



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 12 June 2019

Session 5



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Wednesday 12 June 2019

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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
20th 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:

Jackie Baillie (Dumbarton) (Lab)
Jeremy Balfour (Lothian) (Con)
Claudia Beamish (South Scotland) (Lab)
Neil Bibby (West Scotland) (Lab)
Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
Michael Matheson (Cabinet Secretary for Transport, Infrastructure and Connectivity)
Pauline McNeill (Glasgow) (Lab)
Mark Ruskell (Mid Scotland and Fife) (Green)
Graham Simpson (Central Scotland) (Con)
Sandra White (Glasgow Kelvin) (SNP)
Brian Whittle (South Scotland) (Con)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 12 June 2019

[The Convener opened the meeting at 08:09]

European Union (Withdrawal) Act 2018

Common Organisation of the Markets in Agricultural Products and Common Agricultural Policy (Miscellaneous Amendments, etc) (EU Exit) (No 2) Regulations 2019

Agricultural Products, Food and Drink (Amendment etc) (EU Exit) Regulations 2019

Plant Health and Veterinary Surgeons (Amendment etc) (EU Exit) Regulations 2019

The Convener (Edward Mountain): Good morning, everyone, and welcome to the Rural Economy and Connectivity Committee's 20th meeting in 2019. I ask members to ensure that their mobile phones are on silent.

Agenda item 1 is consent notifications on three United Kingdom statutory instruments, which cover common organisation of the markets, agricultural products, plant health and veterinary surgeons. All three instruments are being laid in the UK Parliament in relation to the European Union (Withdrawal) Act 2018. Since members have no comments, does the committee agree to write to the Scottish Government to confirm that it is content to consent to the UK SIs referred to in the notifications?

Members *indicated agreement.*

Transport (Scotland) Bill: Stage 2

08:10

The Convener: We are continuing our consideration of stage 2 amendments to the Transport (Scotland) Bill. Today's meeting will be in two parts. We will meet this morning until about 12.30 pm, and then we will reconvene at 6 pm.

I welcome the Cabinet Secretary for Transport, Infrastructure and Connectivity and his supporting officials. I also welcome Claudia Beamish. During the course of the day, other MSPs will be present.

I will briefly explain the procedure. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in that group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members who have lodged amendments in that group. Members who have not lodged amendments in the group but who wish to speak should catch my eye. 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 me inviting the member who moved the first amendment in the group to wind up.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press that amendment to a vote or to withdraw it. If they wish to press, 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 the other members to do so. If any member present objects, the committee will immediately move 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 any division is by a show of hands. This will be a long session, but I ask members to keep their hands raised clearly so that the clerks can record the vote.

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

We will not go beyond amendments to part 4 of the bill today.

Section 15—Use of equipment

The Convener: The first group is on low-emission zones and parking prohibitions: removal of approved devices. Amendment 59, in the name of the cabinet secretary, is grouped with amendment 152.

The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson): Section 15 allows traffic authorities to install and maintain approved devices for the operation and detection procedure for the LEZ scheme. It also allows for that to be done via a third party. In reality, installation and maintenance tasks for equipment relating to local government services are often done by contractors or other parties on the council's behalf. However, the provisions in the bill for the removal of those approved devices do not currently allow for that also to be done by a third party. Mirroring the provisions for installation and maintenance, amendment 59 addresses that. Amendment 152 does likewise for approved devices in relation to the enforcement of payment and double-parking prohibitions in the bill, because the same issue exists in section 50. I ask the committee to support amendments 59 and 152.

I move amendment 59.

The Convener: No committee member has indicated that they wish to speak. Does the cabinet secretary want to wind up? I think that you have said enough.

Michael Matheson: Yes.

Amendment 59 agreed to.

Section 15, as amended, agreed to.

Section 16 agreed to.

After section 16

08:15

The Convener: The next group is on low-emission zones: regulations on traffic signs. Amendment 204, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene (West Scotland) (Con): Good morning, cabinet secretary.

Amendment 204 is about signage around low-emission zones. To my knowledge, there is currently no provision in the bill on the signage that may or will be used to indicate entry to, exit from and rules around low-emission zones. Amendment 204 would create a national standard that would ensure that there would be a legal standard of low-emission zone signage that would be used across the whole of Scotland and all zones. That would ensure that the signage that is

used in every zone would be standardised to avoid doubt or confusion among drivers, and it would be an important step in formalising low-emission zones in our cities. By ensuring that signage is consistent across the country, we would avoid people being faced with different signage in Edinburgh, Glasgow, Aberdeen or Dundee, for example.

I would be happy to hear comments on this small amendment from the committee or the cabinet secretary.

I move amendment 204.

Michael Matheson: Although I agree with Jamie Greene that LEZ signs will be needed to make motorists aware of the operation of those zones, amendment 204 is unnecessary. The Scottish ministers already have statutory powers to amend the existing traffic sign regulations and general directions in order to prescribe traffic signs for LEZs under section 64(1)(a) and section 64(2) of the Road Traffic Regulation Act 1984. Those powers will be utilised to create nationally consistent LEZ signs for zone entry, advanced early warnings and diversion routes around the zones. I therefore ask Jamie Greene not to press amendment 204. If it is pressed, I ask the committee to reject it.

Jamie Greene: I thank the cabinet secretary for that very helpful update. Will he confirm that, if I do not press the amendment, we can be assured that there will be standardisation of low-emission zone signage across Scotland? If that is the case, is he comfortable that he has the powers to ensure that that will happen? I would be happy to withdraw the amendment with that undertaking.

Michael Matheson: As I have stated, ministers already have that power, and we intend to have consistent signage.

Amendment 204, by agreement, withdrawn.

Section 17 agreed to.

Section 18—Temporary suspension for events

Amendment 60 moved—[Colin Smyth].

The Convener: The question is, that amendment 60 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Abstentions

Rumbles, Mike (North East Scotland) (LD)

The Convener: The result of the division is: For 2, Against 8, Abstentions 1.

Amendment 60 disagreed to.

Amendment 61 moved—[Michael Matheson]—and agreed to.

Amendment 205 moved—[Jamie Greene].

The Convener: I remind members that if amendment 205 is agreed to, amendments 62 and 63 are pre-empted. The question is, that amendment 205 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 205 disagreed to.

Amendment 62 moved—[Michael Matheson]—and agreed to.

Amendment 63 moved—[Michael Matheson].

The Convener: The question is, that amendment 63 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)
 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)

Against

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

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

Amendment 63 agreed to.

Amendment 206 moved—[John Finnie].

The Convener: The question is, that amendment 206 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 206 disagreed to.

Section 18, as amended, agreed to.

Section 19—Ministers' grant-making powers

The Convener: The next group is on low-emission zones: financial reporting and review provisions. Amendment 207, in the name of Jamie Greene, is grouped with amendments 208, 209, 227, 64, 210 to 212 and 65.

Jamie Greene: Amendment 207 relates to the grant-making powers of ministers. Currently, ministers may make grants to help local authorities operate a scheme. The amendment would provide that ministers may help local authorities to meet the costs of the revocation of a scheme, particularly in light of the amendments in my name that we debated last week that were not agreed to, which would have taken away from ministers the power to revoke schemes.

Given that ministers still have the power to revoke schemes, they should also have the power to help local authorities meet the cost of revocation. A practical example might be help with the costs of uninstalling approved devices, infrastructure and cameras and the costs that are associated with closing down the administration of the operation of a scheme, including redundancy and staffing costs.

My understanding is that grants that are made available under section 19 would be mutually agreed between ministers and local authorities and therefore not unilaterally determined by Scottish ministers, which is what is currently stated in the bill. Amendment 208 would ensure equity of agreement of the conditions of the grants to ensure that local authorities are not obliged to enter into financial agreements with ministers without first having agreed to the amount and the terms. I seek some clarity from the minister as to why, as the bill is drafted, the grant would require repayment. Does that not mean that it would be classed as a loan, rather than a grant? A grant implies that there would be no terms of repayment of either the capital or the interest.

Amendment 209 on revenues achieved by local authorities is important. One would assume that there will be surplus revenue after the operating costs in each local authority that operates a zone are deducted. In my view, such revenue should be used to improve and encourage low-carbon and carbon-free travel in the zone. For example, revenue that is collected from people who are breaching the rules of the zone could be used to fund schemes such as cycle lanes or electric charging points in our cities.

My view has always been that penalty charges should not simply be a revenue-generating source for low-emission zones and part of their wider financial pot but should be a true deterrent to non-compliant vehicles entering the zone. Penalising such behaviour could create the necessary funds to build the low and no-carbon infrastructure in the zones that is required to meet the modal shift that we desperately need in those cities. Agreeing to amendment 209 would mean that drivers could rest assured that LEZs are not just a tax on drivers simply for the sake of it and that the revenues achieved would build sustainable, low-carbon transport infrastructure.

I am very open to the amendment being reworded as members see fit, but I hope that we agree that the revenues that are generated by low-emission zones should be put to good use, such as to promote sustainable and active travel. Again, I am interested to hear the Government's response to that.

Amendment 211 is to do with reporting requirements. Section 23 stipulates that an annual report must be published before the end of the financial year in which the zone began operating. However, at the moment, there is little guidance about the necessary content of that report. Amendment 211 would oblige local authorities to include specific pieces of information, such as the total costs of proposing, creating and operating a scheme, and the gross and net revenues achieved, in annual reports. More important,

proposed new subsection (c) would require information to be included on

"how the revenue has been used to facilitate the achievement of the scheme's objectives."

At the moment, the Scottish ministers may give direction to a local authority to carry out a review of an LEZ scheme. That is a sensible approach, but amendment 212 would give local authorities the technical ability to carry out a review of a zone, its operation and effectiveness at any given time, as it sees fit, without any prior direction from the Government, if it chooses to do so.

Allowing a local authority to review the effectiveness of a low-emission zone would help identify any weaknesses in the structure of its zone and give it the opportunity to improve it. I think that developing low-emission zones over the years will be a critical part in assuring their long-term success. I hope that members think that giving local authorities the ability to carry out such reviews as they deem fit would be a useful additional power.

I move amendment 207.

The Convener: At this point, I would have called Brian Whittle to speak to amendment 227, but he seems to have been delayed. I will try to bring him in during the debate, should he turn up.

Michael Matheson: Ministers have consistently stated that the Government would provide significant funding for transport-based air pollution and LEZs. In that regard, it is right that ministers should also make grants that extend to the revoking of LEZs, to help a local authority in meeting such costs. I am therefore willing to support amendment 207.

Likewise, I am willing to support amendment 208. We have established a partnership approach with local authorities to put in place LEZs, and that approach is working well. I see merit in applying the same principles in establishing that the grant conditions for any repayment would be decided by negotiation between ministers and local authorities.

I believe that amendments 209 and 227 are too prescriptive, but the outcomes that are sought by both amendments could still be delivered, if the objectives of LEZ schemes were developed in a way that focused on issues such as low-carbon transport or active travel. I am happy to commit to including those issues in the LEZ guidance. On that basis, I ask Jamie Greene and Brian Whittle not to press those amendments today.

I am conscious that local authorities want assurances on the use of penalty moneys. That is quite understandable, and my amendment 64 changes the relative weight of section 21(a) and (b) such that moneys received from LEZ penalty

charges must go first towards meeting LEZ scheme objectives, and only when those objectives are achieved would the penalty money be used to make any grant repayments to ministers. With that in mind, we expect local authorities to use their objective-setting powers to set ambitious and smart objectives that will make the best use of any penalty moneys that are received.

Amendment 210 would require that a copy of a local authority's annual report on its LEZ scheme is laid before the Scottish Parliament and I am happy to support such a requirement.

08:30

Amendment 211 draws attention to the issue of financial reporting on LEZ set-up and operating costs, gross and net revenue and how the revenue has been used. I agree with the premise of transparency of financial reporting, so I am willing to support amendment 211.

Given that local authorities are responsible for specifying and reporting on their LEZ schemes, it would seem sensible that they also have the power to instigate a review of their own volition. Amendments 65 and 212 both look to achieve that, but I think that amendment 65 is clearer in setting out the interaction with any review that takes places at ministers' direction, so I am happy to support it at the expense of amendment 212.

In summary, I am happy to support amendments 207, 208 and 211, which have been proposed by Jamie Greene, amendment 65, which is proposed by Colin Smyth, and amendment 210, which is proposed by John Finnie. I ask Jamie Greene not to move amendments 209 and 212, for the reasons that I have given, and I ask Brian Whittle not to move amendment 227. If amendments 209, 212 and 227 are moved, I urge the committee to reject them.

The Convener: Brian Whittle has now turned up, but I will call him at the end.

John Finnie (Highlands and Islands) (Green): I am not a fan of reports for reports' sake, so my proposal may seem strange. That said, if we are really going to tackle the climate emergency, we need the fullest collaboration between local authorities and central Government on such issues and we need Parliament to scrutinise it—I suspect that this committee will do so. I am grateful that the minister supports my amendment 210.

I do not support amendment 207—the mere notion of talking about revocation at this stage, before we have even got LEZs in place, seems bizarre.

I was a bit surprised at the ministers' comments about amendment 212. I am not inclined to support that amendment either, because I would have thought that any local authority could review any of its policies at any time and therefore the provision is redundant.

Colin Smyth (South Scotland) (Lab): Amendment 65, in my name, clarifies that local authorities should be carrying out reviews of their LEZs without ministerial direction. As it stands, local authorities will report annually on their LEZs under section 23, but those provisions are not as thorough as those that are set out in section 24. Amendment 65 is not prescriptive in relation to the regularity of the reviews, but I think that the principle of having them is important. Detailed analysis of the type that is set out in section 24 should be carried out to ensure that LEZs are truly effective, and amendment 65 creates an expectation that such analysis will be carried out.

Amendment 212, in the name of Jamie Greene, effectively does the same, so I am happy to support either amendment.

The Convener: I call Brian Whittle to speak to amendment 227 and other amendments in the group.

Brian Whittle (South Scotland) (Con): Sorry for my late arrival; I was not expecting to be called quite so soon.

Amendment 227 would ensure that any extra moneys that are raised through the bill will contribute

“to the improvement of infrastructure and facilities”.

The bill will remove the ability to use certain means to travel across cities, so it is important and appropriate that they are replaced with measures such as cycle lanes and pedestrian pathways, park-and-ride facilities and improvements to public transport. I ask members to support my amendment.

The Convener: No other members wish to speak to this group of amendments, so I ask Jamie Greene to wind up and to press or withdraw amendment 207.

Jamie Greene: Based on the discussion that we have just had, I thank the minister for taking on board some of the amendments and I am pleased that he is happy to support them.

Mr Finnie made a fair point. I agree that it feels very negative to talk about revocation of zones when the whole point of the bill is to set them up and, as I said, to make them as successful as possible. I absolutely believe that that should be the case. However, the bill will set the parameters of the operation and management of zones, and other bits of the bill talk about revocation. I am just

trying to tidy the bill up and I am pleased that the minister is happy to support amendment 207.

Equally, I am minded to support amendment 210.

Based on the minister's comments about the ability of local authorities to carry out a review, if the minister is minded to support amendment 65, in the name of Colin Smyth, it would achieve a similar outcome to my amendment, although it is worded slightly differently. I will not move amendment 212, and I will support amendment 65, as the minister has indicated he will do.

Mr Whittle and I have lodged amendments of a similar nature on the issue of what the money should be used for. In his response, the minister alluded to amendment 64 as the correct way of dealing with that, and he indicated that guidance will be given to local authorities, but it will just be guidance. My colleague and I were trying to ensure that there will be a guarantee in the bill that, when the zones operate, the surplus money that is generated from the penalties will be used for positive transport projects and to encourage low-carbon and carbon-free transport in the zone. I do not see the problem with putting that into the bill because, as it stands, it does not dictate that; it is very much left to the local authority to spend the money as it sees fit. The money could be used for projects that do not encourage active or sustainable travel, and it would be a shame if that was the outcome. Whether or not they agree with the wording of amendment 64, I would like members to think about how, if I do not move it, we could bring back the concept of committing the bill a little more on how that revenue should be spent.

I wish to press amendment 207.

The Convener: The question is, that amendment 207 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)
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)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Against

Finnie, John (Highlands and Islands) (Green)

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

Amendment 207 agreed to.

Amendment 208 moved—[Jamie Greene]—and agreed to.

Section 19, as amended, agreed.

Section 20 agreed to.

Section 21—Application of penalty charges

Amendment 209 not moved.

Amendment 227 moved—[Brian Whittle].

The Convener: The question is, that amendment 227 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)
Smyth, Colin (South Scotland) (Lab)

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)
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 227 disagreed to.

Amendment 64 moved—[Michael Matheson]—and agreed to.

Section 21, as amended, be agreed to.

Section 22 agreed to.

Section 23—Annual report

Amendment 210 moved—[John Finnie]—and agreed to.

Amendment 211 moved—[Jamie Greene].

The Convener: The question is, that amendment 211 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)
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)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)

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

Against

Finnie, John (Highlands and Islands) (Green)

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

Amendment 211 agreed to.

Section 23, as amended, agreed to.

Section 24—Direction to carry out a review

Amendment 212 not moved.

Amendment 65 moved—[Colin Smyth]—and agreed to.

Section 24, as amended, agreed to.

Sections 25 to 27 agreed to.

After section 27

The Convener: The next group is on support for purchase and use of low-emission vehicles in rural areas. Amendment 228, in the name of Claudia Beamish, is grouped with amendment 253.

Claudia Beamish (South Scotland) (Lab): The move towards net zero emissions by 2045 must be done fairly and there must be a just transition. We are in a climate emergency, and transport is the heaviest greenhouse gas emitter, with petrol and diesel cars making a significant contribution to that. The Scottish Government has recognised that and has committed to the phase-out of the sale of such cars by 2032. The Scottish Government also has a fairly robust programme of electric charging points, with the A9 being lauded as the first electric highway. However, more could be done.

Behaviour change at individual and household level is a fundamental part of the equation as we move towards net zero. Public transport is becoming, and will, I hope, increasingly become, a positive choice for many, thereby tackling emissions as well as having the co-benefits of reducing air pollution, congestion and driver stress. However, many people live in rural areas and are not on bus or rail routes or anywhere near them. Many are obliged to use their income to purchase a car as a necessity. The up-front cost of a low-emission car is considerably more than that of a fossil-fuel equivalent. Electric cars are still relatively expensive. For example, the average electric vehicle listed on the Auto Trader website costs £17,622, compared to £10,760 for petrol vehicles, which is a 64 per cent higher up-front cost.

Amendment 228 recognises that price differential and would require ministers to make arrangements for targeted financial support for

those on low incomes in rural areas to aid them to make the right purchase as we move forward. That could be in the form of a grant. The amendment says that definitions are needed, but those are readily available and could be refined—more detail could be added at stage 3—if there is interest in the amendment in principle.

The term “low emission vehicles” would be defined as motor vehicles that emit relatively low levels of motor vehicle emissions, which could at present be electric or hydrogen vehicles. I recognise that there could be some emissions from tyre friction. Of course, there is no telling what innovation the future may hold.

The term “rural areas” would be defined as countryside or geographical areas that are located outside towns and cities. That may seem obvious to everybody, but it is important to highlight that there are readily available definitions.

On the term “low income”, the Department for Work and Pensions uses the median household income to find the number of people in low-income households. Those below the median, rather than the mean, fall into the low-income category.

My amendment 228 is supported by the consequential amendment 253, which proposes that the measures should be taken forward under the affirmative procedure. That is important to ensure robust consultation as the regulations are shaped, if amendment 228 is agreed to.

I move amendment 228.

08:45

Mike Rumbles (North East Scotland) (LD): Amendments 228 and 253 might seem superficially attractive but I will not support them, because we did not take evidence on the proposal at stage 1. It has come out of the blue. I do not think that we should proceed with making legislation in that way. If the proposal comes back in the future, saying that the support will be available to people who “live in rural areas”—whatever that means—could lead to a host of disputes as to why some people will get the grant and others will not. It is a recipe for disaster and conflict, so I will not support amendments 228 and 253.

Peter Chapman (North East Scotland) (Con): I appreciate the aim of Claudia Beamish's amendment 228. As an MSP who covers a largely rural area, I see at first hand the difficulty that constituents based in rural areas have with transport but—and it is a huge “but”—I am not in favour of a blank cheque; I never have been and I never will be. I agree with Mike Rumbles that we have taken no evidence on the proposal. How do we define “rural areas”? How do we define “low

income"? There is a plethora of questions. I think that the amendment is suspect, but we will wait to hear what the cabinet secretary has to say.

Colin Smyth: Amendment 228 touches on a critical issue. We all support the role of LEZs and the framework that the bill creates. A serious problem remains around access to low-emission vehicles. We cannot have a situation in which only those who can afford to purchase modern cars are able to drive in parts of the country. Likewise, it is not right for those who live in areas where public transport is not an option to be put at an unfair disadvantage. If members are not minded to support amendment 228, I hope that the Government will bring forward more detail on how it plans to address that fundamental issue in relation to LEZs.

John Finnie: Claudia Beamish highlights a significant issue. I have heard members say that we have not taken evidence on the subject, but everyone accepts that, largely in rural areas, there is a category of individual without ready access to public transport.

As always, the devil is in the detail. In that regard, I had hoped to intervene on my friend and colleague Claudia Beamish, but I left it a bit late. There are opportunities to look at support that could be given to car share schemes, for example. I ask members not to dismiss amendment 228 out of hand. There is a gap that remains to be looked at. I have reservations about private individuals getting private motor vehicles from the state, but there are ways around that, and car share schemes might be one of them.

Jamie Greene: I appreciate the tone that members are taking with the amendment. Claudia Beamish raises an important point and we should give her credit. At the moment, there are huge disparities in the costs of vehicles, including electric vehicles. However, I do not, for a moment, suggest that the Transport (Scotland) Bill is a place to give ministers sweeping powers that mean that they must give blank-cheque grants to anyone who lives in an undefined area and wants to buy a car. What is "rural"? I could argue that there are people who live on the outskirts of town who do not have access to a bus service. Is that a rural area?

I am keen to hear from the cabinet secretary about the measures that are currently in place to assist people on low incomes who will be adversely affected by the introduction of LEZs, in the sense that they cannot afford to buy new cars of the more recent varieties. What measures are currently in place, and does the Government have plans to extend any of them or provide additional support to the groups that are mentioned in amendment 228?

For the reasons that I mentioned, I am minded not to support amendment 228, but it raises a valid point and I do not dismiss it.

Michael Matheson: Amendment 228 seeks to place duties on Scottish ministers to make regulations that set out provision to support people in rural areas with a low income to purchase and use a low-emission vehicle. Amendment 253 mandates that the regulations on those duties be subject to the affirmative procedure.

As the approach is part of a wider discussion on low-emission zones, it is important to make it clear that there is no relationship between such zones and amendment 228. The amendment would enable people on low incomes in rural areas to get support to purchase and use a vehicle even if they never drive in a low-emission zone. As such, I believe that it is somewhat misguided.

Support is already provided to those who wish to purchase a low-emission vehicle, with grants available of up to £3,500 towards the purchase of new eligible electric vehicles. Households and businesses can also benefit from our interest-free low-carbon transport loan to assist with the purchase of low-emission vehicles, and from our grant funding for the installation of charging points at home.

Jamie Greene: I think that there is very low awareness of those schemes. People whom I speak to have never heard of those grants, or of interest-free loans and infrastructure funds that would allow them to put in electric charging points. Where do they go for that money and information? I have no idea.

Michael Matheson: I think that I am correct in saying that most of those schemes have actually been oversubscribed by people who are seeking to draw down the funding. We provide the funding through the Energy Saving Trust, which operates the schemes for us; the information is available on the trust's website.

Drivers of electric vehicles in Scotland benefit from the chargeplace Scotland network, which is one of the most comprehensive charging-point networks in Europe. We are approaching publicly available charging place number 100. The network includes approximately 200 rapid-charger points. In Scotland, the average distance from any given location to the nearest public charging point is just 2.78 miles. That is the shortest average distance in the United Kingdom, for which the average is 4.09 miles.

Richard Lyle (Uddingston and Bellshill) (SNP): I agree with the cabinet secretary—it has been reported to the committee that some of those schemes have been oversubscribed.

Does the cabinet secretary agree with a point that I have been making for a number of years? I know that building new homes is not part of his remit, but perhaps he could discuss with his housing colleague the idea that all new homes should have charging points installed, just as they have solar panels or satellite dishes installed.

Michael Matheson: That discussion is already taking place internally in Government. We are looking at how we can ensure that such provision becomes part of our standard building regulations for new-build properties.

John Finnie: To deal with the climate emergency, we need a measure of co-ordination. Albeit that the schemes are oversubscribed, is there any specific targeting—or would you consider such targeting—to fill the clear gap that my colleague Claudia Beamish identified with regard to people who do not have ready access to public transport? Parameters could be set on that; I can think of a car share scheme where assistance is provided to take people to a main road where there is a public transport scheme.

Michael Matheson: If John Finnie will allow me to make progress, I will come to that very point later—I hope that he will find my answer helpful.

In the last financial year, we provided almost £10 million to local authorities to ensure that EV chargers are installed across Scotland, and £5 million to the Energy Saving Trust to support commercial and private sector businesses across Scotland to install charging points on non-local authority land. We are also committed to the electric A9, which will provide a comprehensive network of charging points from Falkirk to Scrabster to ensure that some of the most remote communities benefit from that investment. As part of that, we are encouraging local authorities to focus on solutions for remote and rural communities, which would include considering innovative approaches to on-street charging.

The plugged-in households initiative is designed to improve access to electric vehicles, using housing associations and car clubs as a form of car share. In March 2019, I made the first award, which totalled approximately £515,000, to eight social housing associations to allow them to instigate such a scheme.

I then made a further announcement a few weeks ago, on 31 May, in which I provided a second round of available funding, to the tune of £500,000, to support housing associations in purchasing electric vehicles that can be used on a car-sharing basis by those who may not have the income to afford the purchase of low-emission vehicles.

We will be making an announcement on the low-emission zone support fund that is currently

being developed. It will help those who have the most difficulty in making the transition to LEZ-compliant vehicles.

Those are targeted interventions, which we are already making in order to make a difference.

I do not believe that Claudia Beamish's amendment 228 is necessary, so I ask her not to press it, and not to move amendment 253. If the amendments are pressed, I ask the committee to reject them.

Claudia Beamish: I will start winding up by sounding rather defensive, but it will get better.

As I am not a member of the committee, I was not able to take part in the deliberations that led to stage 2. I wish to have that on the record. Indeed, I will not be voting today.

The Convener: You are always welcome to turn up at the committee. You could take part. Please continue, however.

Claudia Beamish: Thank you.

I highlight the fact that I provided some definitions, which could be refined. I take Jamie Greene's point about those who live on the outskirts of town. Often, people who live on the outskirts of town, and indeed those who live in towns, are not on bus routes and are not close enough to train stations—many of which could be reopened, although that is a different issue.

As regards the cabinet secretary's suggestion that the proposed provisions in amendment 228 would not be in the right place in the bill, because they are not specifically to do with low-emission zones, I was advised by members of the legislation team that this is indeed the place to put them. If the matter was to come back at stage 3, we could reconsider that.

I welcome the debate that has taken place and what the cabinet secretary has highlighted regarding the possibilities. I knew about some of them, but I did not know about others. I expect that the same applies to other members, given the debate that we have had.

I do not intend to press amendment 228. It would be helpful if I could have some specific reassurance from the cabinet secretary beyond the issues that were raised by my friend and colleague John Finnie about the possibilities for car clubs. Again, I did not know that that work was already happening. It would be helpful to have some reassurance about the fine tuning of the grants that already exist, and about the possibility of considering an increase in funding for grants in rural areas.

I will leave it at that.

Amendment 228, by agreement, withdrawn.

The Convener: The next group is on low-emission distribution consolidation hubs. Amendment 229, in the name of Claudia Beamish, is grouped with amendment 254.

Claudia Beamish: Amendment 229 focuses on what would, in my view, be more appropriate delivery of goods into cities in relation to the declared climate emergency, congestion challenges, the need to tackle air pollution, and making our cities more agreeable places in which to live.

Amendment 229 is a probing amendment, and would do what it says on the tin. Heavy goods vehicles would have to stop at a consolidation hub outside cities, and goods would be transferred to smaller low-emission vehicles for delivery into the cities. Smaller deliveries could be transferred to bikes and electric bikes. That process has sometimes been recognised as the “final mile”.

There are examples on the European mainland of consolidation hubs, including in Amsterdam, where European Union funding was made available for a project. Having seen it at work in Amsterdam, my colleague and friend, David Stewart, highlighted the consolidation hub arrangement to the Environment, Climate Change and Land Reform Committee.

The bill comes at a time when there is so much serious scientific evidence about the health effects of air pollution. The committee knows about that evidence, but I say for the record that there has been research on health effects on children and in relation to cancer, mental wellbeing and dementia in the elderly.

09:00

How does the consolidation hub work in Amsterdam? A shift has been made to distribution via microhubs, using zero-emissions electric vehicles—60 e-freight bikes. Efficiency has increased through less parking and shorter routes, which are leading to fewer emissions and lower costs. That daily operation in Amsterdam saves about €1,000 and 220kg of CO₂.

In Gothenburg in Sweden, city delivery was launched in 2012 to pool deliveries for shops and businesses in the central zone. The consolidation hub and low-emission vehicle system now serves 500 business and is financially self-sustaining.

In Utrecht in the Netherlands, a solar-powered electric caravan of trailers—which I would like to see but have not, yet—does the work of five vans.

In Cambridge, a private company called Zedify focuses on zero-emissions urban logistics, and subcontracts work from major freight companies using specialist cargo bikes, trikes and EVs.

According to a report by an EU-funded research project called cyclelogistics, an estimated 51 per cent of goods that are transported in cities could be shifted on to bikes and cargo bikes, which would significantly reduce emissions and congestion.

Amendment 229 would put a duty on Scottish ministers to require prescribed local authorities to establish such hubs and to support them in that process. Models that might be used in Scotland could also enable co-operative solutions to be developed. I declare an interest as a member of the Co-operative Party group of members of the Scottish Parliament. The regulations would be subject to the super-affirmative procedure, as provided for in consequential amendment 254.

To pre-empt a possible comment by the cabinet secretary, in view of what he said about my previous amendment, I say that amendment 299 is not meant to refer only to low-emission zones, but to cities more generally, so it potentially applies to the wrong section of the bill.

I move amendment 229.

Peter Chapman: I appreciate the objectives of amendment 229. Where they are commercially possible, distribution consolidation hubs would benefit businesses in cities through reducing their emissions.

However, my main concern with amendment 229 is in the wording: proposed new subsection (1)(a) would place the onus squarely on local authorities to establish the hubs, and although subsection (1)(b) states that the Scottish Government must provide “support”, it is not clear what that support would be. Would it be financial support or simply advice? We cannot support the amendment without figures or costings attached.

Colin Smyth: Amendment 229 sets out a useful approach to tackling an issue that came up several times during the committee’s evidence taking. A co-operative approach to low-emission vehicles will help businesses to cope with the introduction of LEZs, and will encourage use of even greener vehicles than would be possible for individual businesses. We heard very clearly that there is a big challenge for small and medium-sized businesses that might struggle to absorb the cost of new vehicles.

I hope that if committee members do not back amendment 229, the Government will look into the issue further and consider how it can support such schemes across Scotland.

On Peter Chapman’s point, it would be sensible for local authorities to take responsibility for such programmes because, ultimately, they have responsibility for determining whether to introduce

LEZs, of which the proposal would be a key component.

Mike Rumbles: It sounds like a great idea: I wish that Claudia Beamish had come to the committee at stage 1, when we spent many months looking at the bill as a whole. In general, I am against such major amendments landing on us at stage 2. This is the first opportunity that we have had to discuss the issue. It is a really good idea and I would have loved to have taken evidence on it in detail.

However, I am certainly not going to support amendment 229, because Parliament has a really good process for developing such ideas at stage 1. That is where we should have addressed it: I do not think that it is appropriate for it to just appear at stage 2. It is a great idea, but we have not gone through the proper process.

Jamie Greene: Claudia Beamish's description of what happens in other cities was fascinating. We in Scotland should all share the aspiration for such provision. I really like the idea of out-of-town distribution hubs, which is an idea that the Conservative Party has been discussing for a while. Others share our enthusiasm.

The problem with amendment 229 is that it would place a duty on local authorities to set up consolidation hubs. I am not convinced that that should be a duty of local authorities; there is a place and a role for local authorities; there is also a place for central Government—and, indeed, for business itself, because ultimately, business would benefit from the idea. I am thinking of major retailers that shift huge volumes of goods into our cities on HGVs and articulated lorries.

