



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament (Hybrid)

**Wednesday 17 June 2020**

**Session 5**



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# Scottish Parliament

Wednesday 17 June 2020

*[The Presiding Officer opened the meeting at 12:20]*

## First Minister's Question Time

**The Presiding Officer (Ken Macintosh):** Good afternoon, colleagues. As usual, I remind members to be careful about observing social distancing guidance in the chamber and throughout the building, but particularly when coming into and out of the chamber.

I ask the First Minister to introduce First Minister's question time with a short statement.

**The First Minister (Nicola Sturgeon):** Thank you, Presiding Officer. I will give a brief statistical update.

Since yesterday, an additional 21 cases of Covid-19 have been confirmed, which takes the total number now to 18,066. A total of 965 patients are currently in hospital with suspected or confirmed Covid-19, which is a decrease of 21 since yesterday. That includes a decrease of 14 in the number of confirmed cases. As of last night, 24 people were in intensive care with confirmed or suspected Covid-19, which is an increase of five on the number that I reported yesterday. However, I stress that that increase is all in suspected cases. Unfortunately, in the past 24 hours, nine deaths of patients who had been confirmed as having the virus have been registered, which takes the total number of deaths in Scotland under that measurement to 2,462.

National Records of Scotland has just published its more detailed weekly report. Those figures report deaths where Covid has been confirmed by laboratory tests and cases where the virus was entered on a death certificate as a suspected or contributory cause of death. The latest NRS report covers the period to Sunday 14 June. At that point, according to our daily figures, 2,448 deaths of people who had tested positive for the virus had been registered. However, today's report shows that, by Sunday, the total number of registered deaths with either a confirmed or a presumed link to the virus was 4,070. Of those, 70 were registered in the seven days up to Sunday, which is a decrease of 19 from the week before. This is the seventh week in a row in which the number of deaths from the virus has fallen. The total number of excess deaths, which is the number above the five-year average for the same time of year, also decreased again, to 32 in the most recent week. Deaths in care homes made up 50 per cent of all deaths linked to the virus last week. However, the

number of Covid-19 deaths in care homes reduced again, from 42 to 35.

All those figures are still higher than I would ever wish them to be and I know that downward trends will never console those who have lost loved ones. My thoughts and sympathies continue to be with all of them. However, as I have said, the weekly number of Covid deaths has now fallen for seven weeks in a row, and they are now at less than a ninth of their peak level. The numbers of excess deaths and care home deaths also continue to fall.

Tomorrow, I expect to be able to confirm that we can move from phase 1 to phase 2 of our plan to emerge from lockdown. I will set out much more detail on that tomorrow. However, we will continue to proceed in a cautious and phased way because the more we hammer down the virus now, the more normality we can ultimately get back in all aspects of our lives.

Our test and protect system is, of course, vitally important to our plans to emerge safely from lockdown. Health Protection Scotland has just published further data on that system, showing that, from 28 May to last Sunday, 992 cases were reported in which the individual tested positive. Contact tracing has already been completed for 891 of those cases and is on-going in others. In total, 1,239 contacts have been traced so far. I remind everyone watching that if they have symptoms of Covid-19, they should book a test immediately and follow the advice on self-isolation.

Again, I ask everyone to continue to adhere to all elements of the public health guidance and advice. It is making a difference, as those statistics demonstrate, and I thank everybody across the country for continuing to do the right thing.

**The Presiding Officer:** Thank you, First Minister.

## Schools Reopening

**1. Jackson Carlaw (Eastwood) (Con):** I again welcome the sustained fall in the number of fatalities from Covid-19, although, obviously, those fatalities are still distressing. Our thoughts are with those families, but the sustained fall is welcome.

Professor Sridhar, who is one of the First Minister's key advisers on coronavirus, has said that, as long as Covid-19 cases are low enough come the middle of August,

"schools should re-open as normally as possible",

with children back full time. Does the First Minister agree with Professor Sridhar's analysis? Will she put in place a plan to deliver that?

**The First Minister (Nicola Sturgeon):** Yes, I agree whole-heartedly with Professor Sridhar's

analysis. As an aside, I deprecate anyone who has cast aspersions on Devi Sridhar's integrity this morning.

I agree with the totality of what Professor Sridhar says, not just the bits of her analysis that suit my particular argument. I want to get schools back to normal as quickly as possible and our economy back to normal as quickly as possible. However, I know that all of that has to be safe. We cannot have memories that are so short that we already forget that we are dealing with a virus that is dangerous and potentially deadly, and that it has not gone away. Therefore, we must continue to move forward in a careful and phased way, and that is what I will continue to do.

The key part of what Professor Sridhar and other experts will say is that we must suppress the virus even further if we are to have that ultimate and—I hope—speedy move back to normality. I ask people to bear in mind the totality of her advice when I stand here tomorrow and—yes—announce further steps out of the lockdown, which I will continue to do in a very careful and cautious manner.

**Jackson Carlaw:** We all understand the difficulty here. It is not enough simply to deprecate all those who ask questions, whether they are politicians or journalists. Many parents are looking for a commitment from ministers to at least try to get schools back to normal for the beginning of term. What is disappointing those parents is that that does not seem to be the ambition that is being set. As many parents have put it, if we can build a new hospital to look after patients, as we did so magnificently, surely we can find equally drastic solutions to support our children.

Professor Sridhar's point is that a community-based testing regime that helps to see exactly where the disease is spreading would clearly give teachers and parents reassurance that schools are safe to return to normal.

The question is obvious, and it brings us back to the testing issue that we have raised for several months. Will the First Minister commit today to ramping up our testing capacity and—this is important—our usage of that capacity during the summer so that, by August, opening schools full time, if it is safe to do so, is a realistic and achievable option?

**The First Minister:** For the record, I do not deprecate anybody who asks questions; I deprecate people who cast aspersions on the integrity of an expert. It is really important to be clear about that.

I have given a commitment, and I will do so again today. I will move heaven and earth with my ministerial colleagues to get this country back to normal in every aspect of our lives as quickly as

possible. Nothing is more important in all of that than getting our children's education back to normal and, of course, ensuring that we put in place plans to allow children to catch up on missed education. I take that responsibility very seriously. I also take seriously my responsibility to ensure that we get through the crisis as safely as possible.

We have two strands in place in education right now. First, in common with England, Wales and Northern Ireland, we are having to contingency plan to bring schools back with physical distancing in place, because that is what the evidence tells us right now is required. Within that, of course, our challenge is to maximise the time that children can spend in schools. That is why we are scrutinising councils' plans so carefully.

The second strand is to consider and take advice on the alternative measures that we might be able to put in place to allow schools to operate, safely, as normal. That involves continuing to suppress the virus and having in place a robust and reliable test and protect system, and that is exactly what we have put in place. Over the weeks to come, we will assure ourselves that that system is working as robustly as it needs to. I say to parents who are watching—they are the most important people of all, next to the young people, of course—that that has my total commitment.

I sincerely say to members across the chamber that anybody in the chamber who suggests that these issues are simple is perhaps showing that they are not interested in sufficiently understanding them. We must proceed cautiously and carefully, and we must do nothing that compromises the safety of our young people and the safety of the country overall.

I will continue to operate each and every day in a way that focuses not on the politics of these issues but on my responsibility to get the country through this crisis as safely as I possibly can.

**Jackson Carlaw:** France, Germany, Denmark and Ireland are moving heaven and earth; the Scottish Government is not. If alternatives have to be found, let us turn to them. If it does not prove possible to open schools fully in August, the Government needs to be far more creative than it has been so far. It needs to start with an open mind and to be open to radical proposals. Parents are now suggesting ideas, and we need the Government to be open to those ideas, too.

Let me take two ideas. First, will the Scottish Government commit to contacting all newly qualified teachers and supply teachers to boost teacher numbers, and will it intervene if any council seeks to reduce teacher numbers or cancel any probationary teacher opportunities? Secondly, will the Government state clearly today

that it will support local councils with the additional funding that they require so that buildings—both public and private—where children could spend some of the week being taught can be made available?

**The First Minister:** I will address all those issues directly. The point about other countries is an important one, and we will be looking to learn from other countries, as we have been doing. Our international council of education advisers has a critical role to play in that work, as does the Covid-19 advisory group.

Jackson Carlaw mentioned a number of countries. He will find that, in many of those countries, if not all of them, children are not back to school full time yet. Very few countries in the world operate completely normal school education. I was reading a piece yesterday about Korea, where the test and trace capacity has been lauded as one of the best in the world, but the Koreans still have children in school only part time. I do not say that because that is my objective or because I want it; I say that to underline the point that all countries everywhere are grappling with the issues that we are grappling with.

The approach that we have decided that we must have in place as a contingency, with blended learning, is exactly what the United Kingdom Government is doing for England and what the Welsh Government is doing for Wales. These are not straightforward issues. In the first strand, if we have to have a blended model of education for a period—which I hope would be as short as possible—I absolutely give the commitment that, if that involves additional resources to maximise school time, the Government will step in.

We expect—as I would think everybody expects—councils to be creative and innovative in how they use the resources that they have. We will look into additional teaching capacity, whether it comes from retired teachers or other sources that we can get that capacity from. We will scrutinise those plans—as the Deputy First Minister and Her Majesty's Inspectorate of Education are doing—to ensure that, if we have to have a model of education that is less than full time for safety reasons, for any period of time, we absolutely maximise that, and that we take steps to provide additional support to parents and young people for the periods that they spend out of school.

These are difficult issues. Every issue that we are dealing with in tackling the virus is complex; none of them is straightforward. We must have safety at the heart of everything that we do, but we will also bring to bear creative thinking and solutions.

That was done in hospitals, but my last point—I see the Presiding Officer understandably looking at me impatiently—is for people who make simplistic comparisons with what we did in the health service. Yes, we created the NHS Louisa Jordan, but anybody who thinks that there has not also been unavoidable significant disruption in the health service in dealing with the crisis is not looking closely enough at the issues.

These are not ideal circumstances for any of us, but we will continue to navigate the country through them as best we can, with the interests of everybody very much at the heart of that.

**Jackson Carlaw:** The country is looking at the First Minister impatiently—and, to use her word, “understandably”. There have been soft words, matched by a record of non-delivery, with months of dithering on education. Matthew Eastwood, a parent of two young children in Edinburgh, has put it better than any of us can. Writing to MSPs this week, he said:

“Whilst careers may be furloughed, childhood cannot.”

I agree: we must not put a price tag on our children's future.

So far, we have seen half-measures and buck passing, and parents are rightly furious. I ask the First Minister for a commitment today: will she promise to commit the funds that are required, whatever it takes, to underpin a national endeavour to help councils get schools back in place and to give this generation of children the start in life that they deserve?

**The First Minister:** If Jackson Carlaw was remotely interested in my answers or their substance, he would have heard me give that commitment in my previous answer. I do not put a price tag on the education of children; equally, I will not act recklessly to put the lives of children, teachers or the wider community at risk. I will continue to work through these issues in the way in which the public would expect me to.

What I will not do, and what we have not had to do, is cancel plans to bring schools back this month because we had not thought through and worked through the practicalities and difficult issues, as the UK Government had to do just last week. We will continue to work through difficult issues.

I say to Jackson Carlaw that I have been tested by this, and, as First Minister, I will continue to be enormously tested by this, and people will make their own judgments on how and if I rise to that. I think that Opposition politicians are tested by this as well. The approach that Jackson Carlaw is taking perhaps reveals more about him and his party—their character and ability—than it does

about me. I am not sure that people who look at that now will see a particularly appealing picture.

### Schools Reopening

**2. Richard Leonard (Central Scotland) (Lab):** Two days ago, the Children and Young People's Commissioner Scotland, Bruce Adamson, declared:

"The State has an obligation to ensure that children can access their human right to education."

He went on:

"This is an education emergency and resources must be moved by"

the Scottish Government

"if necessary."

He is right; we are in an education emergency. Children have a right to education, so we need to pull out all the stops to make sure that our children return to school safely and full time as soon as possible. What additional resources will the First Minister give councils to make that happen?

**The First Minister (Nicola Sturgeon):** We are in a health emergency right now that has caused an economic emergency and it has created an education emergency. We have to tackle them all simultaneously, which is what the Government seeks to do. I agree with the Children and Young People's Commissioner Scotland: young people have a basic human right to education, but they also have a basic human right not to be put at risk of a deadly virus and we have to make sure that we do not inadvertently do that.

Thankfully, most of the evidence so far suggests that children may be less susceptible to this virus, but the evidence is not conclusive. This is a virus that we still know far too little about, because it has not yet been around for long enough. We also know that a tiny minority of children—so far, and I hope that it will stay like that—may suffer an inflammatory disease complication, Kawasaki disease, so we cannot play fast and loose with the safety of children. I hope and expect that no one across the chamber would argue that we ever should do that.

We have already given councils significant additional resources and we are working with them now to look at the plans that they can put in place for blended learning, if that is what is required. We will then scrutinise those plans and, if they have to go further, we will have a conversation with councils about the resources that are required. That is the proper way to go about those things. We have also asked for Her Majesty's Inspectorate of Education to have a role in scrutiny as well.

The other strand of work is to look at whether we can get the virus levels low enough and then rely on test and protect, and perhaps other hygiene measures in schools, to allow a full-time return in which children can operate normally. Those issues are all really important but they are not simple or straightforward—no aspect of this virus is. I will continue to get on with the hard work of trying to get through them and to steer the best course through them, working with those with whom we need to work. That is my responsibility as First Minister, frankly, and it is one that I will continue to focus on.

**Richard Leonard:** It is also the First Minister's responsibility to give local councils the resources that they need to restart our education system. Scotland's teachers, parents and young people also want clarity, and this week they have had nothing but mixed messages. Anxious parents are writing to me about the impact that schools being closed is having on their children and the impact that the Government's mixed messages are having as well. One mum told me:

"it's just adding more stress to an already stressful situation".

It is not just parents. A survey of headteachers and deputy headteachers by the Educational Institute of Scotland found that more than 90 per cent needed

"greater clarity over how the next academic year of teaching will be delivered."

Instead of clarity, we have seen the First Minister contradict her deputy, contradict her advisers and then contradict herself. That is not clarity; it is chaos.

The First Minister produced a four-phase route map for opening up the economy. Why can she not publish a detailed route map and timetable for a return to full-time, face-to-face schooling? Will she provide the national leadership and the resources that our councils need to give parents, teachers and pupils the clarity that they demand and deserve to get their lives back on track?

**The First Minister:** On the day that we published the four-phase route map for getting the whole country, not just the economy, out of lockdown, we also published the report of the education recovery group that looked at an education route map. We are now working with councils to implement that plan, which was agreed—not imposed by the Government—through the recovery group by the Government, councils, education trade unions and parents organisations. That is the plan that we are now operationalising with councils in case we need that contingency for blended learning. It is a similar approach to the one that is being taken in other parts of the UK.



We will work with councils to make sure that the resources are there to maximise the time that children spend in school if that approach is necessary. However, we are also looking at whether it is safe to take another approach that gets children back into school normally. It is not about an unwillingness to make the resources available; it is about making sure we take an approach to schooling that keeps children safe as well as maximising the quality of their educational experience. Both those objectives are vital as we move through this next phase.

If we want to get back to normality in education, the economy and all other aspects of our lives, we need to take a careful approach to coming out of lockdown. When I stand up here tomorrow to set out our next steps, those who want normality in our schools but also say that we should go quicker on coming out of lockdown will have a fundamental contradiction at the heart of their argument. Let us work our way through this—I mean that absolutely genuinely—but let us be consistent in the arguments that we are making. Our first priority is to beat this virus so that we can bring the country back to normality safely. Anybody who argues simplistically that there is some kind of magic shortcut to that is not putting the interests of this country first.

**Richard Leonard:** I am not asking for a shortcut. I am simply asking for a route map. All that the Government has produced so far is a starting point for blended learning. It is not a way back to full-time schooling.

Children have already been failed by the Government's response to their educational needs during this crisis. Indeed, as many as 62 per cent of parents who took part in a question-and-answer session with the education secretary last night said that their children have had no access to online lessons while schools have been closed. The one additional resource that the Government promised was 25,000 laptops for those children who need them most for home learning. Four weeks on, not one single device has been issued.

We have one of the world's worst records on tackling Covid-19, so we should be making sure that we have one of the world's best records on supporting our children as we come out of it. Parents across Scotland are crying out for a clear plan to get their children back into the classroom. One parent told us that there seems to be a lack of ambition and investment in overcoming the challenges.

At the start of the crisis, the First Minister rightly channelled resources into the national health service. The NHS Louisa Jordan was created and ready to take patients in three weeks. New equipment was brought into hospitals right across Scotland. Where is the commitment? Where is the

energy? Where is the drive? Where is the conviction? Where is the national plan and the national leadership? Where is the ambition to tackle this schools crisis with the same urgency, to pull out all the stops, to make the resources available, to get our schools safely reopened and to uphold our children's right to an education?

**The First Minister:** The commitment is there. It has been repeated several times today, but I am happy to repeat it again. However, in reality, that involves putting in place the plans and doing the hard work to turn the ambition into reality, which is the process that we are going through right now.

My commitment to parents and to young people is as it always has been—to get normality back into education, as we want to get it into every aspect of our lives, as quickly as possible but as safely as possible. I will not at any stage of this try to underplay or to oversimplify complex issues that the entire world is trying to grapple its way through right now.

I absolutely recognise the stresses, strains and anxieties of parents who are home schooling while trying to juggle work commitments right now. We will continue—we have got more to do—to support parents for as long as such a situation continues. However, in point of fact, the Connect survey that was published on 4 June found an increase in the proportion of parents—68 per cent—who said that they have the support that they need for school work. We will continue to make the investments, whether that is through making available laptops or tablets, or through the resourcing of the plans to get children back to school as quickly as possible.

I welcome and relish the debate around this, which is right and proper. However, fundamentally, all of this involves hard graft. It is that hard graft that my colleagues and I in the Government, with our partners in councils, and with teachers and others, will continue to do, day in, day out.

### Climate Targets

**3. Patrick Harvie (Glasgow) (Green):** The Covid crisis is, clearly, the most immediate challenge for the Scottish Government, but it must not allow us to fail on the deeper, longer-term crisis that we also face. Sadly, for the second year in a row, the Scottish Government announced yesterday that it has missed its climate targets. It was not even a near miss—emissions for 2018 went up instead of down.

The Scottish Government never misses a chance to congratulate itself on setting world-leading targets, but it needs to face up to the reality that it has not been taking the steps that are necessary to meet those targets. Scotland can tackle the climate crisis and build a thriving renewable energy industry, developing the green

jobs that we will need at the heart of our post-Covid economic recovery. However, the Scottish Trades Union Congress warned this week that the failure to support a Scottish renewable energy industry means that those jobs will not materialise, as turbines and other gear are simply imported.

When does the First Minister expect Scotland to finally start meeting its climate targets? What will the Government do to support the creation of jobs in the renewable energy industry in Scotland?

**The First Minister (Nicola Sturgeon):** I expect us to meet our climate change targets on an on-going and increasing basis. There will be fluctuations year on year in what is a long-term challenge. The figures that were published this week, as well as the yearly increase that Patrick Harvie highlighted, which is regrettable, reflect different circumstances and different shifts in our energy mix reflecting those circumstances. Those figures also show the long-term 50 per cent reduction in our emissions, which gives us an incredibly strong foundation—probably one of the strongest in the world—to move towards our 2045 ambition of net zero, with very stretching targets along the way.

The investments that we already make in our economy, and in particular those that we will require to make to get our economy going again, as reflected in some of what Kate Forbes said in the chamber yesterday, will open up additional opportunities to invest in the energy transition as we progress towards net zero.

We work very hard on jobs in the renewables industry that come from some of the larger-scale renewables projects. Although we are using the powers that we have at our disposal, some of those powers, such as those around how contract for difference is structured, still lie at Westminster, which does not yet fully allow us to maximise that potential. That is simply a statement of fact. Nonetheless, we will continue to do everything that we can to ensure not only that we meet our environmental targets but that we reap the full economic benefit of that along the way.

**Patrick Harvie:** It seems scarcely credible for the First Minister to say that she expects us to meet our targets on an on-going basis when she knows that we are not doing so. Throughout this session of Parliament, the First Minister has—I believe genuinely—wanted Scotland to be world leading on this issue. However, she has left her Government with a track record in relation to which the best that she can claim is that it is not quite as bad as that of Boris Johnson's Government.

Let us look at transport in isolation. That is the area in which we have seen the clearest long-term failure to reduce emissions. The Cabinet Secretary

for Environment, Climate Change and Land Reform told the Parliament yesterday that we should not judge the Government's track record on the basis of one year's figures. However, the track record stretches back not just years but decades. Either the Government has not been trying to reduce transport emissions, or it has been trying but has been pursuing the wrong policies. Just this week, the resumption of short-haul flights between Glasgow and London has been allowed, despite there being plenty of rail capacity, which we should be using.

Last year, in Channel 4's climate debate, the First Minister said, for the first time, that we need to "fly less". Okay—how much lower than the pre-Covid level of aviation does the First Minister think that we should be aiming for, and what action will the Government take to prevent aviation regrowth from breaching a safe, sustainable level?

**The First Minister:** First, we support people to fly less, and to use alternatives, by continuing to invest in those alternatives and to make them more convenient and speedy. We will continue the work that is under way, but I also hope that the whole experience of the Covid crisis will help us to accelerate that.

I am not saying that we do not have a monumental amount of work still to do—far from it—but the entire world does, too. In the reduction of our emissions so far, Scotland is the second-best country in the world; we are second only to Sweden. That says to me that what we have been doing has been working, but we need to do more of it and we need to do it more sustainably.

We will continue to encourage behaviour change, and to invest in alternative energy—in alternative ways for people to travel, heat their homes, and live their lives. However, to say that Scotland does not have both a very good track record and a very strong foundation is, frankly, way wide of the mark.

## Childcare

**4. Willie Rennie (North East Fife) (LD):** The Scottish Government is opening up more of the economy. Thousands of parents will be returning to work in businesses and shops in June and July. However, normal summer childcare—from childminders, private nurseries, family and friends—is still restricted by the Government. When schools open in August, children will be at home for up to four days a week.

It does not add up. The First Minister asks parents to go back to work—but who will look after the children? What are parents supposed to do?

