am talking about low-emission zones.

That is a sensible and helpful suggestion that would allow organisations to enter into an agreement with the local authority that operated a zone. Similar measures have been introduced in congestion zones, with companies meeting the costs by setting up direct debits or other, more simple forms of payment. The amendment would not mandate local authorities to set up bulk payment schemes in any way, shape or form, but it would give them the power to do so if they so chose. I would be keen to hear the minister's thoughts on the proposal.

10:45

Mike Rumbles: I think that John Finnie's amendment 185 is too harsh. People can enter a zone inadvertently. If they enter it once and are charged for the day, that should be sufficient. I am not convinced that the proposal to impose up to three penalty charges a day will have any effect in terms of changing behaviour, which is what we are talking about. The minister's position—

John Finnie: Does the member think that it is likely that someone would inadvertently enter a zone three times in one day?

Mike Rumbles: I can speak only from personal experience, and, on the basis of my experience, I would say yes. I hold my hands up: I have inadvertently entered such a zone when I have been driving abroad, and I would not have done so if I had known about it. Drivers can make mistakes inadvertently, and we have to be aware of that when we legislate. I hope that that answers John Finnie's question.

Jamie Greene: Will Mr Rumbles take an intervention?

Mike Rumbles: Not if it is about the incident that I mentioned.

Jamie Greene: I simply want to state that I have lodged an amendment that is designed to ensure that there is clear signage at the start of the zones, so that drivers such as Mr Rumbles will be acutely aware that they are entering them.

Mike Rumbles: I thank Jamie Greene for that helpful intervention.

The point of what we are doing is to change behaviour, and I do not think that charging someone up to three times a day for the same offence will be of any help in that regard.

I also think that Jamie Greene's amendment 202 misses the point of what we are doing. The money that is paid is not a charge in that sense; it is a penalty. The Government's approach is about changing behaviour; the idea is not that someone can just pay some more money and continue doing what they are doing.

Unless the minister convinces me otherwise, I am likely to vote against all the amendments, if they are pressed.

Richard Lyle: I agree with Mike Rumbles. When I worked in Glasgow, the council changed the status of roads a number of times and, inadvertently, I went into places that I should not have gone into and had to pay the cost of that. With the greatest respect to Jamie Greene, I would point out that, if you are looking at the road and driving correctly, you can sometimes miss a sign—that can happen. Therefore, I agree with Mike Rumbles that one charge is enough.

The Convener: If no other members wish to seek forgiveness for previous crimes, I will bring in the cabinet secretary.

Michael Matheson: This group of amendments addresses the penalty charge that is payable when the registered keeper of a vehicle is in contravention of a low-emission zone.

Amendment 185 would increase from one to three the number of times in one day that an individual could be charged for driving in a low-emission zone in a non-compliant vehicle. It appears that the intention behind the amendment is to further incentivise individuals not to be in contravention of an LEZ. It is right that there must be sufficiently stringent penalties to encourage behaviour change, but a balance must be struck by having an incentive that is practical and technically deliverable. Issuing multiple penalties in one day in the same LEZ to the same registered keeper would require the LEZ operator to prove that a vehicle had left the LEZ and then re-entered it later on the same day. Having consulted stakeholders, the Government has opted to set the bar at a maximum of one penalty charge a day.

Amendments 186 and 119 would have the effect that local authorities would decide the penalty

charge amount for their low-emission zone schemes and remove the Scottish ministers' power to set nationally consistent penalty amounts in regulations. Amendments 187, 188 and 200, by contrast, would have the effect of retaining the Scottish ministers' ability to set the penalty charge but would provide that the ministers would set only the maximum charge—they would have no power to set discounts or surcharges. Local authorities would have the power to specify the penalty charge, including any discounts and surcharges, but subject to the maximum charge that was set by the ministers.

Neither of those options is advisable, as it is important that there is consistency in the penalty rates and surcharges that are set across all LEZ schemes. Consistency is arguably one of the red-line issues that stakeholders have identified. For that reason, I suggest that it is sensible to set a standard amount that correlates to current civic penalty amounts and for the Government to be able to set consistent surcharge rates to ensure that individuals across Scotland have certainty and consistency in understanding how they will be penalised for contravention.

Jamie Greene: Is the cabinet secretary confirming that the Government will set any penalty charges, discounts and surcharges for any low-emission zone that is set up in Scotland and that local authorities will not be able to amend, review, lower or increase those amounts? In other words, will the Government, not the local authorities that operate the schemes, set the charges?

Michael Matheson: A penalty charge will be set nationally in the same way as penalty charges are set for road traffic offences, which will ensure a consistent approach. If someone in Aberdeen faces a penalty charge, it will be the same as the penalty they would face in Glasgow for contravention. The key issue that stakeholders have raised with us is the need for a consistent approach, which is why we are taking an approach that allows ministers to set the penalty at a national level.

Amendment 202 would allow local authorities to make arrangements with employers to exclude drivers from being charged a penalty for driving a non-compliant vehicle into an LEZ in the course of their employment. The Government agrees with the principle, but the amendment is unnecessary, because the bill already allows for that. Section 2(4)(a) prescribes that the penalty charge for entering an LEZ in a non-compliant vehicle is payable by

"the registered keeper of the vehicle".

If an individual enters an LEZ in a non-compliant vehicle in the course of their employment, the

registered owner is likely to be the employer, which means that the employer and not the employee is liable to pay the charge. If an employee enters an LEZ in a non-compliant vehicle that is registered to them in the course of their employment, they may also be exempt from paying the charge by virtue of the regulation-making power in section 2(4)(b).

Therefore, I cannot support amendments 185 to 188, 199, 200 and 202. I ask John Finnie not to press amendment 185 and Jamie Greene not to move amendments 186 to 188, 199, 200 and 202. If they are moved, I urge the committee to reject them.

John Finnie: I am grateful to the cabinet secretary for his comments. I appreciate that he has a considerable number of amendments to comment on and that the briefness of his comments on my amendments was in no way intended to make him appear dismissive of the British Lung Foundation's concerns about the issue. I wonder whether the cabinet secretary would agree to my meeting him or his officials specifically to address the concern about multiple contraventions that the British Lung Foundation has raised. If he would, I would be inclined not to press amendment 185.

Michael Matheson: I am happy to agree to that engagement with the member.

Amendment 185, by agreement, withdrawn.

The Convener: The next group is on low-emission zones: identification of whether vehicle meets specified emission standard. Amendment 28, in the name of Graham Simpson, is grouped with amendments 222, 41, 42 and 29.

Graham Simpson (Central Scotland) (Con): This is a mercifully small group. I have a couple of amendments in it, but the main one is amendment 28—amendment 29 is a consequence of 28.

Amendment 28 is straightforward, so I do not need to talk about it for very long. As members are putting their car ownership on the table, I point out that I currently own a 13-year-old diesel car. I do not intend to hang on to it for too much longer. When I saw the bill, it struck me that if I, or anyone who owns a similar vehicle, had work done to the vehicle or had it modified so that it could comply with the restrictions in one of the zones, I would want that to be picked up quickly. If I had work done one day and drove into a zone the next week, I would not want to be fined. The purpose of the amendment is simple. We need a system, whatever it is—I have said that that should be set up through regulation—to pick up that kind of situation. We need a system that recognises, for any low-emission zone in Scotland, that people have had work done on their vehicle and therefore comply with the zone's emissions standard.

Amendment 222 from Peter Chapman and amendment 41 from the cabinet secretary are pretty similar and in the same vein. I think that they are complementary, but I remain to be persuaded on that. Mr Chapman or the cabinet secretary might persuade me that I do not need to press my amendments because their amendments achieve the same thing.

I move amendment 28.

Peter Chapman: I echo the sentiments of my colleague Graham Simpson and I will support his amendments 28 and 29. The onus must be on the Scottish Government, rather than motorists or manufacturers, to identify which cars meet the required LEZ standards, which is basically what Mr Simpson said. My amendment 222 would go a bit further than that principle by ensuring that there is a national data set to identify which vehicles can and cannot enter LEZs. Just as the Driver and Vehicle Licensing Agency holds data sets so that motorists can view different classifications of vehicles, there should be a data set to enable every motorist to check whether their vehicle meets requirements. That would be extremely beneficial in preventing confusion and penalties to drivers who simply do not know which category their vehicle is in.

Most cars will be simple to categorise, but there must also be a method to identify cars that have been modified to meet the LEZ requirements. I suggest that we have a data set for precisely that.

I support the cabinet secretary's amendments 41 and 42, which are technical and strengthen the bill in relation to the certification of vehicles meeting LEZ standards.

Michael Matheson: Amendments 28 and 29 in essence duplicate powers that are already outlined in the bill, which has provision for regulations identifying whether vehicles meet emission standards. Therefore, the amendments do not seem to offer anything additional and appear unnecessary.

Amendment 222 would require the Scottish ministers, when making regulations under section 1(4)(b), to include provision about a national data set that could be used to identify vehicle exemptions. The outcomes sought by amendment 222 are sensible, but the bill already makes provision for such actions to be delivered by allowing the possibility for local authorities to contract out part of their function to LEZ operators.

Graham Simpson: Could the cabinet secretary point to the section of the bill that he referred to that covers the measures that are in my amendments?

11:00

Michael Matheson: I have referred to the data sets in relation to regulations under section 1(4)(b). Mr Simpson referred to cars going through a retrofit process. If that happens, it needs to be notified to the Driver and Vehicle Standards Agency.

That information will be used by those who are operating the LEZs to confirm whether cars comply with it or not. The data sets that are used by the Driver and Vehicle Licensing Agency and the DVSA will be used by those who are operating the LEZs, which covers the point that the member was seeking to cover through his amendment.