I assume that low-emission zones will, by their very nature, ban types of vehicle that emit the worst kind of pollution. That in itself should be enough to encourage good companies to use greener vehicles to get goods into cities. However, I agree that we should not have large vehicles trundling their way through our cities. The question is how we deal with that. It is a matter of policy for the Government, which should present plans.

I am not convinced that the bill is the place to address the issue. However, I commend Claudia Beamish for raising awareness of it. I hope that, as Mike Rumbles said, it is given its due place. A committee, or Parliament as a whole, could take forward the issue in some way. I hope that we have some debate on it and hear evidence on it from the right people.

John Finnie: I was pleased to hear members' support for the principle; I was not so pleased to hear the word "however" follow those expressions of support. I disagree with Mike Rumbles on one thing: I do not think that the proposal is a major

one. Indeed, we have heard that such provision is in operation in Mr Lyle's constituency, for instance.

The idea is about development planning. As ever, it would require co-ordination between national and local government, but we already have development plans and traffic impact assessments. I cannot believe that anyone thinks that it is a good idea for a large HGV to pull up in a small street to deliver a couple of boxes.

If we are really going to tackle the acknowledged climate emergency, doing so will be about the best use of space and how we make place relevant. We have also heard, in relation to other elements of the bill, about the implications of HGVs parking on pavements. There is also the issue of congestion.

I have seen the odd wry smile from colleagues when bikes are mentioned. Electric pushbikes are capable of carrying significant payloads—including someone of my weight. Progress is being made.

Amendment 229 is worth while, so I am hoping to hear some positive news from the cabinet secretary on it, as we heard previously.

Richard Lyle: I am sitting here listening to members making out that such things are not on the go now. They are. I have seen electric bikes on the streets, and we already have, in my constituency, distribution centres to which large lorries and even trains bring in goods. There is a major £300 million project beside the M8 that will reduce CO₂ emissions by a lot because it will take a lot of lorries off the road.

Such provision is nothing new; it is already in vogue. For many cities that have low-emission zones, big lorries take goods to distribution centres outside the city and small electric vehicles take the goods into the city. It is not rocket science—it is already happening. I say with the greatest respect to my colleague Claudia Beamish that we do not need amendment 229. What she wants is already happening.

The Convener: I think that our predecessor committee went to visit such a scheme in the previous parliamentary session. We will hear from the cabinet secretary now.

Michael Matheson: Amendments 229 and 254 would impose on the Scottish ministers a duty to create regulations to insist that local authorities take steps to develop a low-emission distribution hub in their area. Although distribution hubs can play a useful role, they are principally driven by the private sector.

John Finnie: That is a very disappointing start, and is exactly the same response as the one on carriage of freight by rail. When will the Government accept responsibility for its role in transport matters?

Michael Matheson: We do accept our role in transport matters. Let me point out where that comes from.

The point that I mentioned was emphasised in the response to the Environment, Climate Change and Land Reform Committee's air quality inquiry just last year. Larger businesses—particularly supermarkets—already use distribution hubs to arrange and deliver goods. Richard Lyle has just referred to that. Therefore, it seems to be fair to say that distribution hubs need to be industry led in order that they can be commercially viable without the need for on-going public funding.

Currently, no distribution hubs are run by local authorities. A statutory obligation for local authorities to implement their own hubs would diminish the incentive for private companies to build them. Indeed, I understand that private companies in Scotland are already starting to utilise low-emission vehicles to bring goods into urban areas from out-of-town distribution centres. That approach was exemplified at the Freight Transport Association logistics conference in late May by the approach of the last-mile firm Gnewt Cargo, which was acquired by Menzies Distribution in 2017.

Distribution hubs can use low-emission and zero-emission forms of transport and can be commercially successful in doing so. We do not want to stifle such endeavours or, potentially, to use significant amounts of public money for measures that would benefit commercial companies in the way that would be implemented through agreement to amendment 229.

I note that Claudia Beamish lodged amendment 229 as a probing amendment. I assure her that we will continue to work with the commercial sector and our colleagues in local government to make progress in reducing the emissions that are caused by heavy goods vehicles, including those that serve distribution hubs.

Claudia Beamish: The debate has been interesting. Because of the climate emergency and its implications, it is important that beyond—or in parallel with—what is happening through imagination and development by the commercial sector, we find a robust way at local and national government levels to ensure that consolidation hubs are developed not in a piecemeal way, but throughout Scotland. We should not wait any longer.

The point has been made that there are issues relating to commercial companies benefiting from public money. On the other hand, we are in a climate emergency, and we are considering the just transition and other possibilities through the Climate Change (Emissions Reduction Targets) (Scotland) Bill. It is important that the private

sector is recognised in what we all need to do in order to make the transition.

We should not rule out the leadership role that the Scottish Government should take on the matter. I hope that it will be possible to have further discussions on how to take the matter forward with me—and with others who know far more than I do.

A lot is happening in planning and development planning. I will consider looking at the matter through that process, as well, although it is too late to do that through the Planning (Scotland) Bill, as the period for lodging amendments to it closed yesterday.

Amendment 229, by agreement, withdrawn.

09:15

The Convener: The cabinet secretary's supporting officials need to change over as we move on to bus services. I am not suspending the meeting for that; I am allowing it to happen seamlessly. I hope that I will not have to continue to talk while it happens, so it would be great if it was done as quickly as possible. It looks as if we are all in place now.

Section 28—Provision of local services by local authorities

The Convener: The next group is on bus services and the provision of local services by local authorities. Amendment 66, in the cabinet secretary's name, is grouped with amendments 67, 39, 68, 172, 176 and 180. If amendment 66 is agreed to, amendments 67 and 39 will be pre-empted. If amendment 67 is agreed to, amendment 39 will be pre-empted.

Michael Matheson: In its stage 1 report, the committee said:

“the requirement in the Bill that local authorities will only be able to provide bus services if they are to meet ‘an unmet public transport need’ creates an unnecessary restriction.”

The committee recommended

“that the Scottish Government brings forward an amendment at Stage 2 to remove this restriction and provide greater flexibility to local authorities in their ability to provide local bus services.”

Richard Lyle: I welcome that approach. If a local authority wishes to run a bus service in its locale, will it be able to do so?

Michael Matheson: It will. I will explain that in my contribution.

I listened to what the committee and others said and I believe that the Government amendments will achieve exactly what is sought, which is to allow councils to consider running a Lothian

Buses-style arm's-length operation. Amendment 68 will enable a local transport authority to control a company that operates local bus services in the commercial market. To encourage transparency and reduce the risk of any perception of unfair advantage, the amendment provides that an LTA that operates local services in the commercial market will be able to do so through a registered company that it controls. Such a company will operate in the same way as any other commercial bus operator does and will be subject to all the usual registration and licensing requirements.

The Competition and Markets Authority has emphasised that any operation should be via an arm's-length arrangement. Amendment 68 will achieve that, and we will ensure that clear guidance is developed through working closely with the CMA, LTAs and others.

Like any other bus company, an LTA company may bid for local service franchises or for services that are supported under section 63 of the Transport Act 1985 and may operate services that are covered by bus services improvement partnerships. All existing procurement processes and rules will continue to apply, and LTA-controlled companies will be on the same footing as other commercial bus operators are.

It will be for each LTA to consider how it can establish and fund a commercial bus company. The financial memorandum includes indicative costs for that. It is important to note that LTAs will have to comply with state aid rules. As with the approach to bus services improvement partnerships and local service franchising, LTAs should be satisfied before establishing or acquiring a company, or deciding to use a company that it controls for local services, that the company will contribute to the implementation of the LTA's relevant general policies.

Amendment 68 is intended to make available an option for improving local bus services that is an alternative to what is already in the bill. It will enable an LTA individually or jointly with other LTAs to provide local services in wider circumstances. My officials will continue to engage with LTAs and operators in the coming months on the options and on developing any necessary guidance.

Amendments 66 and 172 bring together the amendments to section 66 of the Transport Act 1985 to make clear that it does not apply to anything done under the new provisions of the bill for LTA-controlled bus companies or local authority provision of local services to address unmet requirements.

Amendment 176 is a minor consequential amendment to the definition of "relevant general

policies" in section 48 of the Transport (Scotland) Act 2001.

Amendment 180 is to add the new function of controlling a company providing local services to the list of specific functions that may be transferred to a regional transport partnership by order made by the Scottish ministers under section 10 of the Transport (Scotland) Act 2005.

I believe that John Finnie's amendment 39 and Colin Smyth's amendment 67 attempt to achieve the same overarching end, but I have significant concerns, as would the CMA, about how they seek to achieve it. The Government amendments are designed to give effect to something akin to the Lothian Buses model. That is an arm's-length arrangement that encourages transparency and so reduces the risk of any perceived unfair advantage in the market. Neither John Finnie's nor Colin Smyth's amendment would achieve that effect.

Mike Rumbles: I welcome your response to the committee's report and your amendment. I will definitely vote for amendment 66 or amendment 67. You mentioned obliquely why amendment 67 does not meet the need, but I would like a little bit more information from you about why. When I read it, I think it adds something to what you are trying to do with amendment 66. If I have to choose between amendment 66 and amendment 67, I want to make sure that I get it right because I want to achieve a Lothian Buses-type of operation. Could you explain in more detail why you think that amendment 67 is not appropriate?

Michael Matheson: There are two parts to that. First, amendment 66 delivers the Lothian Buses model, which ensures that local services are undertaken at arm's length to the local transport authority or local authority. It will ensure compliance with the CMA in that, when the operator is placed in the market, it is not operating at an unfair advantage to other bus operators.

With the amendments lodged by John Finnie and Colin Smyth, there is a danger that services would not be that transparent and would not operate in that arm's length way to comply with CMA requirements in this area.

Secondly, it is important that when any funding is being provided by an LTA for the purposes of an arm's-length body of this nature to operate, it complies with state aid regulations, again to ensure that there is no unfair advantage in the market. Our amendments seek to make sure that that is the case, and we are concerned that the other two amendments would not provide the required transparency to meet the state aid test.

I hope that was helpful to the member. I ask Colin Smyth and John Finnie not to move amendments 67 and 39. If they are moved, I ask

the committee to reject them and to support amendments 66, 68, 172, 176 and 180.

I move amendment 66.

Colin Smyth: Amendment 67 would allow Scottish local authorities to run bus services and lift the ban placed on them under the 1985 act. Amendment 39 in John Finnie's name has a similar aim, and the cabinet secretary has proposed his own plans for municipal bus companies in amendment 68. I am delighted to see support for running municipal bus services because I have been pushing for that since before the bill was introduced. Passing the amendments would be a step forward.

Amendment 39 takes a straightforward approach, removing the ban imposed by the 1985 bill as it applies to Scotland; I support that. I take a slightly different approach to achieving the same end. The wording in amendment 67 is affirmative, so the 1985 act, as amended, would say explicitly that Scottish local authorities can run services—it would not just remove the line that says that they cannot do so.

Mike Rumbles: Will you address the cabinet secretary's point, which is that if we vote for your amendment 67 instead of his amendment 68, there is a risk that state aid rules will be contravened and the provisions will not be effective?

Colin Smyth: I propose to vote for both substantive amendments rather than for one or the other—I will come on to that point.

Another key point that I should stress is that amendment 67 seeks to ensure that the status of Lothian Buses is protected, given the potentially odd legal position in which the company would be put if the ban from which it is exempted were to be lifted entirely.

Richard Lyle: How would Lothian Buses be affected if the Transport Act 1985 was amended?

Colin Smyth: Amendment 67 seeks to ensure that that would not impact on Lothian Buses. I would not want a situation in which a local authority in Lothian set up a bus company in competition with Lothian Buses, for example. Amendment 67 would stop that happening.

Amendment 67 and amendment 39 are different from amendment 68, in the cabinet secretary's name, in that they would allow local authorities to run services directly, rather than solely through an arm's-length company. Setting up a municipal bus company comes with significant risks and costs. Some local authorities would appreciate a far more flexible approach, which would allow them to build up capacity and expertise over time before making such a move. For example, a local authority with two or three buses might not want to

set up an arm's-length company but might want the flexibility to use those two or three buses locally, to meet the needs of the community.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): How will things play out if amendment 67 is agreed to and local authorities are able to directly run bus services on economically viable routes while being able to subsidise routes that are not economic? How will transparency be achieved and conflict between those two roles be avoided?

As I see it, the power to set up a separate bus company creates a kind of Chinese wall, to ensure that there is no misunderstanding between the council's role in supporting non-economic routes with subsidies and the running of economically viable routes through a hands-off company. How would a council manage the situation that you propose in a way that was not in breach of state aid rules and that enabled electors to see with clarity what was going on?

Colin Smyth: I stress that private bus companies currently run routes that are commercially viable and make a profit as well as routes that are classed as not making a profit, as a result of a subsidy that is taken from local authorities. I see the proposed approach as no different.

There are clear procurement rules that provide for these circumstances. For example, parts of a local authority's organisation that carry out building work bid for council work. There are precedents for such an approach.

I stress the point that some local authorities run buses directly at the moment. A key point is to give local authorities flexibility. As the bill stands, local authorities will be able only to meet unmet need, which reduces their flexibility. A bus company might have two or three buses that it runs on what might be regarded as a non-profitable route, although, purely for reasons of flexibility, during the course of a day one of those buses might run on a service that makes money. Saying to the local authority, "You cannot run that bus on that route" undermines its ability to use its buses.

I think that most local authorities would prefer to take the approach of using an arm's-length company, particularly when services cut across more than one local authority. That would be the preferred model in such circumstances. However, a small local authority that wanted to run a small number of buses might not want to go down that route. It is important to give authorities flexibility in that regard and not to restrict them to meeting "unmet requirements", which is still not defined.

Amendment 67 would allow municipal ownership and provide local authorities with

flexibility in deciding how to approach the issue, and it would protect the status of Lothian Buses. I think that it offers the best approach and goes to the heart of what the committee asked for.

Mike Rumbles asked about evidence that the committee has taken. The evidence that the Government has brought to the committee today, on competition—which I challenge—was not given during stage 1. It was not an issue that we raised in our stage 1 report, and the committee certainly did not take the view that the model could be only an arm's-length company.

Although I will support amendment 68 in the cabinet secretary's name, I have some concerns about the requirement that the option of an arms-length company would be required to

"contribute to the implementation of"

a council's

"general policies."

09:30

I am not entirely sure what is meant by the term "general policies"; nobody has been able to define it. Would that include a council's corporate plan, for example? What is needed to meet that requirement? Once a council effectively makes a decision, that is council policy. I am therefore not entirely sure what that particular line in amendment 68 seeks to achieve. I worry that it could be open to different legal interpretations and therefore to challenges from bus companies, which might lead to a risk-averse approach by local authorities. I hope that, if amendment 68 is agreed to, the Government will consult local authorities and local transport agencies on that particular requirement. I hope that the cabinet secretary will respond to that point when he sums up.

However, on balance, I support amendment 68. I believe that the best way forward is to ensure that both amendment 67 and amendment 68 are agreed to, and we can then use stage 3 to tidy up the final wording, in the knowledge that the principle of municipal bus services is enshrined in the bill. That would mean voting no to amendment 66, in recognition of the fact that the first line of my amendment 67 is exactly the same as the whole of amendment 66. I urge members to vote in that way.

John Finnie: I concur with everything that my colleague Colin Smyth said. I am sure that all of us receive communications from constituents that express their frustrations about bus services. We know the regard that people have for Lothian Buses, which I accept is an arm's-length company.

I will not repeat what Colin Smyth said. The public do not necessarily understand all the

procedures, but as things stand I will lend my support to his amendment 67 and to the cabinet secretary's amendment 68, with all the caveats that Colin Smyth mentioned.

I heard many of the same arguments that we have heard today trotted out previously in relation to the running of the Clyde and Hebrides ferry services. One argument that I find quite surprising, and at which local authorities would have cause to take offence, concerns the question of transparency. Who for one minute would suggest that every penny of public money that a local authority spends is not accounted for? That is a preposterous suggestion.

The route ahead is not easy. With regard to the suggestion about the Competition and Markets Authority and state aid rules, there is nothing there that we have not heard in relation to the Clyde and Hebrides ferry service, which is very successfully run exclusively in the public interest. There is nothing wrong with this, but the statutory obligation of any commercial organisation is to maximise profits for its shareholders. That is why we get into a situation where—

Mike Rumbles: Are you saying, in contrast to what the cabinet secretary said, that if we do not pass amendment 66 but go for amendments 67 and 68, the issue of state aid rules is something of a red herring?

John Finnie: The member spoke earlier about evidence. This is the first time that state aid rules have been mentioned in relation to this particular piece of legislation. As Mike Rumbles will be aware, the same has been said in relation to our ferry network. I am not concerned about that. We get advice on amendments that are lodged. Colin Smyth concisely described what amendment 39 would seek to do. By its very nature, it seeks to do something very simple: lifting the ban that was previously imposed.

I think that the public want the buses run publicly, and we should afford local authorities the opportunity to run them. I will not support amendment 66. I will support amendment 67, which I recognise will mean that my amendment 39 will not be called. This is not about individuals or party—it is about giving the public the best possible means of transportation. That is achieved if things are run exclusively in the public interest and not for profit.

Richard Lyle: People will claim credit for the proposal, but some of us have been putting it forward for years. As a councillor, I proposed that North Lanarkshire Council should run bus services; other councillors have made similar proposals for years, too. We should have a set-up similar to that of Lothian Buses. How did Lothian Buses come about? It was because the City of

Edinburgh Council kept its head under the parapet, and, as other councils sold off their bus services, it did not.

I thank the cabinet secretary for listening to committee members, including me. As far as I am concerned, bus companies should not feel under threat, but one small move has basically answered the call by many people in this country that bus services should be for the people, be run for the people and accommodate the people. I say to bus companies not to be fearful, but, as far as I am concerned, if they are not running a service to suit the people, the council should do so.

Jamie Greene: This has been a really interesting debate. My colleagues and I have been looking at the issue perhaps with some confusion, because the part of the bill that deals with buses is very technical. I appreciate that this discussion is about understanding what the amendments actually do as opposed to the general concept, but I could easily say that I support the notion of local authorities running services that are not just to meet unmet need.

It is very positive that the cabinet secretary has responded to our stage 1 report. The committee talked a lot about the issue, and the general feeling was that the idea that local authorities could run buses only on unprofitable routes seemed a bit crazy. There would certainly be no incentive for them to do so, and the local authorities that I spoke to had no interest in doing that. They are very happy to subsidise, where that is appropriate, but the idea that they should be restricted to running services only to meet unmet need is not attractive to them.

I am pleased to be able to support amendment 68. It provides a framework that would allow local authorities to set up a company and a process through which to participate in franchise arrangements—and, indeed, in bids and tenders—as any other operator could. Amendment 68 provides an appropriate way to do that, but I wonder whether it is the only way for that to be done.

I do not know whether amendment 67 deals with Colin Smyth's point that some local authorities may not be suitably placed to go through the onerous process of the Lothian model. We accept that that is a good model, but it would not be right for every local authority. Some local authorities will have a couple of buses or an arrangement to lease buses from another source, and they might like to set up a service and run a franchise but would not have the ability to do that under the proposed approach, because amendment 66 simply leaves out section 28(3). I think that, through amendment 67, Colin Smyth is agreeing that subsection (3) should be removed but that

positive language that includes councils should be added.

I do not think that, if we agreed to amendment 67, local authorities would be in breach of EU state aid rules or would come under the full force of the CMA. We have not heard any evidence to support that view. Unfortunately, the cabinet secretary did not give any substantive evidence for that. He claimed that that would be the case, but I cannot see how the wording of amendment 67 would allow that. If the amendment is not quite technically correct, the cabinet secretary's excellent team of lawyers could help to correct it before stage 3. I am minded to support amendment 67 on the premise that it would give local authorities the little bit of additional flexibility that they need to run local services as they deem fit.

I am happy to support either amendment 67 or amendment 39—whichever one is pressed.

Mike Rumbles: The debate has been very useful. The cabinet secretary and Colin Smyth have both lodged positive amendments. Correct me if I am wrong, convener, but amendment 66 would pre-empt amendment 67. Although amendment 66 would allow local authorities to set up arm's-length companies to run services, amendments 67 and 68 would allow that to happen and would also allow local authorities to run their own bus services, which is the right approach. I am worried about state aid rules, and I understand what the minister has said about that subject. Given that we are only at stage 2, the minister will have the opportunity at stage 3 to convince Parliament that that approach would be wrong. Because of the pre-emption, I am willing to vote against amendment 66 and in favour of amendments 67 and 68.

Michael Matheson: I will pick up on a couple of points. First, a local authority that operates a bus service does not do so in a vacuum—it does so in the unregulated market, which is the current model for bus services. That is why the Competition and Markets Authority says that bus services must operate on an arm's-length basis, to ensure that they comply with the necessary competition law in the area. Alongside that, there is a need for a framework, to ensure that services remain on the right side of state aid rules. Local authorities must not fall on the wrong side of state aid rules by failing to ensure that the proper arrangements are in place for them to operate their services.

Colin Smyth referred to the possibility of a local authority having two or three buses that it wants to run on a particular route, which may be profitable. A local authority could do exactly that right now, if it chose to do so, if there was unmet need. Whether such a route would be commercially viable is another matter. If the route was profitable,

the council could choose to run a service if there was unmet need and no commercial operator was running a service.

The Government's amendment will take away the restriction that the committee asked to be removed, so that, where local authorities choose to operate bus services in competition, they will do so in a framework that keeps them within the Competition and Markets Authority rules on such matters, and within state aid rules as well.

Colin Smyth: The cabinet secretary has made it very clear that a local authority could directly run a bus service only if there was an unmet need. We are still to make a decision on what "unmet need" means, but my instinct is that it means a route that makes no profit at all.

Does the cabinet secretary understand that a local authority with a small number of buses may run a service to a rural area every two hours, for example, because that is the only time that there are likely to be any passengers but that, between those times, it may want to run a bus on a route that makes a small surplus and so might not meet the criteria for unmet need? A commercial operator might run a bus on the same route, or something similar to that route, but without making all the stops. Amendment 67 would allow local authorities the flexibility to do that without introducing the restriction in respect of unmet need. Saying that local authorities can run such services if they set up an arm's-length company is not providing the flexibility that we need.

Michael Matheson: Is Mr Smyth saying that, if there is a commercial operator on an existing route, a local authority should be able to use its two or three buses to go into competition with that operator?

Colin Smyth: I presume that the cabinet secretary is saying that an arm's-length council company could go into competition with a commercial company. I am suggesting that a local authority may, in a small number of cases, run a bus on a similar route to that of a commercial company, but perhaps at different times. I see that as being no different from what the cabinet secretary is saying an arm's-length company would be allowed to do.

Michael Matheson: The point is that it would be operating not in a vacuum but in a competitive market. If a local authority used its resources to provide a bus service and to commercially challenge a commercial operator, we would start to get into Competition and Markets Authority challenges and issues relating to state aid—the use of public money for the purpose of gaining a commercial advantage over a commercial operator. The Lothian model overcomes that issue.

09:45

If a local authority chooses to run two or three buses on a route on which there is no commercial operator, whether or not it makes a profit, the authority is perfectly free to do so because there is an unmet need for access to public transport. However, if there was a commercial operator on the route and the local authority was allowed to go into direct competition with it without the proper framework being in place, the local authority could be in breach of state aid rules and on the wrong side of the CMA, because it would have gained an unfair advantage over a commercial operator through the use of public money.

Colin Smyth: If a local authority ran a bus service where there was no commercial service and a commercial company decided that there was a commercial opportunity and started to run a service in competition with the local authority service, would that be acceptable?

Michael Matheson: At present, because of the way that the law is—

Colin Smyth: Would it be acceptable under the bill?

Michael Matheson: With our amendment, the bill would allow a local authority to use the Lothian model, so it could do exactly that.

Colin Smyth: I seek clarity on that point. If a local authority was directly running a service where there was unmet need and a commercial company came along and started to run a service in the area, there would—by definition—no longer be an unmet need, and the local authority would therefore have to withdraw its service. The commercial company would, in effect, have determined that a service was being provided.

Michael Matheson: That would be the position under the bill as it stands, so the committee asked for that restriction to be removed, which is exactly what amendment 66 does. It would allow a local authority to operate on that particular route if it chose to do so.

John Finnie: Will the cabinet secretary take an intervention?

John Mason (Glasgow Shettleston) (SNP): Will the cabinet secretary give way?

Michael Matheson: I am happy to give way.

The Convener: Hold on. I am trying to allow a free-flowing discussion, but we have two members wanting to intervene. John Finnie was first, and John Mason also wants to come in. It is up to you, cabinet secretary, whether you want to take an intervention, but the first one would be from John Finnie.

Michael Matheson: I am more than happy to take the interventions.

John Finnie: Is it the cabinet secretary's position that amendment 67, in Colin Smyth's name, and my amendment 39 are incompetent or ultra vires? Does he accept that, albeit that we like the Lothian model, not everybody is enthusiastic about arm's-length organisations, because they lose direct democratic accountability, as we know from various spheres of local government?

Michael Matheson: I am surprised at the nature of that question, because I am sure that, when I have been at the committee previously, Mr Finnie and others have said that councils should be able to use the Lothian model to set up a service if they chose to do so.

John Finnie: The cabinet secretary will have heard me qualify what I said.

Michael Matheson: At no point has anybody said to me that the Lothian model does not provide democratic accountability. Actually, the reason why people have said that we should use the Lothian model is that it provides just that accountability—that is exactly what amendment 68 provides for. The issue seems to be a moving target.

John Finnie: Not at all. Is it the cabinet secretary's view that arm's-length organisations have the same level of democratic accountability as local authority departments?

Michael Matheson: No, they do not, but they are accountable to the local authority. I do not know whether the member is suggesting that we should abolish the Lothian Buses model.

John Finnie: Of course, I am not suggesting that.

The Convener: Before the discussion becomes too stuck in one direction, I encourage the cabinet secretary to bring in John Mason and then to make a bit of headway. You have given Mr Finnie as much of an answer as he is going to get.

John Mason: I want to follow Colin Smyth's line of questioning. I think that I understand you, cabinet secretary, but perhaps you could clarify something for me. The legal position is different, depending on whether a local authority runs its own bus service or has an arm's-length company or something similar to run it. Even though such a company is owned by one or more local authorities, as I understand it, the legal requirements and position are different in those two situations. Is that correct?

Michael Matheson: That is correct.

The Convener: Cabinet secretary, you should make some headway if you can.

Michael Matheson: Colin Smyth also raised the issue of providing protection for the Lothian Buses model and an exemption. The Scottish Government's amendment 68 provides that exemption, so it is a protected arrangement as it stands, which I hope meets with Mr Finnie's approval as well.

Going back to John Mason's point, it is important to recognise that any local authority that operates a bus services does not do so within a legal vacuum. There has to be a framework to enable it to operate in the commercial sector, and that is exactly what amendment 68 delivers. It makes sure that we comply with the requirements of the CMA and that no local authority contravenes state aid rules in establishing a commercial bus operation to deliver services in its area.

The Convener: Before we vote on amendment 66, I remind members that, if amendment 66 is agreed, I cannot call amendments 67 and 39 because of pre-emption.

The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

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

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

Amendment 66 disagreed to.

Amendment 67 moved—[Colin Smyth].

The Convener: I remind members that, if amendment 67 is agreed to, I cannot call amendment 39 because of pre-emption.

The question is, that amendment 67 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)
Rumbles, Mike (North East Scotland) (LD)

Smyth, Colin (South Scotland) (Lab)

Against

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

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

Amendment 67 agreed to.

The Convener: The next group is on the provision of local bus services by community bodies. Amendment 230, in the name of Neil Bibby, is grouped with amendments 248, 248A and 249.

Neil Bibby (West Scotland) (Lab): Thank you, convener, and good morning to you and the rest of the committee and the cabinet secretary.

These amendments on community transport and community empowerment are supported by the Labour Party and the Scottish Co-operative Party, and I declare that I am a member of that party. Each amendment seeks to bring the co-operative values of community and democracy to the bill.

Right now, transport legislation is weighted towards shareholders and profit extractors. The amendments in this group would give communities more of a say over bus services in their areas. I will deal with each in turn.

Section 28 inserts a new section into the Transport Act 1985 that allows local authorities to become providers of last resort. Co-operative MSPs consider that to be a step forward for communities that have been left behind by failures in the bus market. Amendment 230 goes further and would amend section 28 to give local authorities the option of also asking community transport bodies to act as a provider when local circumstances dictate and when it is required to fulfil a public transport requirement. That would recognise the role that community-owned operators could have in securing bus services when the market has failed.

Amendment 248 would require the Scottish ministers to make regulations creating a scheme that would allow for the operation of a bus route to be transferred to a community transport body. That would be a similar process to transfers that are conducted under the Community Empowerment (Scotland) Act 2015. We know that the bus market is changing and evolving, and it is important that bus services meet the needs of communities now and in future.

Subsection (2) of the proposed new section would allow ministers to make the necessary

changes to the Community Empowerment (Scotland) Act 2015 to allow that to happen, and subsection (3) would set a timescale for such regulations to be made. The regulations would be subject to the negative procedure.

The Scottish Co-operative Party believes that the operation of a bus route should serve more than the interests of the operator. Bus services should serve the interests of passengers and the wider community, and I know that the community has made that point consistently. One way of ensuring that bus services serve the interests of the community is to allow the community to take responsibility for a service or a route. That is the principle behind the amendments.

Stewart Stevenson: In my area of the country, community transport companies already run scheduled bus services. How would your amendments interact with such existing provision?

Neil Bibby: Community transport organisations run in some parts of the country but not in many others. My set of amendments seeks to ensure that local authorities would have greater responsibility to promote community transport throughout Scotland.

Amendment 248 would grant the Scottish Government regulation-making powers to put that principle into practice. Instead of the requirement in amendment 248 that ministers “must” make regulations for such a scheme, amendment 248A, in the name of Jamie Greene, proposes that they “may” make them. That would still grant ministers regulation-making powers in primary legislation, which is the main objective of the amendment. I am interested in hearing members’ views on both amendments.

Amendment 249 would in effect create a statutory duty to promote community transport. It would require local authorities to have regard to the desirability of promoting community bus services and would place a reporting duty on ministers, requiring them to demonstrate how they have promoted such services. In a report to the Scottish Government, local transport authorities would have to demonstrate how they have had regard to promoting community bus services. Ministers would then be required to lay before Parliament a report on the impact of the operation of the act on such services. That report would detail the steps that ministers have taken to promote the services, along with a summary of information submitted to them by local authorities on how they have met their duties. Subsection (4) of the section that amendment 249 would insert would require that, in complying with the duties that are laid down in that amendment, ministers consult certain bodies, such as transport authorities, the traffic commissioner and representatives of community providers.

Taken together, my amendments seek to promote local democratic control of bus services at community level.

I move amendment 230.

Jamie Greene: I thank Neil Bibby for bringing community bus services to the committee's attention. Scottish Conservatives have other amendments that seek to address the same issue. It is commendable that many communities take it upon themselves to try to plug gaps in services where they are insufficient.

Let us look at the effect that amendment 230 would have on section 28. As the bill stands, subsection (2) of proposed new section 71A of the Transport Act 1985 says that

"The council may provide such local services as they consider necessary in order to meet the public transport requirement",

which is fair enough. The effect of amendment 230 would be that

"The council may provide"

or

"ask a community transport body ... to provide"

such a service. In principle, I do not have a problem with that, so I am happy to support amendment 230.

However, the reason why my amendment 248A seeks to change the word "must" in amendment 248 to the word "may" is that the former would mean that the minister would have to do that, whereas I would prefer to give them that power but not mandate them to do so. Using the word "may" places the power in the provisions of the bill but does not create an absolute requirement, so that the minister might choose to use the power if they deemed it appropriate. I hope that that is perhaps a compromise between a situation in which a minister would have to do something and another in which they would not do it at all. I hope that members will reflect on that and will agree to amendment 248A so that amendment 248 is made more palatable.

I have some sympathy with amendment 249, but I also have a problem with it. Although I agree that local transport authorities should have regard to the desirability of promoting community bus services, amendment 249 goes on to specify—in great detail and over five subsections—with whom they must consult, how such consultation should be held and how they should go about it. I say to Mr Bibby that there is probably wide support from across the spectrum of members for the improvement of community bus services. I politely suggest to him that he consider not moving amendment 249 and instead work with a range of parties and stakeholders—and with the Scottish

Government, if it is so inclined—to look at how we could use the bill's provisions on bus services to strengthen the duty to improve community transport. I do not think that Mr Bibby's approach is the way to do that, but I agree that it should be done. Scottish Conservatives would certainly be willing to sit down and work with him on a revised amendment for stage 3, if he were minded not to move amendment 249.

I hope that I have set out clearly my position on this group of amendments.