**The First Minister (Nicola Sturgeon):** First, I say—not so much to members but to parents, who may be watching at home—that none of this is

easy for parents. This is, and has been, incredibly difficult. I wish that I could make all those difficulties disappear overnight, but I cannot wave a magic wand. We have to work to a plan to allow us to suppress the virus, keep it suppressed, and bring all aspects of life back to normal with as much alignment as possible.

Willie Rennie's question is legitimate and important. We have to bring the economy back carefully. Understandably, issues of economic challenge have encouraged people to think that we should do it more quickly. We have to continue to be cautious about that, and do things according to the plan that we set. Tomorrow, I will set out the next steps on that.

We want more key workers to have access to critical childcare hubs, which have been in place throughout the crisis, and to have those running throughout the summer so that there is more access—albeit that that will not be possible for everyone.

This week, we have published guidance for early learning and childcare, so that we can begin preparations to get early learning and childcare facilities back, in recognition that some of the issues that we talk about for school—in particular on physical distancing—are even more difficult in those settings.

Thirdly—and lastly—what Willie Rennie described, with regard to schools coming back on 11 August, is what we are working to change, so that children will be in school, even if that is under the contingency blended model, for more time than parents are perhaps looking at as a possibility right now; and to get back to a normal schooling week as quickly as we can.

All those bits of this complex jigsaw need to be in place, and we have to work methodically and very hard to get them in place as quickly, but also—I will keep on saying this—as safely as possible.

I understand that, as we see the numbers that we report every day going downwards, there is sometimes a tendency to think, "Let's just get back to normal immediately." However, the virus is dangerous, it is potentially deadly and it is still out there. Anybody in Scotland who doubts that just has to look at the fact that we still have people dying, but also at what China is grappling with again, what some parts of America are still grappling with and at what even some of the countries that are said to have done best in tackling the virus are still facing on almost a weekly basis.

We have to do this properly, we have to do it right and we have to do it with public health and safety at the forefront of our thinking.

**Willie Rennie:** The First Minister knows that I share her caution. I have been constructive throughout the pandemic. However, yesterday, the education secretary said that, if people criticise the policy, they are criticising the teachers. I think that that is a shameful insult to thousands of parents who have genuine concerns.

The problem for the First Minister is that this issue is coming up next week. People will be going back to work next week and they will need the support next week. The Government has put parents in an impossible position because they cannot choose between their job and their children. The Scottish Government ramped up national health service capacity and pumped billions of pounds into businesses to keep them alive, but on education, our children and their parents are being left behind.

Why does the First Minister not accept that, if she is asking parents to return to work, she has an obligation to work out who is going to care for their children?

**The First Minister:** I recognise that Willie Rennie has been constructive. I do not criticise anybody for discussing the issues or asking questions. All that I ask—and it is up to people to decide whether they want to proceed on this basis, which I think that Willie Rennie has generally done—is that people recognise that the issues are not straightforward.

It is not the Government that is putting parents in an impossible position. It is not any Government that is doing that. It is a global health pandemic that is putting people in an impossible position, and we have to try to mitigate that and help them work their way through it, which is exactly what we will seek to do. We have to do that cautiously, because we cannot allow the virus to run away with us again and get a grip again; we also have to do it methodically and try to keep the pieces in line as far as possible, and that is what we will seek to do.

I will not say to any parent or teacher or anybody else across the country anything other than that this is incredibly difficult for them each and every day. I say to Willie Rennie that I do not think that it is correct to characterise it as something that is coming up next week. It is something that parents and others have been living with throughout the crisis because of the reality of the situation that we are dealing with.

As I said earlier, this is not about an unwillingness to make resources available; it is about using resources properly to get the country, including schools, back to normal in a way that is sensible and does not put the health of children or others at risk, and that is what we will continue to prioritise.

**The Presiding Officer:** There has been a lot of interest at various stages in asking supplementary questions. I remind members that I will take all the supplementaries after question 7, which is Monica Lennon's question.

### **Ferry Tickets (Island Residents)**

**5. Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** To ask the First Minister whether she will provide an update for island residents who wish to book ferry tickets. (S5F-04228)

**The First Minister (Nicola Sturgeon):** We are working with ferry operators to identify measures to ensure passenger and crew safety when travelling, while observing 2m distancing on vessels. Capacity will obviously be reduced by the measures, but we are putting in place plans to manage that. That work includes consideration of how the booking systems of CalMac Ferries and NorthLink Ferries might be used to help to manage demand. Further details will be available in the transport transition plan and from the operators, as we move through the phases of easing lockdown.

**Dr Allan:** As the First Minister is aware, many islanders have not seen family members on the mainland since March. They have strongly supported the travel restrictions, but are now anxious to know that they will, whenever it is considered safe to change the current travel advice about ferries, have the opportunity to book what will be a very limited supply of ferry tickets, perhaps on a priority basis. Can the Government take steps to avoid new pressures on reduced services and capacity meaning that islanders do not get to see their families until after any tourist season is over?

**The First Minister:** I fully understand how important it is that islanders be able to access the lifeline ferry services on which, of course, they depend for getting to and from the mainland—in particular, to see their families. They rightly want to enjoy the same freedoms that others will be able to start enjoying as we ease out of lockdown. Like all aspects of the situation, that requires careful consideration to make sure that people can move safely and without risk to themselves and others.

There are practical considerations about safety that mean that capacity will be reduced by the measures that must be in place, which must be managed to ensure that islanders are not disadvantaged. That is a key consideration that CalMac, Transport Scotland and the Minister for Energy, Connectivity and the Islands, Paul Wheelhouse, are looking at.

Crucially, there is, and will continue to be, on-going engagement with island communities to

determine the best way forward. The involvement of people who actually live on our islands, including Alasdair Allan and his constituents, is absolutely key.

### **People with Dementia (Lockdown)**

**6. Brian Whittle (South Scotland) (Con):** To ask the First Minister what consideration the Scottish Government has given to the impact of lockdown restrictions on people with dementia. (S5F-04233)

**The First Minister (Nicola Sturgeon):** Our route map recognises that the disruption to normal routines and connections, and the physical constraints of staying indoors, can and do have a profound impact on people with dementia, leading to feelings of loneliness, lethargy, stress, anxiety or depression.

That is why in phase 1 we are already planning and implementing the safe gradual resumption of much-needed access to respite and day care to support unpaid carers and families.

Changes to the care home sector on restricted visiting and a pause on normal activities and routines to protect residents, staff and visitors have had a significant impact on the wellbeing of residents and their loved ones. We already enable families to visit loved ones in their final days and in other exceptional circumstances, and we are developing plans for a phased return to visiting, when it is clinically safe to do so.

**Brian Whittle:** My question was prompted by a friend of mine, who called me on Monday to say that, sadly, he had lost his mother a couple of months ago, which has been compounded by the fact that his father is in a care home suffering from dementia and has yet to be told that his wife has died. My friend wants to be able to tell his father that face to face.

My friend said that he is not only saddened by the loss of his mother, but that the sadness is compounded by the fact that his father's dementia is accelerating because of lack of contact with the family. When the First Minister makes her statement tomorrow, will she consider giving clear guidance to care homes and families on visiting, in order to ensure that such situations are rectified?

**The First Minister:** Yes—we will consider the guidance and how it develops at every stage of the route map. As I said in my earlier answer, visiting is permitted in end-of-life situations and in other exceptional circumstances. It might well be that the very distressing circumstances that Brian Whittle has recounted are such exceptional circumstances. It is entirely up to him and his constituent, but if he wants to pass on details, we could look into whether visiting, in those

circumstances, is now possible, even without further developments.

That is an example of the many difficult aspects of dealing with the crisis. The people who have been most at risk—people in care homes—are also the people who have had to live under some of the most distressing restrictions, and have not had family visits, as they would normally. As with so much else, we want a return to normality in that as quickly as possible.

However, given what we have already seen unfolding in our care homes, everybody will understand that we are perhaps even more cautious here than we are in other areas. Work is under way, and a lot of thinking is going on into when and how normal visiting can be resumed in care homes. The decision must be based on the most careful consideration and thought.

On the specific case that Brian Whittle mentioned, I and the Cabinet Secretary for Health and Sport would be happy to look into it, if that would be helpful.

#### **National Health Service (Restart of Services)**

**7. Monica Lennon (Central Scotland) (Lab):** To ask the First Minister whether she will provide an update on the Scottish Government's plans to restart NHS services, in light of reported concerns from patients who are experiencing delays to their treatment. (S5F-04239)

**The First Minister (Nicola Sturgeon):** We recently published the framework for remobilising the health service. It sets out how health boards will follow national and local clinical advice in order safely and gradually to prioritise resumption of some paused services over the coming weeks and beyond, while retaining sufficient capacity to deal with Covid-19.

Boards have continued to protect key services throughout the pandemic, and are now gradually restarting services across key specialties including cardiology, urology, trauma and orthopaedics, as well as endoscopies and other diagnostic services. Patients will be seen on the basis of clinical need, and anyone who has been offered an outpatient or diagnostics appointment or a date for surgery should attend in order to ensure that they receive the treatment and care that they require.

That said, we know that coronavirus might well be with us for some time to come, so we will have to continue to balance restarting of services with the need to keep the virus under control, to continue to protect the national health service and to ensure that there is capacity to deal with any cases of the virus that need hospital or intensive-care treatment.

**Monica Lennon:** We are all acutely aware of the need to manage the direct risks of Covid-19, as well as the harms that are caused by lockdown itself. My constituent Jeffrey Hills fears that he will lose his sight as a result of lockdown, because of delays to his cataract operation. Clearly, that outcome must be avoided, and could be avoided if testing and personal protective equipment were used to support Covid-free zones and safe resumption of NHS services.

Thousands of patients across Scotland are, like Mr Hills, waiting for treatment. They include cancer patients and people who are living with chronic pain, who have been telling Parliament how difficult the situation is for them.

All MSPs have been talking to health boards in recent weeks, and health boards have been stressing to us the importance of helping them to manage the public's expectations. However, the framework has no dates attached. How can we help our constituents by giving them a bit of hope and confidence while, at the same time, managing the public's expectations? What further clarity can we expect?

**The First Minister:** The resumption of services, within the constraints that I have outlined today, will be an on-going process. We want it to happen as quickly as possible; some of it is already happening, in the specialties that I spoke about.

We have Covid-free zones in hospitals; there is a proper and appropriate supply of PPE, and staff have clear guidance about its use. We are continuing, with the advice of our nosocomial advisory group, to consider increased use of regular testing in hospitals to assist with the process of reopening the health service.

As I said in response to a question last week, with particular regard to elective treatments, into which category cataract treatment falls, we are examining all resources, including the NHS Louisa Jordan hospital. That work will continue and will be accelerated to the extent that that is possible within the constraints that I have outlined.

Dates will always be one of the most difficult things in how we deal with the virus. I hope that, as the weeks go on, that will get easier. However, there are the uncertainties of the virus itself and, unfortunately, none of us has a crystal ball that can tell us how the situation will unfold. We must therefore assess the data and evidence in order to know what it is safe to do at the particular points when we must make decisions.

I will therefore say to patients who are awaiting treatment something that is similar to what I have said to parents and others who have been living with the difficulties of the situation for three months. We want to get them back into a normally functioning health service as quickly as possible,

but that, like everything else, must be done with the imperative of safety absolutely at the forefront of our minds.

### **Civil Service Jobs (East Kilbride)**

**Linda Fabiani (East Kilbride) (SNP):** The First Minister is aware that my constituency of East Kilbride has already suffered a huge blow from the decision by the United Kingdom Government to move thousands of skilled Her Majesty's Revenue and Customs jobs from the town. Can she now press the Prime Minister for a guarantee that 600 jobs in vital international development work—work that is free from political interference—will remain at Abercrombie house in East Kilbride?

**The First Minister (Nicola Sturgeon):** Yes, we will continue to do that. The Prime Minister said yesterday that none of those jobs is at risk. I welcome that, but it is incumbent on all of us to hold the UK Government to that commitment on behalf of the hundreds of people who work in those jobs in East Kilbride.

More generally, I fundamentally disagree with the decision that was announced yesterday to merge the Foreign and Commonwealth Office with the Department for International Development, because that puts foreign policy and commercial and political ambitions ahead of the needs of the world's poorest and most vulnerable communities, at a time of global crisis. The move is regrettable, in the context in which the decision has been made.

### **Care Homes (Discharge from Hospital)**

**Miles Briggs (Lothian) (Con):** The *Edinburgh Evening News* reports today on the case of my constituent Mr Rodger Laing, who—against the wishes of his family, with his power of attorney overruled—was transferred from Midlothian community hospital to a care home. Mr Laing developed coronavirus and died from it on 27 May. His daughter, Gail, has said:

"I will never be able to forgive them for my dad, someone needs to be held accountable."

As part of ministers' Covid-19 response, 1,090 additional care home places were purchased and patients were moved into them. I have previously raised with the First Minister my concerns regarding the human rights of patients, but what investigation has the First Minister undertaken into how those patients and their families have been treated during the coronavirus outbreak?

**The First Minister (Nicola Sturgeon):** I have made it clear that there will be a full inquiry into and investigation and exploration of all aspects of the crisis, including the decision making and the impact on our care homes. I have said before that decisions on discharge are taken carefully and on

the basis of clinical risk assessments. At the outset of the crisis, at the start of March, some members in the chamber asked why more people whose discharge was delayed were not being discharged from hospital. It is important that we assess all of that in order that we have accountability and learn lessons for the future.

It sounds as though the case that Miles Briggs raises should not have happened in the way that it did. Discharge planning should involve families, clinicians and, when possible, the person who is being discharged. I am happy to look into the particulars of that case, to see whether we can get answers for the family but also whether lessons require to be learned.

### **Covid-19 Testing**

#### **Rhoda Grant (Highlands and Islands) (Lab):**

A constituent contacted me about a neighbour who received a self-testing kit for Covid-19. They did the test, but nobody was available to pick it up. The neighbour contacted me, I spoke to NHS Highland and the test was uplifted three days later. I am not a scientist, but I figure that that test would have been useless by that time. What steps will the First Minister take to make sure that everybody, regardless of where they live, has access to testing that can give a result?

**The First Minister (Nicola Sturgeon):** Again, without knowing the details, I cannot comment on the individual case, but the speed of testing is of huge importance. As we go forward with the test and protect strategy, we will want to report on the turnaround time for tests. When we launched test and protect, we said that we would take steps to improve—beyond the situation that exists now—local accessibility, which is particularly important in rural areas, and that work is on-going. Although home testing has and might have a growing part to play, I have always been sceptical about placing too much reliance on tests that are posted to people, who are required to send them back or need to have them picked up. It is better if someone who can do the test does it there and then. We will continue to strengthen the resilience and reliability of test and protect in all those aspects. However, if I had further details of that three-day wait for a test to be picked up, I would be happy to look into it.

### **Food (Support for Families)**

**Clare Adamson (Motherwell and Wishaw) (SNP):** What is the Scottish Government doing to ensure that families have support to access food over the summer holidays?

**The First Minister (Nicola Sturgeon):** Yesterday, we announced the continuation of free school meal entitlement over the summer and made it clear that we were giving councils

additional money—£12.6 million—to pay for that extended provision. That is important at a time when we know that lots of families who were already struggling to make ends meet are finding things even harder. Many councils will be integrating that free school meal provision into their wider food support, so we have also made additional funding available to councils to help them with that wider provision.

Food poverty and insecurity should always shame a country as rich as ours. As far as we can, we must deal with it at source. While people live in food poverty, we all have a duty—which the Scottish Government takes seriously—to do everything that we can to help people to get the food that is a basic human right.

### **School Leavers (Support Services)**

**Maurice Corry (West Scotland) (Con):** Bearing in mind the current emergency and its devastating effects on Education Scotland, can the First Minister give me a concrete assurance that the Scottish Government has provided local authorities in my West Scotland region with sufficient additional financial resources to ensure that the careers guidance and advisory support services in our schools will provide the most effective and very best support to our school leavers this term and next year?

**The First Minister (Nicola Sturgeon):** We will continue to work with local authorities to ensure that they have the resources that they need to get through the crisis. That applies not only to education but to all aspects of the challenges that we are facing. I have just talked about yesterday's announcement of additional money for local authorities. We have provided local authorities with substantial additional resources so far, and those conversations will continue.

### **Aerospace and Aviation (Job Losses)**

**Neil Bibby (West Scotland) (Lab):** Two weeks ago, I asked the First Minister to establish an aerospace and aviation task force, and I am grateful that a group has been established to respond to the situation at Rolls-Royce and to support aerospace jobs. However, with the loss of 160 Menzies Aviation jobs at Glasgow airport being announced and with National Car Parks workers also facing redundancy, does the First Minister agree that we also need a focus on aviation?

Specifically, what can be done to support our airports? Glasgow airport is one of the biggest employers in my region. The trade unions Unite and the GMB are warning that further job losses are to come, and they support the creation of an airport jobs task force. Will the Scottish Government create such a group?

**The First Minister (Nicola Sturgeon):** I will consider any suggestions. As Neil Bibby says, he suggested that we create a cross-party task force to look specifically at aerospace in the light of the Rolls-Royce announcement, and we have taken that suggestion forward.

We must, however, guard against creating a plethora of different task forces, because we have to see this as an overall challenge and perhaps look at these things in a more joined-up, sectoral way. Early next week, we will have the report and recommendations from the advisory group on economic recovery, which is chaired by Benny Higgins, and we will reflect further in the light of those recommendations. At every level and in every way, there is a real commitment to do all that we can to support the economy as it recovers from the unprecedented challenge that it faces.

In addition to the cross-party approach on aerospace to which I have already referred, I spoke directly to the chief executive of Rolls-Royce a week or so ago. Work is also on-going between the Government and Rolls-Royce to look at what we can do in the short, medium and long terms by working together to preserve jobs and, I hope, a footprint for Rolls-Royce in Scotland. Those are all really important challenges for us.

We have to find the best way of catalysing the whole Parliament in a team Scotland approach. We need to have a discussion about whether that involves lots of different task forces or more joined-up strategic task forces, and it is clear that we are willing to involve other voices from across the chamber in that discussion.

### **Job Retention Scheme**

**John Mason (Glasgow Shettleston) (SNP):** Has the First Minister had any discussions with the United Kingdom Government about extending the job retention scheme?

**The First Minister (Nicola Sturgeon):** We are having on-going discussions with the UK Government about the extension of the job retention scheme. We are discussing whether that should be done on a general basis or whether it should be targeted at specific sectors that will have challenges for longer—I am thinking not exclusively but particularly about the tourism sector. That is essential. I saw some evidence that was published this morning about the number of companies that are expressing concern about the impact of a premature ending of the job retention scheme, and that evidence is growing.

Other countries have been used as examples to encourage the Scottish Government to do more, which is right and proper. Other countries—France, in particular—have already taken steps that the UK Government should follow, such as

announcing the extension of such schemes for up to two years. We will continue to have—I hope—constructive discussions on the issue as we jointly support the economy through the difficult times that still lie ahead.

### Social Distancing

**Mike Rumbles (North East Scotland) (LD):** Keeping 3m apart is better for social distancing than keeping 2m apart, and 2m is better than 1m, but the World Health Organization says that a 1m distance is safe. Will the First Minister aim to change social distancing to 1m, as is recommended by the World Health Organization? The present distance will risk both lives and livelihoods if there is no plan to move to 1m at some point, as we move towards coming out of lockdown.

**The First Minister (Nicola Sturgeon):** We must be careful that we do not mischaracterise what the WHO is saying. The WHO recommends keeping a minimum distance of 1m. However, it is also very clear that there is a continuum of risk and that there are often other factors that have to be taken into account. If we get agreement on that, it will be a useful starting point.

I do not have any fixation on a particular distance; I only want to keep people safe, and I want to do that in a way that is as conducive as possible to getting the economy moving again. I will always resist the tendency to see any of these issues in isolation, because they are not; therefore, we have to be very careful.

The advice that I have is that we should not move away from 2m right now. For all the talk about doing that, not one of the Governments in the UK has decided to move away from 2m right now. Yes, there is on-going consideration of whether there are particular circumstances, settings or mitigations that could be brought to bear to make something like that possible—I am not closed-minded about it. However, I will not be pushed into doing it in a way that looks at the issue in isolation or does it in an unsafe way.

At the heart of this is the fact that some of the settings—the economic locations—that, understandably, feel they would benefit the most from reducing the distance, both practically and economically, are also some of the locations that evidence tells us are higher-risk transmission areas or so-called “super spreader” areas.

It is a common refrain of mine, but none of these things are simple, straightforward or binary. It would be much easier if they were. We have to come to the right, balanced judgments, taking account all of the risks and benefits along the way. I will continue to try to do that on all aspects, because my fundamental duty is to do everything

that I can to get this country through this crisis as safely as possible, and I will not be diverted from that.

### Brexit Transition Period

**Joan McAlpine (South Scotland) (SNP):** Many experts have warned that a second spike in coronavirus will be doubly disastrous if it is combined with a no-deal or low-deal Brexit. Can the First Minister update Parliament on what further representations have been made to the Westminster Government over an extension to the Brexit transition period?

**The First Minister (Nicola Sturgeon):** As recently as last week, both the Scottish and Welsh Governments made a plea to the United Kingdom Government to seek an extension to the Brexit transition period so that we take away any prospect of either a no-deal Brexit, or, as Joan McAlpine rightly said, some kind of low-scale deal that puts jobs and livelihoods at risk. Unfortunately, that appears to have been ignored so far. We will keep making that case, although time is running out for common sense to prevail.

My views on Brexit are well known and I am not going to rehearse them all, but I think that Brexit is a bad idea and a no-deal Brexit is a catastrophic idea. In the best of times, anybody who contemplated that has serious questions to answer, but to contemplate it in the teeth of the crisis that we are confronted with because of Covid is unthinkable and deplorable. The UK Government will have very serious questions to answer, for a very long time, if they allow it to happen.

### Scouts Scotland (Third Sector Resilience Fund)

**Murdo Fraser (Mid Scotland and Fife) (Con):** I have two children who are scouts, and many members will have family connections or local associations with the scouting movement.

Today, Scouts Scotland has said that 47 per cent of its staff are at risk of redundancy, including those at the Fordell Firs outdoor centre in Fife, due to a projected loss of income of £1.5 million this year. Scouts Scotland has had no funding from the third sector resilience fund. What support can the Scottish Government offer to organisations such as Scouts Scotland that do so much excellent work with our young people, and will the criteria for the third sector resilience fund now be widened so that charities like Scouts Scotland can apply?