For LEZs to work properly in Scotland, the LEZ enforcement regime will utilise data sets to identify exempt vehicles in order to deliver the purpose outlined in section 1(1)(b). The data sets on exempt vehicles will be regularly updated, adapted and supplemented by other data sets or systems, as applicable, to permit the identification of exempt vehicles.

Amendments 41 and 42 help to address issues that have come to the fore since the bill's introduction. They will help to future proof the legislation on LEZs to allow for where vehicle record data sets may change or where new ones emerge and are used in a detection and enforcement scheme. They will also help to ensure that the detection scheme used in Scotland is flexible—in particular, to take account of vehicle retrofitting, which means that it is important to enforce against emissions at the date and time of detection rather than the emission performance when the vehicle was originally manufactured. That addresses the point that Mr Simpson was seeking to address through his amendment.

Amendment 41 is principally aimed at addressing gaps in records where no information is or will be held by the DVLA or the DVSA on the emissions standard of a particular vehicle. This equates to records of future vehicle emission standards for vehicles that are different from or more stringent than the current EU standard, and records of the emission standards for foreign vehicles. In relation to the application of so-called "real-world" emission standards, a record of a vehicle's emission standard at the time of the contravention of the LEZ could help to show whether its emission standard had degraded since it was registered.

Amendment 42 ensures that if a vehicle has been retrofitted and its emission standard has changed from its standard at the time of registration, the detection procedure will be flexible enough to take account of that. In such an instance, the vehicle's registered keeper will have

to ensure that it is designated in such a way with the DVSA.

We understand that the agency intends to accept certificates currently produced by the clean vehicle retrofit accreditation scheme, which is run by the Energy Saving Trust. Amendment 42 allows for such back-office functions and for the emissions at the date and time of detection to be those that are pursued.

I ask the committee to support amendments 41 and 42 in my name. I ask Peter Chapman not to move amendment 222 and Graham Simpson not to press amendment 28 or move amendment 29. If they are pressed, I ask the committee to reject them.

Stewart Stevenson: Amendment 28 is not constructed to achieve what is required of it, because it uses the word “manufactured”. The definition of “manufacture” is to make something on a large scale using machinery. The amendment therefore excludes home-built vehicles—the vehicles that, traditionally, had a year letter of Q, which meant that the year was indeterminate because often they were built from parts of many different vehicles. On technical grounds, amendment 28 is not well constructed.

Similarly, for Peter Chapman’s amendment 222, I am a bit uncertain about subsection (b), which speaks about

“the national dataset or other system”.

I am not sure what that “other system” means and whether it could end up meaning private data sets. I would encourage the Government to seek to have the information recorded by the DVSA, if that is possible, because the DVSA already records the emissions that come from vehicles. That information then determines the annual tax that is set by the DVLA. In the case of my little hybrid car, I pay £10 a year. I know that colleagues with large Land Rovers pay considerably more, because the database says that their emissions are greater. Hopefully, we would piggyback on that, rather than set up something that is disjointed and independent.

Jamie Greene: Every day is a learning day when you sit next to Stewart Stevenson.

The chain of conversations is interesting. Mr Simpson and Mr Chapman are trying to make the point that the bill talks in great detail about “approved devices” and how the information would be captured, presumably through number plate recognition. However, we have not spent any time really discussing what is at the back end of all that and what the devices are connected to.

The discussion is raising the need to seek clarity on whether local authorities would hold the data sets or back-end data that the approved device is

linked to in order to allow it to do the immediate check on whether a vehicle that has been captured on entering a zone is compliant with entry; whether that data set would be held and provided nationally or set to some national standard; whether it could be amended, either by adding layers of other data sets, such as exemption layers; and, as Mr Simpson was alluding to, whether it would capture changes and modifications to vehicles to make them compliant. Our problem is that amendments 41 and 42, although helpful, do not really clarify whether there will be any standardised back-end data and whether all local authorities will use the same data source or will have to produce it themselves.

Mr Simpson’s and Mr Chapman’s amendments are trying to elicit that clarity from the Government. If they are not agreed to, I hope that the Government might reflect on those points and confirm the position to members before stage 3.

Graham Simpson: I listened carefully to what the cabinet secretary and Mr Stevenson said. However, taking on board the cabinet secretary’s opinion of the bill—and it is his opinion—and having read the relevant section of the bill, I am not sure that it captures what I am trying to achieve in amendment 28, which is, very simply, that if you have your car modified so that it can go into one of the zones, a system that responds quickly to that change is needed so that people are not wrongly fined.

The cabinet secretary is looking puzzled by that. I do not know why, because it is quite simple. If I take my car into a garage and get some work done to it so that it will meet the regulations, I do not want to be hit with a fine the very next week.

John Mason: Does the member accept that the DVLA updates its records relatively quickly?

Graham Simpson: I accept that, but, as a driver, I want the certainty that there is a system that goes from the garage to the DVLA to the council. Mr Stevenson can wave his phone about as much as he likes, but this—

Michael Matheson: Does Mr Simpson—

The Convener: Hold on, please. Two seconds, cabinet secretary. In situations like this, when everyone wants to respond to Mr Simpson’s comment, and three of you are doing it at the same time, if you ask the member and then look to me, I will call you in. However, it is up to Mr Simpson to say whether he wants to give way. Mr Simpson, do you want to give way to the cabinet secretary?

Graham Simpson: I do not want to give way, because I am not going to press the amendment. Bearing in mind that the cabinet secretary thought his bill was in good condition, I think that his

amendments cover what I am trying to achieve, so I will not press amendment 28.

Amendment 28, by agreement, withdrawn.

Amendments 186 to 188 and 222 not moved.

Section 1, as amended, agreed to.

Section 2—Proving contraventions and issue of a penalty charge notice

Amendments 41 and 42 moved—[Michael Matheson]—and agreed to.

Section 2, as amended, agreed to.

Section 3 agreed to.

The Convener: This is the perfect moment to suspend the meeting.

11:11

Meeting suspended.

11:20

On resuming—

Section 4—Power to make or modify a low emission zone scheme

The Convener: The next group is on low-emission zones: duty to make scheme when certain air quality reached. Amendment 43, in the name of Colin Smyth, is the only amendment in the group.

Colin Smyth: Amendment 43 would require a local authority with illegal levels of air pollution to introduce a low-emission zone unless it was exempted from having to do so by the minister.

The amendment was drafted to make clear that when air pollution breaches legal levels, local authorities should be required to address the matter. Accountability for illegal air pollution largely lies with the UK Government, but many of the solutions are at a local level. In my view, there should be a clear duty on local authorities to deal with illegal air pollution in their areas.

Of the mechanisms that are currently available to local authorities—or that are expected to be made available, through the bill—the LEZ is widely considered to be the most effective way of reducing air pollution. Amendment 43 therefore takes the correct approach.

However, the proposed requirement to introduce an LEZ is not absolute. I have included the option of a ministerial exemption. For example, if the breach of air pollution limits was clearly an anomaly or the local authority could illustrate another way in which it was dealing with the issue,

the Scottish ministers would have the power to waive the requirement.

The introduction of LEZs is an important step forward, but their use should not be optional where air pollution reaches an illegal level and poses a serious threat to health. Amendment 43 clarifies that.

I move amendment 43.

Mike Rumbles: I am puzzled by amendment 43. The bill is an enabling bill, in that it allows local authorities to introduce LEZs; it puts the initiative on local authorities in that regard. Colin Smyth's amendment provides that, under proposed new section 4(3), if levels of air pollution reach a certain level, local authorities "must" introduce an LEZ, but under proposed new section 4(4), it appears that Scottish Government regulations would, again, allow that provision to be ignored.

I do not understand the purpose of amendment 43. It says, on one hand, that local authorities "must" introduce LEZs and, on the other, that the Scottish Government can say that they do not have to do so. I really do not think that amendment 43 would do what Colin Smyth wants it to do.

John Finnie: Legislating can be challenging. Given all the papers that we have here, scrutiny is certainly challenging. However, scrutinising proposed legislation and making good law is what we are here to do.

A challenge for the public is that a lot of people are blissfully unaware that they live in areas where there are damaging levels of air pollution. It is incumbent on the Government to protect its population—and Colin Smyth is right to say that some matters are reserved to the UK Government.

I am very supportive of the approach in amendment 43. Having assessed the risk and established that there is a danger to the public, it is incumbent on the public sector to put in place measures to reduce the risk, one of which is a low-emission zone. I support amendment 43.

Jamie Greene: Perhaps when he sums up the debate, Colin Smyth will clarify something for me. Amendment 43 refers to air pollution levels exceeding a specified standard. Mr Smyth has chosen to refer to the Air Quality Standards (Scotland) Regulations 2010; elsewhere in the bill there are references to other pieces of legislation, and I lodged amendments that refer to different regulations. The problem is that the approach in amendment 43 is tied to specific regulations, which might change in future through an instrument that would be subject to the affirmative procedure.

Is the effect of amendment 43 that if the air quality in an area is deemed to be unfit for people,

the local authority in which the measurement is taken must introduce a low-emission zone?

We think of low-emission zones as relating primarily to cities, where the majority of traffic-related pollution and vehicles are, but the provision could apply to any local authority, including any in the region that Colin Smyth represents. In effect, it would force local authorities to set up a zone, perhaps against their will. I appreciate the reasoning behind the automatic trigger that Mr Smyth seeks to introduce, but I am nervous that it might mean that local authorities would have to set up such a zone, even if it was not the right thing for them to do.