10:00

Colin Smyth: The amendments in the group cover a range of important issues relating to community transport. I am pleased to see the important role of community transport being raised, given its absence from the bill.

Amendment 230 would provide a welcome clarification on the potential role of community transport in providing services in instances of unmet need.

Amendment 248 raises an interesting question about whether communities should have the ability to take over a bus route as part of a community asset transfer. Bus routes are invaluable to communities, but communities often have little power over changes or cuts to them. I welcome the opportunity to look at how we might empower communities to better protect vital routes and run them directly if there is an appetite to do so.

Amendment 249 seeks to place on transport authorities a statutory duty to promote community bus services and report against that duty. It is a welcome amendment that has potential to improve community transport in a number of ways. For example, the duty would ensure that local transport authorities took adequate steps to support community transport to adapt to the introduction of an LEZ. The committee has heard at stage 1 and indeed stage 2 about the burden that LEZs could place on community transport. All too often, community transport can be forgotten, despite the invaluable role that it plays. Amendment 249 would ensure that it was properly supported, without being prescriptive about what that entails.

I hope that members will support amendments 230, 248 and 249.

John Finnie: I support Mr Bibby's amendments and the important role that community transport can play.

Michael Matheson: The Scottish Government recognises the important role that community transport services play in allowing people to play a greater part in their local community. Such services help people to be independent, have a

more active lifestyle and have less reliance on social and health services. We want to build on what exists, but I do not believe that the amendments in the group would help with that.

Amendments 230 and 248 are linked, so I will address them together. In my view, they are neither workable nor necessary. It is not necessary for Scottish ministers to provide a scheme for a community group to make a request to operate a bus route, which amendment 248 seeks to provide for. There is nothing to prevent a community group from applying for a public service vehicle licence or a community bus permit if it considers it appropriate to operate a bus route. The amendment would not take away the need for a body that wishes to provide a service to comply with the usual PSV licensing and bus registration legislation.

The intention of amendments 230 and 248 taken together seems to be to enable a local authority to transfer an asset, in the form of a bus route, to a community body. To be clear, I note that the new ability of local authorities to provide bus services to meet an unmet passenger transport requirement that is contained in proposed new section 71A of the Transport Act 1985, which is inserted by section 20 of the bill, is not an exclusive right or an asset that is capable of being transferred under a scheme, as is proposed. Additionally, another commercial operator may subsequently decide to start operating the route, and it would no longer be an unmet need that the local authority had powers to provide for.

If a local authority was seeking a third party such as a community body to provide for an unmet passenger transport requirement, the appropriate thing to do would be to offer it out as a supported service under the existing powers in section 63 of the Transport Act 1985, following the appropriate procurement route. To do anything else that was more favourable to a community body, which would be an operator like any other and could tender to provide the service, could breach procurement rules.

Amendment 248A seeks to alter amendment 248 so that, rather than there being a duty on the Scottish ministers to make such a scheme, there would be a power that they could use. Although I appreciate what Jamie Greene is trying to do with his amendment, as I have set out, to make such a scheme is not workable, appropriate or necessary, and therefore I cannot support amendment 248A.

Amendment 249 would place a number of bureaucratic burdens on LTAs and the Scottish Government, which would not add value to the operation of community bus services. The proposed amendment would require LTAs to consider promoting community bus services in carrying out the duties that are outlined in part 2 of

the bill: bus services improvement partnerships; local services franchising; local authority provision of services; and data provision. It is hard to see how such consideration could be appropriate within those functions. The promotion of one bus service, or category of service, over others has the potential to distort the commercial market, to negatively impact on other services and to raise anti-competition concerns.

In addition, existing powers in section 63 of the Transport Act 1985 allow local authorities to take some measures to promote the availability of public passenger services, and those can include community bus services where the local authority considers that appropriate.

The amendment also seeks to make the Scottish ministers consider and report on LTAs' actions in relation to promoting community bus services. As I have said, it is not appropriate to impose the proposed duty on local authorities, and it would be neither appropriate nor necessary for the Scottish ministers to carry out that reporting function.

All that is not to say that we cannot make progress in the area. I expect community transport provision to be a factor in any LTA's consideration of franchising, local authority-run bus services and bus service improvement partnership proposals. That will be reflected in guidance on those elements in due course.

We will engage with LTAs as we implement the bill measures, and I will ensure that we include the promotion of the benefits of community transport. I therefore ask Neil Bibby not to move amendment 230, nor to press amendment 248 or 249, but if he does, I ask the committee to reject them. I also ask Jamie Greene not to move amendment 248A, but if he does, I ask the committee to reject it.

Neil Bibby: I thank members for their support in principle for the amendments and for their constructive comments. As I said earlier, the amendments in the group deal with various aspects of community transport and community bus services, but the purpose of each is very different. The bill makes clear that there is a role for local authorities as a provider of last resort. That is not changed by amendment 230, which would simply allow a local authority to ask a community bus operator to assume the role of provider of last resort. Both local authorities and community operators are locally accountable and exist to provide public services rather than to accumulate private profit. Asking a community operator to assume that role would simply expand the powers that are available to councils and would recognise that, in some parts of the world, a community provider might offer the best solution to market failure and the contraction of the bus network.

Stewart Stevenson: Can the member point me at the rule that currently prevents the local authority from asking the community transport body to do what he is suggesting?

Neil Bibby: The bus market is evolving, so there might be changes as a result of the bill that will make that more difficult. As I indicated earlier—

Michael Matheson: There are no provisions in the bill that make that more difficult, so it is incorrect to state that.

Neil Bibby: I want to ensure that amendment 230 is made to the bill so that community transport could be used as an operator of last resort, and I do not see why that is a problem.

As I indicated, amendment 248 is based on the principle that bus services are community services and that the operation of those services should be transferable to a community transfer body. The principle is sound in other areas of policy, and a procedure for community asset transfer has been established. I propose that we apply similar logic and procedure to public transport and the operation of local bus services. The amendment would grant the Scottish Government the power to translate that policy into practice through regulation.

In the interest of consensus and building cross-party support for developing a co-operative agenda, I will not object to amendment 248 on transferring bus routes to the community. I am also happy to withdraw amendment 249 on creating new duties to promote community transport, and I will work with other parties on how best to do that. However, it is vital that we promote community transport and that that is on the face of the bill. I press amendment 230.

The Convener: The question is, that amendment 230 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 230 disagreed to.

Section 28, as amended, agreed to.

After section 28

Amendment 68 moved—[Michael Matheson]—and agreed to.

The Convener: As we are some two hours into the meeting, we will finish the next section and then take a short break. Members should bear that in mind when they move their amendments.

Section 29—Bus services improvement partnerships

The Convener: The next group is on bus services improvement partnerships and the content of the partnership plan. Amendment 69, in the name of Colin Smyth, is grouped with amendments 70 to 72.

Colin Smyth: At various points where the bill provides for bus services improvement partnerships, amendments 69 to 72 add the requirement to consult with and take account of those who live in poverty and those with relevant protected characteristics. It is important that the partnerships deliver for all passengers. The amendments will ensure that inclusion is at the heart of the plans. In particular, the provisions on consultation will ensure that voices that are too often overlooked are included. Transport has an important role to play in the lives of those who live in poverty or who have protected characteristics. It can provide essential access to a range of opportunities and services. Equally, poor or inaccessible public transport can contribute to poverty and worsen its effects.

Amendments 69 to 72 will ensure that, as the partnership plans are developed, that approach is kept in mind. It could inform a range of aspects of the plans. The most obvious example is the affordability of fares, but it should inform a range of other decisions. For example, it might impact on decisions about routes, by ensuring that services are run to deprived areas. It is fundamental to the success of the BSIPs that we ensure that they work for those who live in poverty and who have protected characteristics. Amendments 69 to 72 will help to achieve that.

Last week, the Government's Poverty and Inequality Commission said that, to deliver an economy that helps to tackle poverty, "deeds and not words" are required from the Scottish Government. The Government might argue that the fairer Scotland duty puts tackling inequality at the heart of key decision making, but that duty does not cover regional transport agencies, so it is unlikely to deliver what I aim to deliver with these amendments.

Amendment 71 clarifies that efforts to obtain views on the BSIPs should not be limited exclusively to current passengers. We have a significant challenge in relation to the poor patronage of bus services. Reversing those trends means engaging with people who, for whatever reason, are not using bus services but could be future passengers. That could ensure that those who do not use buses because of specific barriers, be those accessibility or cost, have an opportunity to feed into the process and highlight those issues.

I move amendment 69.

Jamie Greene: I will be pleased to support amendment 71, in the name of Colin Smyth.

Michael Matheson: Colin Smyth's amendments 69 to 72 in this group, and amendments 83 to 94 in the group on the consultation on the making, variation and revocation of partnership proposals, seek to impose additional requirements for the content, notification of and consultation on bus services improvement partnership plans and schemes. In the issues that they raise, all the amendments are similar. They have a specific focus on ensuring that account is taken of the needs and views of those on low incomes or who have experience of poverty and who find it difficult to use or afford local services because they have a protected characteristic that is listed in the Equality Act 2010.

10:15

I agree with Colin Smyth that such considerations are important, but the amendments would not have the desired effect. The amendments would require bus services improvement partnership plans to describe how schemes under them were intended to meet objectives for the quality and effectiveness of local services in meeting the needs of such persons. The amendments would also require partnership plans to describe proposals for obtaining the views of such persons on how well plans and schemes were working.

The bill gives LTAs scope to set the objectives to be met by bus services improvement partnership schemes as regards the quality and effectiveness of services, and significant flexibility to set service standards to meet those objectives.

Those objectives and the associated standards may include objectives and standards specifically aimed at meeting the needs of those who are on low incomes or whose ability to use local services is affected by their having a protected characteristic. I would expect that to be a key consideration for any LTA that embarked on a bus services improvement partnership. Given that, amendment 70 is unnecessary.

For a similar reason, amendment 69, which would require

"an analysis of how existing local services are meeting the needs of people in the area who are on a low income",

is unnecessary. Proposed new section 3A(2)(b)(i) of the 2001 act would allow for such analysis, which would be fundamental to determining what measures a bus services improvement partnership proposal should take to improve bus services.

I am concerned that placing LTAs under such a stark duty on this matter may in practice narrow their focus. Bus services improvement partnerships will be collaborative partnerships that will have analysed existing service provision in their areas and the policies that need to be implemented to make substantive improvements. Scheme objectives may be wide-ranging, from making local services accessible to all who are on low incomes to reducing congestion or air pollution. If people being on low incomes or in poverty was causing a decline in bus service use, that should be identified in the scoping analysis.

While affordability and accessibility are likely to be key objectives in such cases, there is a risk that the amendments could cause LTAs to focus on fares and pricing to the exclusion of wider quality and accessibility measures, even if people being on low incomes or in poverty was not driving a decline in bus use. That could hamper the effectiveness of bus services improvement partnerships or decrease the appetite for LTAs to promote them. Mr Smyth's amendments 69 and 70 are laudable but, for those reasons, I urge him to withdraw amendment 69 and not to move amendment 70.

The bill includes extensive consultation and notice requirements. They require general notice of partnership proposals and of proposals to vary plans and schemes that are in force in such a manner as LTAs consider appropriate in order to bring them to the notice of people who are in their areas. The bill also includes requirements to consult organisations that represent the users of local services. A bus services improvement partnership plan must contain details on how the LTA intends to obtain the views of users of local services as to how well the plan and any scheme under it are operating.

All of that is considered sufficient to ensure that adequate notice is given to and consultation is undertaken with anybody, including those who are affected by poverty, who might be impacted by bus services improvement partnership plans and schemes. It is important that the bill's approach imposes such requirements in a clear way that is achievable in practice.

Amendments 71 and 72 would make matters less clear and, indeed, in some instances might

impose duties that would be unachievable in practice. Amendment 72 appears to require LTAs to give notice to or to consult all persons who have experience of poverty on the future operations of bus services improvement partnerships. In that context, poverty is not defined and would be challenging to define but, even if such a definition were possible, it would be impossible to identify, consult and give notice to every person who had such experience. An inability to meet the requirement that would be imposed by the amendments may frustrate the process of partnership proposals.

The consultation on bus services that preceded the bill made it clear that quality partnership and quality contract schemes were not used because they were considered to be too onerous. I do not want to repeat that error with bus services improvement partnerships. Therefore, although I have sympathy for Mr Smyth's aims, and I consider his intentions to be laudable, I urge him not to press amendment 69, nor to move amendments 70 to 72. If those amendments are pressed and moved, I urge the committee to reject them.

Colin Smyth: I briefly remind the cabinet secretary that, last week, the Government's own Poverty and Inequality Commission said "deeds, not words" are required from the Government to deliver an economy that helps to tackle poverty. Frankly, simply saying that it may happen represents words, not deeds from the Government.

There is nothing in the bill that would ensure that we look at affordability to try to tackle the barriers that are in the way of people who are living in poverty accessing bus services.

Amendment 72 does not say, as the minister implies, that the requirement to consult people who are living in poverty, or those who have protected characteristics, will not be met if you cannot consult every single one of them. The amendment says that efforts should be made to consult people who are in those circumstances in developing the plans. One of the factors that should be considered as part of the development of the plans is how we break down barriers for people who, for example, are on low incomes or live in deprived communities, which often do not have bus services. We need to look at how we can use the BSIPs to tackle those issues. It is disappointing that the cabinet secretary has not made any alternative proposals on how that might be achieved.

On that basis, I press my amendment.

The Convener: The question is, that amendment 69 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 69 disagreed to.

Amendment 70 moved—[Colin Smyth].

The Convener: The question is, that amendment 70 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 70 disagreed to.

Amendment 71 moved—[Colin Smyth].

The Convener: The question is, that amendment 71 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 71 disagreed to.

Amendment 72 moved—[Colin Smyth].

The Convener: The question is, that amendment 72 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 72 disagreed to.

The Convener: I had hoped to move on to the next group, but there has been a lot of speaking. I will not point the finger at anyone, but one member spoke for seven minutes and 36 seconds, which is quite a long time to speak to the amendments. I will therefore suspend the meeting for a few minutes.

10:24

Meeting suspended.

10:32

On resuming—

The Convener: The next group of amendments is on bus services improvement partnerships: facilities and measures. Amendment 73, in the name of the cabinet secretary, is grouped with amendments 77, 78, 170, 171 and 179.

Michael Matheson: Following engagement with stakeholders, I have identified the need to add to our provisions on the circumstances that surround the making of traffic regulation orders under the bill. Where the provision of a facility in a bus services improvement partnership requires a traffic regulation order for a road for which the Scottish ministers are the traffic authority, the scheme can go ahead only if it is agreed by the local transport

authority and the Scottish ministers acting jointly. The amendments in this group will put in place the same arrangements for cases in which a measure in a BSIP requires a traffic regulation order to make the Scottish ministers and the local transport authority joint partners in the scheme.

The distinction between “facilities” and “measures” can broadly be described as that between “infrastructure” and “other”. Given the broad nature of the concept of measures, I am seeking to ensure that a scenario in which a traffic regulation order is required in such circumstances is catered for in the bill to provide parity with the concept of facilities. Amendment 73 will give effect to that by inserting

“or the taking of a measure”

in proposed new section 3E(1) of the Transport (Scotland) Act 2001.

Amendments 77, 78, 170 and 171 are consequential amendments to ensure that measures are included alongside facilities in the circumstances that I have set out.

The Scottish Government listened to the Delegated Powers and Law Reform Committee’s recommendations in its stage 1 report. Accordingly, I have lodged amendment 179 to ensure that any regulations that are made by ministers

“about what may constitute a facility or measure”

will attract the affirmative procedure.

I move amendment 73.

Amendment 73 agreed to.

The Convener: The next group of amendments is on bus services improvement partnerships: traffic regulation orders. Amendment 74, in the name of the cabinet secretary, is grouped with amendments 75, 76, 175 and 177.

Michael Matheson: Amendment 73 in the previous group, which was on bus services improvement partnerships: facilities and measures, put in place arrangements for cases in which a measure in a bus services improvement partnership requires a traffic regulation order on a road for which the Scottish ministers are the traffic authority, making the Scottish ministers and the local transport authority joint parties to the scheme. The amendments in this group are consequential on the policy intention behind amendment 73 and the other amendments in the previous group.

Amendment 74 provides a definition in order to be clear as to what constitutes a “traffic authority”, by reference to section 121A of the Road Traffic Regulation Act 1984.

Amendment 75 amends proposed new section 3E(2) of the 2001 act to confirm that bus services improvement partnership schemes under the circumstances that I have set out may only be made, postponed, varied or revoked by local transport authorities and Scottish ministers jointly.

Amendment 76 is a consequential amendment, and ensures that measures are included alongside facilities in the circumstances that I have set out.

Amendments 175 and 177 seek to relax the definition of a TRO for the purposes of a BSIP provision. Currently, the definition in the 2001 act restricts the making of a TRO to a purpose relating to the regulation of the use of the road by public service vehicles—namely, buses. That is potentially too restrictive an approach, given that TROs may be required to enable measures to be taken in relation to car parking, for example. The definition is being relaxed, and it is being allowed to default back to its natural meaning, so that LTAs have a broader suite of options available to them.

I ask members to support amendment 74 and the other amendments in the group.

I move amendment 74.

Amendment 74 agreed to.

Amendments 75 to 78 moved—[Michael Matheson]—and agreed to.

The Convener: The next group is on bus services improvement partnerships: regulations on partnership time. Amendment 281, in the name of Jamie Greene, is grouped with amendments 79, 79A, 282, 80, 80A and 178.

Jamie Greene: This group of amendments is on bus services improvement partnerships, which are commonly known as BSIPs. The amendments specifically concern the regulations on partnership timings.

As the bill stands, proposed new section 3F of the 2001 act, “Effect of partnership plans and schemes”, states that a local transport authority must provide a facility or take a measure that forms part of a BSIP

“not later than the date specified in the scheme”.

However, proposed new section 3G of the 2001 act, “Postponement of partnership scheme coming into operation”, seems to roll back that commitment somewhat. It states that

“A local transport authority may, if they consider it appropriate, decide to postpone the coming into operation of a partnership scheme or any part of it”.

It goes on to say that any such postponement should be no longer than 12 months.

The reality is that postponing a bus priority measure would, in effect, also postpone the

operator’s ability to generate passenger growth and income. Expecting operators to meet the additional service standards would perhaps increase their operating costs, too.

Amendments 281 and 282 specifically seek to address and cap the length of postponement and the number of times that a postponement can take place.

Amendments 79A and 80A are amendments to the cabinet secretary’s amendments 79 and 80. Amendment 79A would additionally insert a limit of 24 months on a postponement, if that is deemed appropriate by ministers. Amendment 80A does the same in relation to amendment 80.

Amendments 79, 80 and 178 would result in ministers having the power to postpone the implementation of the partnership scheme for more than a year, which could hinder the timely implementation of such a scheme. Granting that power is unnecessary. Local authorities should be able to implement the scheme at a time that they see fit, and the current provisions in the bill provide a good enough framework for local authorities. For that reason, I am not minded to support amendments 79, 80 and 178.

My amendments, and some of the others that I will address later, were drafted in consultation with the Confederation of Passenger Transport—I thank it for its involvement. They reflect its views and those of many of the operators in the industry.

I move amendment 281.

Michael Matheson: Amendments 79, 80 and 178 are designed to allow Scottish ministers by regulation to amend the maximum period of postponement for a planned bus services improvement partnership scheme or any variation of such a scheme. Given the nature of the powers, I believe that it is appropriate that they are subject to the affirmative procedure. We have lodged the amendments as it seems important that some flexibility is built into this part of the process in order that reasonable adjustments can be made over time in response to the experience of schemes that are in operation or shifting market dynamics. It might be that longer or shorter time periods are more appropriate in order to minimise the impact of any postponement on the parties to such an agreement. We will only know that, however, through watching and learning from the operation of schemes.

A postponement is not an option to be taken lightly by the LTA. The collaborative nature of the preparation of the plan and the scheme should highlight any potential difficulties in that regard, and those should be accommodated accordingly. Any postponement will be for genuinely unforeseen and unavoidable reasons. It would delay a scheme that the parties who are involved

have spent time and effort putting in place, and, as such, it is not anticipated that postponement is an action that LTAs would take lightly or repeatedly. However, we cannot foresee all the eventualities, and have sought, in all the bus services improvement partnership provisions, to strike the balance between a clear process and flexibility.

Jamie Greene's amendments 79A and 80A would set the maximum period for the postponement of a planned bus services improvement partnership, or any variation of one, at 24 months. His amendments 281 and 282 would put in place the additional condition that a bus services improvement partnership or the variation of such a partnership may be postponed only once. Although I agree that postponement of a bus services improvement partnership would create considerable uncertainty for the parties to the agreement, I would wish to avoid such an overly restrictive approach to the process. Such restrictions could ultimately be problematic for the LTA, and could result in people finding themselves in a situation in which they must bring into operation a scheme that does not yet have all the standards, facilities or measures in place. I would wish to avoid such a procedural difficulty where possible.

It is for those reasons that I propose that the element of flexibility can be taken forward through the regulation-making power that is provided in relation to time periods for postponements, subject to the appropriate safeguard of affirmative parliamentary process.

The level of specificity of Jamie Greene's amendments would impose a potentially restrictive regime, which I do not believe is appropriate in the circumstances. Therefore, I ask Jamie Greene not to press amendment 281 or move his other amendments in the group, and to support amendments 79, 80 and 178.

The Convener: I invite Jamie Greene to wind up and indicate whether he wishes to press or withdraw amendment 281.

Jamie Greene: I have listened carefully to what the cabinet secretary has said. I think that he makes a valid point about amendments 281 and 282. I would not want to create an unintended consequence whereby a scheme would have to be implemented even if people were not ready to do so. I totally take that point on board. On that basis, I will withdraw amendment 281 and not move amendment 282.

However, I would like to make the point that the cabinet secretary's amendments 79 and 80 both say that the minister may, by regulations,

"specify a different total period of postponement than the one for the time being specified".

There is no limit to how long that could be. I think that a limitation of 24 months' postponement is reasonable. As the amendments are currently drafted, such a postponement could last for several years or decades. That is not fair on either the LTA or the operators involved in the partnership.

As the cabinet secretary said, it is a collaborative approach.

10:45

Michael Matheson: As I have stated, any time period will be specified through regulations under the affirmative procedure and so will require parliamentary approval.

Jamie Greene: Amendment 80 says:

"The Scottish Ministers may by regulations amend subsection (5) to specify a different total period of postponement".

That would mean that the maximum period of postponement would be set as part of those regulations.

Michael Matheson: As I have stated, the limits would be made through regulations that would come under the affirmative procedure, which means that they would have to come before Parliament for approval. Any time limit would have to be agreed by Parliament.

Jamie Greene: Thank you for confirming that, cabinet secretary. That provides me with some comfort.

Amendment 281, by agreement, withdrawn.

Amendment 79—moved [Michael Matheson].

Amendment 79A not moved.

Amendment 79 agreed to.

Amendment 282 not moved.

Amendment 80 moved—[Michael Matheson].

Amendment 80A not moved.

Amendment 80 agreed to.

The Convener: The next group is on bus services improvement partnerships: reports on partnership schemes. Amendment 231, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene: Amendment 231 is on the reporting of partnership schemes. Proposed new section 3J of the Transport (Scotland) Act 2001 details the requirement for a local authority to report on the effectiveness of a partnership scheme every 12 months. Experience from the current statutory quality partnership models—the predecessor to BSIPs—has demonstrated that local authorities do not always deliver timely or

comprehensive data. That undermines the partnership's ability to make informed decisions on its future direction.

Amendment 231 sets out additional reporting requirements to specify extra information. The bill should be amended to include a requirement that annual reporting on effectiveness includes up-to-date and relevant data relating to service standards and the BSIP's aims, including peak and off-peak average bus speeds, and for those figures to become the basis for further local authority action should there be no improvement to services.

I am keen to hear any comments that the cabinet secretary and other members have on those additional reporting requirements and whether they would be useful to a BSIP, and on the difference from a statutory quality partnership.

I move amendment 231.

Michael Matheson: Amendment 231 seeks to impose additional requirements on local transport authorities regarding what the annual report on bus services improvement partnership schemes must contain.

As it stands, the bill requires the LTA to prepare and publish an annual report on the effectiveness of a BSIP scheme and sets out who is to be consulted during the preparation of that report. It also specifies that the LTA must consider representations that are made to it about the effectiveness of the scheme. The reporting requirement relates to the overall effectiveness of the scheme, and I consider that to be broad enough to encompass the first aspect proposed by amendment 231 on the achievement of the scheme objectives on quality, effectiveness and service standards.

On the requirement to include information on bus speeds, I want to be clear that those are exactly the sort of metrics that will be used by many partnerships when they are considering establishing a partnership, given the importance of tackling congestion to make bus services more attractive to passengers. However, it is not necessary to prescribe a reporting duty in relation to any specific indicators over any other in primary legislation. Each scheme will be unique. We wish to avoid a scenario in which reports on bus speeds are published when addressing those speeds is not a scheme objective. When bus speeds are a key indicator that the scheme aims to tackle, they should be addressed in the report.

We intend to set out in guidance further details about what the reports should contain, and my officials will work on that with bus operators, local transport authorities and other stakeholders.

There is a regulation-making power in proposed new section 3L of the Transport (Scotland) Act 2001, should that be considered a useful and proportionate course of action to take at a future date.

I understand what Jamie Greene is seeking to achieve, but I urge him not to move amendment 231. If the amendment is moved, I ask the committee to reject it.

Jamie Greene: The cabinet secretary says that the data is important and that these things should be monitored, but he does not seem keen to make it a requirement for them to be measured or reported on. That seems strange.

Proposed new section 3J(1) states that the LTA must

"publish a report on the effectiveness of the scheme"

and that is about as much as it says. It does not go into any great detail.

Amendment 231 provides helpful additional recommendations. The cabinet secretary says that that information will be included in the guidance, but we have not seen it. If the minister is willing to share the guidance with the committee, perhaps ahead of stage 3, we could see whether it is suitable. I am simply asking that the data be provided. What is done with the data is another matter but it would be useful to have it, given the importance of improving average bus speeds to improve modal shift to buses.

Subsection (c) of the new section that is proposed in amendment 231 says that the report must include information

"where the progress towards achieving the objectives and service standards is not satisfactory, on the steps the local authority intends to take."

We are not just talking about reporting numbers for their own sake; we are setting out a plan for how the schemes will be improved. I do not see that as an onerous task for the partnerships; it would be a useful collection of important data.

I hope that members will agree that the provision should be included. I am minded to press amendment 231.

The Convener: The question is, that amendment 231 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)
Smyth, Colin (South Scotland) (Lab)

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)
 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 231 disagreed to.

The Convener: The next group is on bus services improvement partnerships: provision of information by operators. Amendment 81, in the name of the cabinet secretary, is grouped with amendments 82, 98, 102 and 174.

Michael Matheson: The committee's stage 1 report recommended that the Scottish Government should consider whether the service data provisions that are contained in the bill might provide sufficient information to enable a local transport authority to fully evaluate the pros and cons of using the powers in part 2 of the bill.

Amendments 81 and 98 seek to address that issue by inserting new sections 3JA and 13QA into the Transport (Scotland) Act 2001 to provide a local transport authority with the powers to gather information from bus operators when considering and implementing local service franchises and bus services improvement partnerships.

Amendment 174 amends section 39 of the 2001 act to enable the traffic commissioner to impose a penalty on an operator who fails to comply with a requirement to provide information under those new sections.

The information that can be required under these provisions can be used only for the purposes that it has been obtained for. The new provisions create offences in respect of any breach of the conditions of use or disclosure by an LTA or a person acting on its behalf.

Officials had discussions with stakeholders, including the Confederation of Passenger Transport UK and the Association of Transport Co-ordinating Officers, in developing these amendments and will continue to do so as regulations and guidance are developed.

I am grateful to Colin Smyth for his amendments in this group. However, I consider that the Scottish Government amendments fully address the information requirements. As such, amendments 82 and 102 are unnecessary, and I therefore ask Colin Smyth not to move them. If they are moved, I ask the committee to reject them and to support amendments 81, 98 and 174 in my name.

I move amendment 81.

Colin Smyth: My amendments 82 and 102 would allow ministers to set out in secondary legislation what information must be provided to local transport authorities for the purpose of developing BSIPs and franchises. They serve a similar purpose to amendments 81 and 98 from the cabinet secretary. Giving local authorities access to the data that they need to set up BSIPs is crucial to ensuring that the new powers are used. A number of stakeholders raised this issue in evidence to the committee, and I am glad that the cabinet secretary has listened to those concerns and to the committee's recommendation at stage 1 and introduced amendments on the issue.

I am happy to support the cabinet secretary's amendments and not to move mine, as the cabinet secretary's amendments are more detailed and certainly cover the issue that we have been discussing.

Amendment 81 agreed to.

The Convener: The next group is on bus services: fair work. Amendment 232, in the name of Colin Smyth, is grouped with amendment 242.

Colin Smyth: Amendments 232 and 242 call for ministerial direction on the need to incorporate the principles of fair work in BSIPs and franchises. Working conditions and wages in the sector are under constant pressure and the lack of collective bargaining in the sector has led to a race to the bottom, which has seen bus driver wages fall well below average wages.

Significant amounts of public money are spent on bus services; in fact, public money makes up close to half of all bus operator revenue. Given how much public money supports the bus operators, they should be upholding the highest standards of employment terms and conditions and we should be using all available mechanisms to ensure that that is the case. The introduction of BSIPs and franchises is such a mechanism.

I am conscious that employment is a reserved issue and I have tried to be mindful of that in my amendments, but my approach here is exactly the same approach as that which was proposed by the Government in the recent South of Scotland Enterprise Bill, which was passed unanimously by members last week. The amendments do not detail any specific responsibilities; that would be a matter for direction, although I have views on what should be included. This is simply about agreeing that the principles of fair work should be enshrined in the bill through these particular agreements.

I move amendment 232.

Peter Chapman: Unfortunately, I cannot support either amendment in this group, because the fair work framework was established by the

current Government and any new Government that came into power could change the policy and the framework, which would then become redundant. It is therefore not appropriate to refer to it in the bill.

Colin Smyth: Can you explain why you voted for the same wording in the case of the South of Scotland Enterprise Bill last week?

Peter Chapman: No, because I cannot remember exactly what the process was but I stick by what I said with regard to this bill.

The Convener: I am sure that that is a debate that you can continue later. Perhaps the cabinet secretary can add to that.

Michael Matheson: I will try, convener. Colin Smyth's amendments 232 and 242 seek to require Scottish ministers to issue directions to local transport authorities to require them to specify in bus services improvement partnerships and franchising frameworks how each authority or local service operator

"must seek to promote fair work in exercising its functions".

The directions would also have to set out what fair work means in that context.

I support in principle what Colin Smyth is trying to do. As the committee knows, the Scottish Government supports fair work practices and wishes to promote them as far as it is practical to do so within the limitations that are imposed by the reservation of employment and industrial relations to the UK Parliament under the Scotland Act 1998, and within procurement rules.

11:00

In some respects, Colin Smyth's amendments resemble Scottish Government amendments that Fergus Ewing lodged at stage 3 of the South of Scotland Enterprise Bill, which passed that stage last Wednesday. However, the proposed amendments to the bill before us are very different from those other amendments in the light of the different policy and legal contexts in which the provisions would operate.

I have a number of concerns about incorporating similar amendments into the bus services provisions. With regard to franchising, I am not persuaded that the amendments are necessary. Franchising will be delivered through franchise agreements. Those are regulated procurement processes in respect of which local transport authorities are already required to have regard to the statutory guidance on addressing fair work practices, including the payment of a living wage. The need for an additional central Government direction in the context of franchising is therefore doubtful.

For bus services improvement partnership plans, the use of ministerial directions would be quite unusual and arguably inappropriate. The context around the South of Scotland Enterprise Bill concerned the duties of a public body. It is appropriate for ministers to take broad powers to direct public bodies. However, in the case of bus provision, we are considering the duties of local transport authorities. Most of those are local authorities, and any power to direct a local authority in the exercise of its functions should be appropriately constrained. A ministerial power of direction that is as potentially broad and far-reaching as Colin Smyth proposes may risk cutting across local democratic accountability. For that reason, if we were to seek to impose obligations in respect of fair work in relation to the bill, it would be more appropriate to do so by means of statutory guidance than by ministerial direction.

Although I understand why Colin Smyth has sought to adapt the Government's amendments to the South of Scotland Enterprise Bill to apply to the bill that is before us, that gives rise to some technical issues, given the different legal framework that the bill creates. It is not clear whether the fair work directions in this case are intended to be binding on LTAs. It is also not clear whether the ultimate intention of a direction would be to impose, through partnership schemes, legal duties on bus operators to promote fair work when carrying out their business.