**The First Minister (Nicola Sturgeon):** The scouts do a fantastic job, and I pay tribute to them for that.

Throughout the crisis we will try to be as expansive as we possibly can be—within the



obvious limitations of resources that we face—and to help as many organisations, individuals and interests as possible. The finance secretary has already demonstrated a willingness to do that, with all the amendments and changes that have been made along the way.

I cannot stand here and say that we can flex any scheme to take account of and cater for absolutely everyone; I wish that I could do that, but I cannot. However, we will continue to try to do as much as we can to accommodate organisations that do great work and are seriously challenged by the crisis.

The main thing that we can do for scouts and for everybody else is to safely get us back to normal. That comes back to the key point that we must continue, as we are doing now, to suppress the virus. If we suppress it to the point at which we can keep it suppressed through test and protect, and if we can get agreements to deal with the potential of the virus coming into the country from elsewhere, we can all move back to much greater normality than we might have thought possible just a month or two ago.

That is the big challenge now; it is also the prize for continued patience during this understandably frustrating phase for everybody.

### **Brexit (Economic Impact)**

#### **Alex Rowley (Mid Scotland and Fife) (Lab):**

Professor Jim Gallagher recently told the Finance and Constitution Committee that

“adding further economic disruption on top of the economic disruption caused by the Covid crisis by driving towards a hard Brexit in the hope that it will somehow be disguised by the Covid crisis would be not just unwise but wicked.”—*[Official Report, Finance and Constitution Committee, 5 June 2020; c 19.]*

Given what the First Minister has already said about that, and given that it looks as if that is where the Westminster Government is heading, will she tell us what progress has been made by the Scottish Government in preparing to offset the worst impacts of the likely outcome on businesses, jobs and the Scottish economy?

**The First Minister (Nicola Sturgeon):** That is a good question and one that we are addressing. We should not be having to address it now. All of our efforts and energies should be focused on dealing with the Covid crisis and our recovery from that. It is inexplicable to me why any Government would seek to heap more economic pain on top of the economic pain that we already face.

We are having to restart our no-deal Brexit planning. In the next couple of weeks—the immediate date escapes me—the Cabinet will spend time looking again at those plans. Mike Russell is leading that work.

Every minute, hour and day that the Government has to spend on looking at how we mitigate the impact of Brexit, and particularly of a no-deal or bad deal Brexit, is a minute, hour and day that we are not spending focusing on the Covid crisis. I appeal again to the UK Government not to allow that madness to happen. Let us all focus on getting the country through the immediate health crisis and then on supporting the country to recover from the economic crisis that we face, without compounding that with the lunacy of Brexit.

### **Island Communities (Lockdown)**

**Kenneth Gibson (Cunninghame North) (SNP):** Each of our islands is unique. What criteria will be used to decide, and who will decide, when and how our islands come out of lockdown? Community engagement has been discussed. How will that work along with the Scottish Government, ferry companies and relevant local authorities? With a reduced ferry service and hugely diminished capacity due to social distancing, what additional support will be provided to island businesses, given the huge fall in visitor numbers at the height of the summer tourist season?

**The First Minister (Nicola Sturgeon):** The initiatives that we are announcing, and the further initiatives that we will put in place to help business, will give particular consideration to island and rural businesses, given the particular challenges that they face. That is true of the initiative that Kate Forbes announced yesterday, as it will be of future initiatives.

I want the whole country to come safely out of lockdown. The surveillance systems that we put in place to track Covid will make us aware of localised clusters or spikes. That will involve making data available to local authorities and to the public so that they can make informed judgments about any risks that they might take. It will also involve discussions between national and local Government about localised decisions that may fall to be taken. We are already discussing with the Convention of Scottish Local Authorities and with local authorities how that will work in practice.

The more we suppress the virus now, the sooner and more sustainably the whole country can emerge from what we have been living through.

### **Independent Ferry Operators (Business Support)**

**Jamie Halcro Johnston (Highlands and Islands) (Con):** In April, the Cabinet Secretary for Economy, Fair Work and Culture announced the creation of a £45 million ferry fund to support

operators during the Covid crisis. Although vital independent operators have received some support through other funding streams, it has been considerably less than the amount suggested by the economy secretary's funding announcement.

Some independent firms, such as Pentland Ferries, have received indications that they will not be eligible for support from the fund at all. Why, when independent and subsidised operators are facing similar challenges, and are equally vital to the communities that they serve, have independent operators been treated so differently by the Scottish Government?

**The First Minister (Nicola Sturgeon):** It is important that there is fairness and transparency about how such funds are allocated. As I think that I said some weeks back during an exchange in the chamber, at times of crisis, when we have put funds in place very quickly, some of the normal due diligence has been done much more quickly, but the principle of fairness and transparency must still be there.

I do not have the details in front of me of the breakdown of the support for ferries, but I am happy to look at it. There will certainly have been no intention to treat particular operators unfairly, but if the rules on how the money is allocated have inadvertently done that, as with all such issues, we will be happy to look at whether better arrangements can be put in place.

13:30

*Meeting suspended.*

14:30

*On resuming—*

## **Provisional Outturn 2019-20**

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by the Cabinet Secretary for Finance, Kate Forbes, on the provisional outturn for 2019-20. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions, please.

**The Cabinet Secretary for Finance (Kate Forbes):** I welcome the opportunity to update the Parliament on the provisional budget outturn for the financial year 2019-20. The provisional outturn demonstrates, once again, that the Scottish Government has prudently and competently managed Scotland's finances in challenging and uncertain times, taking into account Covid-19 expenditure up to 31 March.

We are, of course, still in the midst of a global pandemic, and I take the opportunity to thank everybody across Scotland for following the guidance as we start to emerge from lockdown. Our priority continues to be saving lives and reducing the spread of the virus. I also specifically thank members of the national health service, the emergency services and the thousands of carers across Scotland for the amazing work that they have done during this time.

The financial challenges of managing our response to the pandemic are immense, because this is an economic crisis as well as a health crisis. The global economic collapse has disrupted trade, financial markets and global supply chains on an unprecedented level. Today's gross domestic product stats, alongside a reduction in business activity that is sharper than that during the 2008 financial crisis, demonstrate that. As in other nations across the world, the effects have been felt throughout our economy. International tourism has been hit hard by travel bans, supply chains have been disrupted and labour markets have been severely affected by physical distancing measures, absences and falling demand. That is before we add the already significant uncertainty caused by Brexit and the continued refusal of the United Kingdom Government to listen to reason and extend the transition period, to ensure that we do not add the calamity of a no-deal withdrawal to the huge economic challenges we now face as a result of Covid-19.

It is against that economic backdrop that we report our provisional outturn today. Although the path to recovery remains uncertain, the Scottish Government is implementing measures to ensure that, as a country, we are back on our feet as quickly and safely as possible. The recently

published 2020-21 summer budget revision shows that the Scottish Government has already committed significantly more than just the expected consequentials arising from additional UK Government spending to combating the effects of Covid-19, despite the financial restrictions under which we operate. We are committing more than £4 billion in response to the health, economic and social challenges created by Covid-19. That includes over £2.3 billion to support Scottish businesses, including £1.2 billion for business grants; more than £900 million in non-domestic rates reliefs; £620 million of health and social care funding; £350 million to support the welfare and wellbeing of our communities; more than £200 million in funding for rail; and more than £90 million to support bus operators across Scotland.

Those figures demonstrate the scale and breadth of our response to this unprecedented situation, and that is just a snapshot of the measures that we have taken so far in response to the challenges that are faced across Scotland. What is not in doubt is that significant budget challenges lie ahead; therefore, work is under way to ensure that Scottish Government resources are targeted at stimulating a safe, swift and sustainable recovery for our communities, public services and economy. We have very limited room for manoeuvre within our own budget, which is why I will continue to make the case to the UK Government for an increase in funding and flexibility to allow the Scottish Government to respond fully to the crisis.

I turn now to the 2019-20 provisional outturn. As members will know, under the current devolution settlement, the Scottish Parliament is not permitted to overspend its budget. Therefore, we have again controlled public expenditure to ensure that we live within the budget control limits that apply. I can report that the provisional fiscal outturn for 2019-20 is £34.4 billion against a total fiscal budget of £34.6 billion, resulting in an overall cash underspend of £258 million. That £258 million is made up of £86 million of fiscal resource, which is for day-to-day spending; £76 million of fiscal capital; and £96 million of financial transactions, which, of course, can be used only for loans or equity investment in entities outside the public sector. Overall, the cash variance of £258 million represents less than 1 per cent of the total fiscal cash budget, with resource underspend—which, again, is for day-to-day spending—being less than 0.3 per cent of the resource budget.

It is important to note that there is no loss of spending power to the Scottish Government as a result of that underspend. Every penny is carried forward in full through the Scotland reserve, and, indeed, the majority has already been deployed through the 2020-21 budget. The resource

underspend is marginally lower than the £100 million anticipated as being available to support the 2020-21 budget position. That is the inevitable result of our having to divert additional funding to support the earlier part of our response to the Covid-19 emergency. There were no Barnett consequentials to offset that additional spending, because the UK Government has supplied all consequentials, including those for 2019-20, in 2020-21. However, the shortfall is relatively small and I will pick that up as part of my management of the overall position, to ensure there is no impact on public service delivery.

We have also managed to achieve a capital underspend while prudently borrowing less than we originally budgeted for. In 2019-20 we borrowed £45 million less in capital than the originally planned £450 million and still funded all necessary expenditure while also achieving a sufficient capital underspend to fund 2020-21 budget commitments. The capital investment was, of course, also impacted by the pandemic. Decisions to borrow were made before the full impact on infrastructure projects became clear. The decrease in capital activities in March also resulted in a higher level of underspend than was previously anticipated. However, that is all carried forward through the Scotland reserve.

Finally, and in addition to the above, there is a provisional non-cash underspend of £130 million. The non-cash budget is used for technical accounting adjustments such as depreciation and impairments, and it cannot be used to fund public services. That represents no loss of spending power to the Scottish Government.

It is important to note that those outturn figures for 2019-20 remain provisional, as they are subject to an on-going audit process. Finalised figures will be reported as usual in the annual Scottish Government consolidated accounts and in a statement of total outturn for the financial year 2019-20 later this year.

To conclude—well within my allotted time, Presiding Officer—the provisional outturn demonstrates that the Scottish Government has spent more than 99 per cent of our budget in 2019-20 on the delivery of public services and our support for the economy. The cash underspend of less than 1 per cent of that budget is retained in full by the Scottish Government and will be used in its entirety to fund 2020-21 spending priorities.

I commend today's figures to Parliament.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues that were raised in her statement. I will allow around 20 minutes for that. Members who want to ask a question should press their request-to-speak buttons now.

Donald Cameron is joining us remotely.

**Donald Cameron (Highlands and Islands) (Con):** I thank the finance secretary for advance sight of her statement, which is, of course, presented against the backdrop of the current pandemic, and I endorse her comments in thanking our key workers in the NHS, the emergency services and the care sector.

Some budget challenges already existed prior to the pandemic, not least in relation to the significant funds required for income tax reconciliations in the coming years—£270 million for this year and more than £500 million next year. That is before we get to the financial and, indeed, fiscal implications of the virus, which we debated only yesterday, when we considered the summer revisions to this year's budget.

I note that the underspend remains, at £258 million, a significant sum. It is a huge figure on any view. I also note that the Scottish Government borrowed £45 million less than planned in 2019-20 and that it is not, therefore, using its existing borrowing powers to the full. With that in mind, why is the cabinet secretary demanding further borrowing powers at the very moment when her Government is not only underspending to the tune of £258 million but is not even spending to the borrowing capacity that it already has?

**Kate Forbes:** I thank Donald Cameron for that question. It is well documented that, by law, we cannot overspend our budget, so we must prudently balance it throughout the year.

The underspend that he referenced is less than 0.3 per cent of the resource budget. There is no loss of spending power, and, as he will welcome, we can use the money this year to mitigate Covid. I have repeatedly made it clear that I am looking for revenue borrowing powers. We have existing borrowing powers for capital; as I said in my statement, that is partly due to the impact of Covid in March. Some construction activity had to be suspended in March, and it stands to reason that that would have an impact on the amount of capital that we utilised.

With regard to borrowing powers, he makes the point for me. He referenced income tax, but, of course, the reconciliation that he talked about is born of forecast error, not Government decisions. The ability to borrow to cover that forecast error is limited to £300 million, and we have used some of that borrowing to cover our reconciliations this year in order that the maximum spending power is available to invest in people, communities and businesses. However, next year, we face a provisional £550 million reconciliation, with borrowing limited to only £300 million, which demonstrates that the existing borrowing powers are not sufficient.

**Jackie Baillie (Dumbarton) (Lab):** I echo the cabinet secretary's thanks to all key workers during this pandemic.

I have three questions for her. First, the overall cash underspend is £258 million, which is carried forward to this financial year. Will the cabinet secretary use some of that money to fund the return to school of children across the country? Secondly, last year, there was a shortfall in expected income from the land and buildings transaction tax and the Scottish landfill tax, but there is likely to be a greater variance this year. What order of magnitude does she think that it will be, and will it be covered by her remaining borrowing from the Scotland reserve? Thirdly, the Scottish Government has overestimated the income tax take for the past three years, resulting in a £1 billion black hole in the finances, which needs to be repaid. As she rightly said, £550 million of that needs to be repaid this year. Given the likely further decline of income tax revenues because of Covid-19, what specific plans does she have to fill that even bigger black hole in the future?

**Kate Forbes:** The cash underspend in resource is about £86 million, and we are working with the Convention of Scottish Local Authorities to understand what the costs might be of the return to work. Clearly, all the money that is available will be deployed to meet our Covid-related needs this year. As I have already mentioned, we face an extremely challenging budget situation this year.

With regard to LBTT, I assume that Jackie Baillie welcomes the fact that, in total, the fully devolved taxes raised more revenue in 2019-20 than in any previous year. Clearly, this year, there will be a hit. The Scottish Fiscal Commission has already published LBTT figures for the first quarter, and I anticipate the commission updating those figures as the data becomes available.

With regard to the last point, on reconciliations, she is right to identify the challenge that we face next year. That is partly the reason why I was grateful that all parties—bar the Tories—backed my calls to the UK Government for additional flexibilities and powers to look at how we spread that reconciliation over a longer period. She will appreciate that using borrowing powers to cover the reconciliation means that we are not taking away from day-to-day spending on education or the NHS. Every Government around the world borrows for anticipated reconciliation due to forecast errors, which, by their nature, occur in every Government's day-to-day budget management. I hope to ensure that we have additional flexibilities to cover that reconciliation. Perhaps we can even ensure that the reconciliation is dealt with over a longer period than we are currently allowed.

**The Deputy Presiding Officer:** We move to open questions. A lot of members want to ask questions, so short questions and answers would be appreciated.

**Patrick Harvie (Glasgow) (Green):** I join others in paying tribute to the people who have been keeping our emergency services and public services working in these times.

I am grateful for receiving an advance copy of the cabinet secretary's statement, which mentions that £90 million is being allocated to bus operators in Scotland. Given that we do not yet know for how long it will be necessary to have reduced capacity in the bus industry and what that will do to the viability of bus services, given that we do not yet know how long it will take for public confidence in using buses to return, and in light of yesterday's statement in the chamber by the cabinet secretary's colleague that confirmed that free bus travel for under-19s remains a Government policy commitment, when does the cabinet secretary anticipate being able to answer some of the fundamental questions about the delivery of such services and the impact that that will have on the Scottish budget?

**Kate Forbes:** In our route map, we appreciate that transport, whether in relation to the economy or schools, has to be a key part of the easing out of lockdown. I am in active discussions with my colleague Michael Matheson about how we fund transport needs, particularly given that bus services will have to adopt social distancing practices. Patrick Harvie will have noted yesterday that money was allocated in my return-to-work capital stimulus package to retrofit buses, in order to ensure that they can adopt social distancing practices.

I still believe that providing free bus services to under-19s is a good policy that I want to adopt in Scotland. Given the Covid crisis that we face, Patrick Harvie will appreciate that some policies have had to slip slightly, but that does not take away from our commitment. Over the coming months, as we try to get the economy and schools back up and running, we will return to some of the issues that have been on hold as part of a new way of thinking and new forms of Government intervention in our transport system.

**Willie Rennie (North East Fife) (LD):** I am doubtful that a £76 million capital underspend was substantially because of the lockdown, given that it impacted on only two weeks of the financial year. Last year, the biggest underspend was in transport; this year, it is in transport again. That comes a day after the Government announced that its climate change targets were missed. What will the finance secretary do to get the transport budget effectively delivered to support cycling and

walking projects, so that it is not contributing only to future underspends?

**Kate Forbes:** Clearly, there were a number of other delays. There was not a slight capital underspend only in transport; there was a slight underspend in health and across budget portfolios. This year, we are probably looking at a slight capital underspend, which is why, yesterday, I was able to announce the £230 million return-to-work scheme. There is substantial investment in transport through that capital stimulus, and we will continue to ensure that any capital underspends that emerge this year, because of delays to construction, will be reinvested in ensuring that our economy gets back up and running and that we reposition our economy, as all members have identified, so that it grows in a sustainable and fairer way. That includes ensuring that everybody has access to public transport.

**Ruth Maguire (Cunninghame South) (SNP):** Every year during this statement, Opposition MSPs criticise the Government for the slightest budgetary underspends. Will the cabinet secretary confirm that it is precisely that approach by the Government that has helped it to support key industries and sectors during the coronavirus crisis?

**Kate Forbes:** As I have said—I will say it again, for the benefit of everybody—under the current devolution settlement, the Scottish Parliament is not allowed to overspend. Attempting to spend the exact amount that is contained in the budget carries a significant risk of reaching the Treasury's budget cap.

I hope that members welcome how low the underspend is, because of prudent management of the budget. That has enabled us to maximise our response to the coronavirus pandemic, which has included the provision of more than £50 million during March 2020 in support of key industries and sectors, such as general practitioners, prescriptions and the rail franchise. We know that this year is a challenging year for the budget, so it is quite right that we are able to use some of the underspend from last year, through the reserve, to reinvest during the current crisis.

**Alexander Burnett (Aberdeenshire West) (Con):** I refer to table 4 of the accompanying notes. We will always welcome an underspend when it is low in individual portfolios. However, can the finance secretary explain the underspend of £63 million in communities and local government at a time when local authorities are crying out for more funding?

**Kate Forbes:** I have already identified that that underspend is extremely low, and that it is because of prudent management. We have tried

to bring in budgets as close to their forecasted budget as possible.

Inevitably, there is sometimes a little bit of slippage; on that particular portfolio, it relates partly to resource and partly to capital. For example, there has been a delay to some of the city deals and also some delay to transport. When Covid—which is one reason, not the only reason—had an impact, toward the end of the year, it meant that there was a reduced and small underspend.

**Kenneth Gibson (Cunninghame North) (SNP):** It was reported on 12 June that leaked treasury documents have suggested that UK borrowing will reach £340 billion and quantitative easing will reach £645 billion this year. Does the cabinet secretary agree that that puts into perspective the supposedly generous £10 billion that was committed to Scotland, and that it is now time for UK ministers to ensure that Scotland has the resources that are needed to deal with a pandemic and its aftermath?

**Kate Forbes:** It shows some of the hypocrisy, as although the UK Government has reprioritised its own budget to invest in Scotland, clearly most—if not all—of the funding for the furlough scheme, self-employed income support and the consequential that we have received have come from borrowing, because the UK Government can borrow. As Kenny Gibson said, borrowing is forecast to increase to £300 billion.

That is why we are making the point that our current powers and levers are insufficient to manage our own response to the range of issues that we face. Our resource borrowing limit is £1.75 billion and our capital borrowing limit is about £3 billion. That demonstrates why we need additional funding and flexibility to allow the Scottish Government to fully respond.

**Sarah Boyack (Lothian) (Lab):** Given the underspend that was identified in the cabinet secretary's statement, will she now commit to working with our local authorities to support them further? She should take into consideration the £145 million shortfall that they have already faced due to the pandemic, and the commitment that the First Minister made today to spend whatever is needed to get schools in Scotland going again.

**Kate Forbes:** I did not quite catch the first part of Sarah Boyack's question, but I think that she asked about capital underspend.

**Sarah Boyack:** It was general underspend.

**Kate Forbes:** Okay, the question was about general underspend so it is very similar to Jackie Baillie's question.

As I said, we have used the entirety of any underspend that has been put through the

Scotland reserve this year to respond to Covid. The costs of Covid—which were in the summer budget revision—were already approximately £4 billion. The consequential that we have received are several hundred million lower than that. Therefore, being able to use some of the resources from last year in this year's response has been very helpful.

However, there are continued needs and there are shortfalls that we need to meet. We need to meet those either through additional consequential from the UK Government or through the fiscal flexibilities and powers that would allow us to make up the shortfall ourselves.

**Joan McAlpine (South Scotland) (SNP):** Can the cabinet secretary give us any more information on how the current coronavirus crisis has affected the provisional budget outturn figures that she presented?

**Kate Forbes:** Today's provisional outturn figures cover last year, and the coronavirus pandemic began only at the end of that year. Due to our prudent management of finances, we were able to absorb some of the additional costs that relate to the virus in March of the last financial year, without overspending on our budget.

Today's figures include over £50 million that was spent in 2019-20 on the coronavirus response. However, that was spent mainly in the health and transport sectors and is in addition to the over £4 billion that we have allocated to coronavirus in this financial year.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The accompanying document shows that the underspend in the finance, economy and fair work portfolio was £158 million last year; that represents a substantial proportion of the total in that budget line. Can the finance secretary explain what makes up that figure and why it is so high?

**Kate Forbes:** I can probably provide a more helpful breakdown in full.

However, generally—this answer is similar to my answer to Alexander Burnett's question—some of it will relate to capital that had to be rescheduled, particularly when it related to construction costs or loans and financial transactions that were planned for that financial year. There is a much lower resource figure. I will provide a breakdown of the specifics of what is within the economy portfolio later.