Peter Chapman: I echo what Mike Rumbles and Jamie Greene have said. Mike Rumbles made the point that in one place the amendment says that the local authority “must” act, but in another it says that it might not have to. The amendment is very confusing in that respect. I also reflect on what Jamie Greene said: it could force a local authority in any area to introduce an LEZ. LEZs are targeted at the four main cities, but the amendment could open it up to have them in any town anywhere and that would be a step too far.

Michael Matheson: Amendment 43 would introduce a requirement on local authorities to implement an LEZ in an area that does not meet the air pollution limit values as set out in the Air Quality Standards (Scotland) Regulations 2010. Those regulations refer to air quality targets derived from European directives. That is important because LEZs in Scotland are being driven primarily by the need to address air pollution hotspots as defined by the Air Quality (Scotland) Regulations 2000, rather than the European target outlined in the Air Quality Standards (Scotland) Regulations 2010, which is mentioned in amendment 43.

The Scottish Government has already made a commitment to introduce LEZs into air quality management areas identified under current environmental legislation, by 2023, where the national low emission framework appraisals support that approach. Such appraisals of all air quality management areas will be conducted this year, other than for the four main cities, where LEZs are already being prepared. The process will identify whether an LEZ is required for other air quality management areas.

It is important to consider those appraisals carefully and ensure that there is scientific merit in introducing further LEZs as required. Thus, amendment 43, which is a mandatory requirement, is too prescriptive at this stage. The Scottish Government cannot support the further introduction of LEZs until the appraisals have taken place. It is acknowledged that LEZs are a useful tool in improving air quality.

I ask Colin Smyth not to press amendment 43, but if he does, I ask the committee to reject it.

John Finnie: Will the cabinet secretary take an intervention?

The Convener: The cabinet secretary had just finished. I am sorry John, but I am desperately trying to get through this and allow everyone a chance to speak. You have spoken. I will let you come back in, but that is not something that I will do more generally if someone has spoken already.

John Finnie: Thank you, convener. Can the cabinet secretary give us a timeframe for that assessment process?

Michael Matheson: The appraisal process starts this year and should be completed over the course of the financial year.

Colin Smyth: Members raised two points in particular. Mike Rumbles queried how an amendment could say that a local authority “must” do something but also provide for exemptions. There are quite a few examples of that. The amendment is clear about how such exemptions would work. For example, if a local authority can show that other action is being taken to reduce levels of air pollution—an alternative to LEZs—the authority can be exempt from imposing an LEZ. It is perfectly reasonable and sensible to have an exemption on those lines. The issue is ensuring that action is being taken to tackle illegal air pollution.

The other point that was made by Jamie Greene and Peter Chapman was that the amendment might result in LEZs being introduced in areas other than the ones where we are already aware that there is an issue.

The reality is that, if there are illegal levels of air pollution anywhere, then, frankly, we should be taking action to tackle that problem. We should not simply say that, because we have a list of towns—

Richard Lyle: Will Colin Smyth take an intervention?

Colin Smyth: I am happy to take an intervention.

11:30

Richard Lyle: I thank the member. I agree with him. There are other areas—not just in cities, but in towns—where people have concerns. An air pollution monitor sits outside the civic centre in Motherwell, and the air pollution in that area can sometimes be higher than it should be.

I ask Colin Smyth not to press amendment 43, but to have discussions with the cabinet secretary to see what can be done in order that what he proposes can be supported.

Colin Smyth: I will come to that point in a moment. Richard Lyle makes a valid point. To be clear, there is no safe level of air pollution, but there are areas where there are exceptionally high levels of air pollution and action is required. In those areas, it would not be a question of imposing an LEZ on the local authority if it had set out clearly what action it was taking to tackle those levels of air pollution.

However, I take on board—

John Finnie: Will the member take an intervention on that point?

Colin Smyth: I will.

John Finnie: I am grateful to the member—

The Convener: I am sorry, but if members want to make points, I really must ask them to make them during the time when they speak, please. If we continue to get interventions as members are winding up, we will never get to the end of this, so I ask for some discipline. Colin, I ask you to move on, and if you want to take—

John Finnie: Convener, if points emerge, it is appropriate that they are addressed. We are here to scrutinise the bill on behalf of our constituents and our parties and it is important that we make good law. It is important to have a full discussion of issues.

The Convener: Thank you, Mr Finnie. I fully understand the legal process and I also understand the parliamentary process, but thank you for drawing my attention to it.

Mr Smyth, if you would like to take the intervention, will you take it and then move on, please?

Colin Smyth: I am happy to take the intervention.

John Finnie: Does the member accept that one of the measures that could be taken in an area where there are high levels of air pollution is to remove traffic from the area altogether?

Colin Smyth: Absolutely. There are a number of options. My local authority has looked at that option and considered whether there should be vehicles in the vicinity of a school in a town centre. It is not in a city, but there are concerns about air pollution in that area. There are alternative actions that can be taken, and the fact that local authorities will take those actions is the reason why the exemption exists in my amendment.

I take on board the points that the cabinet secretary made on two matters—first, the work that is on-going, and secondly the reference in proposed new section 4(3) in my amendment, the values that are set out in schedule 2 to the Air Quality Standards (Scotland) Regulations 2010

and the fact that the Government is looking at different areas.

On that basis, I will not press my amendment, but I hope that the cabinet secretary will have discussions on whether an amendment could be lodged at stage 3 or whether work can be done in the light of the Government's work over the summer in order to put in place a situation whereby LEZs, which are regarded as an effective way to tackle air pollution, come into play where we have illegal or very high levels of air pollution.

Amendment 43, by agreement, withdrawn.

Section 4 agreed to.

After section 4

The Convener: The next group is on the procedure on making schemes for low-emission zones. Amendment 223, in the name of Peter Chapman, is grouped with amendments 35, 189, 36, 37, 190, 38, 191, 44, 192 to 195, 45 to 48 and 196 to 198.

Peter Chapman: Amendment 223 would simply require local authorities to prepare and publish an impact assessment for areas where they want to make LEZs. It would require them to consider the environment; equalities, ensuring, for instance, that low-income families are not detrimentally affected by the introduction of the LEZ; the local economy, as we do not want local businesses on struggling high streets to be further affected by the introduction of an LEZ, and that should be taken into account; future policies, plans and proposals; and such other matters as they see fit.

Scotland is diverse, and the local authorities in Glasgow and Aberdeen will not necessarily have the same objectives or considerations. The wording of my amendment would allow each local authority the freedom to assess different areas that they think would be impacted.

On the convener's instructions, I will be very brief. I support all the amendments by Jamie Greene in this group, but I will let him speak to them.

I move amendment 223.

Jamie Greene: I will not speak to all the amendments in the group—there are 20—but will stick to those in my name, in the interests of time.

I will explain what I am trying to achieve with amendment 35, which is helpfully linked to amendments 36, 37, 191 and 198, which are consequential. The bill stipulates that local authorities require approval from Scottish ministers to do three things: to set up, amend or revoke a zone. Although it seems sensible for the Government to approve the setting up of a zone, or indeed the making of substantial changes to a

zone, amendment 35 proposes that local authorities should have the power to revoke a zone at their discretion. For example, if a zone is deemed not to be meeting its objectives or to be having a detrimental impact on its area, a local authority, or multiple authorities, should have the power to revoke the zone unilaterally.

A local authority may choose to revoke a zone for many reasons; that goes back to my earlier point about a low-emission zone having a purpose. Currently, ministers could block that revocation, and I am keen to hear why the cabinet secretary needs or wants that power. The reason could be to meet national or international obligations, which would be a fair point. However, that could be at the expense of a local authority that no longer wishes to operate a zone, and the local authority should have the final say on closing down a scheme, if it chooses to do so. My other amendments in the group, which are consequential on amendment 35, would remove the revocation power from ministers accordingly.

Amendment 189, which is the next substantive amendment, would oblige local authorities, before seeking permission from the Scottish Government to set up a zone, to provide a statement to ministers about what consultation has taken place. That is in line with Mr Chapman's suggestion that there should be impact assessments and full and robust local consultation before a zone is set up. Knowing the outcome of the consultations and how the findings have been considered in the proposals would assist ministers in reaching a view on whether the zone should be approved.

Similarly, amendment 190 states that Scottish ministers "must take into account" the statement that is provided by the local authority as part of their decision-making process. I hope that members will consider that to be a helpful addition to the setting-up process.

Amendment 38 concerns what would require ministerial approval. It would add wording to section 5 to state that approval would not be required of the elements that specify the geography of the LEZ, or the times and dates of its operation. I have always taken the view that the Government should set the national standards in terms of vehicle standards, exemptions, approved devices and so on, but that local authorities should make local decisions on the practical operation of the zone, which would include the geography of the zone and when it operates. For that reason, amendment 38 seeks to remove those elements from the requirement for approval and the final decision would be made by the local authorities.

Colin Smyth: Amendments 44 to 48 in my name would add to the list of statutory consultees on the establishment of an LEZ to ensure that feedback is more balanced. Given the significant

health risk of air pollution—2,000 deaths a year in Scotland are attributed to it—amendment 44 would require health boards and organisations that represent people with health conditions that are caused by air pollution to be consulted when those schemes are developed.

The introduction of LEZs will have an impact on pedestrians, cyclists and public transport users, so it is right for them to have a guaranteed opportunity to feed in during the consultation process.

Amendments 192 to 197, in the name of John Finnie, which would add to the list of statutory consultees, are all worth while. Amendment 193 has the same aim as my amendment 44. I would be happy not to press my amendment and to support amendment 193, providing that it is pressed, on the ground that it clarifies that the list should include any health board that is only partially in an LEZ. I cannot think of an example in which a health board boundary would make that necessary, but boundaries change, so that clarification is sensible.