John Finnie: I am sure that the cabinet secretary would not want to give any cause to suspect anything other than that he wants the highest standards of employment to apply. Is it possible that the Scottish Government will come back with an amendment that would incorporate those provisions at stage 3?

Michael Matheson: If the member is patient and allows me to finish, I will come back to that particular point.

Given the procedures and enforcement powers that are connected to bus services improvement partnerships in particular, it is unlikely that the amendments as drafted, and any directions under them, could ensure that fair work considerations would effectively be taken into account.

Again, there is a distinction to be drawn between these amendments and the amendments that were agreed to in relation to the South of Scotland Enterprise Bill, which imposed a straightforward power to direct the new south of Scotland enterprise agency and a duty on it to comply with such direction. For those reasons, I cannot support amendments 232 and 242 as they stand. However, given the Government's clear commitment to fair work and to embedding and promoting fair work principles within the limits of our powers and the powers of the Parliament, I

commit today to consider how best we may weave fair work considerations into the bus services provisions of the bill in advance of stage 3. I am very happy to work with Colin Smyth on that issue.

That being the case, I ask Colin Smyth not to press his amendments 232 and 242. If those amendments are pressed, I ask members to vote against them.

Colin Smyth: I am pleased to have reminded the Government of its commitments under the fair work agenda. Given the cabinet secretary's commitment to work with me on possible amendments at stage 3, I will not press amendment 232. I invite Peter Chapman to come along to those discussions, too. *[Laughter.]*

Michael Matheson: I would be very happy for Peter Chapman to attend, if he wishes to.

The Convener: This all sounds very consensual.

Amendment 232, by agreement, withdrawn.

Amendment 82 not moved.

The Convener: The next group is on bus services and transport information: accessibility. Amendment 233, in the name of Colin Smyth, is grouped with amendments 243, 109, 109A, 109B, 250, 250A, 250B and 258.

Colin Smyth: All the amendments in this group are intended to improve accessibility on buses. UK-wide equality legislation provides a floor but not a ceiling for accessibility standards. We should be constantly looking at ways to improve accessibility on public transport, and the bill provides a number of opportunities to do that.

Amendments 233 and 243 would allow BSIPs and franchises to include provisions on accessibility—that would be just one way in which we could use the new mechanisms in the bill to improve accessibility.

Some local transport authorities already use tendering to deliver more accessible services. Amendments 233 and 243 would encourage that to become the norm in the development of BSIPs and franchises. It is crucial that they deliver improvements for all passengers, including those with disabilities or other mobility issues, and the amendments would help to achieve that. They are not prescriptive—I appreciate that different areas may have different needs—but I think that we should be clear in the bill that agreements should consider these issues.

Amendment 109 would require all new and refurbished bus stops to be made more accessible. The purpose of the amendment is to ensure that disabled people can use public transport as safely and independently as

possible—I am sure that everyone here shares that aim.

Amendment 109 would remove obstructions and hazards from bus stops and require step-free access. It would stop the use of floating bus stops, where cycle lanes run between the pavement and the bus stop. Those are serious hazards, particularly for blind and partially sighted people.

Amendment 109 would not require every bus stop in the country to be altered to meet the standards, but would create a new standard for new bus stops and other bus stops when they are being refurbished.

Putting those provisions in legislation would ensure that best practice is followed consistently across the country and that we do not continue to develop bus stops that are not fully accessible.

Amendment 250 would require bus drivers to undertake disability awareness training annually. As it stands, drivers have to do the training on a one-off basis. That creates a risk of the details of the training being forgotten over time, particularly in scenarios that drivers do not encounter regularly. There is also a risk that best practice moves on and that drivers who have not received any training since the start of their careers are not kept up to date. Doing the training annually would ensure that drivers receive regular training and always have the most up-to-date information. It would also allow them to raise any questions about scenarios that have occurred during the previous year.

The amendment does not call for intensive, lengthy training every year—realistically, we would be looking for the training to take one day a year. I think that that is a reasonable ask, given the benefits of improving disabled people's experience of using public transport and improving drivers' confidence and capabilities in that area.

Amendments 250A and 250B, in the name of Jamie Greene, would replace the requirement for annual training with a requirement for training whenever there are significant changes to relevant legislation. My concern is that those amendments would undermine the key aim of amendment 250, which is to ensure that training would be regular. It is possible for drivers to work for long periods of their career without the legislation changing, during which time they could easily forget details of their training and best practice could evolve.

Amendment 258, in the name of Jeremy Balfour, calls for ministers to publish a report, which would set out what they have done

“to ensure that all information about public transport services is provided in an accessible form”

and the steps that they are to take based on that report's recommendations.

Amendment 258 would be a useful addition to the bill. The issue of accessible information, which is of huge importance, is one that I try to address in amendment 107. The work required would be useful in identifying any gaps and the actions needed to ensure that information about public transport services is accessible.

I move amendment 233.

The Convener: I call Jamie Greene to speak to amendment 109A and any other amendments in the group.

Jamie Greene: It is amendment 190A.

The Convener: What did I say?

Jamie Greene: 109A.

The Convener: It is amendment 109A—you can correct me if you like, but let us speak to amendment 109A.

Jamie Greene: Just to clarify, amendment 109A is the one on stopping places and is further to Colin Smyth's amendment.

I am pleased that Colin Smyth has brought these two substantive issues to the committee; they are important points. One is about the accessibility of bus stops, and the other is about driver awareness training. I will speak to each of the amendments separately and explain why I am trying to amend them. I hope that they are not perceived as weakening the intention behind the amendments.

I am happy to support amendments 233 and 243—a lot of the numbers are very similar today, convener; I apologise.

My amendment 109A would simply add the words "where practicable" after "must". I agree that if we are building a new bus stop or refurbishing a bus stop, and spending capital on doing so, we should do that in a way that improves access to and from buses at that stop. However, we need to give local transport authorities and local authorities some leeway over what can and cannot be done when creating bus stops.

The point about the need to improve stops is an important one, and I also agree that it would be unreasonable to retro-upgrade all existing stops given their various guises and natures. My small amendment would add a pragmatic element to Mr Smyth's proposal, because it is impossible to anticipate every individual circumstance when it comes to building stops, or indeed what funding is available for new or refurbished stops.

Amendment 109B would remove three of the additional rules around what must go into the thought process on new stops. I actually thought that the wording of the proposed new section was perfectly fine up to subsection (2)(a)—I would

have stopped the amendment there. It says that there is a duty that any new stopping place should be accessible in accordance with other pieces of legislation.

However, it then goes on to be prescriptive by saying that a stopping place should

"not share any part of the carriageway with a cycle track,"

and should not require the use of steps.

I refer back to my earlier point. I do not know the individual circumstances of every stop that will be built in the future; there could be hundreds or thousands of them, and it would be unreasonable to assume that there would not be a step involved in every circumstance. Many older buses cannot be retrofitted to be accessible, but many users would still like to use those services with other means of assistance. The amendment is too prescriptive.

Amendment 109B is a compromise on the proposals set out in Mr Smyth's amendment, which I agree with. I am not seeking to weaken it, just to make its application a little bit more practical.

Mr Smyth also makes an important point about disability training. I support the general principle of improving disability training among drivers. Like many other members, I met stakeholders, including the Royal National Institute of Blind People, who asked us to support the provision in its entirety.

My amendment 250A would remove the requirement for annual training, which is an overly onerous duty on operators. I can see the merit in continuous training, but putting the annual requirement into the bill would mean that operators would, in effect, be breaking the law if they were, for any reason, unable to guarantee that all drivers and all bus operators had undergone training every single year. For that reason, I think that we should remove the annual duty while pushing ahead with the rest of the provision.

Amendment 250B seeks to ensure that additional training is undertaken when significant changes are made to legislation. I hope that the minister will comment on that.

I will leave my colleague Jeremy Balfour to speak to his amendment 258.

11:15

Jeremy Balfour (Lothian) (Con): I welcome all the amendments in this group; they are helpful and I hope that committee members will support them.

Members will consider a number of amendments in my name that relate to disability. Disability and transport is a key issue and I welcome what the bill does in that regard.

All committee members want everyone to be able to participate in society. However, many disabled people face obstacles to securing that right. Public transport is often the answer. Let me give a personal example: I am unable to drive, and if there were no public transport my life would be much more limited. That is true for many people, particularly if they live in rural areas of Scotland.

Amendment 258 would require the Scottish Government to prepare a report on how we can make transport and the information about it accessible. People who are blind or partially sighted depend on audio announcements, mobile phone applications and advice from other people. The technology is changing rapidly, so it would be helpful to have such a report and to consider how to take things forward over the next years.

We should not limit the approach to bus services. We could radically change the information that is available to people who use trains and other forms of public transport. That would benefit not only disabled people but the rest of society, because if more people were able to use public transport their carbon footprint would be reduced, and there would be an economic benefit, too, because more people with disabilities would be able to go out, spend money and—more important—do jobs and earn money.

Disability charities and disabled people to whom I speak tell me that disabled people simply cannot get to jobs, because of transport issues. My proposed approach would be a small step towards making information on public transport more accessible. I hope that the Government and committee members will look favourably on amendment 258.

Mike Rumbles: Amendment 258 says, in effect, that the Scottish ministers must

“ensure that all information about public transport services is provided in an accessible form”.

It goes on to say that “accessible form” means what ministers say that it means but must include

“the availability of information in audible form”.

Does that mean that audible information must be provided at every bus stop throughout the land? How practical is that?

Jeremy Balfour: I think that the answer is no, that is not practical at the moment. However, we do not know where technology is going and such an approach might well become possible in a number of years. Members who use the buses in Edinburgh will know that a lot of bus stops provide

real-time information. I understand that it is already possible to put that information in audible form, which would be a step forward. Also, there are many iPhone apps that could be used to give information in an audible form.

Amendment 258 is not prescriptive, in that it does not say what must happen; it asks about what is available and what could happen, as you will see from subsection (1)(a) of the proposed new section that it would create.

Mike Rumbles: I hear what you say, but I am looking at the wording of amendment 258—and we have to vote on the amendment—and it requires ministers to set out how the information is available throughout the land

“Not later than 12 months after the day of Royal Assent”.

I just do not think that that is practical.

Jamie Greene: You make a valid point, but I do not think that amendment 258 would require all the information to be available in audible form by then. It would require ministers to say what

“steps they have taken to ensure that all information ... is provided in an accessible form”.

That does not mean that audible information will be available at every bus stop. The amendment is not prescriptive, which seems a better approach. It would not require all information to be available within 12 months of the bill's passing.

Mike Rumbles: I am looking at what it actually says, in English, in the amendment. It says:

“Not later than 12 months after the day of Royal Assent, the Scottish Ministers must publish a report setting out—

(a) the steps they have taken to ensure that all information about public transport services is provided in an accessible form”.

It then explains that “accessible form” means

“the availability of information in audible form”.

That is what amendment 258 says.

The Convener: I will bring in John Finnie, and then ask the cabinet secretary whether he can shed some light on the issue.

John Finnie: I hear what Mike Rumbles says, but I think that it would be perfectly competent for the Scottish ministers to say that they are aware of a developing situation and that they are hopefully moving towards meeting the requirement. As Jeremy Balfour said, it is an extremely fast-moving situation. Not everyone has apps on their phones, but some of the apps that are available have greatly benefited people who have a disability and I think that the amendment is just trying to reflect that.

The Convener: No other members have indicated that they wish to speak. Perhaps the

cabinet secretary can shed some light on this and other matters.

Michael Matheson: The amendments in this group deal with the important issue of accessibility. I agree with the importance of making public transport accessible for everyone. The Scottish ministers have made clear their expectations that Scotland's public transport providers will continually improve their performance in helping disabled people to make better journeys. For our part, the Government is taking a whole series of actions and making investments to make that happen—from our work to design new trunk road projects inclusively for people who have a mobility or sensory impairment, to our investment in the national concessionary travel scheme for disabled people.

As we discussed in the context of bus services improvement partnership plans on 10 June, it is worth noting that there is an existing legal framework that currently makes provision about the duties on Scottish public authorities in relation to accessibility. For example, the public sector equality duty that is set out in the Equality Act 2010 requires public authorities, among other things, to

“have due regard to the need to ... advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not”.

Distinct legal obligations on transport service and infrastructure providers, including in respect of accessible information, can be found in the 2010 act and in other passenger rights legislation.

Gail Ross (Caithness, Sutherland and Ross) (SNP): A couple of weeks ago, the Equalities and Human Rights Committee took evidence from the Scottish Human Rights Commission, which told us that a lot of local authorities are not adhering to the public sector equality duty. Will you give a guarantee that you will put pressure on local authorities and transport services to adhere to that duty?

Michael Matheson: We already do. Let us not forget that it is a legal duty that they are required to meet, and it is important that we continue to press them to do so. The 2010 act is the primary piece of legislation that is responsible for ensuring that that happens.

Colin Smyth: Will the cabinet secretary clarify whether the duty is on regional transport agencies? Are they included in the list of bodies that are covered by the duty? My concern is that they are not currently covered.

Michael Matheson: Yes, they are.

Colin Smyth: All our agencies are covered by that duty.

Michael Matheson: Yes, I am advised that they are.

With that in mind, I point out that, for all the duties under the 2010 act, there are provisions for complaints and enforcement, to ensure that the duties are being appropriately adhered to. The relevant bodies must implement the duties in order to improve accessibility performance.

Although there are significant existing provisions that seek to promote and secure access to services for disabled people, we should always take the opportunity to improve matters when there is a need and when Parliament has a power to do so.

Colin Smyth's amendments 233 and 243 seek to give powers to the Scottish ministers to make provision, by way of regulation, with respect to

“the standards and requirements”

that may be specified

“in respect of the accessibility of ... services for disabled persons and persons with limited mobility”

in a bus services improvement partnership plan or scheme, and in a franchising framework.

I note Colin Smyth's views on the amendments and I agree that additional clarity and flexibility in that context may be useful. I therefore ask the committee to support amendments 233 and 243.

Amendment 109 from Colin Smyth, which is on accessibility of new or refurbished stopping places, seeks to amend the Transport (Scotland) Act 2001 by creating a new duty on local transport authorities to ensure that new or refurbished stopping places comply with certain requirements, which are set out in proposed new sections 40B(2)(a) to 40B(2)(d) of that act. The physical location and features of bus stops are the responsibility of roads authorities, which are already bound by the Equality Act 2010 to make reasonable adjustments in exercising their functions, including taking steps to avoid any disadvantage that a disabled person might suffer as a result of a physical feature. Roads authorities are also bound by the general public sector equality duty under the 2010 act. They are therefore already required to ensure that the design and location of bus stops in their area comply with those duties and take into account the needs of users more generally.

In addition, provision that is made in the Public Service Vehicles Accessibility Regulations 2010 ensures that all buses and coaches are made more accessible. There are approximately 4,100 buses in the Scottish fleet, of which 98 per cent are accessible or low-floor buses. Amendment 109 is therefore unnecessary. Furthermore, there are a number of technical difficulties that make the legal

effect of amendment 109 unclear. For example, it confers a duty on local transport authorities rather than roads authorities. It is unclear how local transport authorities could comply with the duty imposed on them, given that the powers and functions relating to bus stops are not conferred directly on them.

Although I can see that amendments 109A and 109B from Jamie Greene are intended to make the duty that would be created by amendment 109 more focused and proportionate, in my view, the duty would still be unnecessary and would still suffer from technical issues, which would make its legal effect unclear.

Amendment 250 from Colin Smyth, which relates to disability awareness training, seeks to make a further amendment to the Transport (Scotland) Act 2001 by inserting a new duty on operators of local services to ensure that public service vehicle drivers receive disability awareness training annually and by requiring those operators to publish information on the steps that they have taken in making such training available. The amendment would also give local transport authorities the function of authorising providers of such training. My view is that amendment 250 is not required, as operators of local services have, since March 2018, been required by EU law to ensure that drivers receive disability awareness training. I welcome the UK Government's commitment to publish best practice guidance during this year to assist operators in complying with that training requirement.

Amendments 250A and 250B would alter the duty that amendment 250 would create by removing the requirement for the training to be provided annually and by providing that it need be updated only when there is a substantial change in legislation relating to disability issues. Although those amendments are intended to make the duty that would be created more proportionate, I consider that amendment 250 as drafted is not required and, in any event, that it may fall outwith the competence of the Scottish Parliament.

Jeremy Balfour's amendment 258 would require ministers to prepare and lay before Parliament a report about the steps that they have taken to ensure the accessibility of information about public services. In doing so, ministers would be required to consult specific bodies and set out how any recommendations would be handled. It is important to recognise the work that has already been undertaken in this field and the reporting arrangements that are already in place. As the committee will be aware, the Government has been working to improve the accessibility of information in a range of formats for passengers. For example, we have been working with the UK Government to design regulations that will require

audiovisual information to be provided on buses, which is an issue that we will debate in a later group of amendments.

More broadly, the independent Mobility and Access Committee for Scotland can advise ministers on any transport accessibility issues affecting disabled people, including through its annual report, which is laid before Parliament. That means that there is already a mechanism for doing arm's-length review of the issues. The majority of members of MACS are disabled people and it determines its own work programme. I am not persuaded that an additional reporting requirement would advance practical change. However, I am happy to draw the attention of MACS to the committee's consideration of the issue.

For all those reasons, I ask Colin Smyth not to move amendment 109 and 250, Jamie Greene not to move amendment 109A, 109B, 250A and 250B and Jeremy Balfour not to move amendment 258, and if they are moved, I ask the committee to reject them. That said, I also ask the committee to support amendments 233 and 243 in the name of Colin Smyth.

11:30

Colin Smyth: All the amendments in the group are intended to improve accessibility on our buses through the use of BSIPs and franchises that ensure that vehicles best suit circumstances; to improve the accessibility of bus stops; and to ensure adequate, regular training for those who drive our buses. I welcome the Government's support for amendments 233 and 243, and I will certainly be pressing them.

I am inclined not to move amendments 109 and 250, but I would be keen to have further discussions with the Government about how we tackle some of the current difficulties and ensure, for example, that drivers receive regular rather than one-off training. I appreciate the UK Government is publishing guidance on that matter. There is also the problem of new bus stops being developed that are simply not accessible and which are causing people difficulty. I am thinking of, for example, floating bus stops, where cycle lanes run between the pavement and the bus and which are a hazard to people with visual impairments. We need to find ways of strengthening the current guidance to ensure that we do not have such anomalies.

I reserve the right to bring amendments 109 and 250 back at stage 3, but I will not move them at this point in the hope that I can have discussions with the Government about a way forward.

Amendment 233 agreed to.

Section 29, as amended, agreed to.

Section 30—Procedures for partnership plans and schemes

The Convener: The next group is on bus services improvement partnerships: consultation on making, variation and revocation of partnership proposals. Amendment 234, in the name of Jamie Greene, is grouped with amendments 83 to 86, 235, 87 to 94 and 236.

Jamie Greene: As this is quite a big group, I think that, in the interests of time, it will be helpful if I keep my comments to my amendments 234 to 236.

Amendment 234 relates to the definition of a “sufficient number of persons” with regard to objections to the creation of a BSIP. Recommendation 130 in the committee’s stage 1 report refers to some of the confusion around the assessment of what constitutes a sufficient number of persons objecting to such a proposal, and the Scottish Government’s response to the report says that the issue

“will be set out in regulations.”

I suspect that the cabinet secretary will say the same to me in responding to my amendments, but what I am advocating is a general definition of “sufficient number of persons” in the bill itself, along with an acknowledgment that there might be local variation. However, that variation should not allow for a definition that effectively neuters the provisions’ intended purpose of giving bus operators the opportunity to reject a BSIP that they might regard as unbalanced.

It is suggested in section 30 that a “sufficient number” might be

“all persons providing ... local services ... or ...”

a

“proportion of qualifying local services”,

but I think that that leaves things too open to interpretation. What constitutes a sufficient number should be agreed at the start of the process, and, in my view, the traffic commissioner would be best placed to decide that. If the Government does not feel the same way, I am happy for the person in question to be replaced with someone else, but that is a matter for debate.

Amendment 236 is consequential to amendment 234.

My final substantive amendment is amendment 235, which is on consultation. Section 30 will insert a new schedule A1 into the Transport (Scotland) Act 2001. Paragraph 9 of that schedule states that if a local authority wishes to postpone any part of a BSIP it must

“consult all operators ... who are ... likely to be affected by the postponement”,

which is fine, but it does not state that the local authority must take into account the findings of such a consultation process or that that process must include discussion of whether postponement of the local authority’s commitments should mean that a similar postponement is applied to the conditions that are imposed on operators. Amendment 235 seeks to ensure that “due regard” is paid to such consultations, which I hope would provide parity among local authorities and operators.

I move amendment 234.

Colin Smyth: As with amendment 71, which was in a previous group, amendments 83, 85, 87, 89, 91 and 93 would expand the consultation and notification processes to include people who live in the area, beyond existing service users. That would ensure that a wider group of people would be able to participate and would help to identify the challenges that prevent them from using buses at present. We need to increase the number of people who use our buses, which will require engaging with people who, for a range of reasons, might be put off using them at present.

Amendments 84, 86, 88, 90, 92 and 94 serve the same purpose as amendments 70 and 72, which were in a previous group. I have already covered the reasoning behind those amendments, so I will be brief. Amendments 84, 86, 88, 90, 92 and 94 give local transport authorities specific responsibilities for engaging with people who live in poverty, or those with relevant protected characteristics, on developing BSIPs, to ensure that plans deliver for those groups and incorporate their needs and priorities.

That covers all the amendments in my name, convener.

The Convener: No other member has asked to speak in the debate. I therefore invite the cabinet secretary to wind up.

Michael Matheson: Given the size of this group of amendments, I am afraid that my contribution will have to cover a considerable number of issues.

Amendments 234 and 236 seek to address the issue of what would constitute a sufficient number of persons who are operators of qualifying local services for the purposes of the making, varying or revoking of a BSIP scheme and who might object to such a scheme or schemes and so potentially prevent them from progressing. The powers of Scottish ministers to specify by regulation what constitutes a sufficient number of persons would be removed by amendment 236. In its place, amendment 234 would require LTAs to seek the

approval of the traffic commissioner on what would constitute a sufficient number of persons.

The Scottish Government has consistently stated that the issue of what constitutes a sufficient number will be addressed in regulations and will need to reflect a wide range of possible scenarios. At this stage, it is not envisaged that the sufficient number will be specified in future regulations with reference to a specific number. Rather, it is likely to be calculated according to a formula. Further engagement and wide consultation with all interested parties, including local transport authorities and bus operators, will be undertaken on the issue to ensure that the model fits the Scottish context and takes account of the market dynamics in Scotland and the views of operators large and small.

Further, it is possible that the formula will require to be modified over time, in relation to changing market dynamics. As such, regulations are the most appropriate mechanism for specifying the way in which the number is calculated, which will allow sufficient clarity, ease of use and transparency of process.

In its stage 1 report, the committee asked me to consider carefully how such an assessment is made. Mr Greene is correct that the matter should be progressed through regulation-making powers. Those are contained in the bill and would attract the affirmative procedure, which reflects the fact that we give greater significance to the proposed approach to the issue and consider it correct that regulations on the matter should be considered and endorsed by Parliament. In light of that commitment, I ask Jamie Greene not to press amendment 234 and not to move amendment 236. However, if he chooses to do so, I ask the committee to reject those amendments.

Amendment 235, in the name of Jamie Greene, seeks to insert a provision relating to the postponement of the coming into force of a BSIP scheme.

The provision would require LTAs to

“have due regard to ... representations”

that are made to them during the consultation process, and to

“consider whether ... any obligations on operators of local services should also be postponed”

in such circumstances.

I do not think that amendment 235 is necessary. We would expect, as a matter of good administration, that an LTA will always have due regard to all representations that are made to it during all consultation processes in the making of a BSIP. That does not need to be expressed in the

bill, given that it relates to individual consultation processes.

Secondly, if a BSIP scheme is postponed, all the obligations in the scheme are also postponed. As such, amendment 235 would appear to be unnecessary, and I ask Jamie Greene not to move it. If the amendment is moved, I ask the committee to reject it.

I believe that Colin Smyth’s amendments 83 to 94 are related to his amendments 71 and 72, which were already considered in the BSIP section under the grouping on bus services improvement partnerships: content of partnership plan. Members will recall that amendments 71 and 72 seek to impose additional requirements in relation to the content and definition of, and consultation on, BSIP plans and schemes. The bill gives LTAs wide scope to set the objectives that are to be met by BSIP schemes with regard to the quality and effectiveness of services, and significant flexibility to set route and service standards in order to meet those objectives. The objectives and the associated standards may include objectives and standards that are aimed specifically at meeting the needs of those who are on low incomes and those whose ability to use local services is affected by their having a protected characteristic.

Further, the consultation and notice requirements in the bill are extensive. They require general notice of partnership proposals and/or proposals to vary plans and schemes in force in such a manner as the LTA considers appropriate in order to bring them to the notice of persons in the area, as well as specific requirements to consult organisations that represent users of local services. BSIP plans must contain details of how the LTA intends to obtain the views of users of local services on how well the plan and the scheme under it are operating.

All of that is considered to be sufficient to ensure that adequate notice is given to, and consultation is undertaken with, anybody, including those who are affected by poverty, who may be impacted by BSIP plans and schemes. Importantly, the approach that the bill takes imposes those requirements in a way that is clear and practicable.

Amendments 83 to 94 would make matters less clear, and in some instances would impose duties that are practically unachievable. In particular, amendments 84, 86, 88, 90, 92 and 94 would appear to require LTAs to give notice to or consult persons who have experience of poverty. Poverty in that context is not defined, and it would be very challenging to define it. Even if such a definition were possible, it would be simply impossible to identify, consult and give notice to every person who has that experience.

Amendments 83, 85, 87, 89, 91 and 93 would require notice to be given to, and consultation with, organisations that appear to the LTA to be representative of any person living and working in the area who is not a user of local services. Again, that is such a potentially wide and vague category that it would be very challenging, in practical terms, to discharge the obligation.

Finally, the consultation on bus services that preceded the bill's introduction made it clear that quality partnership and quality contract schemes, which came into force almost two decades ago, were not used because they were considered to be too difficult to put in place. I do not want to repeat that experience in the context of bus services improvement partnerships.

We all have sympathy with Colin Smyth's aims here, and I consider his intentions to be laudable, but I urge him not to move amendments 83 to 94. If they are moved, I ask the committee to reject them.

11:45

Jamie Greene: I thank the cabinet secretary for that detailed and in-depth response to our amendments. The luck of the draw means that I get the chance to respond. I am happy to withdraw amendment 234 and to not move amendment 236, based on the information that was given on how the approach will be set out in regulations subject to the affirmative procedure in Parliament. I think that that is the right thing to do; it was perhaps not clear or understood from my reading of the bill.

However, I want to pick up a point about why I think that amendment 235 is important. As the bill stands, the part of section 30 on

"Consulting on postponing the coming into operation of partnership scheme"

simply says that

"before making a decision on whether or not to do so"

local transport authorities

"must consult all operators of local services who are ... likely to be affected".

What would happen in the scenario that all the operators said no to the postponement, but the local authority pushed ahead? The cabinet secretary said in his comments that the Government has an expectation that due regard will be given to the responses to the consultation, but what if due regard is not given? That is why I feel that at least proposed subsection (b) in my amendment, which says that "due regard" should be given

"to any representations received by them as a result of such consultation",

is useful and powerful. We often use that language in amendments to legislation. There is no point in consulting for consulting's sake; due regard must be given to the outcome. If I were to not move the entire amendment, and then remove proposed subsection (c) and bring it back at stage 3 with the due regard element, perhaps it would be looked upon more favourably, so that is my intention, convener.

Amendment 234, by agreement, withdrawn.

Amendment 83 moved—[Colin Smyth].

The Convener: The question is, that amendment 83 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 83 disagreed to.

Amendment 84 moved—[Colin Smyth].

The Convener: The question is, that amendment 84 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 84 disagreed to.

Amendment 85 moved—[Colin Smyth].

The Convener: The question is, that amendment 85 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 85 disagreed to.

Amendment 86 moved—[Colin Smyth].

The Convener: The question is, that amendment 86 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 86 disagreed to.

Amendment 235 not moved.

Amendment 87 moved—[Colin Smyth].

The Convener: The question is, that amendment 87 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 87 disagreed to.

Amendment 88 moved—[Colin Smyth].

The Convener: The question is, that amendment 88 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 88 disagreed to.

Amendment 89 moved—[Colin Smyth].

The Convener: The question is, that amendment 89 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 89 disagreed to.

Amendment 90 moved—[Colin Smyth].

The Convener: The question is, that amendment 90 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 90 disagreed to.

Amendment 91 moved—[Colin Smyth].

The Convener: The question is, that amendment 91 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 91 disagreed to.

Amendment 92 moved—[Colin Smyth].

The Convener: The question is, that amendment 92 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 92 disagreed to.

Amendment 93 moved—[Colin Smyth].

The Convener: The question is, that amendment 93 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 93 disagreed to.

Amendment 94 moved—[Colin Smyth].

The Convener: The question is, that amendment 94 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 94 disagreed to.

Amendment 236 not moved.

Section 30 agreed to.

Section 31—Registration of local services and functions of traffic commissioner

The Convener: The next group is on bus services improvement partnerships: regulations on registration of local services. Amendment 237, in the name of Neil Bibby, is grouped with amendment 238.

Neil Bibby: Scotland currently has the weakest bus laws in Britain. The Transport (Scotland) Bill gives us an opportunity to change that. As we have seen this morning, there are different opinions on the extent to which the public sector should own or operate bus services. However, with bus passenger numbers having fallen to a record low, there is surely no dispute that new regulations must be introduced to the bus market to shift power from the owners of big bus companies to passengers and communities. Amendments 237 and 238 seek to introduce new regulations to the bus market. That is, by definition, reregulation.

The origin of amendments 237 and 238 can be traced to Strathclyde Partnership for Transport's 10-point plan. The Transport Act 1985 grants ministers regulation-making powers to bring section 6 of the act, entitled "Registration of local services", into effect. The purpose of amendment 237 is to grant Scottish ministers an additional regulation-making power

"to limit the circumstances in which an operator may apply ... to vary or cancel a registration".

That would allow ministers to make, in the interests of passengers, regulations to limit the power of operators to withdraw or vary services. For example, that could mean restricting the dates on which services could be varied or withdrawn, or much stricter regulation. Public transport is a public service. It should be run in the public interest, and amendment 237 seeks to re-establish that principle.

Amendment 238 would enable regulations to require an operator to make its annual accounts available to the traffic commissioner and the local transport authority. In practice, that would allow local transport authorities to determine that operators that enjoy an effective monopoly and which seek public subsidy are not seeking an excessive subsidy or engaging in anticompetitive behaviour. That would go some way towards reassuring transport authorities about the activities of bus operators. It would also address one of the other key points in SPT's 10-point plan for bus services by guaranteeing better information for the transport authorities.

Stewart Stevenson: The commercial operators must lodge their accounts in the public domain via Companies House. Given that, is the member aware of any operator of such services that does

not already publish their accounts in the public domain?

Neil Bibby: I am raising the concerns on behalf of SPT, which is concerned about its access to accounts when it wants to see how bus operators are running services. The concerns involve not only the operators' overall accounts, but their claims about routes being profitable or unprofitable. The key question is whether claims for a subsidy are justifiable.

I move amendment 237.

Jamie Greene: Amendment 237 would

"limit the circumstances in which an operator"

can

"vary or cancel a registration".

That is exactly what it says. My concern is that I am still a bit unsure about why the member would want to limit operators' ability to do so, so I am minded not to support the amendment.

I have some sympathy with amendment 238. However, as Stewart Stevenson just observed, operators' accounts are likely—if not guaranteed—to be publicly available. I question whether annual accounts would contain the information that is needed. I have no problem with making that information available to the traffic commissioner, the LTA or anyone else who sees fit to request it, so I will support the amendment, but I wonder whether it addresses in detail SPT's concern. What information does it think is missing? What information does it not have access to? Perhaps Mr Bibby could come back with an amendment that asks specifically for that information. I do not think that annual accounts, which are macro-level things, will give the sort of information that would meet SPT's concerns.

Colin Smyth: Amendment 237 would give ministers the power to regulate

"to limit the circumstances in which an operator may apply ... to vary or cancel a registration".

I support that. In giving ministers that power, we have to recognise that passengers are frustrated with ever-declining bus services. There might be a need for ministers to introduce tighter regulations on when and how services can be cancelled. I appreciate that it is a complex area, so I think that it is right that the amendment does not call for anything at this point and would not put in place anything binding, but I am glad that it would enable action being taken in the future, if required.