**John Mason (Glasgow Shettleston) (SNP):** The underspend is very small, if not tiny. Some people would call it worryingly low, given what lies ahead with Covid and Brexit. Is the cabinet secretary committed to continuing to take a prudent approach to Scotland's finances?

**Kate Forbes:** Indeed we are. Given the limited fiscal levers that we have to accommodate any overspend, we must make sure that we control spending and that we meet the budget cap. That is what we have done this year, as we have every year, because of our prudent management and our competence with Scotland's finances.

**Neil Bibby (West Scotland) (Lab):** If education is the Scottish Government's number 1 priority, we would expect to see that reflected in the statement. It is regrettable that the finance secretary did not mention education once in her statement.

We cannot have an economic recovery without schools and childcare. With the lockdown generation facing upheaval in their education, will the finance secretary allocate the resources necessary to provide our children with the world-leading educational response that they need?

**Kate Forbes:** I see that Labour members are all asking the same very important question today about education.

I have already committed that we will use all the funding from last year's reserve to meet our Covid costs. Some of those costs are the ones that Mr Bibby has identified in education, along with local government, transport and health. We are grappling with all those costs. We have ensured that we are using all the resources available to us, whether capital or revenue, to meet those costs and we will continue to do so.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** Can the cabinet secretary provide further details of the estimated and actual spend on both the implementation and the delivery of Scotland's social security powers? In doing so, will she say more about how that will inform us of the nature of the demand-led budget for the current financial year, given the Scottish Government's lack of borrowing powers and the probably significant strain that will be placed on the social security budget by Covid-19?

**Kate Forbes:** Last year, £134.9 million was spent on implementing and operating our social security powers, against a budget of £149.1 million. Furthermore, £345.3 million was spent on social security assistance, against a budget of £346.8 million.

In response to the Covid crisis, the Cabinet Secretary for Social Security and Older People announced a reprioritisation of the social security programme to focus more on securing our front-line services and on delivering the benefits that we already have in place to support low-income families, carers and people facing bereavement. That will ensure that we are in as robust a position as possible to manage the impact of Covid-19 on benefit delivery.

**The Deputy Presiding Officer:** That concludes the questions on the 2019-20 provisional outturn statement. I thank everyone for their brevity.

## Justice Sector Response, Recovery and Renewal

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by Humza Yousaf on justice sector response, recovery and renewal. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:58

**The Cabinet Secretary for Justice (Humza Yousaf):** I will update the Parliament on how Scotland's justice system has responded to the challenges posed by Covid-19 and on the next steps that must be taken to allow the system to recover and, importantly, to renew.

The past few months have been challenging and everyone working in the justice sector is and has been under immense pressure. I pay tribute to the adaptability, resilience and hard work of everyone, across all justice agencies and on the front-line, in their response to the Covid-19 outbreak. The dedication and commitment of those who make the wheels of justice turn have enabled Scotland's justice system to respond quickly to the significant challenges posed by the Covid-19 outbreak.

I also thank the people of Scotland for largely adhering to the measures that are in place to keep everyone safe. However, Covid has not gone away and I urge everyone to continue to comply with the public health measures that are essential to help us curb, control and curtail the spread of this dangerous virus.

We are under no illusions when we consider the major impact that Covid has had on the justice system. I will highlight to members the key role of the national justice board in driving forward our recovery efforts as we move through each key phase of our four-phase lockdown exit road map. The justice board, engaging with victims, legal professionals and others, is overseeing the progress of activity to ensure the recovery, renewal and transformation of the justice system as we progress through and beyond our Covid-19 route map. The board recognises that significant progress was quickly made in response to the Covid-19 outbreak, and that that should be regarded as the foundation of the work still to be done.

Last week, the Lord Advocate and I co-chaired the victims task force, and heard from its members the importance that they attach to being involved in the development of the changes. Some clear anxieties were expressed by victims organisations, which we are determined to act on.

The approach recognises that transformation across the system has been accelerated to enable essential business to be conducted in the early stages of the Covid-19 outbreak; that substantial work is on-going to re-establish service provision—obviously, in line with public health guidance; and that additional extensive transformation will be required to enable the system to operate while living with the implications of Covid-19.

I turn to the detail of what is happening across various justice agencies and in particular policing and police enforcement. The police have been on the front line in the emergency, supporting one of the most effective tools that we have to control the spread of the disease, namely, physical distancing. There have been very good levels of compliance, because almost every individual knows that this is a collective endeavour. The public has been very supportive of the way in which the police have dealt with the pandemic. We know that from surveys of the Scottish Police Authority, from Police Scotland's own surveys, and from the work of the independent advisory group on the policing of the Covid-19 regulations, which is chaired by John Scott QC. We know that all those surveys have come back showing very high levels of confidence in policing. In fact, the very existence of the independent advisory group is a symbol of the openness and accountability of our police service.

The recent policing of the black lives matter events shows that that approach is the right one. There was a clear balance between the need for sensitive policing and the imperative to keep people safe. The chief constable and I made plain our views that people should not attend the events and that they should find other ways of protesting. However, given that a significant number of people gathered in different parts of Scotland, Police Scotland's approach reflected that balance very well. I believe that the past few months have confirmed beyond all doubt that Scotland is most effectively policed by a single, national service that is able to extend a commonsense and empathetic approach across the whole country.

The fundamentals of policing will not change during the coming months, although I would judge that the specific role of the police will inevitably change as we move further out of lockdown, when there will be more focus on business-as-usual and core policing duties. Considering the shameful scenes of disorder that Police Scotland had to deal with last Sunday, and the separate horrific incident that left two officers seriously injured, I hope that everyone, including all parties in the chamber, renews their appreciation of the incredible job that our police officers are doing to keep us safe.



I turn to court business. In a short number of weeks, Scotland's courts have resumed many of their services. Virtual courts have been held in the Court of Session inner house, and High Court criminal appeals and remote hearings have been held in the outer house. Sheriff courts and mental health tribunals have also held remote hearings. New digital approaches have been introduced, allowing cases to be progressed across the sheriff civil courts and the all-Scotland personal injury court, and commissary proceedings have been restarted through remote working.

Protocols have been introduced in the courts to ensure physical distancing is maintained where attendance is required, with practice notes in place allowing remote representation, to minimise attendance in court by solicitors and Crown Office and Procurator Fiscal Service staff. Alongside the hard work and ingenuity of Scottish Courts and Tribunals Service staff and of the legal profession, many of the innovative approaches could be utilised only because of the new legislative provisions that we introduced, so it is also to Parliament's credit that such measures could be put in place so quickly.

The Scottish Courts and Tribunal Service has announced a three-stage approach to restarting civil business, prioritising urgent business and tackling the backlog. As I am sure that members are aware, 15 hub sheriff courts are operating. They are dealing with custodies and have been helping to reduce court sitting times. All sheriff courts reopened on 2 June and have restarted processing local business this week. Last week, virtual summary trials were commenced in two locations, thereby supporting arrangements for summary trials to be conducted remotely in future.

The working group on restarting solemn trials, which is led by the Lord Justice Clerk, Lady Dorrian, has made swift progress in identifying the steps needed for jury trials to commence in Edinburgh and Glasgow in July. Although that will involve very small numbers at first, the aim is to establish a sustainable approach that will allow as many trials as possible to progress as is consistent with maintaining a fair justice system, while protecting the health of all those involved.

The Scottish Prison Service has taken rapid and responsive action to ensure that physical distancing and public health protocols have been met, and has put in place a robust plan to manage Covid-19 and prevent its spread. I hope that members across the chamber will join me in thanking our hard-working prison officers and staff for the incredible job that they have done to prevent a Covid-19 crisis in our prisons. At the peak of the outbreak, approximately 100 individuals in Scottish prisons were self-isolating and a number of positive cases were confirmed.

As of last night, there were no confirmed positive cases in Scottish prisons and just nine individuals were self-isolating across five establishments. That represents a significant achievement by our prison and healthcare staff. As we see lockdown measures starting to ease in our wider communities, the prison service is developing a phased approach to the easing of restrictions right across the estate, while ensuring the operational stability and safety and wellbeing of everyone in our prisons.

We continue to recognise the impact, especially on prisoners' families, of the family contact restrictions that have had to be put in place in prisons. Her Majesty's chief inspector of prisons has implemented a remote monitoring framework and inspection liaison visits to ensure oversight and monitoring of conditions in prisons. Nevertheless, we recognise very much the impact that the suspension of visits has had on families. The prison service has been working hard to introduce alternatives for maintaining vital family contact. Following the laying of amended prison rules in Parliament earlier this week, the first virtual visits by prisoners' families and friends took place yesterday, for some of those in custody at Polmont, Cornton Vale and Shotts. We anticipate that virtual visits will be available in all our prisons by the end of the month.

As another way of enabling vital family contact during this difficult time, the use of restricted mobile phones is being introduced this week in Cornton Vale and Polmont and then over the next month or so across the entire estate—with the exception of HMP Kilmarnock, which is implementing an in-cell landline solution.

The prison service will ensure that implementation of virtual visits and the use of mobile phones is done in a way that is practical, safe and as swift as possible for those in custody, their families and those in the wider community.

As members will be aware, the level of our prison population was of particular concern before the pandemic. Since March, it has reduced by around 15 per cent, to under 7,000 prisoners—largely as a result of the downturn in court business, but aided by the early release arrangements that we put in place. Those arrangements were completed on schedule on 1 June and saw a total of 348 prisoners being released early.

However, in light of the continuing arrival of new remand prisoners, and the gradual reopening of the courts, we must continue to monitor the prison population and ensure that its reduction is not short lived. The key aims of the early release process—to take necessary and proportionate action to support the safe operation of prisons and to protect the health and wellbeing of those who

live and work in them—very much remain our priority.

Presiding Officer, in the interests of brevity I will conclude my statement shortly. However, first, I wish to say that, during the lockdown, all of us will have had at the forefront of our minds the victims and survivors of domestic abuse. I reassure victims of all crimes that action will continue to be taken against perpetrators, who will continue to be brought to justice. However, it is worth noting that, in the calls that I have with the chief constable multiple times each week, I have been reassured by the commitment of Police Scotland and of support organisations to do all that they can to help those who are in difficult positions at home and who might suffer domestic abuse.

The Scottish Government also has a focus on cybercrime. We know that serious organised crime groups have been trying to exploit people during the pandemic, and we are making efforts to tackle that.

In conclusion, I assure the Parliament and the people of Scotland that the justice system is continuing to operate and to support our citizens through this time, as we navigate our way out of lockdown. No doubt members will join me in paying tribute to the hard work that has been undertaken by all in the justice system in supporting a safe, just and resilient Scotland.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues that were raised in his statement. I have absolutely no additional time and we are already running a bit late, so I doubt very much if we will get to all members who have questions. First, I call Liam Kerr.

**Liam Kerr (North East Scotland) (Con):** I will try to be quick, Presiding Officer. I thank the cabinet secretary for advance sight of his statement and echo his thanks to the police, prison officers and all those whom he mentioned in his introductory remarks and throughout his statement.

I wish to explore three areas. First, it is vital that the courts are up and running again as soon as possible. Even before the pandemic, the number of cases that took more than six months to go from caution or charge to verdict was shocking. Of course steps had to be taken to protect public health, but victims should not have to wait any longer than necessary. Why has the cabinet secretary not announced today detailed plans to create additional court capacity to help the courts to catch up?

Secondly, I have a written answer from the Lord Advocate in which he confirms that the Scottish Police Federation's call for those who cough or spit on police officers not to be released from

custody before trial is a policy matter for the justice secretary rather than a matter for the Crown Office and Procurator Fiscal Service. Why will the cabinet secretary not take that decision?

Finally, the cabinet secretary, in his statement, repeated his long-standing aim to put more criminals on to historically underresourced community orders. I have seen data from local councils that shows that, understandably, face-to-face contact with offenders in the community has plummeted during the pandemic. What assurances has the cabinet secretary sought from councils that public safety has not been, and will not be, compromised by reduced monitoring?

**Humza Yousaf:** I thank Liam Kerr for his questions. I note that he has taken a consistent interest in the matters that he raised, and I appreciate the tone in which he asked his questions.

With regard to the courts, detailed plans have been put forward—rightly—by the Scottish Courts and Tribunals Service. A cursory glance at the SCTS website would show Liam Kerr the three-stage approach that I mentioned; if he has not seen it, I will ensure that the link is forwarded to him in due course.

Liam Kerr hits on an important point. Our existing court capacity, with physical distancing in place, will take us only so far, and there is simply no doubt that we need to go further if we want to make inroads into the backlog. I can confirm that radical and innovative solutions are being explored. For example, we are looking at commercial premises and whether we can set up temporary courts to deal with the backlog. Real, outside-the-box, radical, innovative thinking is being explored, but it is right that those decisions are taken by the Scottish Courts and Tribunals Service, and the details are on the SCTS website.

On Liam Kerr's second point, I have before me the written answer to his parliamentary question to which he referred, but my interpretation of it is slightly different from the one that he articulated.

The Lord Advocate makes it clear that

"The law on arrest and police custody"

has to be

"consistent with the requirements of Article 5 of the European Convention on Human Rights."

I am certain that Liam Kerr would agree with that.

The Lord Advocate goes on to state:

"A proposal that all persons arrested for coughing or spitting on police officers during the COVID-19 pandemic should be automatically detained"—

this is the important bit—

“would not be consistent with this statutory framework.”—  
[Written Answers, 15 June 2020; S5W-29808.]

Liam Kerr forgot to mention that point, which is so important. I am sure that he is not suggesting that anybody, be it the Crown or anybody else, looks to go against the statutory framework. I think that that answers that question.

With regard to community orders, I will raise that question—as I often do—with the Convention of Scottish Local Authorities. I have a regular engagement with Councillor Kelly Parry. We want to get community orders up and running as safely and swiftly as possible. That can be difficult in a group dynamic, given the nature of such orders, but I take on board Liam Kerr’s points around safety and I will raise those again with COSLA during our next conversation.

**James Kelly (Glasgow) (Lab):** I thank the cabinet secretary for advance sight of his statement, and I echo his comments in complimenting those in the police, prison and court sectors who continue to work in very difficult circumstances to keep people safe. As we emerge slowly from lockdown, it is essential that we keep our communities safe and protect people. To achieve that, we need clarity in public messages.

I have two questions for the cabinet secretary. First, what consultation has there been with Police Scotland ahead of the phase 2 announcement tomorrow to ensure that there is clarity about what is in guidance and what is in the law? Secondly, in relation to the restarting of jury trials, what provision is there for Covid-19 testing to give some assurance to those who will potentially be empanelled?

**Humza Yousaf:** I thank James Kelly for the constructive manner in which he has raised those issues and the other issues that he has consistently raised relating to the justice sector for a number of weeks and months.

On James Kelly’s first question, I give him an absolute assurance that a detailed consultation has taken place with Police Scotland. That has happened at ministerial level. I speak regularly to the chief constable and to Deputy Chief Constable Malcolm Graham, who is in the lead on operation talla, and some of the other DCCs. There has been a ministerial relationship with the chief constable and the DCCs that has been focused on phase 2 for a number of weeks now. At official level, there has also been a lot of detailed discussion with Police Scotland. James Kelly is absolutely right that there should be consistency and alignment of message in relation to what is in guidance and what is in regulation.

As I think I referred to in my statement, as restrictions begin to ease, we will no doubt see the police revert more to core policing duties and the

use of public order powers and so on, as opposed to the powers in the regulations. That is probably an obvious point.

The work on the restarting of jury trials is being led by Lady Dorrian, the Lord Justice Clerk, and she is advised by Public Health Scotland in that work. Therefore, I expect—indeed, I know this, because I raised the issue in my most recent conversation with the Scottish Courts and Tribunals Service—that the issue of testing is being actively explored when it comes to the resumption of jury trials. We have the capacity for that. James Kelly will understand that testing asymptomatic individuals gives an assurance only at that point in time, and jury trials can last for a number of days, if not more than a week. I give him an assurance that the question that he asks about testing is being actively explored.

**The Deputy Presiding Officer:** We move to open questions. As I said, a lot of members want to ask questions.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** What is the cabinet secretary’s response to the 2018-19 Scottish crime and justice survey, which shows that, compared to a decade ago, people are now less likely to experience crime and feel safer in their communities?

**Humza Yousaf:** It is a very positive survey, and I urge members to have a look at it. The 2018-19 survey, which was carried out before the pandemic, involved 5,500 adults and shows some really positive trends. Over a decade, crime overall is down and violent crime has almost halved. Compared to a decade ago, people are now less likely to be victims of crime. One really interesting point—we do not yet know whether this is a trend or just an outlier—is that there seems to be no statistical difference between the likelihood of being a victim of crime for those in one of the most deprived areas in Scotland and the likelihood of that for those in any other area of Scotland.

The statistics are interesting. As members will imagine, there are also areas of concern, which relate to the reporting of crime. There is lots of good detail in the Scottish crime and justice survey, and I encourage members to look at it.

**Maurice Corry (West Scotland) (Con):** The cabinet secretary addressed in general terms in his statement support for victims of crime. Can he give specific details on the level of mental health support that is being given to victims of crime, particularly given that the current emergency has led to a protracted and anxious wait until the judicial process is fully up and running again?

**Humza Yousaf:** That is an important question. We have given additional funding to Victim Support Scotland, which is the national organisation that works with victims, Scottish

Women's Aid and Rape Crisis Scotland and to the ASSIST—advocacy, support, safety, information services together—project, which works specifically with survivors and victims of domestic abuse. As I referred to earlier, although home might be a safe haven for Maurice Corry and me and for others, that is not the case for everybody. Since the beginning of the pandemic, we have given additional funding to those victims organisations. If we can do more, my door of course remains open to those organisations, and I have regular engagement with them.

**Daniel Johnson (Edinburgh Southern) (Lab):**

The cabinet secretary is absolutely right to pay tribute to our police officers for keeping us safe. In April, the Scottish Police Federation raised concerns about the safety of the type 2 surgical masks that had been issued to police officers, but it was reassured that FFP3 masks would be delivered. Can the cabinet secretary update the chamber as to whether those masks were delivered and how many were issued to police officers?

**Humza Yousaf:** The member will forgive me; I do not have the number of FFP3 masks that have been delivered. Certainly, no concerns have been raised with me about the masks in recent consultations and conversations with the Police Federation and directly with Police Scotland, but I am happy to look into that.

In relation to the type 2 surgical masks, the member will know that that issue has now been referred to the Health and Safety Executive. I will make a prejudgment on that: I have always been confident that Police Scotland has been aligned with the Health Protection Scotland's public health guidance, but I will wait for HSE's judgment in that regard.

**The Deputy Presiding Officer:** John Finnie joins us remotely.

**John Finnie (Highlands and Islands) (Green):**

I note the cabinet secretary's comments on the prison estate and I thank the prison staff for their hard work.

The cabinet secretary may be aware that the Children and Young People's Commissioner Scotland has written a very concerning letter to the Justice Committee, advising it that

"international human rights frameworks clearly prohibit ... solitary confinement for children, recognising the damaging effects it can have on physical and mental health."

As the cabinet secretary may be aware, the commissioner understands that

"some children and young people in young offenders' institutes are currently being confined in their cells for up to 23 hours a day"

and

"those who are showing symptoms of coronavirus are isolated in their cells for 24 hours a day."

Can the cabinet secretary confirm whether that intolerable situation has occurred and, if so, whether it continues? Most important, how quickly will the Scottish Government remedy it?

**Humza Yousaf:** As of today, there should not be anyone self-isolating in our young offenders institutions. The numbers are low: nine people are self-isolating across five prisons, and none of those is a young offenders institution. It should not be the case that young people are self-isolating or are being held in solitary confinement for public health reasons—although there may be other reasons why that is the case.

I share the concerns expressed by John Finnie and the commissioner. However, despite the lockdown measures that are in place, a robust monitoring framework has been put forward by Her Majesty's chief inspector of prisons. I will look specifically at the detail of the issues that the commissioner has raised, but John Finnie will recognise that, in the early days of the pandemic, some extreme measures had to be taken that we would never think to implement in normal times. As a result of the extreme situation that we are dealing with, those measures had to be taken for no reason other than public health. I take his broader points on board and I will look at them in more detail.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Given that lockdown has led to many victims of domestic violence being exposed to an even greater risk, are there any plans to further roll out and expand the Caledonian programme and other such initiatives to tackle the scourge of domestic abuse?

**Humza Yousaf:** Fulton MacGregor will know, because I have discussed it with him before, that additional funding from the Scottish Government is allowing the Caledonian project to be rolled out across even more local authorities. I am a big believer in the effects of that excellent programme and I would like to see it rolled out further. During the pandemic, work has been undertaken to see whether there is a version of the Caledonian programme that can be undertaken on a one-to-one basis—he will know that the programme is usually group based. This week, accreditation and sign-off are being sought for that one-to-one programme. I give the member the assurance that, if the programme can get that sign-off and if local authorities are interested in having that resource available to them, of course I will look at that with an open mind.

**The Deputy Presiding Officer:** Liam McArthur joins us remotely.

**Liam McArthur (Orkney Islands) (LD):** I, too, pay tribute to everyone who is working across our justice system, in which services and systems have been radically reconfigured over recent weeks.

What action has the cabinet secretary taken since last week, when I raised Scottish Women's Aid's concerns about refuge capacity in view of an increase in requests coinciding with the pressures brought about by social distancing and difficulties in being able to move individuals on to more permanent homes?

**Humza Yousaf:** The issue has been raised not just with the Minister for Local Government, Housing and Planning but with housing officials and in liaising directly with Scottish Women's Aid. I had a conversation through our victims task force with Scottish Women's Aid about the victims and survivors of domestic abuse.

I will get back to Liam McArthur—I know that he raised the issue with me last week—once the Minister for Local Government, Housing and Planning and I have had a further conversation about refuge space. Members should be in no doubt whatsoever that, where there are issues to do with refuge space, we are collectively committed to tackling them.

**Gordon Lindhurst (Lothian) (Con):** The cabinet secretary will recall that I asked him on 21 April, which is almost two months ago, about the number of jury trials that could proceed. What is the timeline for clearing the backlog that has been building for months now and which will continue to build until resumption in mid-July?

**Humza Yousaf:** Gordon Lindhurst knows that there are detailed plans under way and that there is a working group that is looking at that specific issue, which is led by the Lord Justice Clerk.