Amendment 196 calls for bus users to be consulted, which I very much support. My amendment 47 perhaps covers that, but if there is an argument for name-checking bus users, I am not opposed to amendment 196.

I do not support the other amendments in the group, with the possible exception of Peter Chapman's amendment 223, which would require local authorities to undertake impact assessments before introducing LEZs. I am concerned that we should not make the process too burdensome—that is important—but, on balance, I expect that most local authorities would need and undertake analysis, so it is worth considering.

John Finnie: I will not repeat a lot of what Colin Smyth said. The bodies that are outlined—community councils, health boards, the Commissioner for Children and Young People in Scotland, trade unions, staff associations and the rest—would all add a particular dimension to the discussions that would take place about LEZs and I hope that members will see that those would be appropriate.

It is hard to argue against the rigorous impact assessment that is proposed in Mr Chapman's amendment 223. I have reservations about paragraph (c), which concerns

"the economy of its area";

I hope that consideration would also be given to the economic impact of not establishing a low-emission zone, so I am still undecided on that amendment.

Stewart Stevenson: I will speak to John Finnie's amendment 192, on a very narrow point

about the Local Government (Scotland) Act 1973, to which the amendment refers. Establishing a community council does not imply that there is an operating community council. A scheme that was brought forward by the local authority would cover all the areas. As we know, in much of Scotland, community councils that should be there are not there. In any event, if we look at section 51(2) of the 1973 act, the general duty of community councils is to do that role anyway, so, in legislation, communities are already doing it. There is a bit of ambiguity in requiring that some bodies that do not exist in the real world should be consulted.

Colin Smyth: Will the member take an intervention?

Stewart Stevenson: I do not think that it is worth it, to be honest.

Michael Matheson: Amendment 223, in the name of Peter Chapman, would require local authorities to prepare and publish impact assessments before making, amending or revoking low-emission zone schemes. Local authorities already have legal duties to carry out various environmental and equalities impact assessments for programmes, plans or proposals. In addition, I understand that some local authorities carry out business impact assessments.

Carrying out impact assessments for new policies is an issue that is well understood by local government. As such, amendment 223 is unnecessary and, in how it would cut across existing legislation, potentially confusing; on that basis, I urge the committee to reject it. However, I assure Peter Chapman that material on the suite of impact assessments that are required under existing law would be outlined in the LEZ guidance.

Amendments 35 to 37, 191 and 198, in the name of Jamie Greene, collectively aim to alter ministerial powers on the topic of revoking LEZs such that ministerial powers would extend to an LEZ scheme being made or amended but not to its being revoked.

11:45

There is arguably no gain to be had by removing such powers. Indeed, doing so would weaken the scrutiny of LEZs, particularly at the crucial point when a scheme is to be revoked and removed. Moreover, removing ministerial scrutiny powers with regard to the revocation of LEZs would not be in keeping with the approach that is adopted in the local air quality management process, under which local authorities must demonstrate to ministers that an air quality management area can be revoked and that there is scientific merit in doing

so. There should be an expectation of similar scrutiny being afforded to the revocation of LEZs.

Amendments 36 and 37 follow amendment 35 in dealing with revocation powers. Under the amendments, Scottish ministers would be able to modify an LEZ scheme proposal or consult stakeholders only where a scheme was made or amended but not where it was revoked. Again, the amendments remove a necessary level of scrutiny and accountability from the process, and I urge the committee not to support them.

Jamie Greene: I appreciate the point about scrutiny and transparency, and there are many other bits of the bill in which the Government has the ability to scrutinise through annual reporting and so on. However, my point is that if a local authority chooses, for whatever reason, to close down a scheme, ministers will have the power to say, "No, you can't do that." That is the power that I am trying to remove, and you have not quite justified the need for having it.

Michael Matheson: I have justified it with the very reasons that I have just outlined. Under the local air quality management process, the merit in revoking and removing a scheme has to be quantified and scientifically demonstrated, and we would expect the same to happen with LEZs, given their purpose. In other words, when local authorities seek to revoke such schemes, they have to be able to show that their reasons for choosing to do so have merit.

Amendment 189 seeks to hold local authorities to account by requiring them to demonstrate that the consultation responses have been considered in a meaningful and accountable way, while amendment 190 seeks to direct Scottish ministers to consider the actions undertaken by the local authority under amendment 189 in their decision making with regard to the approval of an LEZ scheme. Given that consultation is already a requirement in the bill, local authorities would consider the outcome of the consultation in the scheme proposal that would be submitted to Scottish ministers. As a result, amendments 189 and 190 are not required. However, in the interests of transparency, I am prepared to support the principle behind the two amendments, but I ask Jamie Greene not to move them today on the basis that my officials will look at them with a view to lodging amendments at stage 3 to achieve the effect that is being sought.

Amendment 38 seeks to remove the requirement for Scottish ministers to give prior approval to parts of the scheme proposal relating to the scheme area and, if the scheme sets out alternatives, to the default position that the LEZ should operate at all times. The amendment should be rejected, as ministers should be expected to approve not just portions of a scheme

but the scheme in its entirety. A scheme's geographical extent and hours of operation are, arguably, two of its most significant and controversial elements, and stakeholders would certainly expect ministers to consider such aspects and to raise queries on them as part of their challenge function before any approval of the scheme as a whole was given.

Amendment 191 would require local authorities to undertake prior consultation with listed stakeholders only for the making or amending of an LEZ scheme, not for its revocation. Again, I do not think that that is advisable, as it would remove a level of accountability from the revocation process. For that reason, I urge the committee to reject the amendment.

A number of amendments that have been proposed on the topic of prior consultation seek to extend the mandatory list of stakeholders to be consulted. I note that regulations under section 6(e) would allow the list to be expanded; I am inclined not to be too prescriptive in the bill, but I am happy to commit to using the section 6 powers to add the persons listed in amendments 44, 45 and 192 to 195.

I am inclined not to support amendments 46, 47, 196 and 197, because I think that they have been framed in too open-ended a way to be legally meaningful for local authorities, but again we would be happy to incorporate similar requirements into section 6 regulations.

I appreciate the sentiment behind Colin Smyth's amendment 48, given that one of the key drivers behind improving air quality is to improve the health of those who are most affected by air pollution. However, I believe that the scope of the amendment as drafted is simply too wide, meaning that it would be difficult to deliver in a meaningful and practical manner. On that basis, I cannot support it.

Amendment 198 focuses on the issue of a local authority having the power to cause a local inquiry to be held, but the effect would be to allow that to happen only when an LEZ scheme is being made or amended, not when an LEZ scheme is being revoked. Again, I think that that approach would remove an important power of scrutiny from the revocation process and I urge the committee to reject amendment 198 on that basis.

I ask Peter Chapman, Jamie Greene, John Finnie and Colin Smyth not to press their amendments in this group. If the amendments are pressed, I urge the committee to reject them.

Peter Chapman: I listened to what the cabinet secretary said, but I think that it is right and proper that the local authorities should prepare and publish an impact assessment. We need an analysis of the effects of putting in place an LEZ.

That does not mean that the LEZ will not be put in place, but it is right to have the debate and it may allow other mitigation measures to be put in place. It is right and proper to allow questions to be asked and to allow that debate to be had. It is important that we go down that road before LEZs are put in place. I press amendment 223.

The Convener: The question is, that amendment 223 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Finnie, John (Highlands and Islands) (Green)
Greene, Jamie (West Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)
Smyth, Colin (South Scotland) (Lab)

Against

Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 5, Against 6, Abstentions 0.

Amendment 223 disagreed to.

Section 5—Ministerial approval

Amendments 35, 189, 36, 37, 190 and 38 not moved.

Section 5 agreed to.

Section 6—Prior consultation

Amendment 191 not moved.

Colin Smyth: I will not move amendment 44, because the wording of John Finnie's amendment 193 is better.

Amendment 44 not moved.

Amendment 192 moved—[John Finnie].

The Convener: The question is, that amendment 192 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Mountain, Edward (Highlands and Islands) (Con)

Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 192 disagreed to.

Amendment 193 moved—[John Finnie].

The Convener: The question is, that amendment 193 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
 Finnie, John (Highlands and Islands) (Green)
 Greene, Jamie (West Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Smyth, Colin (South Scotland) (Lab)

Against

Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 5, Against 6, Abstentions 0.

Amendment 193 disagreed to.

Amendment 194 not moved.

Amendment 195 moved—[John Finnie].

The Convener: The question is, that amendment 195 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 195 disagreed to.

Amendment 45 moved—[Colin Smyth].

The Convener: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 45 disagreed to.

Amendment 46 moved—[Colin Smyth].

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 46 disagreed to.

Amendment 47 moved—[Colin Smyth].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)

Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 47 disagreed to.

Amendment 48 moved—[Colin Smyth].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 48 disagreed to.

Amendment 196 moved—[John Finnie].

The Convener: The question is, that amendment 196 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
 Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 196 disagreed to.

Amendment 197 not moved.

Section 6 agreed to.

Section 7—Local inquiries

Amendment 198 not moved.

Section 7 agreed to.

Section 8 agreed to.

Section 9—Required content of a scheme

Amendment 199 moved—[Jamie Greene].

The Convener: The question is, that amendment 199 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Finnie, John (Highlands and Islands) (Green)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Smyth, Colin (South Scotland) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 8, Abstentions 0.

Amendment 199 disagreed to.

Amendment 200 not moved.

12:00

The Convener: Amendment 49, in the name of the cabinet secretary, is grouped with amendments 224 and 50.