Amendment 238 would introduce a power to make regulations on the need for operators to share their accounts. That would help to identify instances in which competition is not working as it should in an area, and in which operators are receiving excessive subsidies for delivering a

service. It is a major problem that, despite the significant amount of public money that is given directly to operators, there is minimal scrutiny in areas where there is an effective monopoly. For large parts of my home region of Dumfries and Galloway, it can be impossible for the transport authority to know whether the subsidy that it is paying out is fair. Given that it is a complex subject, I agree with the approach that is taken in amendment 238.

Richard Lyle: Is Mr Bibby pushing for a private bus company to have to give information on whether it is making a profit on a given route? Annual accounts will not tell you anything about that: they will simply say what the profit was. However, individual accounts for individual routes might tell you something.

Colin Smyth: Obviously, amendment 238 is an enabling amendment. It would be for the Government to set out exactly what information should be provided. However, the big challenge is that, often, when there is a monopoly providing a subsidised service, the operator will say how much the service costs to run, but the profit margin will be a mystery. We can guess it, but we do not know it. Sometimes, profits are excessive. The lack of information for regional transport partnerships and local authorities makes assessing whether they are getting value for money from subsidising services incredibly challenging.

12:00

John Finnie: I support amendments 237 and 238 for the reasons that have been outlined, which are about public accountability. First and foremost, considerable misunderstanding remains about public sector involvement in bus services—it is not as extensive as many people imagine it to be. However, when the public sector is involved and is subsidising routes, it should be clear when profits are excessive.

Michael Matheson: Amendment 237, in Neil Bibby's name, would add to the amendments that section 31 of the bill makes to section 6 of the 1985 act. The amendment would enable regulations that were made under section 6(9) of the 1985 act to make provision

"to limit the circumstances in which an operator"

can

"vary or cancel a registration"

of a service.

That would be unworkable in the context of the existing registration scheme, the traffic commissioner's role and the legislative landscape that underpins those elements. The amendment is also unnecessary because operators are already

required to give 28 days' notice of any proposal to vary or change a registration, which ensures that local authorities and RTPs that would be affected by such changes can take steps to address effects on service provision.

Amendment 238 would require bus operators to make annual accounts available to the traffic commissioner and LTAs

"as soon as reasonably practicable".

The amendment's purpose is not entirely clear. Operators are already required to satisfy the traffic commissioner that they have appropriate financial standing by reference to audited annual accounts, as part of the public service vehicle licensing regime. Like all commercial companies, bus operators publish consolidated annual accounts as a matter of course, and amendment 238 would add little to that requirement. The amendment relates to publication of annual accounts, not to accounts that relate to individual routes.

I ask Neil Bibby to seek to withdraw amendment 237 and not to move amendment 238. If the amendments are pressed to a vote, I ask the committee to reject them.

Neil Bibby: I referred earlier to the 10-point plan from SPT—the largest regional transport authority in Scotland. It launched its 10-point plan several years ago to stimulate debate about bus services and to influence changes in national policy. My intention, and that of SPT, is to deliver a high standard of service to passengers. I recognise the role of the public sector, but it is restricted because of underfunding and deregulation. SPT and I believe that the proposed approach would allow us to introduce in the bus market new regulations that would rebalance power away from bus companies and towards passengers, communities and democratically elected local authorities. For those reasons, I will press amendments 237 and 238.

The Convener: The question is, that amendment 237 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 237 disagreed to.

Amendment 238 moved—[Neil Bibby].

The Convener: The question is, that amendment 238 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 238 disagreed to.

The Convener: The next group is on bus services improvement partnerships: traffic commissioner powers to scrutinise. Amendment 95, in the cabinet secretary's name, is the only amendment in the group.

Michael Matheson: In its stage 1 report, the committee said that

"the enforcement of compliance with BSIPs may lack balance as the Traffic Commissioner will have jurisdiction to enforce the operators' commitments but not those of local authorities"

and that

"for a partnership to be truly effective, a level playing field should apply insofar as is possible."

To this end, I have lodged amendment 95 to ensure that the traffic commissioner can

"investigate the actions of the local transport authority"

in relation to the exercise of its duties in a bus services improvement partnership, prepare and publish a report on the investigation and make appropriate recommendations in circumstances where the commissioner finds that the LTA is not complying with its obligations under the bus services improvement partnership.

I move amendment 95.

Amendment 95 agreed to.

Section 31, as amended, agreed to.

Section 32—Franchising arrangements for local services

The Convener: The next group of amendments is on the content of the franchising framework and the franchise agreement. Amendment 213, in the name of Jamie Greene, is grouped with amendments 96, 214, 239 and 240.

Jamie Greene: I know that it has been a long morning, but I hope that members will bear with me, because these are largely quite technical amendments. Amendment 213 is quite self-explanatory. It requires that

"A franchising framework must include provision on how disputes"

between the local transport authority and the service operator can be resolved, which is fairly standard practice in most commercial contracts of that nature. It is normal to predetermine dispute resolution mechanisms, and I hope that the minister will look favourably on that addition.

Amendment 214 is important, given how expensive it is to operate a franchise and the pressure that doing so will put on local authorities that wish to pursue such a model. We talked a lot about that when we took evidence at stage 1. The bill already states that local authorities must

"set out their analysis of the financial implications for them of making the proposed framework".

My amendments would go a little bit further and add some specific detail to that, including by requiring an assessment of the costs of establishing and running a service, the projected profitability—or lack of it, as the case may be—and, importantly, a comparative analysis of how the proposed framework would impact on the current funding of services. By that, I mean that, if local authorities are already subsidising services through other mechanisms, they will need to analyse the impact of making the move to a different model and moving funds from that subsidy to the operation of a new service. The intention of amendment 214 is to ensure that the financial assessment has been performed to the highest possible standard and published. I am keen to hear some thoughts on that.

Amendment 239 states that the auditor of the franchise should be appointed by the traffic commissioner. Given that local authorities, by their very nature, can be political, I think that an authority that has begun the process of introducing a franchise should not be the body that appoints an auditor of the process. Neutrality is absolutely essential in what could be a contentious environment. The appointment of the auditor should fall to the traffic commissioner, as the commissioner's role is an independent and highly regarded one. That would mirror the bill's provision that the commissioner will appoint a panel to

consider the final franchise proposal. The commissioner should also consider who the auditor should be, and that is the point of amendment 239.

Finally, amendment 240 goes back to the issue of postponement. We said that there is no clear guidance as to whether an authority has to pay due regard to the consultation process. I think that any operator, be they the winner of a franchise or not, would need to adjust at short notice to the postponement or variation of a franchise if they had already made significant capital investment in such. Unlike within a partnership agreement, the imposition of a franchise could mean an operator having to make significant changes to its business, and a successful bidder may have invested considerable resource. Such decisions could not be wound back by an operator, and the operator would be left with the costs. Amendment 240 makes it clear that, if a local transport authority decides to postpone or vary a franchise framework, there should be sensible consultation on whether or how the authority might seek to

“compensate operators for any losses ... as a result of the postponement.”

I move amendment 213.

Colin Smyth: Amendment 96 serves the same purpose as my amendments that have already been debated in previous groups but with regard to the BSIP. It would require consultation with those who live in poverty and those with relevant protected characteristics as part of the delivery of the franchise—which is an area of tackling those issues in which the bill currently falls very short.

Michael Matheson: Amendment 213 seeks to add a new section 13A(3) to the Transport (Scotland) Act 2001, with a requirement that

“A franchising framework must include provision on how disputes between the local transport authority and a person operating local services in the area”

of

“the framework ... are to be resolved.”

However, it is not clear what type of disputes the provision is intended to capture. Further, as it is the franchise agreement that creates the contractual relationship between the LTA and an operator of a local service under a franchise, that is where it would be more appropriate to include dispute resolution to address the matter. LTAs would be required to keep the franchise framework under review, and complaints from operators—whether or not they are franchisees—and anyone else, such as bus users, should form part of that review. I therefore ask Jamie Greene not to press amendment 213. If the amendment is pressed, I ask the committee to reject it.

Amendment 96, in the name of Colin Smyth, seeks to require an LTA to place mandatory conditions on how the needs of certain persons will be provided for in the contractual franchising agreement with the operator that is providing a franchise service. That is similar to amendment 70, which was considered in an earlier grouping, although that amendment related to the BSIP model. However, I believe that the franchising process, like the BSIP, would address that issue better at a far earlier stage.

The franchising process is deliberately a very thorough exercise of development, assessment, audit, consultation and application for approval. Proper analysis of the needs of local bus users would be considered a key part of any engagement process at an early stage in developing such a proposal. That analysis would include consideration of the needs of persons with low income—whose income would be adversely affected, whose expenditure would be increased or whose experience or ability to use local services would likely be affected because they had one or more of the protected characteristics—long before the point of agreements being entered into. I therefore ask Colin Smyth not to move amendment 96. If it is moved, I ask the committee to reject it.

Amendment 214, in the name of Jamie Greene, seeks to add to proposed new section 13E(2) of the 2001 act a requirement that the financial assessment that is carried out by the LTA on the proposed franchising framework should include certain specific information that we would expect to be in a financial assessment. As part of the implementation of the bill, the Scottish ministers must issue guidance on the assessment of a proposed franchise framework. That guidance will be extremely detailed and will cover the things that the amendment suggests. It is important that we do that in guidance rather than by a firm rule in the bill, as the guidance will be developed with stakeholder engagement and will allow for adaptability as practice develops. I therefore ask Jamie Greene not to move amendment 214.

Amendment 239, in the name of Jamie Greene, seeks to amend proposed new section 13F(2) of the 2001 act, inserting in section 32 of the bill a provision to the effect that the traffic commissioner, instead of the local transport authority, would appoint or obtain a report from an auditor on the financial aspects of the assessment of a proposed franchise framework. Auditors are a regulated profession, and legislation contains detailed provision on statutory audits and their obligations. Additionally, it is the LTA, not the traffic commissioner, that will be required to consider the report of the auditor, to determine whether it is to proceed with the proposed franchise framework. The proposal in amendment

239 would therefore represent a further unnecessary stage for anyone who was considering franchising.

The bill's provisions are already robust, and I do not see the need to make the process any more difficult than is necessary. The amendment would also have financial and resource implications for the traffic commissioner that have not been considered or discussed with the UK Government, which funds the commissioner's function. Therefore, I ask Jamie Greene not to move amendment 239. If he moves it, I ask the committee to reject it.

12:15

Amendment 240, in the name of Jamie Greene, would require an LTA that sought to postpone the commencement or variation of a franchising framework to consult operators of local services that were likely to be affected on how those operators should be compensated. There is already a requirement on an LTA to consult operators of local services that would likely be affected if the LTA is considering postponing the coming into operation of a franchise framework or a variation to an existing framework. Adding a requirement to consult on proposals for the compensation of operators would create nothing more than a consultation duty while creating an expectation that operators would be entitled to something for which there was no basis. Postponement can be for only up to 12 months, so the effect on operators can last only for a finite time, and the Scottish ministers have the power to amend that period should practice show that it is unsuitable.

Franchising is a big and potentially costly intervention in the bus market, and it will have taken a very long time to get the process to such a stage. It is vital that we give LTAs the opportunity to deliver it properly, with reasonable postponement where necessary. The obligation in the bill to consult operators who might be affected is adequate to cover all scenarios without adding the undue burden on LTAs of a requirement to consider compensation, thereby creating an unrealistic expectation for operators. I therefore ask Jamie Greene not to move amendment 240. If he moves it, I ask members to reject it.

Jamie Greene: I take on board the cabinet secretary's point about amendment 213.

On amendment 214—as with many amendments that I have lodged—the minister's response is that all this will be dealt with in the guidance, which needs to be flexible. That is all well and good, but the additions that would be made by amendment 214 are a sensible foundation for the guidance. At what point would it

be appropriate for those matters not to be included in the assessment of financial implications? I appreciate that the minister wants flexibility to change the guidance as he sees fit, but amendment 214 sets out the basics that should be included—they are not onerous requirements, and they might be in the assessment anyway. My proposed approach would underpin their being in the assessment.

I heard and appreciate what the minister said about amendment 239, but I do not think that my question about who will appoint the auditor has been answered. It remains unclear whether the local transport authority or another body will do that.

I take the cabinet secretary's point about amendment 240, and I will not move it.

Amendment 213, by agreement, withdrawn.

Amendment 96 moved—[Colin Smyth].

The Convener: The question is, that amendment 96 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 96 disagreed to.

Amendments 214 and 239 not moved.

The Convener: I am trying to work out the timings, and I think that there would be some benefit in our pushing on slightly, so that Neil Bibby and Jeremy Balfour do not have to come back to move their amendments when we resume the meeting this evening. I realise that that might put us under some pressure, but I ask for a wee bit of flexibility to see how far we can go.

Let us push on with the next group, which is on minor, technical amendments. Amendment 97, in the name of the cabinet secretary, is grouped with amendments 99, 100 and 101. If amendment 215, which will be debated in the next group, is agreed to, I cannot call amendments 99, 100 and 101.

Michael Matheson: Amendments 97, 99, 100 and 101 are minor in nature and seek to correct terminology that is used in section 32. Amendments 97 and 100 will replace “franchising” with “franchise” in new sections 13L(2) and 13R(2)(a) of the 2001 act, while amendments 99 and 101 seek to amend the reference to “a franchising agreement” in subsections (1) and (2) of new section 13R of the 2001 act, which is not quite correct.

I move amendment 97.

Amendment 97 agreed to.

Amendment 240 not moved.

Amendment 98 moved—[Michael Matheson]—and agreed to.

The Convener: The next group of amendments is on franchising by multi-authorities and regional transport partnerships. Amendment 215, in the name of Jamie Greene, is grouped with amendment 241. If amendment 215 is agreed to, I will not be able to call amendments 99, 100 and 101, because of pre-emption.

Jamie Greene: Thankfully, there is only one amendment in my name for me to speak to. Amendment 215 seeks to add a new section on multi-authority franchising. At the moment, the bill allows multi-authority franchising that involves two or more local authorities. I have copied and pasted the wording of proposed new section 13R of the Transport (Scotland) Act 2001 and have simply added to it “a Regional Transport Partnership” and “the Scottish Ministers.”

Members are probably asking themselves why I have done that. I want to expand the proposed power. Colin Smyth’s amendment 241 would also allow regional transport partnerships to create franchises, which I think is sensible. I would take that proposal a step further and provide more flexibility. There could be a large number of variations in how local authorities and regional transport partnerships coalesce around the setting up of a franchise. There might be technical reasons why that is not possible or helpful; I am sure that the cabinet secretary will inform me of any such reasons.

I will provide a practical example. At the moment, it takes three and a half hours to get from Ardrossan to Edinburgh by bus. The journey involves three separate bus operators and requires two changes. I hope that amendment 215 would, if no private commercial operator wanted to run a direct service between Ardrossan and Edinburgh—a direct service is available between Greenock and Edinburgh—allow North Ayrshire Council, SPT and the City of Edinburgh Council jointly to set up, fund and operate the route as a franchise, if the bill will not currently provide such

a power. I am keen to hear feedback on whether my amendment would be helpful or cumbersome.

I move amendment 215.

Colin Smyth: My amendment 241 would allow all regional transport partnerships to run franchises, as opposed to just allowing model 3 RTPs to do so, which is what the bill allows. That would serve two purposes. On a practical level, amendment 241 was intended to complement my amendment that sought to lift the ban on councils running bus services. Some people have argued that there could, in that scenario, be a conflict of interests in respect of councils competing for franchises that they are tendering. I believe that amendment 241 would be one way of avoiding that, although I question the extent to which the potential exists for such a conflict of interests. My amendment would allow an RTP to award a franchise in the same way that model 3 RTPs can subsidise services.

More broadly, amendment 241 aims to facilitate a more regional approach to transport. Transport always requires co-operation across local authority borders, and there will be instances in which it is more appropriate for a franchise to be run at regional level. However, as things stand, only three RTPs—SPT, south west of Scotland transport partnership and Zetland transport partnership—will have the power to do that.

Jamie Greene’s amendment 215 also deals with the role of regional transport partnerships in franchises. I am not sure about the role of ministers that he proposes, nor I am sure whether it is necessary for multiple RTPs to have the power to act jointly, but I will listen to what other members have to say. The key thing is that we should give all RTPs the power to award and run franchises.

Michael Matheson: Amendment 215, in the name of Jamie Greene, and amendment 241, in the name of Colin Smyth, seek to include regional transport partnerships alongside local transport authorities as parties that are able to act jointly to make a franchise framework and franchise agreement. Amendment 215 also seeks to extend that to include the Scottish ministers.

I agree with what I think is the principle behind the amendments—that where relevant local authorities deem it appropriate, powers should be available to the relevant RTPs. However, the amendments are not necessary or appropriate. Scottish ministers have existing powers to transfer any function that they consider appropriate to RTPs by an order made under section 10 of the Transport (Scotland) Act 2005. The bill goes even further to make that clear, and will specifically amend the list of functions in section 10 of that act to include the new franchising function. That will

allow the Scottish ministers to do so as and when appropriate, and by following the procedure of making a statutory instrument that would be laid in the Scottish Parliament.

The bill, as a whole, has been drafted to ensure that it is future-proofed for consideration in the review of the national transport strategy that is ongoing around transport governance. It does not attempt to pre-empt that consideration. I add that there is no role for Scottish ministers in local services franchising. That is a local matter that is designed to address local bus needs, which will appropriately be delivered by local transport authorities. It is also important to ensure that the decision panel's role is decisive.

Scottish ministers will engage with all stakeholders on producing guidance and regulations to support the franchising process in order to ensure that it is open, fair and transparent. However, as such, they cannot be said to be impartial in relation to the production of a framework, nor should they enter into specific agreements.

With that in mind, I ask Jamie Greene not to press amendment 215, and I ask Colin Smyth not to move amendment 214. If the committee is asked to vote on them, I ask it to reject them.

Jamie Greene: I am still a bit confused about whether a local authority and the regional transport partnership could create a franchise and operate a service together under existing legislation. Would that require that changes be made to the powers that they have, via statutory instrument? If that is the case, why not just put it in the bill now and be done with it? The cabinet secretary's response might help me to decide whether to press amendment 215.

Michael Matheson: That will depend on the circumstances. It might be that SPT, for example, would require such authority, but in other instances the requirement might not apply. There is no clear and specific answer to that question.

Jamie Greene: Okay. That is clearish. In that case, I will press my amendment.

The Convener: I remind members that, if amendment 215 is agreed to, I cannot call amendments 99, 100 and 101.

The question is, that amendment 215 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)
Smyth, Colin (South Scotland) (Lab)

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)
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 215 disagreed to.

Amendments 99 to 101 moved—[Michael Matheson]—and agreed to.

Amendment 241 moved—[Colin Smyth].

The Convener: The question is, that amendment 241 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 241 disagreed to.

Amendment 242 moved—[Colin Smyth].

The Convener: The question is, that amendment 242 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 242 disagreed to.

12:30

Amendment 102 moved—[Colin Smyth].

The Convener: The question is, that amendment 102 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 102 disagreed to.

Amendment 243 moved—[Colin Smyth]—and agreed to.

Section 32, as amended, agreed to.

Section 33—Provision of service information when varying or cancelling registration

The Convener: The next group is on the provision of information about local services. Amendment 244, in the name of Neil Bibby, is grouped with amendments 103 to 106, 245, 107, 108, 246, 247 and 173.

Neil Bibby: I will try to keep my comments brief. I wish to speak to amendments 244 and 246, which are in my name, and to comment briefly on the other amendments in the group.

The purpose of amendment 244 is to clarify that bus operators must share information on patronage and revenues with the local transport authority. As it stands, section 33 requires operators to share

“information relating to ... the number of passengers using the service, the journeys made ... the fares paid ... and ... the revenue obtained”.

I want to test the adequacy of the term “relating to”. My amendment 244 would require operators to share information “setting out” passenger numbers, bus journeys, fares and revenues. That

clearer and more precise wording could help to clarify what requirements will be placed on operators. Nonetheless, I will listen to the minister's explanation about the language that has been used in the bill.

Amendment 246 is more substantial. It would place a duty on local authorities to notify the traffic commissioner about a change to a bus route or a significant change to timetabling. It also sets out how the traffic commissioner should respond to such a notification, which includes establishing a panel of three to determine whether to approve the change. It would require the panel to consult the transport authority, bus operators and, most important, bus users. The amendment would not only shift power from bus operators back to the community, but would guarantee passengers a say in significant changes to local services.

The committee will note that amendment 247, in the name of Colin Smyth, would have a similar effect: it would establish a statutory duty to consult about changes to bus routes and timetabling.

The bill represents a significant opportunity to give a voice to bus passengers. That is the purpose of my amendments, and I encourage committee members to support them.

The amendments in the name of the cabinet secretary appear to be largely practical, and are either technical or consequential in nature.

There is a concern that it appears that Jamie Greene's amendment 245 would place restrictions on information sharing that are unnecessary and not consistent with the spirit of the bill. However, I am sure that committee members will listen to Jamie Greene's explanation about the amendment, and will consider the case that he makes.

I ask the committee to consider my amendments, which would bring democracy and accountability to public transport, and would enhance the power and position of passengers.

I move amendment 244.

Michael Matheson: The effect of amendment 244 would be to narrow the power that, at present, covers information relating to the matters that are referred to in subsection (3) of proposed new section 6ZA of the Transport Act 1985, so that it would cover only information “setting out” the matters referred to in that subsection. “Setting out” could be read, for example, as referring only to aggregate patronage figures, whereas information “relating to” patronage could be considered to include data on concessionaires and other broader demographic information that would, likely, be more useful.

The bill strikes the right balance by ensuring that requests are not too onerous for operators to

provide, while giving sufficient flexibility, through regulation-making powers, to ensure that local authorities can get the details that they require in order to make informed decisions about the effect of variation or cancellation, and about the steps that might be required to address effects on service provision in their area. The consultation requirements that apply to the power to make regulations under subsection (3) of proposed new section 6ZA of the Transport Act 1985 add a level of protection to ensure that that balance is achieved.

Government amendments 103, 104 and 105 are technical amendments to subsections (2) and (3) of proposed new section 6ZB of the Transport Act 1985. The subsections make provision for affected authorities to disclose information that is received from a bus operator that proposes to cancel or vary a registered local bus service to specified persons,

“in connection with an invitation”

to tender to provide a supplementary or replacement service. The amendments will ensure that the disclosure provisions work effectively, regardless of which procurement procedure the affected authority chooses to use.

Government amendment 106 is consequential on section 43 of the Transport (Scotland) Act 2001, and will resolve a potential conflict in how the provisions about disclosure of information that is requested under section 43 would operate, where the information is provided together with information that is requested under proposed new section 6ZA of the Transport Act 1985.

Government amendment 108 relates to the provisions that are to be added to the Transport (Scotland) Act 2001 to allow the Scottish ministers to make regulations requiring bus operators, local transport authorities and the traffic commissioner to share with specified people certain information on routes, timetables, fares, tickets and the operation of services. Amendment 108 provides for the regulations to specify “the Secretary of State” as a person who may receive specific information. That will allow the Scottish ministers to ensure that information that is required for effective operation of the UK-wide bus-information system—the national public transport access nodes, or NaPTAN—is shared with the UK Government, which administers the scheme. The information that is to be shared will be set out in regulations.

Amendment 245, in the name of Jamie Greene, would restrict to information from the past two years the information that operators can be required, under regulations, to provide about past operation of their services. It is understandable that, in order to reduce the burden on information

providers, requests for past information should not span an unreasonable time. However, given the range of circumstances in which information might be required, I do not consider it to be practical or appropriate to set an arbitrary time limit in primary legislation.

Regulations requiring provision of information can be laid before Parliament only after the consultation requirements in proposed new section 35A(8) of the Transport (Scotland) Act 2001, which will be inserted by section 34 of the bill, have been complied with. There will therefore be full engagement with bus operators before the precise scope and nature of the information that they will be required to share is determined. The regulations will be subject to affirmative procedure, so there will be appropriate parliamentary scrutiny of the requirement.

Amendment 107, in the name of Colin Smyth, would provide for regulations made under proposed new section 35A of the Transport (Scotland) Act 2001 to require information

“to be ... made available in ... accessible form (including in audible form)”

and Braille. It is not clear whether Mr Smyth intends that the regulations should be able to compel operators to make such information available to the end users—that is, passengers. If that is his intention, I think that amendment 107 will not have the desired effect.

More fundamental is that the secretary of state already has a power, under section 181A of the Equality Act 2010, to make regulations to require operators of local services in Scotland to make information available to persons travelling on those services

“for the purpose of facilitating travel by disabled persons”.

It would be outwith the competence of this Parliament to confer a power of a similar nature on the Scottish ministers.

However, my officials have been liaising with Department for Transport officials on how the accessible information regulations should be designed, in so far as they relate to Scotland and to supported consultation and engagement activities with Scottish stakeholders. That is in addition to the formal consultation response that Scottish ministers issued to the DFT on the subject.

Amendment 246, in the name of Neil Bibby, would impose a requirement on LTAs to notify the traffic commissioner about a proposed change to a bus route or a substantial timetable change. It would also require such changes to be considered by a panel to be appointed by the traffic commissioner.

Operators are already obliged to apply to the traffic commissioner to make changes to a registered service. The number of registered applications of all kinds over six weeks from April to May was 254. The number of routes and timetable changes that would need to be notified and considered under amendment 246 could therefore give rise to a significant administrative burden on LTAs and on the traffic commissioner and operators.

John Finnie: The cabinet secretary quoted a number of statistics; is it likely that there would be fewer such alterations, many of which cause disruption, if this regime were in place?

Michael Matheson: That does not necessarily follow. The issue is likely to be that those who are required to consider applications would have to undertake a significant amount of work to consider any application for a change in registration, which is a fundamental point about this amendment. For example, the traffic commissioner would have to consider the resource implications because it would be such a significant increase in their workload. Another issue that has not been given consideration is the fact that the commissioner is funded by the UK Government in supporting and discharging their function.

I believe that such provision is also unnecessary, as operators are already required to give 28 days' notice to an affected authority of proposals to change or vary a registered service. That allows authorities to assess the changes and the impact on local bus planning. It provides an opportunity for discussion with operators and other stakeholders and for authorities to take steps to address any effect on service provision in their area by, for example, using existing powers to secure the provision of services that are required to address unmet transport needs in their area. The bill will expand the options available in such circumstances by making provision for local authorities to run services, for example.

There are also a number of technical issues with the amendment, which mean that its legal effect is unclear. For example, proposed new subsection (4) provides that

"The panel may decide ... not to approve the proposed change of route or timetabling",

but no provision is made as to the effect of such a decision. In addition, amendment 246 would place those new requirements affecting the operation of the system of local service registration in proposed new section 35B of the 2001 act, but the legislative provisions underpinning the registration system are found in sections 6 to 9 of the Transport Act 1985. It is for those reasons that I believe that the amendments are not necessary or appropriate.

Colin Smyth's amendment 247 would impose a duty on operators to consult local transport authorities, bus passengers and other relevant parties about changes to bus routes or timetabling. Changes of the type that amendment 247 refers to would require an operator to apply to vary the registered service. Operators are already required to notify LTAs of a proposal to vary a registered service under the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001. That ensures early communication between the operator and the LTA, allowing all available options to be explored. I therefore believe that amendment 247 is not necessary or appropriate.

Amendment 173 makes a technical adjustment to section 135 of the Transport Act 1985, resolving a potential overlap in the consultation requirements that apply when the Scottish ministers propose to make regulations under new sections 6ZA and 6ZC of that act. The remaining amendments are minor in nature, providing further clarification to the bill. I ask Neil Bibby not to press amendment 244 and not to move 246; I ask Jamie Greene not to move amendment 245; and I ask Colin Smyth not to move amendments 107 and 247. If the amendments are moved or pressed, I ask the committee to reject them.

Jamie Greene: I agree whole-heartedly with the cabinet secretary's comments and I will not move amendment 245.

Colin Smyth: I hope that Jamie Greene meant that he agreed with the cabinet secretary only in relation to his amendment—I am sure that he will fully support amendment 107, in my name, which would require public service information to be made available in accessible formats. The amendment relates to information that is provided to the public rather than the information that is shared under the specific provisions in this section, but the legislation team advised that it would have the effect of delivering the changes that I am seeking.

Disabled people who are in some way prevented from driving often rely on public transport to get around but they can face significant barriers in accessing public transport. One key example is the ability to access basic information such as timetables. Without that information, some people will be prevented from using public transport, which in turn limits their ability to access any other services or opportunities that they need public transport to get to.

The amendment provides for information to be made available to the public in accessible formats such as large font, audible and Braille. It does not require every operator to have every piece of information that it publishes automatically

translated into every possible format—information should simply be available as needed and requested. That would ensure that deaf and visually impaired people can access the same basic information that most people take for granted.

12:45

I am aware—I think that the cabinet secretary touched on this—that provisions in the Bus Services Act 2017 with regard to information for bus passengers have now been implemented. However, as I understand it, those provisions relate primarily to information that is available during a journey rather than prior to it, which is what this amendment addresses.

The cabinet secretary also indicated that officials were liaising with the UK Government on accessible information, but he gave no information about what they were asking for, and the Scottish Government's position on the matter is not clear. If somebody who has a disability needs information on a bus timetable in Braille or in audible format, there should be an obligation to provide that, as it is a basic right. Amendment 107, in my name, seeks to achieve that.

Stewart Stevenson: I note that 28 languages are spoken in Peterhead academy. Would the amendment require the school to provide information in an accessible format—in other words, in another language—given that not all those speakers of different languages can speak English?

Colin Smyth: Amendment 107 refers directly to people who have a particular disability and who require, for example, information in Braille or audible format. However, if Mr Stevenson wanted to lodge another amendment at stage 3 to provide support for the residents of Peterhead, that would be worth considering.

Amendment 247 would require bus operators to consult on any changes to bus routes. As it stands, operators have to consult only on changes to subsidised routes. When they change commercial services, they have only to notify the traffic commissioner for Scotland. That means that the public do not get advance notice or an opportunity to respond to changes to vital services, purely because those are commercial routes.

It is simply not the case that when a bus operator informs the authorities—I think that the cabinet secretary used that phrase—the public will automatically know that a change is taking place. Too often, people find out about a change to a bus service when they pick up a timetable and discover that their commercial bus service has been axed in a particular area. They have no say

whatsoever on what the route change should be. Amendment 247 would change that. There are too many instances in which the first passengers know of a change is when the bus simply does not arrive.

Some bus companies carry out consultation, but they do so in an ad hoc way and the quality is varied. Every single member in the Parliament will receive complaints about the issue, and we have an opportunity to tackle it as the Transport (Scotland) Bill goes through. Authorities may be told in advance about a change, but that is not the same as informing passengers.

Amendment 246, in the name of Neil Bibby, likewise seeks to strengthen bus operators' responsibilities in that regard and sets out a specific process for how to do so. I am happy to support either approach, depending on which one the committee prefers. We need to start to put in place the principle of proper consultation if we are going to fully support and encourage people to use our bus services.

The Convener: I ask Neil Bibby to wind up and indicate whether he wishes to press or withdraw amendment 244.

Neil Bibby: As I indicated, the purpose of amendment 244 is to clarify the requirement that we place on operators to share information and consider whether it could be strengthened. Having reflected on the cabinet secretary's comments, I will not press amendment 244.

However, amendment 246 represents more than just a duty to notify the traffic commissioner about changes to a bus route or a major change to timetabling. It would require consultation with operators and bus users and would allow a panel to reject a change to a registered service. I believe that it would help to rebalance the power in the bus market. For those reasons, I will move amendment 246, and I hope that members will also consider supporting Colin Smyth's amendments.

Amendment 244, by agreement, withdrawn.

Amendments 103 to 106 moved—[Michael Matheson]—and agreed to.

Section 33, as amended, agreed to.

Section 34—Provision of information about bus services

Amendment 245 not moved.

Amendment 107 moved—[Colin Smyth].

The Convener: The question is, that amendment 107 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 107 disagreed to.

Amendment 108 moved—[Michael Matheson]—and agreed to.

Amendment 246 moved—[Neil Bibby].

The Convener: The question is, that amendment 246 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 246 disagreed to.

Amendment 247 moved—[Colin Smyth].

The Convener: The question is, that amendment 247 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 247 disagreed to.

Section 34, as amended, agreed to.

After section 34

Amendment 109 not moved.

The Convener: We have the opportunity to move on. There is only one amendment in the next group. If we debated it and moved to a vote on it very quickly, that would take us to the end of the groups on bus services, which would be a natural break, as the following groups are on smart ticketing. That being the case, I propose that we push on.

Mike Rumbles: I object, convener. You are drawing an artificial line. We should be able to concentrate properly on the amendments. We have been going for nearly five hours, which is not a good system for making law.