There are no easy answers. If there were a magic wand, a click of the fingers or a silver bullet that could be applied to the issue to deal with the backlog, it would have been found not only by us but by England and Wales and every other common-law jurisdiction, such as New Zealand, Australia and Canada. However, they have not found it. Everybody is dealing with and working through the issue, and everybody understands that, despite our best efforts, there will be a backlog that will have to be worked through.

There is no easy way for me to say this, but there is a backlog that will be difficult for the accused, witnesses and victims of crime. As I have already mentioned in my answer to Liam Kerr's question, we will explore radical and bold solutions, whether that is setting up temporary courts to work through the backlog or asking retired judges and, indeed, sheriffs to come back on to the bench, for example. We will explore

every possible avenue. However, if Gordon Lindhurst expects me to have a magic solution that no other country has managed to find which will give him a reassurance that the backlog will not be difficult to get through, I am afraid that I simply do not have that.

These are serious matters that are being given serious consideration across the legal profession, victims organisations and the Government, and I can give an assurance that there is not a day that goes by in which I am not in discussions about addressing that backlog.

**Claire Baker (Mid Scotland and Fife) (Lab):** The cabinet secretary will know that the local delivery of justice is important for victims and witnesses and that it is also a practical consideration. He talked about the possibility of renting commercial premises for temporary courts to help to clear the backlog. I appreciate that this is a difficult matter, but can he indicate when we might see jury trials resuming in Dunfermline and Kirkcaldy?

**Humza Yousaf:** Again, that is work that is being taken forward by Lady Dorrian as part of the work of the working group on resuming jury trials. As Claire Baker will know, the plan is to resume jury trials in the High Court in Glasgow and Edinburgh first and foremost in July. There are different solutions for each of them. Some victims of crime from the region that Claire Baker represents may well be serviced by that. However, I have to be frank with members: a very small number of cases will begin in the initial phase, which is, of course, understandable. In the first instance, they will involve a small number of witnesses.

That work will continue. I can give an absolute assurance to Claire Baker, as I have to Gordon Lindhurst, that nobody wants to elongate the delay any further than it has to be elongated, and nobody wants to have victims in particular or the accused waiting any longer than they have to for a trial date. We will continue to work on this at the quickest pace that we can.

**Ruth Maguire (Cunninghame South) (SNP):** My question is about virtual visits. Given the importance of family contact, what is being done to ensure that no families are excluded because of a lack of access to appropriate technology? I request that families in Ayrshire are able to access the service at Kilmarnock prison as soon as possible, please.

**Humza Yousaf:** Ruth Maguire will be aware that Kilmarnock prison is one of two private prisons in Scotland. HMP Kilmarnock has decided not to introduce mobile phones; instead, it will develop its own in-cell telephony option, which will provide similar functionality in enabling contact with family and friends.

Ruth Maguire asked about virtual visits. HMP Kilmarnock's bookings are scheduled to open on Monday 22 June, and visits will start on Thursday 25 June. I will ensure that the details of that are sent to Ruth Maguire.

**The Deputy Presiding Officer:** That concludes questions on the justice sector response, recovery and renewal. I apologise to Joan McAlpine and Alasdair Allan for being unable to accommodate their questions.

## Mental Health Transition and Recovery

**The Deputy Presiding Officer (Christine Grahame):** *[Interruption.]* Sorry, this is just like being at home, cleaning the bunker—although nobody knows what a bunker is, do they?

The next item of business is a statement by Clare Haughey on mental health transition and recovery. The minister will take questions at the end of her statement.

15:31

**The Minister for Mental Health (Clare Haughey):** The mental health impacts of the Covid-19 pandemic have brought new and significant challenges as we all continue to adapt to this unprecedented situation. Many of us will feel excitement and relief about the opportunity to move more freely outside our homes and to meet our friends and loved ones again. However, that may be accompanied by anxiety about the spread of infection.

As we work towards transition and recovery, we need to ensure that the importance of looking after our mental health is just as widely understood as the importance of protecting our physical health. Since the beginning of the pandemic, the Government has taken significant action to help support the mental health and wellbeing of the people of Scotland. We have invested a total of £6 million of additional funding to support the population's mental health.

We launched the national clear your head campaign in April. Through television, radio and online resources, we have shared practical tips on how people can look after their mental health and wellbeing. We have set in train a number of initiatives to increase the capacity of existing services, both now and in the future. For example, in March, I announced an additional £2.6 million of funding to increase the capacity of NHS 24's mental health telephone and online services. We have invested a further £1 million to roll out the Distress Brief Intervention programme on a national basis. The programme provides an "ask once, get help fast" intervention for people in distress. We have made mental health support and advice available to parents and carers through Parent Club. We have provided £105,000 to support Young Scot to develop enhanced digital content and resources on mental wellbeing during Covid-19.

I can announce today that we are providing nearly £43,000 to Beat, the United Kingdom's eating disorder charity, to support its online and telephone support services. That funding will

enable Beat to reach 3,000 people with an eating disorder over the next 12 months.

We recognise that people with autism, together with their parents and carers, may find changes to routine particularly challenging, so we have provided an additional £200,000 for Scottish Autism and the National Autistic Society, enabling the expansion of their telephone helplines and online services.

We have also worked with the Scottish Commission for People with Learning Disabilities, which has provided excellent easy-read versions of all key Covid-19 messages over this critical time, ensuring that the advice is accessible to everyone.

We are indebted at this time to our amazing health and social care workforce. As part of our efforts to care for those who care for us, we have launched the national wellbeing hub, PRoMIS, to provide a range of practical support, both now and in the future. Working alongside boards and the workforce wellbeing champion network, we are keen to build on the support that the hub provides. In particular, we plan to offer a national listening service for people across the health and social care workforces. We are also developing services for those who may need more specialist support.

I take this opportunity to recognise once again the contribution of our workforce. They have gone above and beyond, every single day, and their contribution has been truly extraordinary.

We understand that Covid-19 will have long-lasting impacts well beyond the initial crisis response stage. As such, we will continue to build on the success of those actions to meet changing mental health need. As we move through the phases of recovery, we will anticipate on-going challenges. There will be an increased need to provide different support for newly emerging mental health issues, which will be on top of the typical demands on mental health services. An intensive response will be required, which will need to be flexible and innovative. That is why we have identified the remobilisation of mental health services as one of our top priorities.

We are working directly with national health service boards to ensure that people have access to the right services at the right time. Boards across Scotland must be able to meet demand in a safe, effective, sustainable and quality-focused way. Mental health services have continued to be provided throughout the pandemic, albeit with adjustments in timescales for delivery and to accommodate Covid-19 restrictions. Urgent and emergency cases continue to be prioritised.

We have worked closely with boards through the pandemic to ensure the integrity and quality of child and adolescent mental health services. It is

vital that mental health remains a visible priority, particularly for our younger citizens.

We are undertaking specific work on the recovery of mental health services, including innovation in services and modelling future demand. That detail will inform a full recovery plan covering all boards and all phases of recovery over the coming weeks and months. To ensure that boards' mobilisation plans are robust, we are also working directly with mental health leads to build a baseline of service provision, which includes detailed information about how services can be restarted safely. Where required, we will issue further guidance or directives to promote a consistent approach to remobilisation across Scotland.

During our engagement with boards, we have seen new evidence-led approaches across Scotland. The innovative use of technology has been a key feature, which we will be keen to learn from as services are redesigned to meet the needs of patients. There are also plenty of fantastic examples of local practice that we want to retain. For example, NHS Greater Glasgow and Clyde has established mental health assessment centres to provide help and support for patients who are experiencing a mental health crisis and ensure that they receive a more tailored approach. That example of best practice has been taken up by boards across Scotland, and 17 mental health assessment services are now operational across the country.

Although services are a crucial part of the picture, our work must go wider and focus on the importance of mental wellbeing. The promotion of mental health at a population level will be central to the Scottish Government's long-term response. Human rights, equalities, the importance of reducing stigma and a focus on recovery will be foundational principles.

Throughout the pandemic, we have worked closely with stakeholders to shape our approach and to determine our longer-term ambitions for mental health and wellbeing in Scotland. That engagement has helped us to understand the current and emerging needs that are results of the pandemic. Some are new challenges, such as support for people who are shielding, and some are existing issues that have been brought into even sharper focus over the past few months. An example is the relationship between poverty, inequality and mental health, which is at the forefront of our thinking.

Key to those challenges will be the development of the new community mental health and wellbeing services for five to 25-year-olds. In March, we allocated £2 million of funding to local authorities to plan new supports for mental health and emotional wellbeing. In addition, we will make up

to £15 million available each year for the delivery of those services. Despite the difficulties that are posed by the pandemic, I am confident that local authorities and their partners can have those vital services in place this financial year.

As well as concentrating on mental health services and the importance of wellbeing, we also want to ensure that robust support is in place for people who experience distress. The Distress Brief Intervention programme is a prime example. Fast, accurate and individualised signposting to sources of advice and support is also needed.

In that changing landscape, our policy response will remain fluid and adaptable and will be led by emerging evidence. The Scottish Government has commissioned the University of Glasgow, in collaboration with the Samaritans and the Scottish Association for Mental Health, to undertake a Scottish mental health and wellbeing tracker study.

That study will track mental health participants for the next year, and provide a Scotland-specific insight into the impact of the pandemic and lockdown restrictions on the population.

We have also established the mental health research advisory group, which includes academics and public health experts from across Scotland. The group, chaired by Professor Andrew Gumley, is helping us to identify emerging research to guide our policy response.

In the next phase of our recovery from Covid-19, mental health will continue to be to the fore. That is why we are committed to ensuring that the good mental health and wellbeing of the people of Scotland is one of this Government's top priorities. Covid-19 has illustrated more than ever why that matters so much. We remain determined that everyone is able to access safe, person-centred, equitable, efficient, timely and effective mental health support, should they need it. We will continue to engage with and inform Parliament as we develop our response.

I doubt that there is a single one of us who has not thought about our own mental health at some point over the past few months. In many ways, the pandemic has destigmatised, and shown us that it is okay not to feel okay. More people have been asking each other how they are doing. Those things really matter. The importance of good mental health is clear.

As we move into the next phase of recovery, there will be new challenges for us all to face, but we will face them together. There is no right emotional response to the national trauma that we have faced. Some of us have adapted quickly and will continue to do so. Some will find it more of a struggle, and that is okay. The community spirit and togetherness that has been shown every day

across Scotland has been amazing. We must hold on to that.

The people of Scotland can be assured that mental health will continue to be an absolute priority for the Government. Thank you.

**Miles Briggs (Lothian) (Con):** I thank the minister for advance sight of her statement. The latest waiting times figures show that fewer than two thirds of children and young people who are accessing CAMHS services were treated within the Scottish Government's 18-week target, but the number of children who are waiting for more than a year for mental health services increased by almost 300 by the end of March. It is clear that, before the crisis, our services were not delivering for our young people.

Will the minister agree to look at three key asks and report back to Parliament? The first is to establish mental wellbeing support resources for parents over the summer holidays. The second is to make available a peer-to-peer wellbeing support network in all secondary schools, hopefully when they return in August. The third is to develop new mental health training for teachers, not just mental health first aid.

**Clare Haughey:** I thank Mr Briggs for his question. I have said on many occasions that our position has been that long waits for mental health treatment are unacceptable and it is encouraging to see that more people are able to access psychological therapies compared to the same quarter last year in the statistics that he referenced. However, it is disappointing to see a drop in performance at this time.

Our investments have contributed to a substantial increase in the CAMHS and psychological therapies workforce. However, we recognise that the impact on performance has been slower and less comprehensive than we expect and require. We are keen to build on some of the learning that we have done during this time and to see how recent developments in the use of technology, for example, can help boards to address some of the longstanding issues around access and, crucially, quality of services.

Mr Briggs had three specific asks. If he will indulge me, I will write to him on them. It might also be helpful for him to know about some of the things that we have done that I have not mentioned already today. For example, the Solihull approach looks at relationships and child development and covers from the antenatal period right through to age 19. The Distress Brief Intervention programme is accessible nationwide for anyone who is over the age of 16. The Parent Club website provides advice and support for parents, carers and children on aspects of mental health.



**Monica Lennon (Central Scotland) (Lab):** I thank the minister for advance sight of her statement.

I was pleased to hear confirmation that there are now 17 emergency mental health assessment centres. That is welcome. I know that the Royal College of Emergency Medicine has recently endorsed their continued use in the future. Can the minister guarantee that the changes will be made permanent, as the NHS is remobilised?

Finally, I did not hear an awful lot in the statement directly about bereavement support. Constituents have been in touch with me who have suffered loss and trauma because of Covid-19, and who have struggled to find access to groups for support, although they know about the helplines. I wonder whether—perhaps after today—the minister and the Government could signpost people to support. If there is not yet enough specific information and advice for people who have suffered a loss because of Covid-19, could that be rolled out for the future?

**Clare Haughey:** Monica Lennon has raised the pertinent issue of bereavement support. Anyone who has been bereaved during the pandemic has had a bereavement like none that any of us has ever experienced, with access to the rituals and support that we would normally have being denied us. I send my sincere condolences to anyone who has been bereaved through Covid-19—as my family has, so I feel that I can say that with sincerity and empathy.

We have invested in the services that Cruse Bereavement Care can provide. I appreciate that it is currently difficult for people to access group sessions, which can be extremely powerful in supporting people. I hope that we will, as we progress through the pandemic, be able to look at more innovative ways of providing group therapy in the national health service and in third sector organisations.

I am delighted that we have so many emergency mental health centres up and running across the country. They provide a good service to people who are in mental health crises by giving them direct access to mental health professionals and directing them away from the less appropriate environment of accident and emergency departments in acute hospitals. I will certainly be working with health boards on how they plan to continue the services, and will encourage them to do so.

We will also look at all the innovative services that have been developed across mental health, of which there is quite a range. We will consider their value, the quality of care that they provide to patients, their outcomes and whether they are providing good-quality evidence-based services.

We will encourage health boards to continue with those innovations.

**The Deputy Presiding Officer:** Before I call Emma Harper, I remind members to press their request-to-speak button if they want to ask a question. I ask for succinct questions and, although I know that this is a very important and sensitive issue, succinct answers. I am trying to get everybody in.

**Emma Harper (South Scotland) (SNP):** Will the minister provide an update on what mental health services have been paused or stopped altogether during Covid-19, such as CAMHS physical attendance in Dumfries and Galloway? Will she also provide an outline of what impact that has had on the people who need the services?

**Clare Haughey:** Provision of mental health services has continued throughout the pandemic, albeit with adjustments to accommodate Covid-19 restrictions and to timescales for delivery. As I said earlier, urgent and emergency cases continue to be prioritised.

That said, certain aspects of service delivery have necessarily been paused over the period due to restrictions that have been imposed through Covid-19 related limitations, such as physical distancing. Those aspects include group work, day and respite services, assessment and review for dementia, autistic spectrum disorder and neurodevelopmental assessments, medication reviews for attention deficit hyperactivity disorder, and some inpatient detox services. Where that has happened, we have been assured by boards that efforts are being made to support patients and their families by other means—for example, through telephone contact or domiciliary visits, when they are essential.

Health boards are also working with each other and with the Scottish Government to find safe and effective ways to deliver group interventions—which I referenced in my answer to Monica Lennon—and neurological assessments remotely.

**Brian Whittle (South Scotland) (Con):** I know that the minister is aware of the huge contribution that the third sector makes in tackling mental ill health, through organisations that offer specific mental health interventions and others that simply offer opportunities to be included. The minister will know that many organisations are struggling in the current crisis, and that if they disappear the burden will fall on NHS services that are already under extreme pressure. What work is the minister doing, in conjunction with the Cabinet Secretary for Communities and Local Government, to make sure that the third sector will still be there when we need it most?

**Clare Haughey:** Over the course of the pandemic, as previously, we have acknowledged

the work of the third sector. Mental health services are about much more than a national health service response.

We value the work that the third sector does for our communities across Scotland. We have invested in various third sector organisations during the pandemic period and before it—for example, in perinatal mental health services; in Young Scot, so that it can examine the effect of lockdown on our children and young people; and in Cruse Bereavement Care, which I have mentioned.

The mental health delivery board has continued to meet during the pandemic. The third sector plays a key role on that board, so its voice is certainly very much at the table in planning for mental health services once we come out of the pandemic, and during it.

**The Deputy Presiding Officer:** Ten minutes remain, and 10 members want to ask questions, so we might have to get a bit swifter at this.

**Clare Adamson (Motherwell and Wishaw) (SNP):** How will the Scottish Government ensure that parents and carers are made aware of the mental health support that is available for children, and what specific mental health provision will be made available for children who have additional support needs?

**Clare Haughey:** The Scottish Government is working with a range of partners to support children and families, in order to mitigate the impact of the Covid-19 pandemic on their mental health.

We have made available support and advice on mental health for parents, carers and their children, on the Parent Club website. That support includes free access to the Solihull Approach online course, which is a resource that helps parents and carers to understand better their child's emotional development, and supports development of healthy relationships.

Schools remain a key link for parents and carers in supporting the mental health and wellbeing of children and young people, including those who have additional support needs. They will continue to be available for discussion of concerns about a child's mental health with guidance staff or senior management.

Education Scotland and the national autism implementation team have been working with a range of stakeholders to consider how teachers and teaching staff can be supported in their role of supporting autistic learners back to school.

**Anas Sarwar (Glasgow) (Lab):** A time will come when we will debate how prepared we were for this pandemic, but we must now prepare for the pandemic that we know is coming. Isolation,

shielding, loss of loved ones, financial insecurity, the pressures of home schooling and the emotional toll of it all have impacted on mental health. Eighty-three per cent of young people say that their mental health has got worse, and other research shows stark increases in the number of adults with mental ill health. There will be no excuses. Will we be ready for the mental health pandemic?

**Clare Haughey:** We have been working very closely with NHS boards and others, as I have said, through the mental health delivery board, to ensure that we monitor the impact of Covid-19 on demand and capacity.

We wrote to NHS boards on 14 May, highlighting mental health as a clinical priority. We asked them to set out their plans for reinstating services, and to work with partners to estimate the anticipated rise in mental health needs in their populations and to determine their responses.

I will continue to work with boards and others to ensure that the people of Scotland get the services that they require, post pandemic.

**Alison Johnstone (Lothian) (Green):** Delivery of maternity services has necessarily been altered; for example, there are restrictions on who can attend scans and appointments. There is an increased risk of social isolation for women who are beginning motherhood during lockdown. What actions are being taken for the mental wellbeing of pregnant women and new mothers, to prevent an upsurge in postnatal depression?

**Clare Haughey:** In August last year, as Alison Johnstone might remember, we invested £225,000 in third sector organisations to support families and mums in the postnatal period. We have extended that funding to August 2020, when the national perinatal and infant mental health fund will come online. Organisations are actively offering help and support to women and their families during Covid-19.

We also need to remember that health visitors and general practitioners are good sources of advice and support for pregnant women and new mums who feel that they are struggling. Up-to-date information can be found on NHS Inform's "Ready Steady Baby!" web page, and on the Parent Club and Clear Your Head websites. It would be remiss of me not to mention the excellent care—physical and psychological—that midwives provide to women throughout pregnancy.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Earlier this month, we learned of the extent of waits for child and adolescent mental health services in the year up to the start of lockdown. The official statistics showed that a record 1,253 children had waited more than a year for treatment. We now know how bad the situation

was at the outset of the crisis, but experts are warning of a fresh avalanche of need for the services. We also know how damaging grief, removal of freedom, loss of contact and disruption can be.

What is the Scottish Government's plan for the recovery of CAMHS to meet existing and heightened demand? How does it differ from the existing strategy? Three years into it—

**The Deputy Presiding Officer:** Thank you.

**Alex Cole-Hamilton:** —we had more children waiting over a year than ever before.

**The Deputy Presiding Officer:** Point made. I call the minister.

**Clare Haughey:** As I have said in my answers to other members' questions, we anticipate increased demand for mental health support as we move through the phases of recovery. That is why we have identified mental health as a key priority for the recovery process and for health boards in the remobilisation of services.

Over the coming weeks and months, we will be working directly with NHS boards to develop a recovery plan for mental health services that covers all boards and all phases of recovery, and we will continue to work with them thereafter to monitor their plans and the impact of Covid-19 on the demand for NHS services.

**James Dornan (Glasgow Cathcart) (SNP):** The minister mentioned the national wellbeing unit. Will she provide an update on use of the unit and say how she sees it, going forward?

**The Deputy Presiding Officer:** I do not think that the minister heard that. Will you repeat the question, Mr Dornan? I am sorry.

**James Dornan:** Yes, I will do so happily. The minister mentioned the national wellbeing unit. Will she provide an update on use of the unit and say how she sees it, going forward?

**The Deputy Presiding Officer:** We heard that.

**Clare Haughey:** The national wellbeing service that we have developed for our health and social care staff, third sector staff and unpaid carers is a resource to provide them with the best and most up-to-date information, and to support their mental health and wellbeing. Since it was launched last month, it has been overwhelmingly well received; feedback from people who have used the service has been very encouraging.

The service will develop as we go forward and have more evidence-based information on support for our health, social care and third sector staff. We are monitoring its use. The most recent statistics that I have seen show that the resource is being used by staff and their families from

across the country and from across the NHS, social care and the third sector.

**Annie Wells (Glasgow) (Con):** Will specific services be designed for people, especially the elderly, who are required to continue shielding or are self-isolating?

**Clare Haughey:** Annie Wells raises a really important point. We have asked people to do something that is quite extraordinary. We have asked them, essentially, to lock themselves away from their friends and family, to stop going out and to stop accessing their usual support services, and to do all that at a time when they are, no doubt, overwhelmed and worried about the pandemic.

The letter that the chief medical officer issued in March to people who are shielding provided advice on what they could do to keep themselves mentally active, and to look after their mental wellbeing while shielding. It also signposted additional advice and support from NHS Inform and the Breathing Space website. The Clear Your Head campaign has practical tips on what people can do to make themselves feel better while they continue to stay at home, and there is also a support helpline for people who are shielding.

**The Deputy Presiding Officer:** I ask Fulton MacGregor to be brief.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Will the minister provide an update on the distress brief interventions? Will she outline the roll-out of the programme and say how it is being delivered and what the impact has been?