Michael Matheson: This group of amendments concerns the content of LEZ schemes. Amendment 49 will allow local authorities the option of setting the vehicle scope of their LEZ from the outset. That approach is common in European LEZs and is also being used to set up clean air zones in England.

The amendment will mean that each LEZ scheme will be able to identify the vehicle types that are incorporated into the scheme using the scientific information available, rather than making LEZs applicable to all vehicles. The vehicle types will align with those published by the Vehicle Certification Agency, so the approach is quite different from the creation of exemptions, which is likely to focus on specific uses of vehicles.

Amendment 49 will not impact on or limit the overall ambition of an LEZ. Rather, it will enable a proportionate and targeted approach to addressing those vehicles that contribute significantly to air pollution in certain locations.

Amendment 50 works in tandem with amendment 49 to ensure that LEZ schemes can make different provisions for different types of vehicles. That means that LEZ schemes will be able to introduce specific provisions for specific types of vehicles rather than offering a catch-all provision for all vehicles. For example, the design of grace periods would need to adjust accordingly so that they align with certain types of vehicle. Amendment 50 will achieve that.

Richard Lyle: Are you not saying again that councils could exempt classic cars and old buses going to shows? Is this not another provision that the council could use to do that?

Michael Matheson: It will give them some flexibility to do that alongside the national exemption arrangements.

Amendment 224 would make it mandatory for local authorities to include an objective to improve transport-related emissions around schools by 2021. Improving air quality around schools is universally welcome, and the generality of the power to specify a scheme's objectives in the bill under section 9(1)(c) will already allow such an objective to be set. In fact, I encourage local authorities to consider that aspect when setting their LEZ objectives.

However, I draw attention to a number of issues with amendment 224. First, the 2021 date might not align with the grace period and enforcement timetable that a local authority wishes to assign to an LEZ scheme. For example, the LEZ plans for all vehicles will not come into effect in Glasgow until the end of 2022. That is also true for Edinburgh's draft plan for its city-wide LEZ.

Secondly, the amendment is too short term and would not be applicable after 2021.

Thirdly, an LEZ will seek to improve air quality across its whole area. Setting an alternative air pollution reduction target for a small locality seems to be unworkable, given that LEZ powers will be standardised across its area.

Finally, actions are already under way in various cities via existing air quality management action plans to reduce transport-related air pollution around schools, such as minimising vehicle idling outside schools. Those plans are being delivered without the need for an LEZ.

For those reasons, I ask the committee to reject amendment 224 and to support amendments 49 and 50 in my name.

I move amendment 49.

David Stewart (Highlands and Islands) (Lab):

I lodged amendment 224 because I want to open up the discussion about air pollution and who it affects.

As we all know, the people it hits hardest are the most vulnerable—the oldest, the youngest and those who have mobility or other health problems. The children of Scotland have done nothing to contribute to air pollution, yet, often, the air quality around schools is shockingly low. As they spend at least six hours a day there, we need to do all that we can to ensure that they are breathing in a higher quality of air.

On top of the vulnerability of children, there is also the question of the socioeconomic bias. The lower the income band you are in, the more likely it is that you will live surrounded by poor air quality. It is a no-brainer that breathing in air pollution causes heart and lung conditions, among other conditions, and exacerbates other health conditions. Therefore, we need to do everything we can to improve air quality.

I know from this debate and others that other MSPs have been doing work on how air quality can be monitored—I listened to John Finnie and Colin Smyth talk about this issue earlier, and I believe that Maurice Golden has proposed that air quality monitors should be added to schools. If we can show that children are better protected, that would be a positive way of showing that LEZs are working.

Mike Rumbles: With regard to John Finnie's intervention a moment ago about the types of vehicles that local authorities can exempt, I note that, when we were debating Murdo Fraser's amendments, the minister said that the issues did not need to be included in the bill because they could be addressed in ministerial regulations. However, as far as I understand the exchange that just took place, the minister has confirmed that amendments 49 and 50 give local authorities the ability to exempt certain vehicles—for example, cars that are older than 30 years—if they wish. I want to ensure that I understood that correctly, because, if I did, I will support the amendments. I can see that the minister is taking advice from officials on that point.

Under amendment 49, if a council sets up a scheme, it must specify the zone on a map, and it must also specify the roads or parts of roads that are included, the date on which the scheme comes into effect and

"the types of vehicles to which it applies".

According to my logic, that means that, if we accept the amendment, that empowers councils to exempt the classic cars that Murdo Fraser's

amendments dealt with. Can the minister confirm that that is the case?

Peter Chapman: I support both the cabinet secretary's amendments in the group. However, following up on the point that Mike Rumbles makes about classic cars, I think that the problem that arises is that the proposal allows different local authorities to have different rules, which means that Aberdeen City Council might allow classic cars into an LEZ while Glasgow City Council might not. Is that the case? Could the cabinet secretary clarify that point and talk about the issue of having a scheme that applies right across the country?

Amendment 224 deals with an objective that we are keen to see met. We support the principle of the amendment entirely, but I have concerns about the time constraint because the date that is specified—2021—would be impossible to meet in practice, as many of the LEZs will not be in place by that date. If the amendment were brought back at stage 3 without the time constraint, I would be more than happy to support it.

Colin Smyth: I have concerns about amendments 49 and 50, which allow local authorities to make exemptions for certain vehicles. A number of stakeholders have highlighted the need for consistency across the country, and so did the committee. In our stage 1 report, which we published just a few weeks ago, we said:

"The Committee believes that to avoid confusion and to encourage compliance there must be consistency across the country as to which vehicles can enter a LEZ and which are exempt."

Having different exemptions across the country could create confusion for people travelling between local authority areas and will make the message about LEZs more difficult to communicate to the public. Further, the power is an open one, and it could be used to significantly weaken the effectiveness of LEZs if it is not used appropriately.

Amendment 224 would be a welcome addition. There is a specific issue with air pollution outside schools and I think that it is fair to call for schemes to be working towards a clear target in that regard. If the committee agreed to the amendment, there would be an opportunity to amend the timescale at stage 3 if that was the main concern. We could agree to the principle at this point.

Jamie Greene: I will speak first to amendments 49 and 50 from the cabinet secretary. Colin Smyth raises an interesting point that I agree with in many respects, because the stakeholders that we took evidence from over many months made it clear that they wanted consistency. I think that the

cabinet secretary probably agrees with that principle of consistency.

This is my worry about allowing an LEZ scheme to specify

"the types of vehicles to which it applies".

If the purpose of it is to allow a local authority to operate multiple zones, for example, or a zone within a zone—such as may be the case in Edinburgh, where there will be an inner zone and an outer zone—and certain types of vehicles are eligible for entry into one but not the other, it is fine if the amendment technically allows them to do that. However, if an unintended consequence of allowing local authorities to set the vehicle type is that they could create permanent exemptions, as we discussed, it would inevitably lead to inconsistency, where a driver may be eligible to drive into one zone in one city but not a different zone in another city, as other members have alluded to.

I think that the two amendments contradict each other, because I am unclear as to whether the Government wants local authorities to decide which vehicle types can come in or whether the Government wants to dictate a national standard on vehicle types. I thought that the committee was clear that there should be a national standard, at least in relation to the technical standard if nothing else.

That aspect could benefit from some clarification. Overall, it paints a wider picture of confusion over who decides exemptions, whether that is the Government through secondary legislation or local authorities. Even if, according to the process that the bill dictates in section 9, local authorities specify the vehicle type, ministers still have the final power to approve the proposition that is given to them by local authorities. That requires some clarification.

There are two ways to approach amendment 224. If the committee is minded to pass amendment 224 as it is worded, I suggest that we simply remove the words "by 2021" later to make it competent. I would support the amendment at that level. Equally, if the member does not move the amendment, I would be happy for him to bring it back later without those words. I support the rest of it as worded.

Richard Lyle: Can I correct Mike Rumbles? I raised the point about classic cars with the cabinet secretary and he has basically confirmed that a council could have discretion on that point.

Jamie Greene is correct that the committee, throughout its discussions, heard about a desire for consistency. If we say that the penalty charge will be the same in all the areas, the conditions should also be the same in all the areas. That is

why I ask the cabinet secretary to look at the points that were raised by Murdo Fraser regarding classic cars and by John Mason regarding classic buses.

On David Stewart's point, as far as I am concerned, low-emission zones can be anywhere and everywhere that people want them to be. I have two grandchildren—sorry, I have three grandchildren; two of them are going to school and the third is only a year old. Basically, most of us have families or children and we want to ensure that we get better air quality. Other areas can have LEZs, not just cities.

The Convener: Thank you, Richard. I am glad that you did not forget one of your grandchildren. That would have cost you later.

John Finnie: A lot of the discussions that we have had are about a tension between central direction and local discretion. I think that it is healthy that we have those discussions. In relation to amendments 49 and 50, it is important that we note what this committee said in its report.

I dare say that, whatever we agree, we will not make everyone happy. That is not going to change, regardless of the legislation. I would like to lend my support to my colleague David Stewart's amendment 224. It is an ambitious timeframe—I am sure that David recognises that—but I hope that members will lend their support to it nonetheless, because if we cannot seek to protect children at school, we should not be here, quite frankly.

12:15

Michael Matheson: It may be helpful if I outline the purpose behind the particular powers that we are setting out for local authorities here. It is to do with what comes into the scope of the LEZ. Are buses, cars and heavy goods vehicles all included within the scope? If, for example, a local authority is looking to implement an LEZ but the scientific evidence shows that the problem in its town centre is caused not by cars or buses but by HGVs, the local authority can set the scope of its LEZ to apply to HGVs in order to tackle the issue, if that is what is having an impact on the air quality and congestion.