The Convener: If you want me to pull the plug there, I am happy to do so.

We will meet back here at 6 o'clock this evening to continue our consideration of amendments. I thank members for their attention and for the good progress that we have made.

12:53

Meeting suspended.

18:05

On resuming—

The Convener: Good evening and welcome to the second part of the committee's 20th meeting in 2019, which is turning into quite a marathon session. I ask people to ensure that mobile phones are on silent.

We will continue with agenda item 2, which is consideration of stage 2 amendments on the Transport (Scotland) Bill. I welcome back the Cabinet Secretary for Transport, Infrastructure and Connectivity and his officials. Lots of non-committee members are present, who I welcome without naming them all. We begin with amendment 110, in the name of Colin Smyth, which is in a group on its own.

Colin Smyth: Amendment 110 would require the Government to regulate to create a quality assurance framework for bus operators. The issue

emerged in evidence to the committee and our stage 1 report called for the Government to look at it to help to raise standards and drive improvement in the passenger experience. A number of stakeholders have raised concerns that the bill does very little to address the challenges around patronage. A robust national quality assurance framework to drive up standards could make a real difference to bus use, and a nationally consistent approach would help to identify and address problems in the sector, whether with a particular area, operator or aspect of the service.

The amendment calls for the framework to be set out in regulations following consultation. Although ScotRail's responsibilities in that regard are set out on a contractual rather than a legislative basis, such an approach for buses would create an inconsistent national picture and would fail to capture commercial services. Regulations are more robust, while being relatively easy to update as needed.

I move amendment 110.

Jamie Greene: Can Mr Smyth explain, perhaps in summing up, how the national quality assurance framework differs from the franchise framework? Will the targets therein be separate, intertwined or replicated?

The Convener: I am sure that he can. No-one else wishes to speak, so I call the cabinet secretary.

Michael Matheson: Colin Smyth's amendment 110 seeks to place a duty on the Scottish ministers to establish a national bus quality assurance framework and to set out how that framework will help to improve local services and users' experience of those services.

The fundamental aim of the options that are presented in the bill, particularly the BSIPs and franchising, is to improve the quality of Scotland's bus services. The intention is that they will meet that aim through joint working between local transport authorities and bus operators and by taking account of the interventions that are required to meet different local needs. That approach is considered to be the most effective in the deregulated bus market.

BSIPs and any franchising arrangements that local transport authorities decide to put in place have provisions for monitoring performance. Scotland-wide measures are already in place, through the Scottish Government-funded Bus Users Scotland, to monitor bus operators' compliance with existing legislative requirements, to check that bus services are running where and when they should be and to work with bus operators to act on complaints and share best practice. Further, the traffic commissioner has powers to investigate complaints and impose

sanctions on operators that fail to run their registered services in accordance with required standards.

As such, although I completely share the aim of improving the standards of bus services in Scotland, I do not consider that establishing a national quality assurance framework for operators of local services would be an effective or appropriate means of improving those services' standards.

I ask Colin Smyth not to press amendment 110; if it is pressed, I urge the committee to reject it.

Colin Smyth: Two substantive points have been raised. Jamie Greene asked how a national framework would differ from any guidance in BSIPs or franchises. A national framework would cover all services—commercial and those covered by franchises or BSIPs—but the framework for BSIPs and franchises covers only services that are within the franchise or the BSIP. At this time, we have no idea whether there will be any franchises, never mind how many services they would cover. In the absence of a franchise, this amendment would at least provide for a national framework.

The cabinet secretary pointed out that there are existing provisions, but we all know that they simply do not go far enough. Indeed, that was the committee's view in our stage 1 report. We asked the cabinet secretary and the Government to look at the matter.

The cabinet secretary made the point that people can complain to the traffic commissioner if a standard is not met. The reality is that, if the standard does not exist, there is nothing to complain about.

Amendment 110 looks to introduce a national framework to drive up standards across the sector and I will press it.

The Convener: The question is, that amendment 110 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)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Abstention

Rumbles, Mike (North East Scotland) (LD)

The Convener: The result of the division is: For 2, Against 8, Abstentions 1.

Amendment 110 disagreed to.

Amendment 248 moved—[Colin Smyth].

Amendment 248A moved—[Jamie Greene].

The Convener: The question is, that amendment 248A 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 248A disagreed to.

The Convener: The question is, that amendment 248 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 248 disagreed to.

Amendments 249 and 250 not moved.

Amendment 258 not moved.

Sections 35 and 36 agreed to.

Section 37—National Smart Ticketing Advisory Board

The Convener: The next group is on smart ticketing, in particular, the functions and membership of the national smart ticketing advisory board. Amendment 111, in the name of Colin Smyth, is grouped with amendments 112, 251, 283 and 113.

18:15

Colin Smyth: Amendment 111 would add a reference to

“the development of a national smart ticketing scheme”

to the remit of the national smart ticketing advisory board. Improving smart ticketing capability is critical to encouraging public transport use and, in particular, to starting to halt the decline in bus patronage.

I welcome the decision to set up the board, but what is proposed falls far short of the Government's previous plans for a single, national multimodal smart card. Indeed, in his response to the committee's stage 1 report, the cabinet secretary appeared to confirm that such a card is no longer being developed.

It is not enough just to expand the use of contactless and smart-card technology. We should be working to deliver the joined-up ticketing system that customers want, which would allow someone to buy a single ticket for a journey that was run by multiple bus operators—indeed, on multiple modes of transport.

I appreciate the significant technical challenges in that regard, particularly in relation to distributing fare revenue. Nevertheless, we should be working towards national smart ticketing in the long term. Amendment 111 would simply add to the board's remit, to make it clear that one of its aims should be to look at the issue.

As the bill stands, it is difficult to know what the advisory board's aim is in that regard. The bill offers no leadership or direction on that role and simply says that a smart ticketing advisory board is being set up to look at smart ticketing. That shows a lack of ambition.

I move amendment 111.

Michael Matheson: Amendments 111, 112, 251 and 283 relate to the functions and membership of the national smart ticketing advisory board.

On the board's functions, I recognise that in its stage 1 report the committee said:

“the Committee considers that the remit of the Advisory Board should be widened to include a responsibility to bring

forward proposals for a single ticketing scheme to apply across all modes of public transport in Scotland”.

As we said in our response to the report, the Scottish Government does not believe that the significant restructuring of the market and considerable cost to the public purse that would be required to create a national scheme are justified, so it would not be appropriate to give the board such a responsibility.

However, I consider that the national smart ticketing advisory board is well placed to provide the Scottish ministers with advice and recommendations about the future strategic development of smart ticketing across Scotland.

Amendment 111 and Government amendment 112 both seek to address the strategic aspect of the board’s role. Amendment 111, from Colin Smyth, seeks to enable the board to advise the Scottish ministers on any proposals for the development of a national ticketing system. In my view, that would unduly constrain the scope of the board’s strategic role and the options that it might wish to pursue in connection with the future strategic development of smart ticketing, which might or might not include proposals for a national scheme.

There are also a number of technical issues that mean that the legal effect of amendment 111 is unclear. For example, the amendment would tie this new aspect of the board’s role into its existing remit of providing advice in the context of the Scottish ministers’ functions in relation to smart ticketing arrangements. The Scottish ministers do not have any functions in relation to the development of proposals for a national ticketing scheme, and nothing in the bill would enable the creation of such a scheme.

By contrast, Government amendment 112 will give the board a standalone function of providing advice and recommendations on the strategic development of smart ticketing in Scotland. That will ensure that the board has the freedom to look at all options—national or otherwise—and to make recommendations as to how options might be progressed.

I therefore ask Colin Smyth not to press amendment 111. If he presses the amendment, I urge the committee to reject it.

The board’s membership will be provided for in regulations made under proposed new section 27C(3) of the Transport Act 2001. Amendments 251 and 283 seek to impose requirements in relation to regulations about membership. Amendment 251, from Colin Smyth, would require the regulations to make provision to ensure that membership of the board includes representation of people who have disabilities arising from physical or mental impairment.

Until those regulations are made, it is not clear what the process for appointing members of the board will be or indeed what the composition of the board should be. However, proposed new section 27C(4) of the 2001 act will oblige the Scottish ministers to consult certain categories of person before making the regulations. The issues will therefore be considered in detail with relevant stakeholders, including the Mobility and Access Committee for Scotland, as part of the process. That will ensure that ministers are well informed as to how best to ensure that people with a disability are appropriately represented on the board.

It is also worth noting that, in making such regulations, the Scottish ministers will be subject to the public sector equality duty that is set out in the Equality Act 2010.

For all those reasons, I ask Colin Smyth not to move amendment 251. If he moves the amendment, I urge the committee to reject it.

Amendment 283, in the name of Colin Smyth, would require that regulation-making provisions about the board

“ensure that membership of the Board is geographically diverse.”

I am confident that the consultation process that I have outlined will ensure that the membership of the board is well balanced and appropriately reflects the interests of passengers, operators and local transport authorities across Scotland. There are a number of technical issues with amendment 283 that mean that the legal effect might be unclear. For example, it is not clear what “geographically diverse” means, or how that would be measured or demonstrated. For all those reasons, I ask Colin Smyth not to move amendment 283. If he does, I ask the committee to reject it.

My amendment 113 corrects a minor technical error in proposed new section 32A(3) of the Transport (Scotland) Act 2001, by adding the word “National” to the title of the board in that section.

The Convener: No other members have indicated that they wish to speak to this group of amendments. However, Colin Smyth wants to speak to other amendments in the group, so I ask him to do that in his winding-up remarks.

Colin Smyth: The cabinet secretary said that my amendment 111 would restrict the board’s remit, but I have difficulty understanding how it would do so, because it would add an additional responsibility to the board’s existing remit. Far from restricting the board’s remit, amendment 111 simply asks the board to look at the additional responsibility that would be added. The amendment would expand the remit; it would not restrict it.

I am happy to support amendment 112, in the cabinet secretary's name, as it would do something similar to what my amendment 111 would do by adding to the remit.

My amendments 251 and 283 refer to the membership of the smart ticketing advisory board. A number of stakeholders have made the point that the board must have regard to different accessibility needs. Indeed, the committee's stage 1 report stated:

"membership of the National Smart Ticketing Advisory Board should consist of a broad representation from all ... stakeholder groups, with particular attention paid to geographical spread and accessibility."

I have sought to put the committee's recommendation into practice. Amendment 283 says:

"Regulations under subsection (3) must ... ensure that membership of the Board is geographically diverse."

Amendment 251 calls for regulations to ensure that disabled people are represented on the board. I strongly believe that the board must be able to deliver for people with a range of needs. The best way to ensure that that happens is to be inclusive through representation on the board, as the committee recommended. I note what the cabinet secretary said about guidance being published on the issue. On the basis that he has said that on the record, I am happy not to move amendments 251 and 283. However, the committee's view on the matter was very clear.

I will press amendment 111.

The Convener: The question is, that amendment 111 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 111 disagreed to.

Amendment 112 moved—[Michael Matheson]—and agreed to.

Amendments 251 and 283 not moved.

Section 37, as amended, agreed to.

After section 37

The Convener: The next group is on smart ticketing: contactless payment and top-up cards. Amendment 284, in the name of Jamie Greene, is grouped with amendment 285.

Jamie Greene: These amendments are about smart ticketing, specifically in relation to contactless payments and top-up cards. I refer members to our stage 1 report. I appreciate that the amendments relate to a small section of the bill, but it is an important one, and we had a few evidence-taking sessions on the matter.

In our report summary, we stated that we were concerned that, although the provisions of the bill

"may will deliver some improvements ... these alone will not deliver the aspirations for ticketing arrangements and schemes that are shared by stakeholders."

We also said that we were

"concerned that the provisions on ticketing arrangements ... in the Bill lack ambition"

and felt

"that an opportunity has been missed".

We asked

"the Scottish Government to show leadership in this area and to bring forward proposals for the development of a single ticket scheme to be inserted into the Bill before it completes its parliamentary passage."

I appreciate that we are at stage 2 but, in the absence of any amendments from the Government, we took on board the committee's comments and tried to come up with some sensible amendments. Amendments 284 and 285 do not provide for a single ticketing system exactly, as I appreciate the complexities of that and realise that further work will be required, but the amendments address two things that we could do in the meantime.

The first is contactless payments. Amendment 284 seeks to require that ministers, via regulations,

"make provision requiring that contactless payment options are available as soon as reasonably practicable throughout Scotland for payment for entitlement to travel."

It then goes on to define in detail what a "contactless payment" is.

Stewart Stevenson: I will put two questions to Mr Greene. First, can he identify any place in Scotland where it is not possible to make a contactless payment for travel? Secondly, is he envisaging that the provision must cover contactless payments for sums of money that are over the limit that is imposed by banks, which is currently £30 for a transaction?

Jamie Greene: I am sorry, but a few members were speaking. Would you mind repeating the second question?

Stewart Stevenson: Banks impose a limit of £30 on a transaction that may be authorised by contactless means. Are you attempting to encompass payments that are in excess of that value, or any other value that the banks may set?

Jamie Greene: Those are very good questions. It is unfortunate that the Government did not lodge such amendments, because those issues might have been covered.

On the first question, I think that there are many areas in which people cannot make contactless payments. I am sure that everyone around the table will have a local bus service for which you simply have to pay by cash or buy a ticket in advance. I do not want to single out any particular company, because I think there are some services that provide contactless payment methods, but there are many others that do not.

The answer therefore is that there are many areas in Scotland in which people cannot pay for bus journeys using contactless payment. I would like to see the further roll-out of it—that is what the committee said to the Government and that is what amendment 284 seeks. It would oblige ministers to introduce provisions to ensure that the option is made available

“as soon as reasonably practicable”,

which is the language that is used in the amendment.

Graham Simpson (Central Scotland) (Con): To assist Jamie Greene, I point out that in this city you cannot use contactless payment on Lothian Buses, which is rather a shame, given that everyone says that it is such a great service. In Glasgow—on First buses—you can, but in Edinburgh you cannot.

Jamie Greene: Thank you for confirming that, which demonstrates the issue. There are still many ScotRail services for which people cannot make contactless payments. I appreciate that there is a roll-out and good work is being done in that regard, but I am not aware that every single barrier is contactlessly enabled. Although, perhaps sufficient progress has been made.

Michael Matheson: At ticket machines, yes.

Jamie Greene: At ticket machines, but not at the barriers.

Michael Matheson: We are talking about contactless payment. People pay at the ticket machine, not at the barrier. You need a ticket to get through the barrier.

Jamie Greene: Thank you for confirming. My point is that I am asking the Government to come forward with its plans on the issue.

Amendment 285 is slightly different. It would place a duty on local authorities, rather than on the minister—which he may be pleased to hear—to consider the feasibility of introducing top-up cards. One of the things that Lothian Buses does well is the ridacard. It is a single card that is topped up monthly and which allows travel—

The Convener: Sorry, Mr Greene, I will ask you to stop there. I am struggling; there are several conversations going on around the table and it is polite to listen to what other people have got to say. I would like to be able to hear what Jamie Greene has to say, so could members limit the conversations, please?

I am sorry to interrupt you, Mr Greene. Please continue.

18:30

Jamie Greene: Thank you for your comment, convener. Amendment 285 says:

“Each local transport authority must prepare and publish an assessment of the feasibility of introducing”

top-up cards in its area. The amendment would not mandate authorities to introduce such a system, but I would like them within 12 months of the bill’s passing to publish their assessments of whether top-up cards are feasible. That is not an overly onerous ask.

In its stage 1 report, the committee asked the Government to make proposals for such cards but, in the absence of any such proposals, I have tried my best to come up with some. If the Government was willing to commit to presenting more tangible plans for the bill, which we asked for, I would be happy to look at them at stage 3.

I move amendment 284.

Mike Rumbles: I have a question. I am attracted by amendment 284, which is positive, and I am interested in the cabinet secretary’s response. In summing up, will Jamie Greene explain what the phrase “reasonably practicable” means in law, as we are making law? I am not sure what that term means.

The Convener: I am sure that Jamie Greene will come to that in winding up.

Michael Matheson: Amendments 284 and 285, in Jamie Greene’s name, would insert new sections 27D and 27E of the 2001 act into the provisions about ticketing arrangements and schemes in part 3 of the bill.

Amendment 284 would require the Scottish ministers to make provision through regulations to

require contactless payment options to be available as soon as practicable throughout Scotland as a means to pay for travel. The amendment appears to be concerned with payment methods rather than ticketing arrangements, but I agree that it is important to give the travelling public options that make it easier to travel and promote the use of our public transport network. Contactless payment options can play a part in that, but contactless payment is not attractive or accessible to all sections of the travelling public, and it is important for it to be seen as only one of a range of available payment options.

It is important to note that the roll-out of contactless payment technology is moving at considerable pace, driven by customer demand, and we are seeing rapid growth in its availability across all public transport modes. ScotRail and all major bus operators now accept contactless payment. Contactless payment methods can also be used to buy tickets for many journeys on other public transport modes across Scotland.

The Scottish Government is committed to supporting operators to make such payment methods available where there is demand. To support further contactless payment availability on buses, the Scottish Government, with support from the European regional development fund, established a £1.1 million grant fund in November 2018 to provide financial assistance for upgrading equipment.

Given all that, it is not necessary or appropriate for the Scottish Government to regulate the provision of public transport services so as to compel operators to provide contactless payment options. To the extent that such a requirement applied to passenger rail services, it might be found to relate to the regulation of passenger railway services, which is a reserved matter that falls outwith the Parliament's legislative competence.

For all those reasons, I ask Jamie Greene to withdraw amendment 284. If it is pressed, I ask the committee to reject it.

Amendment 285 would require all local transport authorities to prepare and publish an assessment of the feasibility of introducing a travel card that can be topped up automatically and used across all forms of public transport in their areas. Such assessments would require to be published no later than one year after the bill received royal assent.

It is unclear whether such a travel card would be a type of payment arrangement or a ticketing arrangement. It is also unclear to which public transport services the provision would apply. In any event, it seems premature and

disproportionate to impose through the bill a requirement on all local transport authorities to conduct such assessments before there is evidence of a need or desire for such arrangements in their areas. That is particularly the case given that the assessments and the timescale in which they would have to be completed could give rise to significant cost and resource implications for the authorities, which have not been consulted on the proposal.

For all those reasons, my view is that the obligation that amendment 285 would impose on LTAs is not necessary or appropriate, and I therefore ask Jamie Greene not to move it. However, if the amendment is moved, I urge the committee to reject it.

Jamie Greene: I thank members for their comments and feedback. The amendments are not intended to be difficult; rather I am trying to respond to the concerns that stakeholders raised with the committee at stage 1 and put them on paper—with the limited assistance that members get in drafting amendments.

In response to the cabinet secretary's comments on amendment 285 that there will not be a need for assessments, I ask how local authorities would know that there is no need in an area until they had conducted some sort of feasibility study. If the minister thinks that one year after royal assent is too soon, it would be perfectly fine for him to take a different view and amend the bill at stage 3 to set the period at two or three years after royal assent, according to what he believes would give the authorities enough time to carry out that work. However, if we do not ask local authorities to do that piece of work, it will never be done. Simply assuming there is no need or desire for that work is not good enough. I want us to be ambitious on smart ticketing and amendment 285 is a small step towards that.

I do not think for one second that amendment 284 on contactless payments is outside the Parliament's competence. I am sure that the bill team would have warned me about that when I was drafting the amendment. I thank them for their help.

On Mr Rumbles's point about the term

"as soon as reasonably practicable"

in amendment 284, I would say that I think that those are the right words. We included a timeframe in amendment 285, because it related to a feasibility study and so could have a tangible limit, but rolling out contactless payment could take some time. I consulted on the best wording to use, but sometimes there is no right answer—I did not want to define a period, but I wanted it to be as soon as possible. The term

“as soon as reasonably practicable”

is commonly used in contractual law. I could refer the member to the case of *Goldman Sachs International v Videocon Global*, in which there was a dispute over the definition of “reasonably practicable”—I could spend some time going into that. In legal terms, it commonly means “as soon as it is reasonably possible for the parties concerned”. I am not sure how that could be changed to make it better, but I would like to see the premise of amendment 284 included in the bill. Perhaps with the help of the cabinet secretary and his team, we could get the wording on the timescales right.

Mike Rumbles: I am inclined to support amendment 284, but I am concerned about the term “reasonably practicable”. It would be helpful if the minister were to come back at stage 3 with the specific timeframe with which he would be comfortable. On that basis, I will support amendment 284.

Jamie Greene: I thank Mr Rumbles for his support. As members will have seen, I tend not to move amendments if the minister has said that he is uncomfortable with them. However, there is ample opportunity between now and stage 3, after the recess, to get the wording right in relation to amendment 284. I hope that other members of the committee will look favourably on what I am trying to achieve with amendments 284 and 285. I press amendment 284.

The Convener: The question is, that amendment 284 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)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)

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)
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 284 disagreed to.

Amendment 285 moved—[Jamie Greene].

The Convener: The question is, that amendment 285 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)
Smyth, Colin (South Scotland) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Abstentions

Rumbles, Mike (North East Scotland) (LD)

The Convener: The result of the division is: For 3, Against 7, Abstentions 1.

Amendment 285 disagreed to.

Section 38 agreed to.

Section 39—Directions about ticketing schemes

Amendment 113 moved—[Michael Matheson]—and agreed to.

The Convener: The next group is entitled “Smart ticketing: power of direction”. Amendment 114, in the name of the cabinet secretary, is the only amendment in the group.

Michael Matheson: Amendment 114 reflects the Delegated Powers and Law Reform Committee’s consideration of the delegated powers in the bill. The DPLRC asked the Scottish ministers to consider amending new section 32A of the Transport (Scotland) Act 2001 to include an express requirement for ministers to set out the reasoning behind any direction that they issue to local authorities under that section.

I agree that an open and transparent process will reassure all parties as to why the Scottish ministers have issued such a direction. To that end, I have lodged amendment 114 to make it clear that, when the Scottish ministers choose to exercise those powers to direct a local transport authority to make or revise a smart ticketing system, they will be required to set out their reasoning for doing so.

I move amendment 114.

Amendment 114 agreed to.

Section 39, as amended, agreed to.

Sections 40 and 41 agreed to.

After section 39

The Convener: The next group of amendments is on travel concessions schemes. Amendment

216, in the name of Pauline McNeill, is grouped with amendment 286.

Pauline McNeill (Glasgow) (Lab): Amendment 216 would amend the Transport Act 1985 to ensure that travel concessions are available to children up to the age of 18 rather than 16. It would also get rid of subsection (7)(c) of the 1985 act, which created concessions for children in full-time education up to the age of 18. If amendment 216 is agreed to, that subsection will no longer be necessary.

Amendment 216 is necessary because many 18-year-olds still live at home, many are in full-time education and many are studying and not earning the minimum wage or are not earning at all. The minimum wage for 16 to 17-year-olds is much lower than it is for adults. According to research that I have done, depending on the geographical area of Scotland, a young person spends up to 10 per cent of their weekly pay on travel. In Glasgow it is around 7 per cent, and in Edinburgh and Bathgate it is around 10 per cent. In the first year of this parliamentary session, I set out to promote a member's bill on discounted transport for young people—in particular, 16 and 17-year-olds. It is an injustice that young people turn 16 and immediately pay full fares on all public transport. It is not the best way to celebrate arriving at the age of 16.

In surveys that I carried out across schools in Glasgow, 16 and 17-year-olds, in particular, supported the policy, as we would have expected. Older teenagers felt that they would have benefited from the policy. Many young people told me that, when they turned 16, they would probably pretend that they were still under 16 in order to benefit from the concession. However, that is anecdotal and I will name no names.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): In drafting amendment 216, did the member look into the fact that local authorities can give grants for transport to young people who are still in full-time education not at the nearest school but perhaps at college?

Pauline McNeill: I consulted extensively with Young Scot and local authorities, and that particular suggestion did not come up. I will go on to say why that national provision is needed.

The Young Scot concessionary scheme entitles 16 to 18-year-olds to a third off the adult single fare on any registered bus service, a third off rail journeys and a 50 per cent discount on rail season tickets. Eligible island residents receive vouchers for four free ferry journeys a year. It is important to remember that ferries would be included in such an amendment.

The discounts for rail tickets are poor. The 16 to 25 railcard gives holders a third off, but they must

travel after 10 am and they must spend more than £12. They can get the discount on a weekly or monthly ticket if they can afford to buy one. It is time for deeper discounts. I will focus, in particular, on 16 and 17-year-olds.

18:45

Stewart Stevenson: There are approximately—it is an approximate figure—100,000 people between the ages of 16 and 18 in Scotland, and my back-of-an-envelope estimate is that we are being asked to authorise £40 million per annum. What is the member's figure?

Pauline McNeill: I will get to that. I thought that the minister would raise the matter first, but you have beaten him to it.

I emphasise to the committee that I have spent a year doing this work. I have consulted Young Scot extensively, and I had discussions with Michael Matheson's predecessor, Humza Yousaf, about the matter. The figure, which the bills unit was prepared to accept when I submitted it—I emphasise that it has not gone forward yet—is £3.2 million a year. Mr Stevenson should bear in mind that what I suggest in the amendment is that the half fare be extended. Young people aged 16 and 17 are already paying something. All that I am suggesting is that they continue to pay the half fare until they reach 18, when they will pay the full fare.

In 2007, the estimated cost of the scheme that I have just mentioned was £27 million to £30 million, but the latest figures show that spend on the scheme is only £1.6 million, so there is a considerable underspend of that budget. I fully accept that the cabinet secretary will say that the Government has spent the money on other things, but in 2007 we were going to spend a lot more on discounted travel. There may be some issues to do with reimbursement and people not claiming discounts, but, to my mind, the discounts are not that deep and the Government has not spent anywhere near the amount that was intended to be spent in 2007.

It would be significant if the Parliament recognised the injustice of people turning 16 and being charged full fares on buses, trains and ferries. I do not think that what I propose is particularly expensive, but I will wait with bated breath to hear what the minister has to say about it. If the amendment is not agreed to, I will ask him to consider whether there is some other way in which to give 16 and 17-year-olds a better deal on public transport, perhaps at weekends—that might be a compromise. However, it is certainly time to recognise that there is an injustice that this Parliament should fix.

I move amendment 216.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): What I propose has been a long-standing policy of the Scottish Conservatives, who have argued that the free bus scheme should be extended to community transport. Community buses are an essential part of rural Scotland, especially for older people. They are often the only direct links to healthcare as well as to friends, family and recreation. That is why my amendment 286 requires the Scottish Government to publish a report that sets out its assessment of the costs and benefits of extending the bus pass as well as to consult relevant stakeholders.

Maureen Watt: In a previous session of Parliament, we produced a report on community transport. We asked community bus organisations whether they wanted what Rachael Hamilton proposes, and most of them said that they did not want the kerfuffle and all the paraphernalia that would be involved in it. I wonder how many community transport organisations the member has consulted and whether they have changed their minds on the proposal.

Rachael Hamilton: I presume that Maureen Watt is speaking about the Infrastructure and Capital Investment Committee in the previous session of Parliament, which recommended that the Scottish Government should publish a report setting out an assessment of the costs and benefits of extending the bus pass scheme. I have spoken to many community transport providers in my constituency, and that would certainly make community transport more accessible and flexible. The whole point of the amendment is to make it easier for bus users to get across rural constituencies, in particular.

The transport secretary in the previous session of Parliament highlighted that there could be logistical issues with such a roll-out, and there would be cost implications. However, this is absolutely the right time and a prime opportunity for Scottish ministers to introduce such a measure. I cannot highlight enough how important community transport is as a lifeline in many constituencies. People in this room will sympathise with that view. In ensuring that community transport would remain accessible to those who rely on it the most, amendment 286 speaks for those people, and I ask members to support it.

John Finnie: I strongly support amendments 216 and 286, which some members seem to think are very ambitious. In fact, they are very modest amendments. Given that we have declared a climate emergency, we need to fundamentally change the profile of spending, and this is an issue of spending priority. People ask how much what is proposed would cost, but how much does the existing infrastructure cost, and what contribution is it making to tackling the climate emergency?

It is certainly the case that there are opportunities to expand travel for rural communities, and there is strong evidence for what amendment 216 proposes. The committee has previously heard that we need to encourage younger people to use public transport, as the use of it becomes habit forming. I understand that the arrangements in East Lothian, when Lothian Buses took over the routes there, were such that it purposely targeted that audience with some of the facilities on the buses. We need to target younger people in that way.

We need to move to a situation in which public transport is free. People smile at that, but that is the case in a number of areas. The issue is all about spending priority. I strongly support amendments 216 and 286.

Peter Chapman: I take a different view entirely. We cannot support Pauline McNeill's amendment 216, which aims to extend free bus travel to all 16 to 18-year-olds regardless of whether they are in full-time education. As I argued when Labour brought a debate on free bus travel to the chamber a few months ago, as well as being extremely costly, the measure would not be used fairly across the country, because young people in rural areas with fewer or no services would not benefit from it.

Pauline McNeill: I want to make it clear that amendment 216 would not result in free transport; it would simply extend the half-fare payment to young people up to the age of 18. Those aged between 16 and 18 would continue to pay the half fare.

Peter Chapman: I take your point, but it would still be a costly measure to put in place, and constituents in rural areas, where services are very poor, would not benefit from it, as they cannot use buses to the same extent as those in other areas. I also believe that the cost would be considerably more than the £3.2 million that Pauline McNeill has suggested. Therefore, I cannot support amendment 216.

On the other hand, I support Rachael Hamilton's amendment 286, for the reasons that have been explained.

Michael Matheson: Amendments 216 and 286 both seek to amend section 93 of the Transport Act 1985, which enables local authorities to establish travel concession schemes for public passenger transport services in their areas.

Amendment 216 would alter the categories of persons who are eligible to receive a travel concession under such a scheme by increasing the age limit for eligible young people from 16 to 18. Currently, 16 to 18-year-olds are eligible only if they are in full-time education. It is clear that, before any change to the categories of eligibility

for local concession schemes that are fixed in the 1985 act could be made, the costs and other impacts of such a change would require to be rigorously assessed and discussed with local authorities, on which the costs would fall, as well as with other relevant stakeholders. In addition, all 16 to 18-year-olds who are resident in Scotland are already eligible for discounts on bus, rail and ferry journeys under the Scottish Government's national concessionary travel scheme for young people, and, as the committee may be aware, the Scottish Government has committed to assessing the impacts of extending the entitlement to travel concessions offered to 16 to 18-year-olds under that scheme to all under-26-year-olds. We have taken that forward at the request of the Scottish Youth Parliament. For those reasons, I am of the view that amendment 216 is neither necessary nor appropriate.

Amendment 286 seeks to require the Scottish ministers to prepare a report on their assessment of the costs and benefits of extending travel concession schemes made by local authorities under section 93 of the 1985 act to community transport services. However, I am strongly of the view that it is not appropriate for the Scottish Government to be compelled to undertake that report. The costs and benefits relating to the provision of local schemes will rightly vary across the country, and that is a matter for each local authority. I can see no benefit in the Scottish Government carrying out such an assessment and reporting nationally on a purely local issue. In my view, the amendment would introduce unnecessary central Government bureaucracy and would do nothing to support the community transport sector.

That is not to say that the Scottish Government does not have a role in supporting community transport. We continue to fund the Community Transport Association and support initiatives on driver training, and the CTA sits on the bus stakeholder group, which I chair. Through that forum and others, we will engage with all stakeholders on implementation matters relating to the bill, and I will continue to promote the benefits of community transport in those discussions.

We must be clear that the requirements of both amendments would place the burdens of financing the schemes and planning for taking them forward entirely on local authorities, and I am not aware of any engagement that has been undertaken with local authorities to consider their taking on those additional burdens.

Jamie Greene: For the avoidance of doubt, can the minister point to where amendment 286 mentions a duty to fund the services? I am keen to pinpoint that. The amendment asks the ministers to produce an assessment of the costs and

benefits of extending the schemes, which seems a fair ask.

Michael Matheson: The amendment relates to section 93 of the 1985 act, which enables local authorities to establish concessionary travel schemes, and not to the national concessionary scheme, which is the responsibility of the Scottish ministers. The amendment relates to entirely local schemes, and it ties into the legislation that enables their provision.

John Finnie: I am all for localism, but do you not see that a collective position could be adopted by the 32 authorities? We talk about the non-trunk-road network. Do you not see that you, as the transport secretary, have a responsibility that extends across that network?

Michael Matheson: It is important to recognise the role that local authorities have and their discretion to introduce schemes in their local areas where they see that as being appropriate. The amendments relate to local authorities and local concessionary travel schemes, not to the national concessionary travel scheme, which is operated by the Scottish ministers. That is why they are tied into section 93 of the 1985 act, which relates to local authorities, not the national Government.

Pauline McNeill: I do not accept that.