**The Deputy Presiding Officer:** Please be brief, minister.

**Clare Haughey:** The expansion of the programme went live for callers across Scotland on 8 June. The key element in the expansion is that anyone who phones the NHS 24 mental health hub from anywhere in Scotland can be referred to the DBI programme for further support, when that is possible. The expansion is testament to the dedication, hard work and cross-sector co-operation of all the organisations that are involved in the DBI programme.

## Business Motion

16:00

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is consideration of business motion S5M-22065, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 3: 50 minutes

Groups 4 to 6: 1 hour 35 minutes

Groups 7 and 8: 2 hours 20 minutes

Groups 9 to 12: 3 hours 15 mins.—[*Liz Smith*]

*Motion agreed to.*

## Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill: Stage 3

16:01

**The Presiding Officer (Ken Macintosh):** The next item of business is stage 3 proceedings on the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill. Members should have the bill as amended at stage 2, the marshalled list, the two supplements to the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group. Members should now refer to the marshalled list.

### Section 1—Prevention of harm to animals: penalties for offences

**The Presiding Officer:** Group 1 is on animal welfare offences penalties. Amendment 32, in the name of Colin Smyth, is the only amendment in the group.

**Colin Smyth (South Scotland) (Lab):** I declare an interest as a proud member of the League Against Cruel Sports, the deputy convener of the cross-party group on animal welfare and the Scottish Environment LINK MSP species champion for badgers.

Amendment 32 looks to increase the maximum penalties available for offences introduced by secondary legislation under the Animal Health and Welfare (Scotland) Act 2006. As it stands, the maximum penalty for any offences created by secondary legislation under that act is six months' imprisonment or a maximum fine of £5,000. The bill will grant ministers broad regulation-making powers—for example, they will be able to introduce secondary legislation creating offences to secure the welfare of animals and relating to the licensing of activities involving animals. Those broad powers could underpin a range of potentially very serious offences. Offences created using those powers could also involve highly profitable businesses—for example, ministers could introduce regulations on the licensing of animal breeding. In that context, it is essential that fines can be set high enough to act as a deterrent.

My amendment proposes that ministers be able to set penalties of up to 12 months' imprisonment or a £40,000 fine for offences made under sections 26, 27 and 28 of the 2006 act, which relate to "Provision for securing welfare", "Licensing etc of activities involving animals" and "Prohibition on keeping certain animals". That would provide ministers with the freedom to set appropriate penalties when introducing more serious offences through secondary legislation and would ensure that the financial penalties are adequate when profit is a factor. Ministers would still be free to set lower penalties where appropriate, and penalties set under those sections would still receive scrutiny through the regulation-making process. The 2006 act makes it clear that ministers have a statutory duty to consult prior to issuing regulations under those sections and that they must be approved by Parliament.

Amendment 32 reflects the need for higher maximum penalties for animal welfare crimes, to allow fair and proportionate penalties to be issued, which is one of the key aims of the bill. Having raised the wider issue of penalties during stage 2, I am pleased to have been able to work constructively with the minister to present the amendment, which is sensible and proportionate and will help to future proof the powers in the 2006 act to make regulations, including future regulations for the licensing of activities involving animals.

I move amendment 32.

**Finlay Carson (Galloway and West Dumfries)**

**(Con):** As we know, the overall objective of the bill is to increase the range of sentencing options in relation to animal welfare and wildlife offences. Therefore, we support Colin Smyth's amendment 32, as we believe that it is right that anybody who commits an offence under the legislation should receive the highest penalty that is available. We support the proposed increase in penalties.

**Liam McArthur (Orkney Islands) (LD):** Like Finlay Carson, we believe that at the heart of this bill is the desire to see cruelty towards animals and abuse of their welfare treated more seriously. That requires penalties to be increased and brought more in line with the sanctions that are in place in most other countries in Europe, in order to better reflect the seriousness of the crimes. I welcome Colin Smyth's amendment 32, which is a further step in that direction, and the Scottish Liberal Democrats will support it.

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** At stage 2, I said that I fully appreciated the aim of the amendment that Colin Smyth lodged on this issue, and I indicated my support for his intention. Therefore, I

was more than happy to work with him to provide a suitable alternative.

Amendment 32 is helpful, and the measure is a proportionate one that will give useful flexibility to develop future animal welfare regulations, with appropriate higher maximum penalties. Unlike Mr Smyth's original amendment on the issue, it will not prevent the Scottish Government from providing for the use of fixed-penalty notices or, indeed, lower maximum penalties for offences in future regulations. With that, I am happy to state that I support the amendment.

*Amendment 32 agreed to.*

**After section 3**

**The Presiding Officer:** Group 2 is on protecting dogs from unnecessary suffering: docking. Amendment 33, in the name of Mark Ruskell, is the only amendment in the group.

**Mark Ruskell (Mid Scotland and Fife) (Green):** I declare an interest, as I am an honorary associate member of the British Veterinary Association.

It has been three years since Parliament partially reintroduced the barbaric tradition of puppy tail docking that had been banned under the Animal Health and Welfare (Scotland) Act 2006. During that period, there has been no monitoring of how that tradition has been resurrected. In fact, after the ban was overturned in Parliament, the Government was explicit that it would not monitor any of the consequences.

No figures are available for the number of puppies that have undergone amputation in Scotland. No evidence exists on whether the practice has been restricted to working dogs or has led to many more dogs undergoing a painful procedure purely for cosmetic reasons. No analysis has been done of whether those operations have reduced the number of injuries to working dogs, and no guidance has been given to vets on the certification of puppies that are destined to become working dogs. I am also unaware of any further studies, support or guidance being available on the reduction of tail injuries to working dogs by tail sheathing or proper kennelling techniques.

Once again in this Parliament, tradition is trumping evidence. The Government is once again turning a blind eye to an issue in order to placate a country sports lobby that has the ear of the Cabinet. The lack of evidence is why science-led bodies such as the British Veterinary Association, OneKind and Blue Cross continue to oppose the amputation of a healthy dog's tail and a growing number of veterinary practices are simply refusing to carry out those operations.

Even if we accepted the argument that tail shortening prevents damage to some working dogs, evidence shows that more than 300 puppies would have to have their tails docked to prevent the amputation of one adult dog's tail—more than 300 puppies that might suffer long-term pain and behavioural and communication problems in later life as a result of those operations, simply to avoid one severe tail injury.

The animal welfare arguments in favour of the amputation of a healthy puppy dog's tail did not stack up in 2006, they did not stack up in 2017 and there is no evidence to suggest that they stack up in 2020. In fact, there is simply no new evidence at all, because no one is even bothering to look for it. For those reasons, it is time to restore the full ban on the docking of all dogs' tails.

I move amendment 33.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** Mark Ruskell and I agree on a lot of things—including much of what is in the bill—but amendment 33 is not one of them. I find the heading of the proposed new section offensive, because it implies that people who support the shortening of tails in working dogs are subjecting them to “unnecessary suffering”. The Parliament had that debate in 2017 and we voted on it. I have had representations, not just from the shooting, hunting and landowning lobby but from people who own non-working dogs that have had injuries to their tails. They ask me why, if their spaniel can hurt its tail by wagging it against a door, a spaniel is going into bushes and hurting its tail. We have heard from vets who have had to cut tails off adult dogs and all the suffering that goes along with that.

Mark Ruskell talks about evidence gathering but, for a lot of things here, not much evidence has been gathered, so that is hypocritical. He is right that it is an animal welfare issue, but the animal welfare issue comes when an adult dog has to get its tail taken off; that is a lot more distressing for the dog than when the procedure is done under—

**Mark Ruskell:** Will the member give way?

**Gail Ross:** Yes, absolutely.

**Mark Ruskell:** I understand the point about distress, but is it 300 times more distressing for an adult dog? That is what we are talking about. Three hundred puppies need to have their tails docked in order to get the welfare benefit that Gail Ross points to, of one dog not having an amputation when it is an adult.

**Gail Ross:** I thank Mark Ruskell for that intervention, but I do not accept the argument that, because 300 puppies have to have their tails shortened, it is 300 times more distressing for an adult dog. That is a nonsense argument.

I will not support amendment 33 and I urge members not to support it. As I said, the animal welfare issue is about adult dogs and not about the controlled situation in which puppies have their tails shortened for a good reason.

**Brian Whittle (South Scotland) (Con):** I am grateful to be able to speak to amendment 33. As an owner of a working cocker spaniel, who has a full tail—even though he wags it so much that it bleeds from time to time—my instinctive position is to rail against any suggestion that such a dog should have his tail docked.

In 2017, when the current law was implemented, overturning the ban that was instigated in 2006, I was uncomfortable with supporting any change in the law. I was encouraged to speak to the veterinary community, which brought me to recognise that, in rare circumstances, for the welfare of the dog, the procedure should take place. I asked myself whether I would refuse if a vet indicated to me that, for his welfare and health, my dog needed his tail docked. The answer is no; I am not a vet and I always listen to that expert advice, just as I would listen to the advice of any other healthcare professional. Exceptional circumstances might necessitate that procedure; therefore, it is wrong to revert to an outright ban, and I ask the chamber to vote against Mark Ruskell's amendment 33.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I declare an interest as the convener of the cross-party group on animal welfare and I speak in support of Mark Ruskell's amendment 33. I supported the same argument in an intervention in 2017 and nothing has changed my mind; it remains even more resolute.

Those who argue against amendment 33 refer to “tail shortening”. Why move away from the term “docking”? We are using a euphemism to conceal something that is not necessary for an animal. Even if members believe in that argument, when a working bitch has a litter, she might have six or eight puppies, all of which have to have their tails docked, although not all of them will become working dogs. For the sake of one or two, the rest go through the procedure. I do not want to spend too long on that, because my position is well known.

I hope that members will vote with their consciences on amendment 33, rather than bother about party whips, which can get in the way of honesty.

16:15

**Claudia Beamish (South Scotland) (Lab):** I speak in support of Mark Ruskell's amendment 33. Previously, Scottish Labour has supported a ban

on tail docking, and I agree that a ban will protect dogs from unnecessary suffering. I was a member of the committee that took evidence on the matter in 2017; I was convinced by the arguments then, and they have not changed. There were arguments that it was necessary to dock the tails of some working dogs, but I was not convinced by them. There is the possibility of a dog wearing a sheath or of bandaging a dog's tail to prevent such injuries. Scottish Labour supports the move to introduce a ban in order to protect animal welfare.

**Liam McArthur:** As Gail Ross said, we ran through this debate three years ago. Last time, the issue provoked a great deal of passionate argument on both sides, and that is the case this time, too. As I observed, both sides argued their case having weighed up and balanced the competing interests in relation to welfare, and the conclusions that were drawn were genuinely held.

Mark Ruskell mentioned a lack of evidence about the appropriate enforcement of the legislation since 2017. However, by lodging amendment 33 at stage 3, he has not allowed the committee or the Parliament to scrutinise it prior to that, nor has he presented any new evidence that the legislation is not being applied appropriately. Those who came to a different conclusion last time, as Christine Grahame did, will no doubt feel equally strongly and will be equally determined to vote for Mark Ruskell's amendment. I understand that. As Christine Grahame said, members might well have to vote with their conscience on the amendment; it might not be appropriate to apply the party whip. My colleagues will vote accordingly, as they did in 2017.

**Finlay Carson:** As we have heard, tail docking was banned in 2007 but, to bring the legislation in line with that in the rest of the United Kingdom, exemptions were put in place for working spaniels and hunt point retriever breeds. There is no evidence—either available or presented—that indicates any new welfare concerns about that procedure.

It is very disappointing that the Greens, as they often do in the Parliament, lodged an amendment that was outwith the scope of the bill and did not allow for any scrutiny by the committee at stage 2. In some ways, it is disrespectful that Mark Ruskell has lodged amendment 33, given that committee members take a proactive role in considering legislation. We will certainly not be voting for amendment 33.

**Mark Ruskell:** On a point of order, Presiding Officer. Can I ask for your guidance on whether amendment 33 is outwith the scope of the bill?

**The Presiding Officer:** That is a good question. The answer is that the amendment is within the scope of the bill.

**Finlay Carson:** I take on board your ruling, Presiding Officer, but the amendment is outwith the spirit of the bill. All the way through the bill process, we have been looking at sentencing and certainly not at introducing any new offences.

**Mairi Gougeon:** I start by refuting some of the claims that were made by Mark Ruskell, because they are absolutely outrageous and completely unfounded. No one has the ear of the Cabinet. We are not trying to revive a barbaric tradition. The whole purpose of amendment 33 is just to reignite a debate for the sake of it.

I absolutely agree with some of the points that have been raised by other members from across the chamber. Gail Ross put it very well when she said that the procedure is done for animal welfare. Terms such as “docking” are bandied about to reignite the emotion and the debate. As Finlay Carson said, it is an offence to dock tails. Christine Grahame made a point about whether there is a differentiation between docking and shortening. There is a differentiation, because they are two completely separate things.

The bill's provisions have been carefully developed in close collaboration with the key front-line enforcement agencies in order to make the most essential improvements that they have asked for in animal welfare enforcement. I am really disappointed that Mark Ruskell has taken the opportunity that has been presented at the last minute of the bill process to revive controversy on a matter that was decided by the Parliament just three years ago. That is made worse by the fact that I have sought, at all times, to work with other members across the chamber to build consensus. I have engaged with Mark Ruskell a number of times at stages 1 and 2, and at no point was that issue raised.

I completely understand the strong feelings and emotive arguments on both sides of the debate. However, they were all fully explored—after many years of discussion and debate—by detailed scientific analysis, Scottish Government-funded research and a full public consultation.

After due procedure and consideration by the relevant committee, the legislation, which now allows the tail shortening of specific types of working dogs to be performed only by veterinary surgeons and under very specific conditions, was approved by Parliament in 2017. Outwith that, tail shortening of dogs is not permitted except as part of veterinary treatment.

There is a fine balance that leaves decisions on whether to carry out tail shortening on working dogs—in individual cases—to the professional judgment of veterinary surgeons. They are the best people to make difficult, balanced decisions about what is in the best long-term interests of the

individual animals that are presented to them. It also means that we have significantly tighter legislation on this than other parts of the UK.

**Mark Ruskell:** It is welcome that the minister is listening to veterinary surgeons. Will she also address veterinary surgeons' concerns that there is no certification of working dogs? Unlike in England and Wales, no template of certification is produced in Scotland. That would give veterinary surgeons some comfort that they are sticking to the letter of the law. If the Government is engaging with science and sector bodies, why has that not happened?

**Mairi Gougeon:** We have significantly tighter legislation in Scotland. The decisions are down to the professional judgment of veterinary surgeons, and if Mark Ruskell was as concerned about that issue as he claims to be, he has had plenty of opportunities to discuss it with me. I would have been happy to discuss it with him not only during the earlier stages of the bill, but at any time prior to that. In all the time that I have been in my role, the issue of tail shortening has not been raised.

I will not rehash all the arguments for and against the tail shortening of dogs, because we have done that.

Amendment 33 concerns secondary legislation, which does not need a bill to amend it. Therefore, it does not fit at this stage. The matter could be reviewed in future after proper, detailed consideration of any new evidence—if we think that that is the best use of our time. However, the place to consider the subject in any more detail is not here, so I oppose the amendment and ask Mark Ruskell to withdraw it.

**Mark Ruskell:** I press amendment 33.

During the past three years, the Scottish Government has refused to monitor and review its own legislation. The policy was put in place against the wishes of bodies that represent the veterinary sector in Scotland. They have raised concerns about that. There was no monitoring of the roll-out.

The minister cannot tell me how many puppy dogs' tails have been docked in the past three years and she cannot tell me what the welfare benefits are. All that we hear are anecdotal responses from Gail Ross and others about how they feel that there is a net animal welfare benefit to the partial lifting of the restriction on tail docking.

I have asked for evidence, in written questions, during the past three years and have had a plain response from the Scottish Government that it is simply not looking at the evidence and it is not monitoring its policy. Therefore, I ask the Scottish Government to make a commitment to review and monitor its policy.

If the Government thinks that the measure has a net welfare benefit, it should prove it by monitoring and checking that the policy is working and by doing what it said it would do three years ago. We do not have that evidence and, as a result, I think that we should restore the full ban.

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

**Members:** No.

**The Presiding Officer:** As this is the first division of the afternoon, I suspend the meeting for five minutes and call members to the chamber.

16:23

*Meeting suspended.*

16:28

*On resuming—*

**The Presiding Officer:** We will proceed with the division on amendment 33.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)



Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Abstentions

Gibson, Kenneth (Cunninghame North) (SNP)

**The Presiding Officer:** The result of the division is: For 22, Against 56, Abstentions 1.

*Amendment 33 disagreed to.*

**The Presiding Officer:** Group 3 is on disqualification orders. Amendment 34, in the name of Maurice Golden, is grouped with amendments 35 and 63.

16:30

**Maurice Golden (West Scotland) (Con):** I am pleased to propose amendment 34, having raised the issue of disqualification orders during the passage of the bill, which is the appropriate, fair and balanced way in which to introduce amendments that are acceptable to the chamber.

A theme of discussions during the passage of this important bill has been the consistency of sentencing, including the use of disqualification orders. Amendment 34 seeks to address the issue by making it a requirement for courts to consider

the use of disqualification orders in the way in which they were always intended to be used—that is, as an animal protection measure, rather than as a form of punishment.

The requirement will apply to all relevant animal welfare cases and require courts to explain their reasons for imposing disqualification orders of the type specified, or for not imposing a disqualification order, and require a record of their reasons to be kept. I hope that that will improve the consistency and transparency of courts' judgments, and provide us all with a better sense of how courts are using all the tools that are available to them to protect animals and to address the worst harms and offences.

Amendment 63 is a technical amendment that seeks to modify the long title of the bill to include a reference to the proposed requirement on courts to consider making disqualification orders following convictions for animal welfare offences.

I hope that members will support both my amendments. I look forward to hearing further information from Colin Smyth on amendment 35.

I move amendment 34.

**Colin Smyth:** I welcome amendment 34, in the name of Maurice Golden, which seeks to improve the use of disqualification orders.

During stage 1, a number of stakeholders highlighted the inconsistent use of disqualification orders. Maurice Golden and I lodged amendments on that issue at stage 2. When I was considering what changes were needed at stage 3, a number of organisations, including OneKind, highlighted four key issues to me.

The first is the need to clarify that the default position in all cases should be for courts to consider a disqualification order. The second is the need for a clear requirement for courts to state the reasons for their decision, whether or not they decide to issue an order. The third is the lack of records on the use of disqualification orders, which could be addressed through a new requirement for the Crown Office and Procurator Fiscal Service to keep a record of all disqualification orders and applications to vary or delete them. The fourth is the need for clarification that the disqualification order part of the sentence imposed by courts is not a penalty in itself.

Combining the four changes would clarify the purpose of disqualification orders, encourage their proper use, help us gain a better understanding of how and when they are used, and identify any existing issues with their use.

I consider that Maurice Golden's amendment 34 successfully tackles the first three issues. There is a gap in that it does not address the fourth issue.

My amendment aims to do that—it is designed to be a helpful addition to amendment 34.

Amendment 35 seeks to clarify in law that disqualification orders are a means of protecting animal welfare. The orders are issued to prevent those convicted of animal welfare offences from owning or working with animals. That is not a punitive measure; it is an animal welfare measure.

The law as it stands suggests that such orders can be used

“instead of ... any other penalty”.

Amendment 35 would remove that provision and make it clear that disqualification orders should be issued as needed for the protection of animals, and not as an alternative to a penalty.

The legislation as amended would read:

“A disqualification order may be made in addition to any other penalty or order which may be imposed in relation to”

a relevant offence. It would not say that disqualification orders could be issued only alongside a penalty—although I cannot think of a scenario whereby a disqualification order on its own would ever be deemed appropriate without a penalty such as a fine.

My amendment simply states that a disqualification order should not be issued as an alternative to a penalty. I am sure that that would be made clear in any guidance on the legislation. I urge members to support all the amendments in the group.

**Mairi Gougeon:** I fully support the rationale for Maurice Golden’s amendment 34.

I support the intention behind the first part of Colin Smyth’s amendment 35, and the amendment is similar to amendment 34. However, although the second part of amendment 35 is equally well intentioned, I am concerned that it strays too far into the territory of limiting the discretion of the courts to use the penalties and powers that are available to them after conviction for a relevant welfare offence. That is not something that Government, or, indeed, Parliament, should be doing.

Amendment 35 seems to be intended to prevent disqualification orders from being issued on their own. Although that might not be a common scenario, in some instances it might be appropriate, depending on the facts and circumstances of a particular case and bearing in mind the widely varying circumstances in which relevant animal welfare offences of different types might be committed. It is therefore important that we do not inappropriately fetter the ability of courts to make such decisions.

For those reasons, I cannot support amendment 35. I hope that Colin Smyth will consider not moving it, but if he should do so I urge members not to support it.

**The Presiding Officer:** I call Maurice Golden to wind up on group 3 and to indicate whether he wishes to press or seek to withdraw amendment 34.

**Maurice Golden:** I will press amendment 34.

*Amendment 34 agreed to.*

*Amendment 35 moved—[Colin Smyth].*

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

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 42, Against 38, Abstentions 0.

*Amendment 35 agreed to.*

### **Section 5—Wildlife and Countryside Act 1981: penalties for offences**

**The Presiding Officer:** Group 4 is on vicarious liability. Amendment 36, in the name of Claudia Beamish, is grouped with amendments 37 to 40, 1, 53 and 54.

**Claudia Beamish:** The amendments in this group seek to extend the bill's provisions on vicarious liability to certain offences under the Wildlife and Countryside Act 1981 and the Wild Mammals (Protection) Act 1996.

The offences referred to are not only heinous crimes of cruelty to wildlife; they are also significant in the midst of an environmental emergency. I welcome the fact that the minister has sought to work with me on amendment 39, which, for clarity, seeks to allow for the option of extending the established provisions on vicarious liability in the 1981 act to those involving the illegal setting of traps and snares.

We know that birds of prey are still being harmed, sometimes fatally, by pole traps and

uncovered spring traps. In the past year, Police Scotland has investigated incidents involving spring traps set next to a hen harrier nest, and we have all seen the images that have appeared of a golden eagle in flight with what appears to be a spring trap on its leg. I hope that the introduction of vicarious liability for such offences would act as a deterrent and a wake-up call to the very few individuals who still will not respect the law. They include the owners and managers of land on which such offences are committed, as well as the individuals who themselves commit them.