Equally, if a local authority has an area where all the buses are Euro 6 compliant, such as Aberdeen, and it is setting up an LEZ, the local authority has the flexibility not to include buses in the scope because the buses are not the issue that it has to address through the LEZ.

If a local authority decides to include cars within the scope, it means that vintage cars come into scope. You could then deal with that through an exemption for vintage cars. If cars are not included

within the scope of the LEZ, vintage cars are not included.

This is about setting the scope of the LEZ—what is covered by it?

Mike Rumbles: Can I ask something?

Michael Matheson: Let me finish this point. Does the scope cover all vehicles of any standard or is it the vehicles that are causing problems with air pollution? The very purpose of setting up the LEZ is to target air pollution. Being able to set the scope gives local authorities the flexibility to decide not to include buses in the scope if buses do not need to be included because they are all compliant and are not causing the pollution. It gives local authorities the option and the ability to do that. If buses are included but, at a later date, they become fully compliant, the local authority can remove them from the scope of the LEZ because including them is no longer necessary.

Colin Smyth: I ask the minister to clarify two things. If buses are already compliant, frankly, they have nothing to fear by being included in the LEZ—they will be able to drive into that area because they are compliant and do not need an exemption. Sadly, buses can change—often, a company will bring in an older bus, which would then be in breach. However, it would be okay for such a bus to enter the LEZ if the local authority had exempted buses, so I am not too sure about the minister's point on buses.

Can the minister specifically answer the question about exemptions? I think that the committee is concerned about having different rules in different areas. Will the amendment allow a local authority not to give an exemption for a whole group of vehicles—cars or buses—but to give specific exemptions to vintage vehicles?

Michael Matheson: No, it would not. The amendment would allow local authorities to set the scope of an LEZ. For example, as I mentioned, all buses that are being produced now are produced to the Euro 6 standard. In five years, for some areas, buses will no longer be in scope because they will all be compliant with what would be required by any LEZ that was put in place.

Keep in mind what we are trying to address here—we are trying to address issues of pollution. Is it buses, trucks and cars that are causing it? If it is, you would want the scope of your LEZ to cover them. If it is only trucks and cars, why would you have buses in scope? If buses are already compliant, they are not causing the air pollution issue that you are trying to address. This is about giving local authorities that flexibility because, as our local authorities look at implementing LEZs, things will change and the circumstances might be different.

The amendment would not give local authorities the power to give a specific exemption to vintage cars, but if cars were not included within the scope of that LEZ, vintage cars would not be included in the first place.

John Mason: Will the minister—

Michael Matheson: Let me deal with Mike Rumbles next, because he tried to intervene earlier.

I hope that that clarifies the point for Mr Smyth.

Mike Rumbles: If a local authority decided that cars were an issue, they would come into the scope, but it could just be polluting cars that are under 30 years old. The local authority would not have to mention classic cars; it could just say, “We want to include in the scope of this zone all cars up to 30 years old.” There would be no mention of classic cars, but it would have the effect of excluding classic cars from the scope. That is what would happen if this provision were put in the bill.

Michael Matheson: No, it is done by vehicle type; the vehicle type would be car, bus, or HGV. If you include cars, that includes vintage cars.

Mike Rumbles: Are you certain about that?

Michael Matheson: Yes; it is vehicle type. That is to give the ability to set the scope of which vehicles are included in the LEZ. That is different from providing exemptions, which are set at a national level so that the approach is consistent.

John Mason: My question was about the same point—the minister has clarified it.

The Convener: Does that complete your contribution, minister?

Michael Matheson: If it has answered members’ questions.

The Convener: I am not sure that you will ever answer everyone’s questions. The question is, that amendment 49 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
 Finnie, John (Highlands and Islands) (Green)
 Greene, Jamie (West Scotland) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Smyth, Colin (South Scotland) (Lab)

The Convener: The result of the division is: For 10, Against 1, Abstention 0.

Amendment 49 agreed to.

Amendment 201 not moved.

David Stewart: I will not move amendment 224, but I reserve the right to bring the matter back at stage 3. I thank colleagues for their positive comments. If the cabinet secretary agrees, I would like to meet to discuss wording that would keep some objectives but remove the timescale issue.

Amendment 224 not moved.

The Convener: I am sure that the cabinet secretary will come back to you about whether that will be possible.

Amendment 50 moved—[Michael Matheson]—and agreed to.

Section 9, as amended, agreed to.

After section 9

Amendment 202 not moved.

The Convener: The next group is on low-emission zones and the power to set emission standards. I give committee members and the cabinet secretary advance warning that I intend to push on to 12.45 or thereabouts, to try to get through as many amendments as possible; it will depend on how the debate goes.

Amendment 225, in the name of Colin Smyth, is grouped with amendment 184.

Colin Smyth: Amendment 225 would allow a target to be set for lower emissions than the standard target. Although I appreciate the need for consistency in general, there should be flexibility regarding the emissions target to allow for the creation of ultra-low-emission zones. Such zones would be easier to understand than a vehicle-based exemption, as the boundary of an ultra-low-emission zone could be marked with appropriate signage.

A national standard is likely to be a compromise to ensure that it is usable by everyone, which would mean that areas with particularly severe air pollution problems would not be able to go any further than areas that were dealing with moderate problems. Local authorities should have the power, within reason, to introduce ultra-low-emission zones in their areas where there are the most severe levels of air pollution. It should not be allowed freely, but the option should be available, subject to agreement by ministers. The ministerial sign-off would ensure that the power was not misused.

In England, the clean air zone framework refers to minimum standards, giving local authorities the

flexibility to go further where needed. We have the job of balancing the need for a general consistency with the reality that a one-size-fits-all approach will not always work. Limited and targeted ultra-low-emission zones are the way to strike that balance.

I move amendment 225.

Michael Matheson: Amendment 225 would introduce a power for local authorities to alter the emission standards for their LEZ, so that they could make the emission standards more stringent than the forthcoming nationally set standards in regulations. As we have already discussed during stage 1, the regulations are likely to be those set for Euro 6 for diesel and Euro 4 for petrol vehicles. Having emission standards set by the Scottish ministers in regulations allows for national consultation with stakeholders to determine an emission standard that would work for all local authorities while retaining consistency for individuals.

The existing powers in the bill will allow the Scottish ministers to prescribe more stringent emission standards in future, should that become desirable. As such, that approach could meet the desired outcome of amendment 225, but in a way that would maintain national consistency.

That approach could also dovetail with our commitment to promote the use of ultra-low-emission vehicles, by creating, in time, more challenging emission standards that only ultra-low-emission vehicles could achieve. We need clear and consistent LEZ standards to ensure that drivers will have certainty that they can move between cities without worrying about whether their vehicles comply with different emission standards in different places. That consistency will also help vehicle purchasers to make informed decisions when buying a new vehicle or planning a journey. It is Government policy to have a nationally set emission standard in regulations. I ask Colin Smyth not to press amendment 225. If it is pressed, I ask the committee to reject it.

I have lodged amendment 184 to ensure that regulations to set emission standards under section 1(4)(a) will be approved through affirmative rather than negative parliamentary procedure, in response to a recommendation at stage 1 by the Delegated Powers and Law Reform Committee that the regulations should be subject to the additional scrutiny that is afforded by affirmative procedure, given the significance of the issue. I made a commitment to the DPLR Committee to pursue the matter, and this amendment makes that desired change. I ask the committee to support amendment 184.

Richard Lyle: I can see what Colin Smyth is getting at, but I remind him that there are 32

councils in Scotland. Although everyone is concentrating on cities, councils may want to bring in zones in their local areas. Depending on what car a person has and whether the manufacturer's information is correct—some manufacturers have been caught out by what they have said about their cars—people could be very worried when they drive from one area to another. We must have a national standard for emission zones. I ask Colin Smyth to withdraw the amendment.

Jamie Greene: I ask Colin Smyth to clarify when summing up whether his amendment would have an unintended consequence of leading inevitably to different emission standards in different local authority zones. We have had a lengthy discussion about national standards and confusion among drivers when going from one zone to another and we all agreed that consistency is important.

My question to the Government is whether the bill allows local authorities to deviate from the national standard that regulations dictate. Regulation is the right place to dictate a technical standard. If a local authority or city wanted an ultra-low-emission zone, could the bill be used to do that, or would it require separate legislation or secondary legislation, or is Colin Smyth's amendment 225 needed to give that power? I do not want to cause the localised inconsistency that we have discussed, but this power may benefit local authorities. I throw that out as a point for discussion.

Michael Matheson: My understanding is that different regulations would be required to set a standard that would change a zone from a low-emission zone to an ultra-low-emission zone. Regulatory change would be required. The benefit of putting standards into regulations is that the matter can be brought back to Parliament without having to go to primary legislation.

Colin Smyth: Members are correct that we debated local flexibility earlier, when the committee voted for local flexibility for vehicles. Surely that principle stands when it comes to the area that would be covered by an LEZ. It would be easier to get that message across with signage than a message that said that some vehicles were covered in one LEZ, whereas only other vehicles were covered in another LEZ in another part of the country.

12:30

My fear remains that the national standard is likely to be something of a compromise, to ensure that it is usable by everyone. That means that those areas with severe air pollution problems will not go any further than an area that has a

moderate issue, albeit that all air pollution is dangerous.

The power could not be freely used; it would be used in circumstances in which there was an exceptionally high level of air pollution that required going beyond the standard across Scotland. The proposal is merited in exceptional circumstances. That is why the amendment requires a ministerial sign-off.

The Convener: The question is, that amendment 225 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 225 disagreed to.