Colin Smyth: Would the cabinet secretary support a national cost benefit analysis of expanding concessionary travel to apply to community transport? Maybe we could lodge an amendment on that at stage 3.

Michael Matheson: As I have mentioned, in the work that we are undertaking on the concessionary travel scheme for under-26s, we are undertaking an assessment of the costs associated with that. Rachael Hamilton's request, in amendment 286, relates to our undertaking a report to consider those matters. Beyond that, no practical purpose would be served other than the gathering of information on local schemes at a national level. That information is already available at the local level for local authorities.

Rachael Hamilton: If, following work involving the Scottish Government, it were possible to bring back at stage 3 an amendment that would give power to local authorities after the evidence had been gathered and the cost benefit analysis had been done, would that be beneficial?

Michael Matheson: If local authorities wish to carry out that exercise right now, they are free to do so. It does not need to be in the bill for it to be undertaken.

Rachael Hamilton: The Scottish Government could conduct that analysis, which would take the brunt of the burden from local authorities. The

local authorities could then take the responsibility or leave it.

19:00

Michael Matheson: I am not sure what you mean by that—for what purpose?

Rachael Hamilton: If we take this back to a simplistic process, the infrastructure and—

The Convener: I am mindful that this is becoming a conversation across the committee table.

Rachael Hamilton: Sorry, convener.

The Convener: I am very happy to have interventions. Cabinet secretary, you have been asked specifically whether, if the proposal was amended and brought back at stage 3, the Scottish Government would consider it. I ask you to answer that question, as that may clarify whether we can move on from this point.

Michael Matheson: I do not see how the proposal could be changed with the amendment as it stands. We are talking about local schemes that are operated by local authorities. If the Scottish Government undertook an assessment and a cost benefit analysis of those schemes at a national level, that would serve no additional purpose over and above what authorities can do at present. I am not sure what the benefit or purpose of such an analysis would be.

The Convener: On that note, I ask you to press on, cabinet secretary. I think that that is as close to a “no” as you are going to get, Rachael.

Michael Matheson: In conclusion, I ask Pauline McNeill not to press amendment 216. If it is pressed, I urge the committee to reject it. I also ask Rachael Hamilton not to move amendment 286. If it is moved, I urge the committee to reject it.

Pauline McNeill: I do not accept the cabinet secretary’s interpretation of my amendment 216. The provisions already refer to a national scheme. In any case, even if he was concerned about that, it is perfectly possible to reimburse local authorities, as they are currently reimbursed for the national scheme. That is how it operates.

The cabinet secretary does not really seem to have addressed the question that I am trying to pose, which is on half fares for 16 and 17-year-olds. I have worked quite hard on the figures, and I stand by my figure of £3.2 million—although I accept that the figures are from 2017. I also stand by the fact that, although, in 2007, the Government intended to spend £27 million, it is spending less than £2 million on the concessionary scheme. That fact alone tells us that the discounts that have been referred to are not deep and certainly need reform.

I will press my amendment, which is about extending half fares to full fares. That can be accommodated by a national scheme. If the issue is that local authorities would have to pay, the cost could be covered by reimbursement from the Government. That is its job.

The Convener: The question is, that amendment 216 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 216 disagreed to.

Amendment 286 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 286 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)
Rumbles, Mike (North East Scotland) (LD)
Smyth, Colin (South Scotland) (Lab)

Against

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

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

Amendment 286 agreed to.

Section 42—Pavement parking prohibition

The Convener: There will now be a slight change of people assisting the cabinet secretary. While that change is happening, I should explain that we will now be moving on to another grouping, which has a lot of amendments in it. The temptation is for everyone to speak to every single

amendment. If that happens, we may still be here after recess. I therefore ask members to be as clear and concise as possible.

I see that we are now all in place.

The next group is on pavement parking orders and the extent of pavement parking prohibition. Amendment 115, in the name of Graham Simpson, is grouped with amendments 116, 116A, 287 to 291, 118 to 121, 143, 146, 148, 150, 153, 155 and 161. I must point out that, if amendment 116 is agreed to, I cannot call amendments 287 to 291.

Graham Simpson (Central Scotland) (Con): I have 13 amendments in this very large group but, as you know, convener, I am a very succinct man and I do not intend to speak to every single one of them. *[Interruption.]* If Mr Lyle could stop sniggering, we might be able to get on with things. I know that you are all in here for the long haul.

When I was thinking about the proposals in the bill for banning pavement parking, I wondered about the effect of this kind of blanket ban, particularly if it is enforced—which, after all, is the key thing. Clearly, the answer is that cars will be forced off the pavement and on to the roads. *[Interruption.]* Convener, there is something going on around me.

The Convener: Papers are being circulated, but you do not need them, because they do not apply to these amendments.

Graham Simpson: Okay, then. I will carry on.

The proposal to take cars off the pavement and put them on to the road will in many streets in Scotland, particularly residential streets, be a recipe for chaos. The streets will be clogged up, and no one will be able to move.

The bill says that councils will be able to apply for exemptions, but what will happen is that lots of campaigns will spring up all over Scotland, asking councillors to exempt particular streets. That is just the reality. Councillors will be under extreme pressure to exempt the streets in their areas.

However, as this is a serious issue—indeed, that is why it is in the bill—I started thinking about whether there was a better way of achieving what we want to achieve. The idea behind amendment 115, from which all my other amendments flow, is to give councils the power to introduce pavement parking orders, if they see a need to do so. They would identify the areas where this is an issue, and they would then introduce an order to ban pavement parking in those areas. In other words, I am flipping what is a good idea on its head and trying to make this more of a local decision rather than a blanket nationwide ban.

East Kilbride, where I live, was not built with the motor car in mind, and certainly not the number of motor cars that we have now. Many streets already cannot cope with the number of cars that are in them, and if those cars are forced off pavements and on to roads, the town will just get snarled up. I certainly think that South Lanarkshire Council would be loth to introduce such orders in most parts of the town.

That is the basic idea behind my amendments. Amendment 116 merely flows from it and sets out what these pavement parking orders should do, while amendment 116A, in the name of Jamie Greene, adds to it. As I have said, the rest of my amendments are merely of a technical nature. The other amendments in the group have been lodged, I think, by Mark Ruskell, and he can justify them himself.

I move amendment 115.

Jamie Greene: I will start with Graham Simpson's amendments. Very early on in the process, I had a conversation with him about the issue. My approach is twofold. First, I have reservations about the blanket nature of the proposals. The proposal is to have a nationwide ban and then to seek exemptions and exceptions. Certain streets will be permanently exempt from the rule. There is a lot of discussion to be had, which we will get to, about which streets should be exempt and the process that has to be gone through for that. There is also the issue of exceptions to the rule, which are the more short-term ways and circumstances in which the prohibition will not apply. No doubt we will also have a healthy debate about that.

From day 1, I noticed that we were talking a lot about double and pavement parking in the committee and in Parliament but that not a lot of people outside here were talking about it. When I talked to people about it, I got a lot of cautious feedback, but they accepted that there is an issue that we need to address. Helpfully, there is a cross-party consensus that we need to address the issue of inconsiderate parking, but there are many ways in which we can do that. The bill proposes one way, and Mr Simpson, in earnest, proposes a different way, which would make it easier for local authorities to address problems where they exist but would not create problems. I still have reservations about that, and some of my later amendments to part 4 will try to address some of those.

If we simply create a prohibition and move all cars on to the road, that will cause chaos in many local authority areas. Since we started considering the issue, I have been driving round looking at streets where there is pavement parking. I look at how much pavement there is next to the cars and at the circumstances and the reasons why the

cars are on the pavement. A very small percentage of those people are being inconsiderate, perhaps because they are lazy and do not want to park anywhere else, but the majority of people do it because they feel that it is the right thing to do or they do not have any choice, because there is nowhere else to park.

We need to give serious consideration to Graham Simpson's amendments. They take a different approach that flips the approach in the bill on its head. We need to be realistic about the cause and effect and the consequences if the blanket approach goes through. I am willing to support Graham Simpson's amendments, as I like the pavement parking order approach, which is sensible. However, it may not get majority support from the committee, so I have taken a second, parallel approach. If there is a blanket prohibition, I want to try to clear it up and make it as pragmatic as possible. I think that members will see that my amendments would do both.

John Mason: Does the member accept that my amendment 1, which is in the next group, would be a compromise? As he says, the proposals in the bill and those of Graham Simpson are at opposite ends. If we ban parking except where there is 1.5m of pavement left, is that not a compromise?

Jamie Greene: We will come on to that group and debate amendment 1. I have amendments to that effect as well. I will support amendment 1, because it is a sensible compromise. However, I still think that that approach will create problems, and I will explain those when we get to the relevant group. Dictating a national standard of a 1.5m minimum would still create localised problems. I have other amendments that seek to address those problems, but I do not want to say any more about that group now.

My amendment in the current group, which is amendment 116A and which tries to add to amendment 116, is fairly self-explanatory.

I also want to comment on Mark Ruskell's amendments. I am sympathetic to amendments 287 and 288, which address the issue of parking on a cycle track and include a definition of that. I tried to submit a similar amendment and was told that Mr Ruskell had already done so, so I am of a similar frame of mind on that.

However, I am not sure about amendment 289, which would include in the ban parking on "any verge or planting adjacent to the carriageway".

The whole point is to try to free up pavements. If there is a carriageway with a sloped grass verge next to it, it is unlikely that pram or wheelchair users will be on it anyway, so that is maybe superfluous.

I am willing to listen to the arguments on amendments 290 and 291, because I am intrigued as to what their effect would be. I will take a view on them after I have heard those arguments.

I hope that that has been helpful.

19:15

Mark Ruskell (Mid Scotland and Fife) (Green): I will limit my comments to my amendments in the group, which aim to end the scourge of inconsiderate parking on three types of infrastructure that walkers and cyclists rely on. Amendments 287 and 288 concern dedicated cycle tracks. As Mr Greene said, they pick up an issue that the committee raised in its stage 1 report, which is that cycle tracks are often blocked by parked vehicles.

I know from cycling with my children that a parked vehicle in the middle of a cycle track is a hazard. That can force a cyclist into lanes of fast-moving traffic or into the parked vehicle's dangerous door zone, which has obvious consequences if the driver or a passenger opens a door. It does not take too many such incidents to put somebody off cycling for life. The amendments would bring cycle tracks under the same regime as the Government has proposed for pavements and dropped kerbs, so that council wardens could enforce measures against inconsiderate parking.

Amendment 289 is about the status of verges. A pavement cycle track may be separated from the carriageway by some form of verge—grass or other plantings—but we all know that verges can be wrecked or rutted by poor parking, while parked vehicles obstruct the line of sight for pedestrians who are attempting to cross a road safely. I hope that part 4 implicitly includes verges in the definition of footpaths and footways, but it might not be explicit enough. I hope that amendment 289 will bring clarity from the cabinet secretary.

Amendments 290 and 291 cover the school keep-clear yellow zig-zag lines—perhaps they match Mr Greene's amendments about white zig-zag lines; we are brothers in arms. I suggest that a standing agenda item at every parent council meeting that I have attended has been disbelief that such striking yellow signs are only advisory and cannot be enforced, which defeats their purpose of ensuring that school entrances are clear of obstructions and creating a safe environment for children and parents when they enter and leave school premises. The amendments would allow parking wardens to enforce those obvious zones and would make it clear that the lines should be enforced only when they are needed, which is during the school day and not at other times such as weekends or in school holidays.

The Convener: I call Colin Smyth, to be followed by Sandra White.

Colin Smyth: Graham Simpson's amendments would remove the ban on pavement parking and replace it with an enabling power for local authorities to issue a pavement parking order to ban pavement parking on certain streets or in certain areas. That would fundamentally undermine the aim of section 42.

Pavement parking is a significant hazard, particularly for people who have mobility issues, who use wheelchairs or who have visual impairments, and such parking should be banned outright with limited exemptions. I can only imagine the challenges that we would have if one local authority banned pavement parking while a neighbouring authority did not ban it. Each area would require signage to make that clear and huge challenges would arise.

Amendments 287 and 288, in the name of Mark Ruskell, would add cycleways to the parking prohibition. I, too, looked at that issue, because I believe that parking on cycleways should be banned. However, I understand from the feedback that I received that it is already banned under the Roads (Scotland) Act 1984 and that we should not duplicate that legislation. If that is not the case, I will support the amendments.

One question is whether such a ban should be extended to advisory cycleways—the current ban is on parking on mandatory cycleways. All the feedback that I received from cycling groups was that they were reluctant for the ban to be extended, because that could have the unintended consequence of reducing the number of advisory cycleways that local authorities pursued.

I understand that parking is already banned on mandatory cycleways. I hope that the cabinet secretary will confirm that, because that will determine whether amendments 287 and 288 are required.

I have no problem at all with amendment 289, which would clarify that the ban covers

“any verge or planting adjacent to the carriageway”,

as I am not aware that parking on such areas is already banned.

I have a lot of sympathy for amendment 290, but my slight concern is about how school entrances would be defined—how wide would they be?

If it is simply where there are currently advisory zig-zags, I would support that. I am thinking about the practical implications and the areas that would be covered. I am sure that the cabinet secretary will cover that point. I am very sympathetic to the proposal.

The Convener: I said that I would bring in Sandra White next, although I have been told that committee members should be allowed to speak first. However, I will stick to my word.

Sandra White (Glasgow Kelvin) (SNP): Thank you, convener. I thank the committee for allowing me to speak today. I will not reiterate what Colin Smyth has said, but I agree with every word.

As well meaning as amendment 115 may be, as Colin Smyth says, it would mean that we might as well not have a bill on pavement parking. I worked on the Footway Parking and Double Parking (Scotland) Bill for many years and I thank the committee and the Government for adopting it under the Transport (Scotland) Bill.

It is important that our society looks after all its members, including people who are blind, people who are in wheelchairs, people pushing prams, elderly people and vulnerable people, who cannot walk on a pavement simply because there are cars parked on it. The pavement parking element of the bill could not be implemented if the ban was introduced on a council-by-council basis.

Graham Simpson should recognise that there will be an educational aspect to the bill. I never set out to make the bill punitive. We should educate people to let them know that pavements are for people and not for parking. I am sympathetic to the point that John Mason made on that and, as Colin Smyth said, there will be exemptions. There are circumstances just down the road in Leith where we could not do other than have parking slightly on the pavement. There will be exemptions, but a ban cannot be introduced on an individual council basis.

Given all the hard work that people, including disabled people, have put into the pavement parking ban, it would be a travesty if we were to decide that it should not apply everywhere in Scotland and it was left up to each council.

I take on board what Jamie Greene is saying about setting exemptions. That will be looked at. In particular, amendments 287 and 288 on cycle lanes raise an issue that we should be looking at. However, as Colin Smyth said, it is already against the law.

I will not take up any more of the committee's time. A lot of work has gone into this part of the bill and I ask the committee not to support amendment 115.

Mike Rumbles: This is about ending the scourge of the obstruction of our pavements by people who should know better. We want to send a message that people should not park on our pavements, obstructing people who are disabled and young mums and dads with prams and so on.

Graham Simpson's amendment would completely reverse that and ruin the message.

The current law says that it is illegal to drive on our pavements, yet we all see cars parked on our pavements. How did they get there? Was it magic? No, they were driven there. People are already breaking the law, so we should send a clear message that that is not acceptable.

There are exceptions in the bill that the cabinet secretary is allowing for areas where it is proving very difficult to end such a practice. Local authorities are best placed to make the decision on such exceptions. It is important that we send out a national message: "Do not obstruct our pavements".

John Mason: Will the member take an intervention?

Mike Rumbles: I will in a minute.

I am glad that John Mason was trying to get in there, because I think that I know what he was going to talk about.

John Mason: No.

Mike Rumbles: Right. I do not know what he was going to talk about.

The Convener: It will be a surprise.

Mike Rumbles: I was going to say that, in the next section of the bill, John Mason has an amendment on the same principle of leaving a gap. We will discuss that when we get there.

The point that I am making is that we must be really clear. If we start messing about with sections and turning the whole process back to front, we will be in trouble.

I am a bit concerned about amendments 287 and 288, in Mark Ruskell's name, because when I questioned the cabinet secretary and his staff at stage 1, the clear message from the officials was that such parking is already banned and illegal.

Mark Ruskell: I accept that, but the issue is that, currently, the ban can only be enforced by the police and the police are rather busy. The police have limited time and therefore, extending the provision to enable traffic wardens to be able to police parking in cycle lanes would make a lot of sense, would it not?

Mike Rumbles: That is a good point and I would like to hear the minister's response to that question. If he accepts that, I certainly will. However, I am just referring back to stage 1—that was the evidence that we received. Unless the advice changes, I am a bit concerned about that.

The Convener: Mr Mason's comment will remain a surprise until he gets a chance to say it.

Richard Lyle: I agree with Mike Rumbles—at the end of the day, I believe that pavements should be for people and cars should go on roads. The problem is that we all see many cars parked on pavements. I know that Mr Mason will say that there are some pavements that are big enough for cars, but I refer to the comment from Guide Dogs Scotland:

"These amendments would remove the new provisions on pavement parking from the bill entirely and restore the old system where councils are only able to restrict pavement parking street by street."

People complain that councils do not have any money. We would be forcing councils to look at each individual street, send out an official and maybe have a consultation. Tackling the problem of pavement parking pre-emptively could be expensive, with extensive requirements for signage and consultation. Basically, it would leave pedestrians at risk from inconsiderate pavement parking. I want to see cars parked on the street; I do not want to see them parked on the pavement. I cannot support Mr Simpson's amendments.

Jamie Greene: I hear what everyone is saying and I think that Sandra White made a good point about the valiant efforts that have gone into having pavement parking included in the bill. As I have said from the beginning, there is a lot of cross-party support for tackling this issue. No one is suggesting for a moment that we want drivers to block the pavement.

I think that the point that Graham Simpson was trying to make, which others have alluded to, is that if you simply move all these cars off the pavement on to the road tomorrow, that will cause accessibility issues on many roads. I will not name them all—we will talk about that later, but I could be here all night, because we all have streets in our constituencies and regions where, if you simply moved the cars from the pavement to the road, it would block the road.

I would politely ask Graham Simpson to withdraw all his amendments in light of the committee's direction of travel and I thank him for raising the issues with the practicality of delivering a sensible policy. When we get on to the exemption process, I hope that we will make some sensible decisions on what it should look like.

In response to the point that what is being proposed will create a huge workload for local authorities, I say that the reality is that they will have to go through the exemption process on a street-by-street basis anyway, because they will have to go through their local authority areas and work out which streets they want to exempt. That, by default, will create a process that currently does not exist, so we have to put things in context in that respect.

The Convener: Once the cabinet secretary and Graham Simpson have made comments and we have finished looking at the amendment, we will take a pause. I think that some members are ready for that.

Michael Matheson: I take your hint, convener.

The aim of the pavement parking prohibition is to introduce a clear national ban on pavement parking while still enabling local authorities to consider whether to exempt certain streets in their area from that ban if they consider it appropriate to do so.

John Mason: You referred to exemptions. I was going to intervene on exemptions when Mike Rumbles was speaking. Do you think that councils will have exemptions? They will be just like TROs—there will be a hassle factor and a cost factor, and councils are under pressure. Do you not think that there will be hardly any exemptions?

Michael Matheson: I think that the way in which the system is set out in the bill means that the likelihood of a greater level of exemptions is lower than it is in Mr Simpson's suggested approach, which I suspect would result in a much greater level of exemptions being provided.

19:30

Mr Simpson's amendments 115 and 116 seek to remove the national prohibition on pavement parking and instead enable local authorities to make pavement parking orders to prohibit pavement parking in areas of their choosing. Amendment 118 seeks to remove the power to make exemption orders, as they would no longer be needed in the absence of a national prohibition, and amendment 119 seeks to make provision about the form and content of, and procedure associated with, pavement parking orders.

Amendment 120 seeks to make provision about the traffic signs required where a prohibition is in place under such an order, and amendments 121 and 143 seek to make provision on exceptions and penalty charges respectively. Amendments 146, 148, 150, 153, 155 and 161 seek to make a number of technical and consequential changes. Finally, Jamie Greene's amendment 116A seeks to require a local authority to assess the effects of creating parking prohibitions before making a pavement parking order.

If the amendments were to be accepted, local authorities would have discretion over whether a pavement parking prohibition would be introduced at all in their areas, instead of there being, as proposed in the bill, a countrywide prohibition. I cannot support such a fundamental change in the aim of the bill's pavement parking provisions, as it would not provide a uniform, national solution to a

difficult problem that the Parliament has been considering for some time. It could lead to a fragmented approach, with one local authority banning all pavement parking and others choosing to remain with the status quo. That would simply confuse motorists and frustrate pedestrians.

Seventy-three per cent of those who responded to the Government's "Improving Parking in Scotland" consultation supported a ban on pavement parking on all of Scotland's roads, and the figure rose to 76 per cent when only responses from public bodies were considered. That indicates clear support for the original proposal of a countrywide ban.

Although amendments 287 to 291, in the name of Mark Ruskell, raise important issues that are worthy of consideration, they are unnecessary, due to existing statutory provisions. Amendments 287 and 288, which seek to include cycle tracks in the pavement parking prohibition in section 42, are unnecessary because parking a motor vehicle on a cycle track is already a criminal offence under section 129(6) of the Roads (Scotland) Act 1984. The decriminalised parking enforcement regime under the Road Traffic Act 1991 gives the Scottish ministers the power, on an application made by a local authority in Scotland, to make an order that designates the whole or part of that local authority's area a "special parking area". Where such a designation order is in place, the criminal offence in relation to parking on cycle tracks ceases to apply, and a civil penalty charge is payable instead. These particular amendments would therefore cut across existing civil and criminal enforcement options with regard to parking on cycle tracks.

Amendment 289 seeks to include in section 42 of the bill verges and other planting adjacent to the carriageway in the pavement parking prohibition. However, verges are more properly regarded as being part of the road itself, as the verge is included in the definition of "road" for the purposes of the Road Traffic Regulation Act 1984. That act allows the Scottish ministers to make traffic regulation orders and temporary traffic regulation orders that prohibit parking on roads, which, as I have mentioned, include verges. Under sections 5 and 16 of the 1984 act, contravention of a traffic regulation order or a temporary traffic regulation order is a criminal offence. In addition, the reference to

"planting adjacent to the carriageway"

in amendment 289 is not defined, and its meaning is potentially ambiguous. To the extent that other planting is properly regarded as being a verge, the powers that I have already described allow for that to be prohibited under a traffic regulation order.

Amendments 290 and 291 are also unnecessary, as provisions of the Road Traffic Act 1988 and the Traffic Signs Regulations and General Directions 2016 already combine to make stopping or parking on a school entrance a criminal offence.

Amendment 290 seeks to include

“school etc. entrance from 8am to 6pm, Monday to Friday during school term”

in the definition of “pavement” in section 42(4) of the bill, thereby including such entrances in the pavement parking prohibition during the periods specified.

Amendment 291 defines “school etc. entrance” so that the term

“is to be construed in accordance with schedule 7 of the Traffic Signs Regulations and General Directions 2016.”

Item 10 in part 4 of schedule 7 of the Traffic Signs Regulations and General Directions 2016 prescribes a road marking to indicate a school entrance. That can be combined with a no-stopping sign, which may or may not prescribe time periods when it applies. The combination of the school entrance road marking being in place and section 36 of the Road Traffic Act 1988, which makes it an offence not to comply with traffic signs, means that failure to comply with the road marking that indicates no stopping on a school entrance is already a criminal offence.

Mark Ruskell: Does the cabinet secretary have any insight into why those provisions are not currently being enforced? He has described the TSRGD and the various options that are available. Why is the issue therefore a standing agenda item at every single parent council, as I have said?

Michael Matheson: In short, it is ignorance. People who park in those areas are being ignorant in disregarding the safety of children and other road users. The issue that you seek to address is enforcement, which is a matter for the police to address. There was an issue at my children’s school, for example, and additional enforcement measures were put in place over a period of time in order to get the message across. Did that improve the situation? Yes, it did. However, the bottom line is that those who seek to ignore road markings at a time when no police officer is present are simply being ignorant in respect of the risk that they pose as a result.

I ask Graham Simpson not to press or move his amendments, and I ask Jamie Greene not to move amendment 116A. I also ask Mark Ruskell not to move amendments 287 to 291. If any of those amendments are pressed or moved, I urge the committee to reject them.

Graham Simpson: I thank committee members for all their comments.

I need to make it clear that I am not against what the cabinet secretary is trying to achieve; I have simply suggested a different approach. I take on board what Sandra White said. Please be assured that I am not against what you are trying to achieve; I have just suggested a more flexible approach.

We would expect this law to be enforced, as we would hope that any law would be. However, if it is enforced, I think that councils will be queuing up at the cabinet secretary’s door for exemptions. Nonetheless, I have heard the committee’s comments, and I will seek to withdraw or not move every single one of my amendments—all 13 of them. I can read them all out if you wish, convener, but I am sure that you have a list.

The Convener: Withdrawing just the one—amendment 115—will allow us to move on to the other amendments. Thank you for listening to the discussion.

Amendment 115, by agreement, withdrawn.

The Convener: I suspend the meeting for seven minutes.

19:39

Meeting suspended.

19:46

On resuming—

The Convener: The next group of amendments is on pavement parking prohibition: exceptions including width of vehicle intrusion on pavement. Amendment 4, in the name of Jackie Baillie, is grouped with amendments 1, 292, 293, 117, 294 to 297, 124, 298, 299, 126, 300 to 302, 128, 129, 131, 303 to 305, 133, 134, 306, 307, 138, 139, 139A, 139B, 140, 308 and 309. Due to pre-emptions, if amendment 129 is agreed to, I cannot call amendment 130, which is to be debated in a subsequent group, or amendments 131 and 133 in this group.

Jackie Baillie (Dumbarton) (Lab): I am grateful to the committee for giving me time to speak. I am aware that you considered amendments last week and this morning—from the crack of dawn—and that you have also been doing so this evening, so I hope not to detain you for any length of time.

A photograph has been circulated, because I did not want my lack of descriptive skills to be a barrier to the amendment. However, I will attempt to describe it clearly.

The Convener: You should attempt to describe it briefly, for the record.

Jackie Baillie: I will.

Amendment 4—I will limit my comments to that amendment—is simple. It is designed to prevent cars with extended bodywork—essentially, large boots—from hanging over pavements. If you accept the principle that pavements should be kept clear of cars because of people with visual impairments, people in wheelchairs and mothers with prams, you will also accept that those larger-than-normal cars—which might be parked perfectly legally—might cause an obstruction on pavements.

I am conscious that some members of the committee might have cars that are similar to the ones that I am talking about—that was pointed out to me during the suspension. I do not intend to point out who they are.

The photograph that I have distributed is not the worst example. The pavement in the picture is quite wide.

John Mason: That is the point that I want to make. Jackie Baillie has mentioned cars but, in my constituency, the problem appears to be to do with vans. I have seen vans with a distance between the rear wheel and the rear of the van that can cover the whole pavement. Does Jackie Baillie agree with that point?

Jackie Baillie: Absolutely—I entirely agree. There are vans, mini-trucks and trucks that would be a better fit in Texas than downtown Dumbarton. A range of vehicles could cause quite bad obstructions—even though they park within the law, with their wheels on the road, not the pavement—because the overhang is so significant.

The photograph does not show the worst example, but this was an issue that was raised with me by a resident of Dumbarton—hence the amendment that I lodged. I hope that the cabinet secretary might find his way to accepting it.

I move amendment 4.

The Convener: On that note, we will move on to John Mason.

John Mason: Amendment 1 is my sole amendment in the group, and I intend to speak only about it.

I lodged amendment 1 for reasons that are similar to those that Graham Simpson and Jamie Greene have spoken about. Frankly, we do not have enough space in our towns for what we would like to do. Ideally, we would all like to have the full use of pavements, cycle lanes, parking space, and enough room on the roads, but there is just not enough space for all those things. The aim of my amendment is to provoke discussion and seek compromise, or a halfway house, to get balance.

Just this week, I had people at my surgery from a new estate, on which the roads tend to be quite narrow, who complained that the bin lorry could not get past a parked car, even though it had two wheels on the pavement and two wheels on the road. If that is the case, parking the car fully on the road would make things even worse.

My fear is that none of the solutions that any of us are putting forward would really solve the issue. The cabinet secretary recently made the point that it is all very well having rules, but they need to be enforced. That is the key issue. I continue to be concerned that the exemptions are not likely to happen and that councils will tend to avoid them.

To find out what the councils thought, I wrote to all 32 of them. I am very grateful that 21 of them replied. Some responses were quite brief, but I had some extremely good responses. Dundee City Council, for example, was very thorough in some of the points that it made. It said that

“there is not enough road space to accommodate vehicles”,

that “enforcement is very limited” in certain areas, and that, although it understood the point of having a 1.5m exemption, that would create problems and, in many ways, is “too simplistic.” A lot of the councils said that. The council said that that could

“restrict the Council’s ability on how to manage parking in its own area.”

The council also considers that it should have more discretion. In fact, in some cases, it allows vehicles to park fully on the pavement if there is sufficient room, and it might want to continue to allow that. It says that, in other areas, especially in a town centre, where there are a lot of pedestrians and all the rest of it, 1.5m would not be enough. The council also asks:

“Where are these vehicles expected to park?”

All in all, I lodged the amendment to create a discussion. Others have taken part in that. I suspect that a simple 1.5m exemption is not the answer, but I wanted to have the opportunity to raise those points anyway.

Jamie Greene: I have a lot of amendments in this group—that is just because of how they have been grouped together—and I hope that members will bear with me as I try to get through them. The ones that are consequential are technical amendments, and I will skip over those in order to get to the substantive points and the amendments that I think deserve debate.

Section 43, which is on exemptions and exceptions, is an important part of the pavement parking element of the bill. On John Mason’s point, we have looked at different approaches. A number of members have lodged similar amendments on the minimum width of pavement that must remain

free. That is an admirable intention. I am quite keen to hear what the cabinet secretary has to say on the issue. Putting in a default minimum that would allow some form of on-pavement parking—that is my reading of John Mason's amendment—would be a compromise. That would be a sensible alternative to not allowing any such parking at all. However, if 1.5m were to be a national standard to which local authorities must adhere as part of the exemption-making process, I think that that would create some of the problems about which members have concerns.

It is not that I am unsupportive of having a 1.5m minimum width of free pavement; the issue is that putting that in the bill in the way in which it is currently presented would create, in effect, a rules-based system in which no exemption could be granted, unless there is 1.5m of pavement left available. There are lots of examples where the available pavement may be 1.45m or nearly 1.5m, but if the local authority still wants to allow some form of parking with two wheels on the pavement, it should be allowed to, because, as was alluded to, there is nowhere else to put the cars. That is a genuine issue.

I was not aware of the work that Mr Mason had done in writing to local authorities. That is a great piece of work, because they are the ones that will have to deliver what the bill proposes and enforce the ban on pavement parking. They will have to work out where in their areas the exemptions should be and do what is right for their communities.

The problem with a nationally decided rule on an exemption from the ban where 1.5m of the pavement remains free is that that involves telling local authorities what the exemption process should look like. I want to give local authorities the flexibility to make localised decisions, based on their knowledge of their local roads, which they know best, taking into account the circumstances, which do not relate only to the width of the pavement or—some of my amendments deal with this—the width of the road. The issue is more complex than that. It involves consideration of what else is around those streets, what other parking provision is available and where the cars will be displaced to if they are banned from parking on the pavement. We have not given enough time to consideration of those issues.

I would love to read the responses from local authorities. I hope that the Government will work with Mr Mason and the committee to come up with a solution. I do not think that a 1.5m exemption is the solution, but I think that there is a solution out there that we can find. I hope that the bill team will reflect on that.

Amendment 292 seeks to remove from the bill section 43(2), which says:

"A footway may not be specified in an exemption order unless it ... has the characteristics specified by the Scottish Ministers".

My problem with that is that, again, it is ministers who will dictate what characteristics a pavement must have before an exemption can be granted. From day 1, I have believed that local authorities should make that decision, instead of the Scottish ministers laying down guidelines that local authorities must take into account. That is why I want to remove that provision.

I turn to amendment 293. I contemplated flipping Mr Mason's idea on its head and, instead of specifying that there should be a minimum pavement width, specifying a minimum road width. That is often done in other regulations. I have looked at many of the Government's regulations on road widths and planning guidance. Originally, I included a specific width in amendment 293 but, having spoken to the legislation team, I decided that it would not be a wise idea to prescribe a minimum road width to allow the safe passage of emergency vehicles, because every road is different, and different rules are attached to different types of roads. That would not have been a sensible proposal, so I changed the amendment.