I still consider the amendments extending vicarious liability to the other offences that I have listed to be necessary. I have listened to the minister's concerns over their legal drafting, which I addressed after stage 2. In brief, they cover the following matters. Amendment 36 is to address the sale, care, possession or transport of protected wild birds and their eggs. Amendment 37 is on the failure to meet legal registration requirements for captive birds and their eggs, or keeping them illegally due to a past conviction for their ill treatment. Amendment 38 is on the illegal confinement of protected birds. Amendment 40 is on the taking of wild hares in the closed season, the intentional destruction of protected wild plants, including their sale, and the possession and sale of animals or invasive species of plants. Amendment 53 highlights the grievous offences that are listed in section 1 of the Wild Mammals (Protection) Act 1996, which include the mutilation, beating, stabbing and so on of

"any wild mammal with intent to inflict unnecessary suffering".

Amendment 54 is consequential to amendment 53.

From my discussions with the minister, I am aware that she has reservations about the justification for applying vicarious liability to those offences. However, I would argue that we must focus on sending a strong message of deterrence. There are bad landowners and land managers—although they are very few in number—who are aware of, or are committing, those crimes, and they should shoulder the penalties. We are talking about illegal acts that can easily go unreported, but they can be reported. Such acts can be very cruel and can cause environmental loss, and they should be taken very seriously.

With the introduction of vicarious liability, the onus is on the landowner or employer to train their staff properly to ensure that they know the law with regard to wildlife, as much as they would be responsible for training staff on health and safety or other issues on any estate or land. One could say that the introduction of vicarious liability in those areas is an important improvement in the working conditions of gamekeepers.

Furthermore, it has been shown that vicarious liability, when it is used alongside other measures, has been a beneficial addition. In the past, it was introduced alongside the satellite tagging of birds and, in tandem, those two measures have served to reduce the incidence of raptor poisonings in Scotland.

With regard to other measures, it is perhaps worth while to stress that the penalties set out in other amendments serve as a complementary set of proposals that would work alongside the extension of vicarious liability.

I support Mark Ruskell's amendment 1, which relates to badger setts. I am quite clear that the destruction of setts is as serious as killing or injuring a badger in terms of the damage that is caused. It would be difficult for those in charge on the land not to know that a badger sett was being destroyed, and it would surely take quite an amount of person power to destroy a sett. A vicarious liability provision is therefore vital in protecting that species, in order to send a clear message to the minority of landowners and agents and their employees who risk flouting the law by carrying out such a serious crime.

There is a limited basis for vicarious liability in the Wildlife and Natural Environment (Scotland) Act 2011; the owner or manager of the land has very limited liability, and has a clear defence at their disposal. I therefore ask members on all sides of the chamber to support all the vicarious liability amendments in group 4, including Mark Ruskell's amendment 1. I very much hope that they will do so, because the amendments really will add to the protections that are already in place for wildlife and our environment across Scotland.

I move amendment 36.

**Mark Ruskell:** I support all the amendments in group 4, and I very much welcome Claudia Beamish's work in committee in leading the arguments for the extension of vicarious liability.

My amendment 1 extends the provision of vicarious liability in relation to badgers. However, it also protects landowners and managers from liability if an employee or agent commits the offence outwith their employment or land. The amendment is tighter than the one that I lodged at stage 2; it narrows the liability and mirrors the existing provision and definitions in relation to birds.

I have attempted to work with the Government on my amendment, but there seems to be an underlying concern on the Government's part about vicarious liability, and I am still trying to pin down the reasons for that. Vicarious liability seems to be working, and it seems to be driving action by landowners to avoid committing offences in

relation to birds and pesticides. There remains a very high bar for prosecution.

**Edward Mountain (Highlands and Islands) (Con):** I support the member's intention to stop the damaging of badger setts, which we should not condone. I am a farmer, as is listed in the register of members' interests. Occasionally, badgers wander and form temporary setts in fields which may be ready for harvest. Driving over a badger sett could be an accidental action if you do not know that it is there. It is perfectly possible to do so with a combine unless you walk every inch of the field before you go there. It would not be Mr Ruskell's intention to punish somebody who did that accidentally without knowing that the badger sett was there, would it?

**Mark Ruskell:** Badgers are not birds of prey. They are not an ephemeral species and do not fly around Scotland, so their territories and habitats are well known. If badgers moved from an existing badger sett in a woodland into Mr Mountain's field, I would expect him to take due care and to ensure that any badger sett was not destroyed. I think that landowners will recognise that. The vast majority of landowners in Scotland will be well aware of whether they have badgers on their land. I would be surprised if landowners did not know that. *[Interruption.]* I will not take an intervention, because I need to make progress.

16:45

Badgers are territorial animals that live in big identifiable setts, which, in the majority of cases, have existed for decades. It is virtually impossible for a landowner or land manager not to know that badgers exist on their land.

The briefing from Scottish Land & Estates tells us that badgers are "widespread" and that therefore everything is okay and none of the legal protections needs to change. However, I have been sent pictures by Scottish Badgers—I am sure that other members have been sent them, too—of many horrific cases of sett destruction and the death of whole families that have been maimed, crushed and asphyxiated. In those incidents, it has been impossible to pin down liability, because contractors, subcontractors, agents and landowners have all passed the buck.

That is why I do not think that everything is okay. I think that we need to tighten protections for badgers by extending the penalties and by introducing vicarious liability. Law-abiding landowners and land managers have nothing to fear from vicarious liability being applied to badger offences. However, those who wilfully allow sett destruction and persecution to take place need to be brought to justice.

**Finlay Carson:** Will the member take an intervention?

**Mark Ruskell:** Without vicarious liability, that kind of reckless destruction will continue to be met by a *wisnae me* attitude, and one of our most iconic species of wildlife will continue to suffer and pay a very heavy price.

**Finlay Carson:** We oppose amendment 1, because it is already an offence to knowingly cause damage, or permit damage to be caused, to a badger sett. We recognise that badgers are protected, but they are widespread and are not considered to be a species of concern by Scottish Natural Heritage. There is a healthy population spread and distribution across Scotland. Therefore, amendment 1 does not serve any useful purpose, because it is targeted at an area of law that we believe is working well.

I tried to intervene on Mark Ruskell to ask him whether he understands that persecution is normally limited to poachers or badger baiters with dogs rather than landowners, who his vicarious liability amendment would chase. I will take an intervention from Mr Ruskell if he wants to answer that.

**Mark Ruskell:** I apologise for not letting Mr Carson in earlier. What he says is the case, but he needs to recognise that there have been cases in which housing developers and forestry operators have destroyed setts and it has been almost impossible to bring those agencies to justice through the criminal prosecution system. Vicarious liability is important so that we pin down liability, because the buck keeps getting passed from a contractor to a subcontractor and back to the landowner again, and cases are not being brought forward successfully.

**Finlay Carson:** That intervention allows me to refer to the issues that the Law Society of Scotland has raised. It has suggested that, if there are examples of circumstances and cases in which the Crown Office and Procurator Fiscal Service has been unable to prosecute, it would be useful to know about those, and that gaps could be filled where the law requires to be extended. However, the Law Society suggests that

“To criminalize vicarious responsibility would effectively extend the law”,

whereas it was understood that the bill was not going to do that.

The Law Society also states:

“vicarious liability tends not to form part of criminal law as a person is normally only liable for their actions and not the actions of others.”

It goes on:

“If vicarious liability is to apply here, where an employee commits an offence in the course of their employment, the

employer could be held criminally liable for the actions of their employee, unless a due diligence defence applies”.

The society argues that that would bring in a new offence.

I firmly believe that the extension of vicarious liability not only in the case of badger setts, but in the cases highlighted in Claudia Beamish’s amendments 36 to 40, requires far more consultation and needs to receive proper scrutiny, rather than that being done through amendments lodged in this fashion.

I will address amendment 39. As I have already said, vicarious liability tends to be a blunt tool and effectively reverses the burden of proof—a landowner or manager could be found guilty unless they were able to prove that they had briefed, trained and instructed employees. We know that the Snares (Training) (Scotland) Order 2015 introduces a requirement for all snare operators to be trained and for all snares to be identified through a tag that is registered through Police Scotland. SNH has also made it a requirement of the 2020 general licence for individual trap operators to attach personal identification to each predator trap. We are not aware of SNH raising any concerns, and we understand that the number of offences relating to illegally set snares is minimal.

Pest control is integral to land management in Scotland. The amendment is likely to have unintended consequences for the conservation of some of our most vulnerable species, including ground-nesting birds. We cannot support it without data and evidence being available to show that it is needed. I do not believe that we have given the issue sufficient consideration in order to make that decision. Conservative members will vote against all the amendments in group 4 relating to vicarious liability.

**Liam McArthur:** At stage 1, I expressed the view that there was a case for looking at how vicarious liability, as first introduced in relation to wildlife crime in the Wildlife and Natural Environment (Scotland) Act 2011, might usefully and sensibly be extended. I was interested in Mark Ruskell’s comments about the effectiveness of the 2011 act. Having been involved in the committee that scrutinised the Wildlife and Natural Environment (Scotland) Bill, I was under the impression that there was general acceptance of the limitations of vicarious liability, either as a deterrent or as a means of punishing those whom it targeted. Mark Ruskell is absolutely right in commending Claudia Beamish for her efforts to lead the exploration of options for such an expansion, although, ultimately, a number of those options seem problematic in terms of how they would work in practice. That said, unlike Finlay Carson, the Scottish Liberal Democrats strongly

support the extension of vicarious liability in relation to the use of snares and other matters, and will therefore be happy to support Claudia Beamish's amendment 39.

**Edward Mountain:** I rise to correct Mr Ruskell on a point of fact. He said that badgers are territorial and that they live in setts. Indeed, he is right, but when those setts become full, the animals move out and set up new colonies and setts across the countryside. Mr Ruskell cannot be blind to the movement that happens at this time of year when badgers move out because mothers that are protecting the cubs that are born in their sett force non-mature adults and mature adults that are not part of the social clan to move out. Those adult badgers then establish temporary holding areas across the land. I have seen young badgers moving into areas, and I can give Mr Ruskell the example of one badger falling down a crack that had been caused by dry weather. The badger then holed up in there because it had been forced out of its sett and there was nowhere else it could establish itself.

It worries me that we are going to accidentally catch people who have no intention of damaging a badger or badger sett and who genuinely do not know that badgers are there. I offered the First Minister the opportunity of coming for a walk with me in the countryside to see what it is like. She refused my offer. I offer Mr Ruskell the same opportunity of coming for a walk with me and having a look at badger setts. I can show him plenty that demonstrate my example. He can take me up on that offer if he wants to.

**Mairi Gurgeon:** During stage 2, in response to the arguments that had been advanced by Claudia Beamish and Mark Ruskell, I said that I did not believe that it was necessary, practical or proportionate to seek to apply a charge of vicarious liability to the numerous offences that they sought to apply it to, although I agreed to look again at what had been proposed. After giving the issue very careful thought and consideration, I think that it would not be unreasonable for the charge of vicarious liability to be applied to certain trapping and snaring offences.

Claudia Beamish's amendment 39 is narrow and proportionate; the important point is that it applies the same criteria that the existing offences in the Wildlife and Countryside Act 1981 apply with regard to who can be held vicariously liable. The Government therefore supports amendment 39.

I turn to the other amendments that Claudia Beamish has lodged. Amendments 36 to 38 would apply the charge of vicarious liability to a number of offences under the Wildlife and Countryside Act 1981, including offences that are related to the protection of wild plants or the keeping or sale of invasive animals. However, as I said at stage 2, I

have not heard any compelling reasons that demonstrate that vicarious liability is appropriate for those offences. We simply do not have the evidence to show that landowners and managers have been complicit in such crimes.

Mark Ruskell's amendment 1 would apply vicarious liability to section 1(1) of the Protection of Badgers Act 1992, which deals with offences involved in the taking, injuring or killing of badgers, and section 1(3), which deals with the possession of a dead badger or a part thereof. I absolutely appreciate Mark Ruskell's efforts in working on the amendment and the engagement that took place before stage 3. However, the amendment has significant drafting deficiencies, in that it is not at all clear who it is aimed at and who it would apply to.

We have already discussed the importance of specificity when it comes to matters of criminal law. Amendment 1 would extend the application of vicarious liability to any owner or manager of

"land on which badgers are found".

That is an extremely wide-ranging and non-exhaustive definition. The amendment opens up the possibility of vicarious liability prosecutions being taken against a whole host of individuals, but it does not clearly define who those individuals are.

I draw members' attention to the fact that section 12B of the Protection of Badgers Act 1992 states that, if a director knows anything about an offence made by their corporate body, or has demonstrated neglect resulting in an offence, they, too, can be prosecuted.

It is also important to remember that it is already an offence for someone to knowingly cause or permit to be done some of the offences that are covered by amendments 36, 37, 39, 40 and 1. That means that, should an employer or land manager instruct an employee to commit one of those offences, they would be liable for that offence.

In summary, I have looked at the situation very carefully. Amendment 39 was lodged to extend the existing vicarious liability provisions under the Wildlife and Countryside Act 1981 to certain offences involving traps and snares. However, I have serious concerns about the remaining amendments in the group, which is why I will not support them.

**Claudia Beamish:** I will press amendment 36.

I am very pleased that, after discussion with the minister and having worked with others, including Mark Ruskell, on vicarious liability, the Scottish Government will accept amendment 39. Illegal traps and snares are completely unacceptable. It

is very unlikely that they will be used, but there will now be an absolute deterrent to prevent their use.

I do not agree with Finlay Carson that, because there is training on the setting of legal snares, that has an impact on whether a person is going to be ruthless and callous enough to use an illegal snare. I am therefore very pleased that vicarious liability has been moved forward by the Scottish Government, and I hope that other parties will support amendment 39.

It is very important that we have robust vicarious liability arrangements for a wider range of offences and that they become serious offences. The amendments in the group are proportionate, and there is a clear defence at the disposal of land managers and owners.

I refer to Edward Mountain's comments. I am absolutely clear that there is a defence if someone genuinely does not know that they are doing something wrong, and that that relates to things such as badgers extending their colonies in the spring, which Edward Mountain highlighted.

The liability is limited, and it is important that we are able to take the matter forward. I ask for support across the chamber to make offences serious for the few who may commit them.

17:00

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

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 59, Abstentions 0.

*Amendment 36 disagreed to.*

*Amendment 37 moved—[Claudia Beamish].*

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

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)

Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 59, Abstentions 0.

*Amendment 37 disagreed to.*

*Amendment 38 moved—[Claudia Beamish].*

**The Presiding Officer:** The question is, that amendment 38 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)



Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 59, Abstentions 0.

*Amendment 38 disagreed to.*

*Amendment 39 moved—[Claudia Beamish].*

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

**Members:** No.

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

#### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)

Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Against

Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)

Wells, Annie (Glasgow) (Con)  
Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 61, Against 19, Abstentions 0.

*Amendment 39 agreed to.*

*Amendment 40 moved—[Claudia Beamish].*

**The Presiding Officer:** The question is, that amendment 40 be agreed to. Are we agreed?

**Members:** No.

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

#### For

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Beamish, Claudia (South Scotland) (Lab)  
Boyack, Sarah (Lothian) (Lab)  
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)  
Greer, Ross (West Scotland) (Green)  
Harvie, Patrick (Glasgow) (Green)  
Johnson, Daniel (Edinburgh Southern) (Lab)  
Johnstone, Alison (Lothian) (Green)  
Kelly, James (Glasgow) (Lab)  
Lennon, Monica (Central Scotland) (Lab)  
Leonard, Richard (Central Scotland) (Lab)  
Macdonald, Lewis (North East Scotland) (Lab)  
Rowley, Alex (Mid Scotland and Fife) (Lab)  
Ruskell, Mark (Mid Scotland and Fife) (Green)  
Sarwar, Anas (Glasgow) (Lab)  
Smyth, Colin (South Scotland) (Lab)  
Stewart, David (Highlands and Islands) (Lab)  
Wightman, Andy (Lothian) (Green)

#### Against

Adam, George (Paisley) (SNP)  
Adamson, Clare (Motherwell and Wishaw) (SNP)  
Ballantyne, Michelle (South Scotland) (Con)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Bowman, Bill (North East Scotland) (Con)  
Briggs, Miles (Lothian) (Con)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Carson, Finlay (Galloway and West Dumfries) (Con)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Cole-Hamilton, Alex (Edinburgh Western) (LD)  
Constance, Angela (Almond Valley) (SNP)  
Corry, Maurice (West Scotland) (Con)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Dey, Graeme (Angus South) (SNP)  
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Golden, Maurice (West Scotland) (Con)  
Gougeon, Mairi (Angus North and Mearns) (SNP)  
Greene, Jamie (West Scotland) (Con)  
Halcro Johnston, Jamie (Highlands and Islands) (Con)  
Haughey, Clare (Rutherglen) (SNP)  
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
Kerr, Liam (North East Scotland) (Con)  
Kidd, Bill (Glasgow Anniesland) (SNP)  
Lindhurst, Gordon (Lothian) (Con)  
Lochhead, Richard (Moray) (SNP)

Lockhart, Dean (Mid Scotland and Fife) (Con)  
Lyle, Richard (Uddingston and Bellshill) (SNP)  
MacDonald, Angus (Falkirk East) (SNP)  
MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
Maguire, Ruth (Cunninghame South) (SNP)  
Martin, Gillian (Aberdeenshire East) (SNP)  
Mason, John (Glasgow Shettleston) (SNP)  
Matheson, Michael (Falkirk West) (SNP)  
McAlpine, Joan (South Scotland) (SNP)  
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
McMillan, Stuart (Greenock and Inverclyde) (SNP)  
Mountain, Edward (Highlands and Islands) (Con)  
Mundell, Oliver (Dumfriesshire) (Con)  
Rennie, Willie (North East Fife) (LD)  
Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
Rumbles, Mike (North East Scotland) (LD)  
Russell, Michael (Argyll and Bute) (SNP)  
Simpson, Graham (Central Scotland) (Con)  
Smith, Liz (Mid Scotland and Fife) (Con)  
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
Stewart, Alexander (Mid Scotland and Fife) (Con)  
Stewart, Kevin (Aberdeen Central) (SNP)  
Torrance, David (Kirkcaldy) (SNP)  
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
Wells, Annie (Glasgow) (Con)  
White, Sandra (Glasgow Kelvin) (SNP)  
Whittle, Brian (South Scotland) (Con)  
Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 59, Abstentions 0.

*Amendment 40 disagreed to.*

**The Presiding Officer:** Group 5 is on penalties for offences under the Wildlife and Countryside Act 1981. Amendment 41, in the name of Angus MacDonald, is grouped with amendments 42 to 44, 14, 45 to 48 and 27.

**Angus MacDonald (Falkirk East) (SNP):** We all know that egg collecting continues to pose a threat to our rare bird species. There has been progress in stamping out that inexcusable and damaging practice in recent years through targeted police campaigns such as operation Easter, but there have been significant cases involving wild birds' eggs in Scotland and elsewhere in the United Kingdom.

Clutches of eggs that are laid by rarer birds are the main targets of egg thieves, who are known to travel the length and breadth of the country to steal eggs for their collections. They think nothing of robbing of their eggs birds including golden eagles, black throated divers and dotterels, which they do in full knowledge that their actions invariably eliminate any breeding opportunity for the birds that year. Many bird species are becoming less common for a number of ecological and environmental reasons, so they can well do without the added pressure of egg thieves.

To allow the offence of possession, sale and transport of wild birds' eggs to be triable either way, and therefore to warrant a maximum penalty

of five years and/or an unlimited fine on conviction on indictment, has the potential to help to address such offending by strengthening the sanction for the worst crimes. It would also provide consistency in the approach to treatment of offences involving birds' eggs throughout the bill and would, importantly, demonstrate how serious the Scottish Government considers the offences to be.

In short, we need a stronger deterrent. I urge members to support the amendments in the group.

I move amendment 41.

**Claudia Beamish:** My amendments in the group seek to increase the penalties for wildlife crimes that involve the nesting, resting and lekking places of protected wild birds and animals. I have found out that lekking places are where birds do their lovely mating dances.

The existing proposals do not sufficiently reflect those crimes' seriousness, nor do they deter criminal activity. As has been said, the offences affect our precious biodiversity, the loss of which makes Scotland so much poorer. I thank RSPB Scotland, the Scottish Wildlife Trust, Scottish Environment LINK and the Bat Conservation Trust for evidence for the amendments.

I have raised those concerns at all stages of the bill, from the stage 1 report which was produced with other committee members, to testing of amendments at stage 2. I believe that the amendments have been refined to address the Government's concerns and I appreciate having been able to work on them with the minister.

Damage or destruction to resting places and breeding sites can have an outcome that is equivalent to direct harm to an animal, therefore intentionally or recklessly damaging or destroying such sites should carry the equivalent penalty. The unlimited fine is particularly vital, because there are cases in which offenders can benefit very well financially from not following the law, when development of land to provide alternative roosting places can have a greater cost than the existing fines.

We will also support Angus MacDonald's amendments 42 and 44. I appreciate his having let us know more detail about them before today. Egg collecting, although it is rarer than it used to be and is certainly not at all socially acceptable, continues to pose a very real threat to our rare bird species in Scotland. The amendments would allow the offences of possession, sale and transport of wild birds' eggs to be triable either way, depending on the seriousness of the crime. An unlimited fine, or conviction for five years on indictment, would certainly be a deterrent and has the potential to address such offending by strengthening the sanctions for the worst crimes. It would also allow consistency throughout the bill in respect of the

approach to and treatment of offences that involve bird eggs.

I will end my remarks with a quote from the Poustie review. It said:

"We consider that it is appropriate to match the maximum penalties available in other areas of environmental law as certain wildlife crimes are as significant in conservation or animal welfare terms as the environmental impact of a water, air or waste pollution offence."

**Mairi Gougeon:** It is customary for the Scottish Government to consider the effect of amendments that were accepted at stage 2—not least, in order to check whether any housekeeping is required.

That is really the purpose of amendments 14 and 27. They seek to correct section 21 of the Wildlife and Countryside Act 1981—which provides the penalties for the offences within that act—by removing duplication of references to offences. Amendment 14 will repeal section 21(4ZZA) of the 1981 act, because the penalties for the offences that are listed in that section are already provided for in section 21(4C).