Section 10—Grace period

The Convener: I move on to periods of operation and suspension of low-emission zones. Amendment 51, in the name of the cabinet secretary, is grouped with amendments 52, 226, 53 to 55, 58, 60, 61, 205, 62, 63, 206 and 252. If amendment 226 is agreed to, I cannot call amendments 53 and 54. Furthermore, if amendment 205 is agreed to, I cannot call amendments 62 and 63. The cabinet secretary will speak to the amendments in the group and move amendment 51.

Michael Matheson: The amendments in this group can be divided into three broad areas: the suspension of low-emission zones for events, hours of operation and grace periods.

On the temporary suspension of LEZs for certain events, the Government has lodged amendments 61 to 63 in order to make necessary and pragmatic modifications to section 18 of the bill. The committee will be aware that, at stage 1, there were various views regarding such suspensions and the definition of what might constitute such an event. Above all, it is clear from the diverse views here that flexibility is needed, which is what the amendments attempt to secure.

Amendment 62 would broaden the scope of how an event that would qualify for the temporary suspension is classified. The original focus on national importance was deemed to be too limiting and vague to many stakeholders. It was noted that councils can hold events that are of substantial local importance, such as sporting events or festivals. Therefore, this amendment would allow for suspension regarding such local events, with detail to be set out in further guidance. However, in order to ensure that such temporary suspensions cannot continue indefinitely, amendment 63 would set a seven-day limit in the absence of prior ministerial approval. That timeframe was arrived at after discussion with local government officials with experience in the area. Connected to that, amendment 61 would allow for flexibility regarding the geographical scope of such a suspension. The effect would be to allow a local authority to suspend either the whole or only part of the area of an LEZ where the event is being held, which offers the necessary flexibility.

Amendment 205 would allow a local authority to suspend a scheme indefinitely without having to state the purpose. Amendment 206 would do the opposite, meaning that an LEZ could not be suspended under any circumstances. Neither of those options would work in practice and would not offer the local authority the flexibility to operate an LEZ in a pragmatic manner.

Amendment 60 looks to make all suspensions contingent on ministerial sign-off, which seems overly bureaucratic and runs against the grain of allowing, as much as possible, a level of local flexibility. The measures put forward by the Government strike the right balance on that issue.

Amendment 58 stipulates that an LEZ must operate “at all times”, with no option to adjust or alter the times. Although the default position should be that LEZs operate 24/7, as section 13(1) makes clear, local authorities must have the option to alter that approach if there is sufficient evidence to justify a different approach. Ministers will review the design of LEZ schemes, including the hours of operation. Again, amendment 58 sets out an approach that would be too inflexible in practice.

On grace periods, amendment 49, which was debated with group 8, would give local authorities the option to apply LEZ restrictions to certain types of vehicles. That would apply only when there was a viable case to do so and would be subject to an impact assessment and a ministerial sign-off procedure.

Amendments 51 and 52, in my name, follow on from amendment 49. They ensure that the requirement in section 10(3) that an LEZ scheme must specify grace periods for both residents and non-residents will also include a requirement to

specify the vehicle type that is exempt under each kind of grace period.

There is a range of interesting ideas on grace periods in the amendments in the group that have been lodged by other members. Amendment 226 would make provision for minimum grace periods, with a sliding scale for various types of vehicles. However, amendment 226 does not specify any maximum limit, which means that grace periods could be completely open ended. Amendment 252 would make the regulations that are made under the power subject to the affirmative procedure. Conversely, amendment 55 would set more stringent grace periods than those that are set out in the bill. Amendments 53 and 54 would also make alterations to grace periods.

There are obviously wide-ranging and diverging views on the matter. Setting a grace period of between one to four years for non-residents, with up to a further two years being available for residents, as the bill sets out, is the most appropriate and balanced approach to take. As such, I ask the committee to support amendments 51, 52 and 61 to 63 in my name. I ask Jamie Greene, Colin Smyth and John Finnie not to move their amendments in the group. If those amendments are moved, I ask the committee to reject them.

I move amendment 51.

Jamie Greene: I will speak about the amendments in reverse order and jump to my amendment 205 first. The cabinet secretary mentioned temporary suspensions for events. Amendment 205 would simply put a full stop after the words

“where the authority considers it appropriate to do so”

in line 10 of page 8 of the bill. Currently, notwithstanding the amendments that the cabinet secretary has lodged, local authorities will be able to suspend the operation of a zone only when an event is to be held that is considered to be of “national importance” or, if amendment 62 is agreed to, of “significant local importance”. I want to remove the top-down rule that dictates to local authorities when a suspension is appropriate. I think that local authorities have the sense to make informed decisions about suspensions, so the deletion of the rest of section 18 seems to be an appropriate way of ensuring that local authorities have the power to make sensible decisions about suspensions. I trust their judgment in that respect.

A number of members are coming at the issue of grace periods from different angles, and they have different propositions. I appreciate the cabinet secretary’s acknowledgment that there are differing views on the matter. My worry is that, if we do not move our amendments, the concept of

what we are trying to achieve will be lost. I will explain why.

As it stands, the bill simply differentiates between grace periods for residents and non-residents and sets a minimum and a maximum range for a grace period. One could argue over the numbers and ask whether a one to four-year period or a two to six-year period is appropriate or inappropriate. However, instead of changing the numbers, I want to change the structure of how grace periods are offered. I appreciate that, unfortunately, it is quite difficult to present my argument in words; it made a lot more sense in tabular format.

Under my proposals, I would do things slightly differently. We would set a minimum grace period, rather than a range, which it seems appropriate to do. We would still require a maximum grace period, so the cabinet secretary’s comment that the period could be endless is not true.

My amendment 226 specifies that there must be an expiry, which is defined as

“a maximum period of time after the grace period begins.”

There would still be an onus to have a maximum period, but it is up to each local authority to decide what the maximum is, depending on the needs of their zone.

I would introduce the concept of different grace periods for different types of vehicles. In essence, that translates to residents, who are already defined in the bill, being given one extra year to prepare for the arrival of the zones, which I think is in line with the Government proposals to give residents extra time, which is sensible. By creating different categories of road user, local authorities would have the technical ability to offer different grace periods to those different road users. I have chosen “buses and coaches” as the first category, as I believe that they are already well on their way to meeting the commitment and will have less of a problem doing so.

The second category is “commercial vehicles”, which I think would require additional time to adjust to the new world. The primary objective of that provision is to support small businesses that are either based in the cities or do business in the cities. The roll-out would arrive last on the doorstep of everyday motorists. Many of the motorists who are most likely to be affected by the zone requirements drive older cars or are from lower-income households or rural parts of Scotland. It seems intrinsically fitting to give those vehicles more time than other categories of vehicle.

The Government seems to have already identified the need for different grace periods for different vehicle types, as we can see in

amendment 52, so I hope that the concept is palatable, even if we argue around the numbers and whether we have one, two and three years, or two, three and four years. I ask members to support the principle of that structure, and if members have any questions I would be happy to answer them.

At stage 3, we will have the ability to amend the periods that are involved, but the concept of what we are trying to achieve is to support small and medium-sized businesses in our cities and families who need the most amount of time possible, in order to make the adjustment for the modal shift that our cities need.

Colin Smyth: I will briefly touch on amendments 51 and 52, in the cabinet secretary's name. My only point is that I am not keen on allowing vehicle-specific exemptions to be made at a local level. That would create confusion and inconsistency and it would directly contradict—as would amendments 49 and 50—what the committee called for in our stage 1 report. I continue to have concerns over vehicle-specific exemptions.

My amendments 53 and 54 would provide local authorities with flexibility to implement LEZs more quickly when it might be appropriate to do so, and they would help to future-proof the bill. Although the introduction of an LEZ is a significant change for individuals at the moment, and one that will require a fair lead-in period, that will not always be the case. The bill will be a permanent piece of legislation and should be open enough to deal with a range of scenarios, both now and in the future.

The issue of displacement was raised with the committee during our stage 1 considerations, and I think that providing more flexibility around grace periods would allow the boundaries of an LEZ to be tweaked if needed without a two-year delay being required. For example, vehicles could be displaced into a number of streets beside an existing LEZ and, as the bill stands, a minimum two-year lead-in time would be required simply for a minor tweak to the LEZ affecting those streets. I do not think that that approach would provide the commonsense flexibility that we require. I am not suggesting that it should be common practice to go below the suggested minimum periods—realistically, it is likely that most local authorities will choose to stick with the periods that are in the bill at the moment—but we should trust that common sense will be used as LEZs develop in the future.

Even if local authorities were inclined to use the flexibility inappropriately, the ministers would have the final sign-off, meaning that an LEZ that had an unreasonable grace period would not be allowed, even with the amendments that I am proposing.

The intention is simply to remove any unnecessary barriers to progress down the line.

Amendment 55 would require local authorities that opted for the maximum grace period to have the decision signed off by ministers. In the light of the climate emergency, we were asked to review every policy area and consider whether we are doing enough to address the issues. In that context, a local authority choosing to wait six years to fully introduce an LEZ is questionable, and it should have to justify such a choice. In the interests of flexibility, I am trying not to reduce the maximum grace period but simply to provide additional oversight of such a decision. Adding a specific mechanism on that particular issue—which is separate from the general ministerial agreement process—would make it clear that the maximum grace period should not be the default option while leaving the option there in case it should be needed under what would be exceptional circumstances.

12:45

Amendment 226, in the name of Jamie Greene, seeks to move us in the opposite direction from my amendments. Given the urgency of the issue, the time that it takes to get to the point of formally introducing LEZs and the natural lifespan of cars, I absolutely do not support slowing down the process any more than is necessary.