Basically, amendment 293 says that the prohibition cannot apply—in other words, cars cannot be moved from the pavement to the road—if that would create a scenario in which the road was not wide enough for an emergency vehicle to get down it. Ultimately, my amendment is about allowing normal access through our roads. If moving the cars from the pavement to the road would make the road so narrow that it would not be possible to get an emergency vehicle through it, I do not think that the prohibition on pavement parking should apply to such a road. That is the intention behind amendment 293; I am sure that I will get some feedback on it. It would not solve the problem of what to do about where the cars will go, but it would at least give local authorities a bit more flexibility with regard to where the prohibition would apply and where there could be exemptions.

Some of the other amendments on the subject are technical. Amendment 296 is on signage, but I take on board the conversation that we had earlier. I am keen to hear whether the Government proposes that the exemption signage will be standardised throughout the country or whether each local authority will have to devise its own format. We had a similar conversation in relation to low-emission zones, and I take on board the feedback that the Government will issue guidance on signage. Therefore, I will probably not move amendment 296. There are some other amendments on the same issue.

I am sorry that I have so many amendments in this group. Another important one is amendment 298, which seeks to give local authorities an additional power in relation to exceptions, which are different from exemptions. It stipulates that the prohibition would not apply to vehicles that were being used for

“such other purposes as a local authority may prescribe”.

A number of my amendments deal with scenarios in which I think that an exception should apply, to which I hope that members will give some thought. I would like to think that local authorities would use the proposed power to prescribe the circumstances in which an exception should apply in a sensible manner and would not create exceptions simply to get round the legislation. I think that local authorities would make sensible decisions about the scenarios in which they would grant an exception. Amendment 298 would provide an enabling power.

On amendment 300, I had a lot of consultation with stakeholders, as many of us did, around the prohibitions on not just pavement parking but double parking and the idea that adequate leeway should be given to people who are dropping off people who are vulnerable, are disabled or have impaired mobility. We will discuss the 20-minute rule later, but I would like the bill to state that those prohibitions do not apply if a vehicle is being used to pick up or drop off someone who is disabled, is vulnerable or has impaired mobility.

Again, I am happy for the wording to be altered to make it as competent as possible, but it is important to give drivers the ability to pick up elderly relatives and drop off people with disabilities. That may take some time and they may have to double park. We need to accept that that is normal and that they are not trying to be difficult. I cannot see anything in the bill that will allow them to do that, and that is why I would like that exception to be included in the bill.

20:00

Amendment 301 is to do with taxis, which are also used to collect people and drop them off. They should be given a reasonable time to do that in the normal course of their business. The amendment does not mean that a taxi driver could double park and go and do his shopping, as it provides that it has to be in the course of collecting or dropping off passengers. Again, I would like that exception to be in the bill.

I will not go into detail on the minor amendments in the group, which cover matters such as whether an officer is wearing a uniform, but I will comment on the one on emergency situations. The bill includes an exception in such situations as long as the vehicle

“is so parked for no longer than is necessary”,

but it is difficult to predetermine how long an emergency situation will last. It could last all night. It could take days to resolve an emergency situation in which someone has had to abandon their car in order to respond. I seek to remove the provision in relation to such situations but leave it in elsewhere in the bill.

The final important amendment in the group is amendment 308, which perhaps gets to the nub of the matter. I am trying to get to an end point where it is local authorities that determine whether the prohibition applies. I want to give them the final say on both exemptions and exceptions, because they are best placed to take a view both in the long term on exemptions and in the short term as officers at the scene dictate. Let us give them the power to make sensible decisions in the circumstances that they are faced with, and not pre-empt that by setting down the ground rules.

I will leave it there and not speak to the other amendments in the group, as I appreciate that it is a big group. However, it is really important that we get the exemptions and exceptions aspect of the bill right.

The Convener: Thank you, Jamie. I call on Colin Smyth to speak to amendment 117 and any other amendments in the group.

Colin Smyth: Thank you, convener. Jackie Baillie's amendment 4 is a welcome addition to the bill. Parking in a way that causes a vehicle to overhang a pavement has exactly the same effect for pedestrians as parking a car on the pavement does, so it is common sense that we should include that in any ban.

My amendment 117 clarifies that an exemption order should not be issued in an instance where a car that is parked partially on the pavement is likely to leave less than 1.5m. It does almost the opposite of what John Mason is looking to do. I recognise the need for exemption orders to allow local authorities to exempt streets from the ban when that is absolutely necessary. However, to put it simply, I do not think that exemptions should allow drivers to obstruct the pavement. The distance of 1.5m is widely agreed to be the reasonable minimum width for pedestrians, including those with prams and those in wheelchairs, and my amendment would ensure that that distance would have to be left under any exemption orders.

If cars are allowed to continue to obstruct pavements then, ultimately, the ban will not deliver on its purpose. We need to be absolutely clear about the matter in the bill. My amendment, in effect, considers pavements as places for pedestrians, so the focus is on them rather than

on where cars may go. To be frank, cars should be on the road and not on the pavement.

Amendments 124, 126, 128, 134 and 138, in the name of Mike Rumbles would likewise clarify that the various exemptions that are set out in the bill do not apply in instances where less than 1.5m is left, and I fully support them.

My amendment 129 would remove the exemption for deliveries and amendment 139 would require the Scottish Government to produce regulations that served a similar purpose. Members will recall that, at stage 1, the committee raised major concerns about the workability of that exemption. Given the risk that it would end up being a loophole, I have concerns about its inclusion in the bill, but I recognise the need for a form of exemption for deliveries. For that reason, I believe that the proposed exemption or, preferably, an alternative should be set out in regulations so that, if there are unintended consequences, it can be changed more easily than would be possible if it was in the bill.

Jamie Greene: Will the member take an intervention?

Colin Smyth: I will.

Jamie Greene: You have given me the perfect opportunity to say that, in my haste to try and speed things up, I forgot to speak to amendment 303, which seeks to remove the 20-minute cap. I see that Colin Smyth supports such a move, but does he agree that that is one but not the only sensible solution for dealing with the loading and unloading of goods? As I am sure that others will point out, concerns were expressed about the creation of these 20-minute drop-off rules, which could encourage people to double park or park on the pavement. Removing the cap does not solve the problem—we still need to find a sensible solution with regard to the amount of time we give businesses to load and unload their vans.

Colin Smyth: Jamie Greene makes a valid point, and it is covered in amendment 303 in his name, which effectively seeks to remove the 20-minute time period from the bill. When the committee discussed the issue, we considered that to be unenforceable, and stakeholders expressed concern that it might be taken to mean that everyone could have 20 minutes instead of their being encouraged to take as little time as possible. I certainly support amendment 303.

Unfortunately, I have now forgotten where I had got to in my previous comments. *[Laughter.]* Sadly, all it means is that I might well repeat what I have just said.

I think that I was supporting what Mike Rumbles had been saying. Amendments 139A and 139B in my name to my own amendment 139 suggest how

an alternative produced in regulations could tighten things up compared with the drafting in the bill. Amendment 139A seeks to require a vehicle not to be “left unattended”. That does not mean that the driver has to be in or even next to the vehicle at all times—it simply means that they have to be in the vicinity. For example, if a driver was away from their vehicle while making a delivery at the top of a building, that might be acceptable, but if they were away for an extended period of time at a completely different location from where they were making the delivery, that might not be acceptable. Members might have concerns about the language in these amendments, but it is used in a similar context in the Greater London Council (General Powers) Act 1974, so it is a recognised way forward.

Amendment 139B seeks to clarify that the exemption should not allow vehicles to obstruct a pavement if only 1.5m or less of the pavement is left free for the public. It was widely agreed that that was the minimum amount of space that should be left on the pavement.

Amendments 304 and 305 seek to make the same additions to the text in the bill, but they will be moved only if my previous amendments seeking, in effect, to delete the section of the bill in question are not agreed to. In other words, they provide alternatives to the wording of that section. I would prefer it very much if this section were removed entirely and the provisions put in regulations instead, but if the committee does not support such a move, these amendments will, I believe, help to strengthen the section in question.

Like amendment 305 in my name, amendment 138 in the name of Mike Rumbles also seeks to prevent exemption orders being issued where less than 1.5m of the pavement will be left. If the committee chooses to keep the section in place and to amend it instead, I will be happy to support either amendment 131 or 305.

The Convener: I ask Mike Rumbles to speak to amendment 124 and any other amendments that he wishes in the group.

Mike Rumbles: My eight amendments are all about finding a sensible compromise. The most important is amendment 131, which cuts to the very quick of the matter.

Let me explain: as members will remember, we heard evidence that there must be exemptions to the parking prohibitions, and I think that it is absolutely right and proper for the subsections in question to be in the bill. However, controversy arose, I think, with section 47(6), which states that

“prohibitions do not apply where ... the motor vehicle is, in the course of business ... being used for the purpose of delivering goods to, or collecting goods from, any premises, or ... being loaded from or unloaded to any premises”

for a “period of 20 minutes”. I lodged two amendments on the matter, which I subsequently withdrew, only to find Colin Smyth lodging an identical amendment with amendment 129 and Jamie Greene doing the same with amendment 303. I therefore ask them not to move those amendments, given that I have withdrawn my own. I did so, because, I am pleased to say, in discussions leading up to stage 2, I found the cabinet secretary to be very amenable to logic and evidence and to coming up with a compromise that I am certainly happy with.

At the end of the day, it is about the 1.5m, and that is the solution; it is generally accepted. We want to avoid blocking the pavement for pavement users, such as disabled people, young mums and dads or elderly mums and dad or grandparents with children in prams—anybody who needs to get through.

When I saw the original bill, I thought that it drove a coach and horses through what we intend, and the minister recognised that, so I give him due credit. Between us, we have come up with these amendments. They are in my name but they were a joint effort, and I thank the minister for that.

The solution to this whole issue is to vote for my amendments.

The Convener: The answer to that, Mr Rumbles, is that we will see when we get to the vote.

Rachael Hamilton: I urge members not to double park or park on the pavement tonight when they pick up their fish and chips.

My amendment 302 goes along with my theme for tonight, which is supporting community transport providers. It also complements Jamie Greene's amendment 300.

I completely agree that inconsiderate parking must be tackled but, if the prohibition of pavement parking includes community transport providers, it will have a detrimental effect on vulnerable people. Many members have tonight spoken about the specialists who are affected. Parking on the pavement might assist with the collection of or dropping off of wheelchair users, for example. That is why I urge the committee to support amendment 302 to allow community transport providers to park on the pavement when it is reasonable to do so for collecting and dropping people off.

John Mason: I note the member's point about wheelchairs, disabled people and that kind of thing, and the committee took evidence on that. That would not just apply to community transport providers, would it? It could also apply to taxis, relatives, and a few other people. Would that be handled by your amendment?

Rachael Hamilton: I believe that Jamie Greene's amendment could take care of that but I am not 100 per cent sure. My amendment is specifically about community transport providers.

Sandra White: John Mason's first sentence was about where the vehicles are supposed to go, but my question is, where are the people supposed to go? That is the point of this part of the bill.

I accept what John Mason and Jamie Greene said about exceptions. We have to look at that.

I agree entirely with Mike Rumbles's amendments. They are sensible, although I am not sure about the point about 1.5m because some pavements are not even 1.5m wide. Perhaps, as Jamie Greene said, that part is too prescriptive.

We have to look very carefully at exemptions. It was said earlier that the provision should be Scotland-wide but councils should be able to make exemptions, and they are best placed to do that. I gave an example of the colony houses in Edinburgh, where it is practically impossible to park.

In my constituency, some places have three or four cars. They park on the pavement and it does not just prevent people from walking on that pavement; it inhibits emergency services. There are some places in my area where emergency services cannot get down the street because of the number of cars that are parked on overflowing pavements. It is a double whammy for certain areas.

On the whole, I think that what Mike Rumbles was saying was sensible. We have to consider exemptions, whatever they might be. I do not know whether the 1.5m point is correct.

On amendment 302, I worry that, if we give some people a tiny amount, they will take a mile. They could be sitting on a pavement for quite a long time.

Mike Rumbles: We are trying to say that the 1.5m is the gap. If there is not a 1.5m gap, people should not be parking there.

Sandra White: What you are saying about the amendments is absolutely correct, but would it be too prescriptive for other areas? Local councils will make up their minds, but if the pavements are too small there cannot be a 1.5m gap. I completely understand that and support the amendments in the name of Mike Rumbles.

20:15

Rachael Hamilton: I take your point entirely. However, what is reasonable for the process of dropping off and collecting someone who is disembarking with a wheelchair? We have to be

aware that that is a difficult process for some individuals, particularly community transport providers who are offering that service.

Sandra White: The community transport providers in my area have two people to take the wheelchair off. Somebody gets out and takes out the wheelchair and the person. I have never seen community transport park on the pavement in my area, which is pretty busy with various old folks homes and so on, as are other areas.

I see the provision as being about allowing people to have the right to walk on the pavements, regardless. People have become so fond of their cars that they would park in their living room if they got the chance. As I said at the beginning, when Graham Simpson was here, the approach is not about punitive measures but about educating people. Some of the people we are talking about have driveways, but they park in front of them even with the dropped kerbs.

We need to educate drivers that people who do not have a car and are disabled or whatever have as much right to walk about where they live as drivers have to drive about. We have to be careful not to say that the car is king, which has always been said, and to think about the people who are walking on the pavements—or attempting to. I take on board the point that Jamie Greene and John Mason about looking at exemptions. That is important, but I am sure that it will be covered by local authorities at a later stage.

The Convener: It is now my brief opportunity to comment. I want to talk to amendment 4. Jackie Baillie helpfully provided a picture showing the overhang of a vehicle on a pavement, which is something that I have been particularly conscious of, and I support the principle of ensuring that pavement width is 1.5m. The problem is that that is not always achievable. For example, there are areas where, unlike in Edinburgh, bins are on the pavements and cause obstructions, and if you go down Wellington Street in Edinburgh, not far from Parliament, you will see hedges that overgrow the pavement by perhaps half a metre, further squeezing people over to where cars are parked on the edge.

My other point is that for people who are cycling, one of the nice things about where cars are parked at the moment is that they do not have to go over the speed humps, which often forces them into the path of cars. I have genuine concerns, although not with Jackie Baillie's aspiration, which I think is right. My concerns are about enforcement, which will be difficult, and about the unintended consequences relating to other people who are misusing the pavement, because the amendment reflects purely on the cars. I ask that that is borne in mind. The restriction that amendment 4 would bring in would not place the

obligation on the other people who are misusing the pavement to keep it clear for the 1.5m that I think we are all striving to achieve. Therefore, I will not be supporting amendment 4.

As no other members wish to speak, I call on the cabinet secretary. I am reliably informed that he will be giving a short response on the amendments.

Michael Matheson: As you will appreciate, convener, with some 33 amendments in the group I have a considerable amount to say. However, in covering the issues, I will say less than the people who have been speaking to their amendments. I will avoid taking interventions, in order to speed up the process. Members should keep that in mind.

Amendment 4, in the name of Jackie Baillie, seeks to extend the pavement parking ban to parked vehicles overhanging pavements by "more than 20 centimetres". I acknowledge the reasoning behind the amendment, but in my view it goes too far. It is not necessarily the case that vehicles overhanging by 20cm will give rise to access or safety issues or, indeed, that it will be practically avoidable for motorists.

Options such as wheel stops in parking bays are available to local authorities to limit overhanging. Where overhanging clearly causes an obstruction and is therefore a safety or access issue, that constitutes an offence under sections 59(2) and 129(2) of the Roads (Scotland) Act 1984 and regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986.

I move on to pavement widths. In its stage 1 report, the committee recommended that motorists parking on the pavement under an exception should have to leave a minimum of 1.5m of pavement space to enable free movement of pedestrians. However, amendment 1, in the name of John Mason, would go further by enabling all motorists to park on the pavement provided that they leave 1.5m for pedestrian access. The intention of this part of the bill is to introduce a national and consistently enforced ban on pavement parking, subject to local discretion on exemptions. In my view, local authorities are best placed to decide where roads should be exempt from the prohibition, taking account of carriageway and pavement widths, road construction and access issues. Amendment 1 would fundamentally undermine that approach.

Jamie Greene's amendment 292 and consequential amendment 295 seek to broaden the discretion that is afforded to local authorities in making exemption orders by removing the requirement that streets that are to be exempt possess characteristics that are set out in the ministerial directions, which are currently being developed in conjunction with local authorities.

Although local authority discretion over exemptions is important, a degree of national consistency will ensure that the bill's policy aims are not undermined through excessive use of exemptions. I therefore cannot support amendment 292.

Amendment 295 removes the definition of "carriageway" from section 43 and appears to be consequential to amendment 292, which seeks to remove section 43(2), in which the term "carriageway" is used. However, I wonder whether that is a mistake, given that the term also appears in Jamie Greene's amendment 293.

The direction setting out the characteristics will include the consideration of carriageway and pavement width measurements so as to ensure that, if there is a street through which the passage of emergency vehicles could be hindered by the introduction of the pavement parking prohibition, that street can be included in the local authority's exemption order. I therefore do not consider that there is a need for amendment 293, which seeks to put in the bill a duty for local authorities to consider exemptions to allow the passage of emergency vehicles.

Amendment 117, in the name of Colin Smyth, seeks to prevent local authorities from exempting pavements from the ban if vehicles that are parked on those pavements would leave less than 1.5m for pedestrians to pass. In my view, that rigid approach does not give local authorities enough flexibility in relation to, for example, historic streets with narrow footways and carriageways where a minimum of 1.5m could not be achieved without hindering the passage of vehicles on the carriageway.

Amendment 294, in the name of Jamie Greene, seeks to remove the requirement that exemption orders may not be subject to conditions. Although I again acknowledge the importance of local authority discretion, an ability to place an unspecified variety of conditions on exemptions is likely to undermine the consistency and simplicity of the prohibitions and their enforcement, which I consider to be key to their effectiveness.

Jamie Greene's amendment 296 and consequential amendment 297 seek to impose on the Scottish ministers a requirement to prescribe in regulations the form of the traffic signs that are to be used in connection with exemption orders under section 43. Both those amendments are unnecessary, because the Road Traffic Regulation Act 1984 at sections 64(1) and (2) already gives the Scottish ministers a regulation-making power to prescribe traffic signs, including traffic signs for exemption orders, under section 43. My officials are working on the design of those signs in order that suitable amendments to the Traffic Signs

Regulations and General Directions 2016 will be brought forward to prescribe them.

Section 47(3) contains an exhaustive list of exceptions from the parking prohibitions where such undesirable parking is necessary in the course of the performance of a number of public services. The integrity of the prohibitions relies on the list being strictly limited and nationally consistent. I therefore cannot support amendment 298, in the name of Jamie Greene, as it seeks to give local authorities the ability to add unlimited further exemptions to the list.

The effect of amendments 299 and 304, in the name of Colin Smyth, would be that vehicles that are left unattended cannot take advantage of the exceptions in sections 47(3) and (6). In many circumstances, it would be impossible for the vehicle driver at whom these exceptions are targeted—such as a delivery driver or postal worker—to undertake their duties if they were not permitted to leave their vehicle unattended, for at least a brief period. That restriction is completely impractical and I therefore cannot support it.

The amendments in the name of Mike Rumbles take account of the committee's concerns about the obstruction of pavements when motorists are parking under the exceptions in section 47(3). Obstructive or dangerous parking can and does cause serious problems for everyone and puts the safety of pedestrians and motorists in jeopardy. The amendments ensure that there is a reasonable and practical balance between the needs of those who are parked in the majority of circumstances that are otherwise excepted under section 47, and the needs and safety of pedestrians. They put in place a clear and consistent requirement that the majority of exceptions under section 47 apply only if

"1.5 metres of the pavement"

is left for pedestrian passage. That should facilitate effective enforcement and tackle the issue of obstruction. I therefore fully support the amendments in this group that have been lodged by Mike Rumbles.

Amendment 305, in the name of Colin Smyth, aims to achieve a similar outcome for the delivery and loading exception in section 47(6). I support the principle behind the amendment, but the amendments in the name of Mike Rumbles tackle the issue more effectively, and do so consistently across the majority of exceptions in section 47. I therefore ask Colin Smyth not to press amendment 305.

However, I cannot support the principle behind amendments 129, 139, 139A and 139B, in the name of Colin Smyth, which seek to remove the delivery and loading exception from the face of the bill, and instead give ministers the power to set out

a similar exception in regulations. I have listened to the views of the committee and a range of stakeholders on this exception. It is important to note the views of the road haulage and delivery industries as part of the dialogue. There is also a need to strike a balance to allow businesses in Scotland to continue to operate, while protecting the accessibility of our pavements. As I have already mentioned, the amendments that have been lodged by Mike Rumbles would improve the provisions as introduced, and would safeguard the accessibility of pavements. I am not convinced that ministers could make any provision in regulations to improve what is already set out in the bill.

Amendment 303, in the name of Jamie Greene, would remove the 20-minute maximum waiting period from the delivery and loading exception, so that a vehicle parked on a pavement or double parked under that exception could remain parked for longer than 20 minutes, if it could be shown that it was necessary for the delivery, collection, loading or unloading to take place. The exception in section 47(6) offers a limited relaxation of the prohibition for short-term parking only. It was never intended to allow for longer-term stays. If parking for extended periods is required, delivery and loading vehicles should seek alternatives to parking on the pavement or double parking. I have serious concerns that the legal effect of amendment 303 would be to allow parking for deliveries for an unlimited and unspecified period, which would fundamentally undermine the intention that underlies this exception and the pavement and double parking prohibitions more generally.

Amendment 300, in the name of Jamie Greene, would allow anyone to park on a pavement for an undefined time period while they collect or drop off someone

“who is disabled, vulnerable, or has impaired mobility”.

As amendment 300 does not provide any definition of the terms “vulnerable” or “impaired mobility”, the exception would be ambiguous and could be very broadly construed and give rise to uncertainty. On that basis, I cannot support the amendment as drafted. However, I acknowledge the importance of ensuring that the access needs of disabled people are taken into account in the operation of the prohibitions and I therefore commit to considering, in advance of stage 3, whether any further amendments may usefully be made to safeguard those needs.

20:30

Amendment 301, in the name of Jamie Greene, and amendment 302, in the name of Rachael Hamilton, would exempt, respectively, taxi drivers

or private hire vehicle drivers and community bus services from the pavement parking and double parking prohibitions. I am not persuaded that the needs of taxi and private hire drivers differ significantly from the needs of anybody else who needs to collect and drop off on streets where the prohibitions are in force. Accepting amendment 301 would create an unjustified and potentially very broad new exemption and would undermine the consistent application of the prohibitions.

I have somewhat more sympathy with amendment 302, which relates to community buses, but I cannot support an amendment that would permit those large vehicles to park on pavements, particularly given the damage that they might cause to the pavement in doing so and the safety and access problems that might arise. However, I am happy to consider before stage 3 whether community buses should be permitted to double park in limited circumstances.

Amendment 306, in the name of Jamie Greene, seeks to remove the requirement for a police constable to be in uniform when granting permission for a parking prohibition to be disapplied. I am concerned that removing the requirement for a police constable to be in uniform could create confusion and uncertainty among road users as to how a police constable can be identified and on what authority any direction is being applied. I therefore cannot support amendment 306.

Amendment 307, in the name of Jamie Greene, seeks to remove the requirement for persons parking on the pavement for the purpose of saving a life or responding to another similar emergency to be so parked for no longer than is necessary for that purpose. Although I acknowledge the need for flexibility in the provisions to enable drivers to respond to life-threatening emergencies, there is a need for proportionality in how even an exception of that kind is applied. The amendment would in effect allow a person who had parked on a pavement or double parked in order to respond to a threat to life to remain so parked indefinitely after the threat had been addressed. I consider that that goes a bit too far against the grain of the prohibitions, so I cannot support amendment 307.

Amendment 308, in the name of Jamie Greene, seeks to provide powers for local authority officers to allow pavement and double parking in circumstances in which they deem it to be reasonable. Although reasonable local authority discretion is a thread running through part 4, consistency and certainty are fundamental to effective enforcement and to gaining public trust in the fairness of that enforcement. Allowing discretionary powers for local authority enforcement officers to permit pavement and double parking in undefined circumstances would

be far too subjective an approach and would threaten to seriously undermine the policy intent of a national ban and public acceptance of it.

Amendment 309, in the name of Jamie Greene, seeks to require the Scottish ministers to consult local authorities and other persons as they consider appropriate when modifying any of the exceptions in section 47. As the committee will be aware, the Scottish ministers ensured that all local authorities and interested groups were consulted via the parking standards group, which was set up during the consultation process on the parking provisions in the bill. The group is continuing to meet regularly to consider the parking standards guidance, and the Scottish Government is fully committed to that process. I am not persuaded that a statutory consultation duty would add anything to that well-established process.

As I mentioned at the outset, the many issues that are raised by the amendments in this group are important. I am grateful to members for their careful work in lodging them and for their contribution to the debate. However, for all the reasons that I have set out, the only amendments in the group that I can support are those that have been lodged by Mike Rumbles. If those amendments are pressed to a vote, I urge the committee to support them. I invite other members not to move their amendments in the group. If they are moved, I ask the committee to vote against them.

The Convener: I invite Jackie Baillie to wind up the debate and to press or seek leave to withdraw amendment 4.

Jackie Baillie: Convener, you will be pleased to know that I do not intend to respond to every amendment in the group—I think that that would test the committee's patience somewhat.

I note the cabinet secretary's comments on amendment 4. If I picked him up right, he was suggesting that the provisions already exist, so there is no need for the amendment. That being the case, I suggest that, in the guidance on pavement parking that he is likely to provide to local authorities and the police, he includes reference to overparking. If he does that, I will be content not to press amendment 4. That would be the practical solution.

Michael Matheson: I am happy to do that.

Jackie Baillie: Thank you very much, cabinet secretary. That concludes my comments, convener.

Amendment 4, by agreement, withdrawn.

Amendments 1, 116 and 287 to 289 not moved.

Amendment 290 moved—[John Finnie].

The Convener: The question is, that amendment 290 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 290 disagreed to.

Amendment 291 moved—[John Finnie].

The Convener: The question is, that amendment 291 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 291 disagreed to.

Section 42 agreed to.

Section 43—Exemption orders

Amendments 292 and 293 not moved.

Amendment 117 moved—[Colin Smyth].

The Convener: The question is, that amendment 117 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 117 disagreed to.

Amendments 294, 295 and 118 not moved.

Section 43 agreed to.

Section 44—Exemption orders: form and procedure

Amendment 119 not moved.

Section 44 agreed to.

Section 45—Exemption orders: traffic signs

Amendments 296, 297 and 120 not moved.

Section 45 agreed to.

Section 46 agreed to.

Section 47—Exceptions to parking prohibitions

Amendment 121 not moved.

The Convener: Cabinet secretary, you are the only one who will speak on this group, unless other members wish to speak, which they may well do. I do not mean to be rude, but I ask you to indicate how long you might take to put your points to us.

Michael Matheson: Three minutes.

The Convener: In that case, I will press on.

Amendment 122, in the name of the cabinet secretary, is grouped with amendments 123, 125, 127, 130, 132, 135 to 137, 141, 142, 144, 147, 149, 151, 154, 156, 159 and 160. I point out that if amendment 129, which has already been debated in a previous group, is agreed to, I cannot call amendment 130.

Michael Matheson: The committee's stage 1 report expressed concern that the issue of parking across dropped kerbs at pedestrian and other recognised crossing places was not included in the bill when it was first introduced to Parliament. Evidence from stakeholders highlighted that

parking at dropped kerbs is perceived to be a significant barrier to accessibility in many streets.

As members will know, I consider inconsiderate and obstructive parking to be a serious problem for everyone, as it puts the safety of pedestrians and other road users in jeopardy. As was explained at stage 1, we received powers via the Scotland Act 2016 to legislate on parking at dropped kerbs. However, we needed to be clear about the impact of introducing such a ban in urban areas and to explore whether it could be introduced via secondary legislation. We have listened to the views of the committee, parliamentarians and stakeholders, who have highlighted the wider impact that the issue has on vulnerable road users as well as on the local economy.

Amendment 141 prohibits the parking of vehicles at dropped footways. That encompasses both where the footway has been dropped and where the carriageway has been raised, where the purpose of either is to assist pedestrians or cycles to cross the carriageway.

Amendment 142 makes it clear that the new parking prohibition does not apply to kerbs that have been dropped for the purpose of accessing driveways or garages, both residential and commercial. The ban will also not apply where a vehicle has been parked

"for the purpose of saving life or responding to another similar emergency".

Amendments 144, 147, 149, 151, 154 and 156 make provision for the implementation and enforcement of the new prohibition to match the existing prohibitions on pavement parking and double parking in the bill. That includes enabling local authorities to issue penalty-charge notices when motorists have contravened the ban.

The remaining amendments in the group all flow from the new prohibition. Amendments 122, 123, 125, 127, 130, 132 and 135 to 137 make it clear that the exceptions to the parking prohibitions that are outlined in section 47 apply only to the pavement parking prohibition and the double parking prohibition, and not to the new prohibition.

Amendments 159 and 160 respectively provide a definition of "dropped footway parking prohibition" for the purposes of this part of the bill.

I ask the committee to support all the amendments in the group.

I move amendment 122.

The Convener: Cabinet secretary, I will not ask you to wind up—I will move straight on, on the basis that you will have said all that you wanted to say.

We come now to a series of votes, and once we have completed it, that is where we will stop for today. I will go through the amendments carefully to ensure that I get this right as we come to the end of a very long day.

Amendment 122 agreed to.

Amendment 123 moved—[Michael Matheson]—and agreed to.

Amendment 124 moved—[Mike Rumbles]—and agreed to.

Amendment 125 moved—[Michael Matheson]—and agreed to.

Amendment 298 not moved.

Amendment 299 moved—[Colin Smyth].

The Convener: The question is, that amendment 299 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Smyth, Colin (South Scotland) (Lab)

Against

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)

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

Amendment 299 disagreed to.

20:45

Amendment 126 moved—[Mike Rumbles]—and agreed to.

Amendment 127 moved—[Michael Matheson]—and agreed to.

Amendments 300 to 302 not moved.

Amendment 128 moved—[Mike Rumbles]—and agreed to.

The Convener: I call amendment 129, in the name of Colin Smyth.

Colin Smyth: Despite Mike Rumbles being a passionate advocate of amendment 129 throughout the process, I will not move it. I am sure that he will be disappointed that he will not have the opportunity to follow through on his previous support.

Mike Rumbles: Agreed.

Amendment 129 not moved.

Amendment 130 moved—[Michael Matheson]—and agreed to.

Amendment 131 moved—[Mike Rumbles]—and agreed to.

Amendment 303 moved—[Jamie Greene].

The Convener: The question is, that amendment 303 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)
Smyth, Colin (South Scotland) (Lab)

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)
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 303 disagreed to.

Amendments 304 and 305 not moved.

Amendment 132 moved—[Michael Matheson]—and agreed to.

Amendments 133 and 134 moved—[Mike Rumbles]—and agreed to.

Amendment 135 moved—[Michael Matheson]—and agreed to.

The Convener: I call amendment 306, in the name of Jamie Greene. Jamie Green to move or not move.

Jamie Greene: I am sorry; I have lost the will to live.

The Convener: In fairness, we have moved quite quickly, so I will ask the question again. Jamie Greene to move or not move amendment 306.

Amendment 306 not moved.

Amendment 136 moved—[Michael Matheson]—and agreed to.

Amendment 307 not moved.

Amendment 137 moved—[Michael Matheson]—and agreed to.

Amendment 138 moved—[Mike Rumbles]—and agreed to.

Amendment 139 not moved.

Amendment 140 moved—[Mike Rumbles]—and agreed to.

Amendments 308 and 309 not moved.

Section 47, as amended, agreed to.

After section 47

Amendments 141 and 142 moved—[Michael Matheson]—and agreed to.

Section 48—Imposition of penalty charges

Amendment 143 not moved.

Amendment 144 moved—[Michael Matheson]—and agreed to.

The Convener: The good news is that this is as far as we can go today. We will continue next week.

I thank all committee members, and the other members who have attended today's proceedings, for taking part in the two sessions. Amendments to the remaining sections of the bill can still be lodged until noon tomorrow.

Jamie Greene: Convener, can you confirm that amendments to up to and including section 48 and the rest of the bill can still be lodged? Is the deadline tomorrow noon for amendments to all remaining sections?

The Convener: Any remaining amendments to section 48 and amendments to provisions after section 58, up to the end of section 68—that is, part 5—should be lodged by noon tomorrow. Does that clarify the position?

Jamie Greene: I am trying to establish whether any amendments on the workplace parking levy have to be lodged by tomorrow noon.

The Convener: Yes.

It has been a long session, and I thank everyone for their attention.

Meeting closed at 20:54.

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