Amendment 58, in my name, clarifies that LEZs should operate 24/7 and would ensure that LEZs were as effective as possible, as well as providing the clarity and consistency that many stakeholders told us that they need. LEZs that operated only part of the time would create confusion for drivers and would risk undermining the aims of the scheme. We should therefore make it clear in the bill that LEZs are to operate 24/7. I have racked my brains to work out a single circumstance in which that should not be the case. When, during the course of a day, should an LEZ not function, and what would the criteria be? I listened carefully to what the cabinet secretary said, and he did not give an example either. That is why it is appropriate that LEZs operate 24/7.

Amendment 60, in my name, would require a decision to suspend LEZs for events of national importance to be agreed by the Scottish ministers. Given that the provision is meant for events of national importance, it seems right that it should be agreed at a national level. Although I appreciate that there is an amendment to include events of significant local importance, even if it passes, the additional oversight that my amendment would provide is needed. An important event is not in itself a reason to suspend an LEZ. In fact, in many instances, a large event will worsen air pollution, making the LEZ all the

more important. There should therefore be a process for identifying when a suspension is actually needed. Ministerial agreement would provide for that, as well as for consistency across the country.

Amendment 63, in the name of the cabinet secretary, would require any suspension that lasted more than seven days to be approved by ministers. There is therefore something of a contradiction in what ministers are saying on events of national importance and what they are saying on events that last more than seven days, which require ministerial sign-off. As I said, any suspension under section 18 should be subject to agreement by ministers. However, if the committee is not minded to support amendment 60, I am happy to support amendment 63, which would ensure that—as a minimum—long-term suspensions should be subject to approval by ministers.

Amendment 206, in the name of John Finnie, would remove section 18 entirely. I am sympathetic to that. However, in the interests of delivering a flexible legislative framework, on balance, I would prefer to include the mechanism that is put forward in my amendments, which would give more ministerial oversight.

As that covers all my amendments, I will leave my comments at that.

John Finnie: We know that a lot of energy and effort will go into the creation of low-emission zones. As the cabinet secretary said, there are a range of positions on that, and I dare say that my amendment 206 will be seen as the nuclear option. However, a lot of energy and effort goes into the creation of low-emission zones, and I will support Colin Smyth's amendment 58, on their operation 24/7—not 24/7 dependent on councils. A clear signal has to be given that the intention is to improve the wellbeing of our citizens, and that will not happen if there are suspensions for events.

The committee will know of specific areas that have winter festivals and summer festivals and that spend most of the rest of the time trying to find festivals to fit in between the winter and summer festivals. All those festivals could lead to suspensions, meaning that the scheme could well be a mockery.

Pragmatic approaches have been adopted in respect of grace periods. However, a lot of effort will go into the creation of the zones, and I would not want to see them eroded. I would hope that national emergencies would override any particular issue in any case, but we need the bill to be robust. It is an important piece of legislation, and it should not be dispensed with lightly.

Richard Lyle: I hope that I am not jumping ahead. I also hope that members who supported me earlier will support amendments 3 and 3A.

On the points about section 4 and the periods of operation of low-emission zones, I am reminded that, at stage 1, I spoke about the comments that were made by the British Lung Foundation:

“Poor air quality increases everybody's risk of developing lung disease, cuts people's lives short and makes existing lung conditions worse.”

If we are going to have an LEZ scheme, let it operate 24/7 so that we cannot switch it on and off as we like. People's lungs do not switch on and off—they are continually breathing in. I will be following the British Lung Foundation's briefing to the letter, because, as far as I am concerned, we have to look after people's lungs.

Michael Matheson: I will make a couple of points. The default position for any LEZ is that it applies 24/7, and any deviation from that would have to be clearly justified and demonstrated in order for it to be agreed.

Colin Smyth: Can the minister give an example of circumstances in which there might be a request for an LEZ not to apply 24/7? When would someone argue for that?

Michael Matheson: This might not apply to some of our larger cities, but it might be relevant for some of our larger towns. It is important to remember the basis on which an LEZ is introduced. It might be that there is a particular problem with buses in an area, and, if the bus services stop at 12 o'clock at night and do not start again until 6 in the morning, the council may say that it would be appropriate for the LEZ not to apply between those hours, because those vehicles are not utilising the area. The council would have to be able to evidence that in any application for ministers' consideration.

I am conscious that the focus is on cities, but, for some of the smaller and larger towns that could end up having LEZs in the future, there may be a need to take a slightly more flexible approach. If we do not have the power to do that, the authorities in such areas might be inhibited in thinking about introducing an LEZ in the first place.

Richard Lyle: The cabinet secretary says that the council could suspend the LEZ between 12 o'clock and 6 o'clock in the morning, but the bill says:

“A local authority may suspend the operation of a low emission zone scheme for a specified period where the authority considers it appropriate to do so for the purposes of an event”.

With the greatest respect, people do not stop breathing between 12 o'clock and 6 o'clock in the

morning. If there is going to be an LEZ, it must apply 24/7—end of story.

Michael Matheson: I appreciate that point. It will not come as a surprise to anyone that no one can go six hours without breathing. However, when we draft primary legislation, we have to think about issues that may arise further down the line. If we do not anticipate such issues and do not have the flexibility to address them, we have to go back and address them through further primary legislation. That is why I am emphasising the point that the default position is that an LEZ applies 24/7 and that any deviation from that would have to be justified.

When we lock something into primary legislation, we do not provide any flexibility for future years, although it might be appropriate to do so. Ministers can be held to account for decisions to allow flexibility in the operation of an LEZ. We are trying to future-proof the legislation rather than ignoring the point.

Jamie Greene said that it is incorrect to say that no maximum time is specified in his amendment 226. However, the maximum time allowed by the amendment could potentially be indefinite; therefore, applying the grace period indefinitely would be an option. I understand that Jamie Greene's view is that there will be a maximum time for it, but, in the end, the maximum could mean that the grace period lasts indefinitely. On that basis, it would create too much uncertainty.

Jamie Greene: Just briefly on that—

Mike Rumbles: Oh, come on!

Jamie Greene: I apologise to Mr Rumbles, but it is a very important point.

If he chose to do so, the cabinet secretary could lodge an amendment at stage 3 that included a maximum time. However, my amendment is about setting the minimum grace period for each category of vehicle. Does the cabinet secretary support that?

Michael Matheson: We have already set out in the bill and in our amendments what we think the timeframe should be—it should be between one and four years, with a potential two-year extension for residents.

The Convener: Do you have any further winding-up comments to make, cabinet secretary?

Michael Matheson: No.

The Convener: We are coming to the end of the session. I ask members to stick with me as we go through a series of votes.

Amendment 51 agreed to.

Amendment 52 moved—[Michael Matheson]—and agreed to.

Amendment 226 moved—[Jamie Greene].

The Convener: I remind members that, if amendment 226 is agreed to, I will not be able to call amendments 53 and 54 because of pre-emption.

The question is, that amendment 226 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Finnie, John (Highlands and Islands) (Green)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 3, Against 8, Abstentions 0.

Amendment 226 disagreed to.

Amendment 53 moved—[Colin Smyth].

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 53 disagreed to.

Amendment 54 moved—[Colin Smyth].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 54 disagreed to.

Amendment 55 moved—[Colin Smyth].

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Mountain, Edward (Highlands and Islands) (Con)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 55 disagreed to.

Section 10, as amended, agreed to.

Section 11 agreed to.

Section 12—Time-limited exemptions

Amendment 203 not moved.

Amendments 56 and 57 moved—[Michael Matheson]—and agreed to.

Section 12, as amended, agreed to.

After section 12

Amendment 3 moved—[Richard Lyle].

Amendment 3A moved—[Richard Lyle].

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

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Finnie, John (Highlands and Islands) (Green)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mountain, Edward (Highlands and Islands) (Con)

Against

Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 5, Against 6, Abstentions 0.

Amendment 3A disagreed to.

13:00

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

Members: No.

The Convener: There will be a division.

For

Chapman, Peter (North East Scotland) (Con)
Finnie, John (Highlands and Islands) (Green)
Greene, Jamie (West Scotland) (Con)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Mountain, Edward (Highlands and Islands) (Con)

Against

Mason, John (Glasgow Shettleston) (SNP)
Ross, Gail (Caithness, Sutherland and Ross) (SNP)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Convener: The result of the division is: For 5, Against 6, Abstentions 0.

Amendment 3 disagreed to.

Section 13—Power to alter operating hours

Amendment 58 moved—[Colin Smyth].

The Convener: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Finnie, John (Highlands and Islands) (Green)
Lyle, Richard (Uddingston and Bellshill) (SNP)
Smyth, Colin (South Scotland) (Lab)

Against

Chapman, Peter (North East Scotland) (Con)
 Greene, Jamie (West Scotland) (Con))
 Mason, John (Glasgow Shettleston) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine)
 (SNP)

The Convener: The result of the division is: For 3, Against 8, Abstentions 0.

Amendment 58 disagreed to.

Section 13 agreed to.

Section 14 agreed to.

The Convener: That is as far as we can go today. We will pick up where we have left off next week. Amendments to the remaining sections of the bill can still be lodged. Amendments to the remaining provisions in part 1 and to the provisions in parts 2, 3 and 4, up to the end of section 58, must be lodged by noon tomorrow.

I say to committee members and the cabinet secretary that, although we have made good progress today, it has been slow progress. We will need to work out when we can meet next week and what the start and finish times will be. I will notify committee members once I have had a chance to talk to the clerks and the deputy convener about that, later today.

Meeting closed at 13:02.

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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