Amendment 27 will simply remove the specific reference to section 15A(2A) from section 21 of the 1981 act, because section 21 already provides penalties for the whole of section 15A. The specific reference to section 15A(2A) is therefore unnecessary.

I hope that those technical amendments will prove to be uncontroversial and that members will support them.

I thank Angus MacDonald for lodging his amendments. As he said, there are still individuals who believe that collecting and trading rare bird eggs are acceptable activities. I am absolutely clear that they are not. Although such offences are less common than they once were—thankfully—they still pose a serious threat to endangered bird species, so I am happy to support the amendments.

When Claudia Beamish lodged her amendments at stage 2, I said that I would like some time to consider their consequences further. I appreciate her having given me that time. Having considered all the evidence that was heard throughout the bill process, and having taken soundings from Government officials in justice and in animal welfare and from the Cabinet Secretary for Justice, I am happy to support Claudia Beamish's amendments.

The destruction of nests and habitats can have a serious impact on the welfare and conservation status of wild birds. The penalties that are proposed will provide the Crown Office and Procurator Fiscal Service and the courts with the necessary flexibility to deal appropriately with the

crimes. I will support all the amendments in the group, and hope that all members will do so.

**Liam McArthur:** I simply want to add my thanks to Angus MacDonald and, in particular, to Claudia Beamish for their amendments. As I have said previously, at the heart of the bill is the need to toughen up penalties for wildlife crime and animal cruelty by increasing the maximum penalties for offences related to disturbing, destroying or damaging bird and animal nests and shelters. Claudia Beamish is helping to ensure that that happens, so Scottish Liberal Democrats will be happy to support all the amendments in the group.

**Finlay Carson:** Given that all the amendments in the group are related to the main principle of the bill, which is to increase the penalties that are associated with animal welfare offences, we will support the amendments.

**The Presiding Officer:** That was admirably brief. I call Angus MacDonald to wind up and to say whether he wishes to press or to seek to withdraw amendment 41.

**Angus MacDonald:** I have nothing to add, Presiding Officer. I am happy to press amendment 41.

*Amendment 41 agreed to.*

*Amendment 42 moved—[Claudia Beamish]—and agreed to.*

*Amendment 43 moved—[Angus MacDonald]—and agreed to.*

*Amendment 44 moved—[Claudia Beamish]—and agreed to.*

*Amendment 14 moved—[Mairi Gougeon]—and agreed to.*

*Amendment 45 moved—[Claudia Beamish]—and agreed to.*

*Amendment 46 moved—[Angus MacDonald]—and agreed to.*

*Amendments 47 and 48 moved—[Claudia Beamish]—and agreed to.*

*Amendment 27 moved—[Mairi Gougeon]—and agreed to.*

#### **After section 5**

17:15

**The Presiding Officer:** Group 6 is on penalties for offences under the Food and Environment Protection Act 1985. Amendment 28, in the name of Claudia Beamish, is the only amendment in the group. I call Claudia Beamish to speak to and move amendment 28.

**Claudia Beamish:** Amendment 28 is about increasing the penalties for offences involving illegal pesticides. Members might recall that, at stage 2, I received cross-party support for increasing penalties for possession, and for causing possession, of illegal pesticides.

Amendment 28 seeks to extend that to include the sale of said illegal pesticides. Illegal pesticides can be untested and are potentially very dangerous to human health and the environment. I hope that members across the chamber will agree that the bill must do all that it can to resolutely deter illegal pesticide use, so that it might never be a problem in Scotland again.

I move amendment 28.

**Mairi Gougeon:** Although I understand the motivation behind Claudia Beamish's amendment 28, for a number of reasons I cannot support it.

First, amendment 28 has a number of technical issues; I am concerned that the amendment as drafted is fundamentally flawed. The intention behind it appears to be to increase penalties for offences relating to prohibitions on importation, sale and supply of pesticides. However, the amendment fails to identify properly the power in section 16 of the Food and Environment Protection Act 1985 under which such prohibitions are made and under which, for that matter, the offences arise. Because of how the amendment has been drafted, it is doubtful that the increased penalties that it mentions will apply to offences under the 1985 act.

Secondly, the provisions that amendment 28 seeks to change have largely been overtaken by European Union legislation, which provides for rigorous and effective pesticide regimes in Scotland.

Finally, the bill is an animal and wildlife bill, the purpose of which is to enhance the protection that is afforded to domestic, wild and farmed animals. However, amendment 28 would take the bill into areas that go far wider than animal welfare considerations. My view is that the bill is simply not the appropriate place to make changes that relate to more general pesticides regulation offences.

Given all that, I ask Claudia Beamish to seek to withdraw amendment 28.

**Finlay Carson:** On first reading amendment 28 we were minded to agree to it, because we certainly do not condone ownership of pesticides when there is no legitimate reason to have them. Anybody who is in such possession of them should face the full brunt of the law, so we would have supported the increased penalties for those offences. However, given the comments of the

minister on the technical issues that arise from the amendment, we will not support it.

**The Presiding Officer:** I call Claudia Beamish to wind up, and to press or to seek to withdraw amendment 28.

**Claudia Beamish:** Although it is at a late stage, I will seek to withdraw amendment 28. However, I put on the record that sale and importation of illegal pesticides have, across the EU, become very serious issues that I hope will be addressed in other ways.

I appreciate what the minister said about amendment 28 being too wide. I could perhaps have had further discussion with her in the interim. However, it built on a previous amendment that was agreed to on a cross-party basis. I highlight that there are criminal gangs that import illegal pesticides and sell them on the black market across Europe, which is a very serious issue that we need to address together.

*Amendment 28, by agreement, withdrawn.*

### **Section 6—Protection of Badgers Act 1992: penalties for offences**

*Amendment 1 moved—[Mark Ruskell].*

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

**Members:** No.

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

#### **For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

#### **Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 20, Against 57, Abstentions 0.

*Amendment 1 disagreed to.*

**The Presiding Officer:** Group 7 is on the Protection of Badgers Act 1992: penalties for offences et cetera. Amendment 49, in the name of Colin Smyth, is grouped with amendments 50 to 52.

**Colin Smyth:** Amendments 49 to 51, in my name, seek to increase the maximum penalties for interfering with or damaging a badger sett, to bring them into line with the proposed new penalties for harming a badger directly. Destroying a badger sett can cause at least as much damage as killing a badger directly—and often can cause more harm, for example by causing elongated suffering

and a more drawn-out and painful death, or by harming entire groups of badgers and risking their local extinction.

Although the bill rightly increases the maximum penalties for offences against badgers, it does not do the same for crimes that involve setts. That creates a loophole that would allow people to kill an entire group of badgers in a cruel and inhumane way by damaging their setts with less severe consequences than for killing an individual badger. There is no reason for damaging a badger sett, other than to harm the animals; that needs to be reflected in the penalties.

Having raised the issue previously, I welcomed the minister's acknowledgement at stage 2 of my concerns and of the merit of my intended amendments, and I thank her for agreeing to work with me to bring them back at stage 3.

Amendment 49 will give effect to the intended purpose by repealing from the current legislative provisions the circumstances that allow for lower penalties to be applied. Amendment 50 will then repeal those penalties, and amendment 51 will apply the higher penalties to the whole of the thus-amended section 12 of the Protection of Badgers Act 1992. Increasing the maximum penalties for such crimes, and bringing them into line with the penalties for offences against the animals, will send a clear message that disrupting a badger sett is a serious wildlife offence. I hope that members agree and will support my amendment.

Amendment 52 raises a separate issue and is therefore set out as a stand-alone amendment. However, it is on a related matter: the definition of a badger sett. It is important that the penalties for disrupting a badger sett are set correctly. Equally, the laws must be effective. One potential limitation of the legislation, which has been raised with me by Scottish Badgers, is in its definition of a badger sett. Currently, badger setts are defined as

"any structure or place which displays signs indicating current use by a badger".

There is a case to be made that the requirement for a sett to be in current use may be too narrow. As badger setts are typically used on a rotational basis, it is possible to do harm to the welfare and health of badgers by damaging a sett that is not currently in use.

I am mindful that changing a legal definition is a significant step and is not to be undertaken lightly or without proper thought and consultation. I had an amendment drafted that would have set a new definition, and I raised the issue directly with the minister. However, in light of her comments and request to be able to consider the matter in more detail, I have not lodged that amendment, and I do not seek to change the definition at this time. Instead, my modest amendment 52 calls for a

review of the issue. That would provide an opportunity to look more closely at the matter and to consider carefully what changes could be made to the wording of the definition, so as to ensure that the legislation is as effective as possible.

A great deal of work has been carried out on the issue, and there is already a wealth of views to be considered. I hope therefore that the Government will carry out that work, and that Parliament will support my modest amendment 52, thus enshrining in legislation the need for that work, which would complement amendments 49 to 51.

I move amendment 49.

**Liam McArthur:** I place on record my gratitude to Colin Smyth for his amendments on the further protection of badger setts, which, as he rightly points out, would bring those penalties into line with those that are already in place in respect of harming badgers directly. The descriptions that we have seen of the suffocation that can occur through a sett being tampered with are horrific and they absolutely justify the approach that Colin Smyth takes in his amendments, which the Scottish Liberal Democrats will support, with the exception of amendment 52.

**Finlay Carson:** Notwithstanding our previous comments about the concern about a sizeable or growing level of badger persecution or our understanding that it is limited to certain poachers and baiters rather than being widespread, I welcome the amendments that Colin Smyth has lodged to bring the penalties into line with those that the bill sets out in relation to other animals. We will support his amendments in the group.

**Mairi Gougeon:** Amendments 49 to 52 cover offences relating to the disturbance of badger setts. As I said when I addressed the issue at stage 2, I appreciate the impact that offences involving the disturbance of habitats and resting places, including badger setts, can have on our wildlife. That is why I proposed at the outset of consideration of the bill to increase the maximum penalty for those offences to 12 months' imprisonment and/or a £40,000 fine.

However, I have listened closely to the concerns that Colin Smyth and others raised at stage 2, which is why I am happy to support amendments 49 to 51, which will increase the maximum penalties for disturbance and destruction of badger setts to five years' imprisonment, an unlimited fine or both when tried by solemn procedure, in line with the penalties for the other most serious offences against our animals.

The subject of amendment 52 has not previously been raised as an issue and it was not considered at stages 1 or 2. I have had a conversation with Colin Smyth about that. The bill seeks to increase the penalties for existing wildlife

offences and does not create any new wildlife offences, nor does it change the definition of offences. As the proposal has come so late in the bill process, we have not had an opportunity to consult on it or to take detailed evidence on it from stakeholders. Because of that, I am not aware of evidence that would suggest that the proposed change is necessary.

Before committing to undertake such a review, I would therefore like to take some time to consider the matter further. To that end, I intend to write to the legislation sub-committee of the partnership for action against wildlife crime Scotland and the Scottish Animal Welfare Commission to seek their views on the matter. I ask Colin Smyth, if he is content with that, not to move amendment 52. I assure him that I will give further careful consideration to a review once I have had an opportunity to explore the matter in more detail.

**The Presiding Officer:** I call Colin Smyth to wind up on the group and press or withdraw amendment 49.

**Colin Smyth:** I thank the minister and members for their support for my proposal to bring the penalties for offences against badger setts into line with those for offences against the animal.

I welcome the minister's willingness to look again at the definition of a badger sett and consider whether any changes are needed. I note that that commitment is on the record and, on that basis, I will not move amendment 52. I and many organisations such as Scottish Badgers, which has done some outstanding work to promote the study, conservation and protection of Scotland's badgers, look forward to working with the minister on the issue in order to ensure that we have a definition of a badger sett to complement the changes to the penalties.

I press amendment 49.

*Amendment 49 agreed to.*

*Amendments 50 and 51 moved—[Colin Smyth]—and agreed to.*

*Amendment 52 not moved.*

### **Section 9—Wild Mammals (Protection) Act 1996: penalties for offences**

*Amendment 53 moved—[Claudia Beamish].*

**The Presiding Officer:** The question is, that amendment 53 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Beamish, Claudia (South Scotland) (Lab)

Boyack, Sarah (Lothian) (Lab)  
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)  
Greer, Ross (West Scotland) (Green)  
Harvie, Patrick (Glasgow) (Green)  
Johnson, Daniel (Edinburgh Southern) (Lab)  
Johnstone, Alison (Lothian) (Green)  
Kelly, James (Glasgow) (Lab)  
Lennon, Monica (Central Scotland) (Lab)  
Leonard, Richard (Central Scotland) (Lab)  
Macdonald, Lewis (North East Scotland) (Lab)  
Rowley, Alex (Mid Scotland and Fife) (Lab)  
Ruskell, Mark (Mid Scotland and Fife) (Green)  
Sarwar, Anas (Glasgow) (Lab)  
Smyth, Colin (South Scotland) (Lab)  
Stewart, David (Highlands and Islands) (Lab)  
Wightman, Andy (Lothian) (Green)

### **Against**

Adam, George (Paisley) (SNP)  
Adamson, Clare (Motherwell and Wishaw) (SNP)  
Ballantyne, Michelle (South Scotland) (Con)  
Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
Bowman, Bill (North East Scotland) (Con)  
Briggs, Miles (Lothian) (Con)  
Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
Carson, Finlay (Galloway and West Dumfries) (Con)  
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
Cole-Hamilton, Alex (Edinburgh Western) (LD)  
Constance, Angela (Almond Valley) (SNP)  
Corry, Maurice (West Scotland) (Con)  
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
Dey, Graeme (Angus South) (SNP)  
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
Ewing, Fergus (Inverness and Nairn) (SNP)  
Fabiani, Linda (East Kilbride) (SNP)  
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
Fraser, Murdo (Mid Scotland and Fife) (Con)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Golden, Maurice (West Scotland) (Con)  
Gougeon, Mairi (Angus North and Mearns) (SNP)  
Greene, Jamie (West Scotland) (Con)  
Halcro Johnston, Jamie (Highlands and Islands) (Con)  
Haughey, Clare (Rutherglen) (SNP)  
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
Kerr, Liam (North East Scotland) (Con)  
Kidd, Bill (Glasgow Anniesland) (SNP)  
Lochhead, Richard (Moray) (SNP)  
Lockhart, Dean (Mid Scotland and Fife) (Con)  
Lyle, Richard (Uddingston and Bellshill) (SNP)  
MacDonald, Angus (Falkirk East) (SNP)  
MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
Maguire, Ruth (Cunninghame South) (SNP)  
Martin, Gillian (Aberdeenshire East) (SNP)  
Mason, John (Glasgow Shettleston) (SNP)  
Matheson, Michael (Falkirk West) (SNP)  
McAlpine, Joan (South Scotland) (SNP)  
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
McMillan, Stuart (Greenock and Inverclyde) (SNP)  
Mountain, Edward (Highlands and Islands) (Con)  
Mundell, Oliver (Dumfriesshire) (Con)  
Rennie, Willie (North East Fife) (LD)  
Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
Rumbles, Mike (North East Scotland) (LD)  
Russell, Michael (Argyll and Bute) (SNP)  
Simpson, Graham (Central Scotland) (Con)  
Smith, Liz (Mid Scotland and Fife) (Con)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 58, Abstentions 0.

*Amendment 53 disagreed to.*

*Amendment 54 not moved.*

#### After section 10A

**The Presiding Officer:** Group 8 is on conservation and protection of marine life. Amendment 29, in the name of the minister, is grouped with amendments 29A, 55, 55A, 55B, 61 and 31. I remind members to refer to the supplementary marshalled list for amendments 55A and 55B.

17:30

**Mairi Gougeon:** The principal purpose of amendment 29 is to enhance the conservation and welfare of seals by removing specific grounds on which the Scottish ministers may grant licences for the killing or taking of seals.

The Marine (Scotland) Act 2010 allows the Scottish ministers to grant licences that authorise the killing or taking of seals to protect the health and welfare of farmed fish and to prevent serious damage to fisheries or fish farms. The amendments in my name in this group will stop those provisions by removing paragraphs (f) and (g) of section 110(1) of the 2010 act and making related consequential provisions.

Other grounds on which licences may be granted, including for the purposes of scientific research, preserving public health and safety and the conservation of seals and other wild animals, are being retained.

Amendment 29 will also increase the penalties associated with the offence of killing, injuring or taking a live seal intentionally or recklessly, in line with other serious wildlife offences. That is appropriate and proportionate to our approach elsewhere in the bill.

Amendment 29 aligns with measures that are taken in other countries, including the provisions of the United States Marine Mammal Protection Act. It will ensure that we can still export farmed fish to the United States of America in future. That is one of our most important markets; it was worth £178 million in 2019.

Amendment 29, therefore, addresses welfare, conservation and economic concerns. I hope that members will support it.

Amendment 31 will make a consequential change to the bill's long title, which will be needed if amendment 29 is agreed to.

I turn to amendment 29A, in the name of Mark Ruskell. I have set out my reasons for making changes to the 2010 act that will represent a significant step forward in ensuring the welfare and conservation of our seals. I am aware of some members' concerns about the use of acoustic deterrent devices, principally in the aquaculture sector. Amendment 29A, which would ban the use of acoustic deterrent devices, is not acceptable, because such a ban would have far-reaching consequences for a range of activities in our territorial waters.

Acoustic deterrent devices are regularly used in the marine renewables, oil and gas and coastal development sectors as a mitigation method to move marine mammals, including seals, dolphins, whales and porpoises, away from operations that could result in much more serious injury or harm to them. Furthermore, pingers—a type of ADD—are a mandatory requirement in some fisheries, to prevent the incidental capture of dolphins and porpoises in fishing gear. Therefore, banning the use of pingers would, in effect, ban the use of fishing gear in relation to which pingers are a legal obligation.

Although I absolutely want to do the best thing for Scotland's wildlife, we must be mindful of the importance of marine sectors to the Scottish economy and the many livelihoods that those sectors support, particularly in our coastal communities.

Amendment 29A would expose marine mammals to a greater risk of being harmed by the operation of marine sectors—to put it simply, it is a blunt instrument to address a nuanced issue. For that reason, I cannot support amendment 29A and I encourage Mark Ruskell not to press it. The issue does not require amendment of the 2010 act.

I turn to amendment 55, in the name of Mark Ruskell, and amendments 55A and 55B, in my name. Amendment 55 raises the issue of the use of acoustic deterrent devices by the aquaculture sector, which I understand is a matter of particular concern to Mark Ruskell. The Scottish Government is undertaking a comprehensive programme of work on this matter, including a review of the current regulation and management of ADD use in this sector, and it is my view that that review should be completed before we determine what any next steps might be.



The Scottish Government is supporting scientific research that will establish the full extent of current ADD use across the Scottish finfish sector. Furthermore, that research will underpin the development of robust, science-based industry guidance and any regulatory reform that is deemed necessary in relation to the future use of ADDs.

I want to ensure that, where ADDs are used, they are properly regulated and deployed to have an effective deterrent effect while minimising any environmental impact and not unduly exposing marine wildlife to harm. I suspect that that is the motivation behind Mark Ruskell's amendment.

There is already a significant body of work under way in this important area. In fact, there is so much work that I consider amendment 55 to be too narrow in scope to reflect it. For that reason, I have lodged amendments 55A and 55B, in order to broaden the focus.

It is important that the national and international context that we are operating in is recognised, and my amendments place on Scottish ministers a duty to report on that broad framework. Amendments 55A and 55B make the reporting requirement better reflect the breadth of work that is currently being undertaken by the Scottish Government, and I welcome the obligation to report the outcomes to Parliament. Therefore, I can support Mark Ruskell's amendment 55, but only on the condition that amendments 55A and 55B are accepted.

On Claudia Beamish's amendment 61, I must begin by reiterating that the bill seeks to ensure that there is a consistent approach to the most serious wildlife crimes on land and in our seas. If passed, the bill will greatly strengthen maximum penalties for offences against marine species such as killing dolphins, seals and basking sharks. Claudia Beamish's amendment would apply the maximum penalties that are being extended under the bill to offences relating to marine protected areas that are designated under the Marine (Scotland) Act 2010.

Although I am committed to properly and sustainably supporting our marine environment, there are significant problems with that approach. First, I must begin by pointing out that this bill is concerned with increasing the penalties that are associated with the worst kinds of animal cruelty. Amendment 61, which pertains to marine protected areas, is, arguably, not in line with that, since it would apply to a range of activities that, in some circumstances, have little or no interaction with or effect on animals. Indeed, currently, it is possible to commit an offence under protected area legislation without harming animals or wildlife—that is the case in relation to offences under section 94 of the 2010 act. I do not think

that it is right to use stage 3 of a bill that is centred on animal welfare to increase the maximum penalties for a set of offences that can be committed without any harm being caused to animals or wildlife.

Secondly, the amendment pertains only to the Marine (Scotland) Act 2010, to the exclusion of other types of protected areas on land and in our seas and of various pieces of legislation that underpin those important regimes. In that regard, if the amendment were accepted, it would create an inconsistent approach between different types of protected areas, which would be undesirable and, potentially, unfair to marine users. I hope that members will agree that singling out just one type of protected area at this late stage in the progress of this bill is not the right approach, especially as the bill is strictly designed to deal only with animals and wildlife.

Thirdly, we are already taking action to improve the monitoring of activity in MPAs and to ensure compliance with MPA management measures. We are rolling out remote electronic monitoring, and Scotland's scallop fishing vessels have all voluntarily signed up to participate. It is anticipated that all vessels in Scotland's scallop dredging sector will have those systems by April next year. I suggest that that will be a game changer in inshore fisheries management and in safeguarding marine protected areas. Taking action to prevent and deter illegal activity and offences will allow us to focus resources on taking enforcement action against the few who choose to break the law.

For the reasons that I have outlined, I cannot support the amendment, and I ask Claudia Beamish not to move it.

I move amendment 29.

**Mark Ruskell:** For many years, the Scottish Greens and campaigners have been calling for an end to the brutal and unjustified killing of seals. Today, therefore, we welcome that the minister has finally introduced a ban on the culling of seals, even if it comes at a late stage—stage 3 of this bill.

However, a ban on killing seals is only half of the action that is needed. The use of acoustic deterrent devices arguably also falls foul of both the US Marine Mammal Protection Act's definition of harassment and of our obligation to protect seals, whales and dolphins from reckless disturbance under the habitats directive.

A rise in the use of ADDs could be a direct unintended consequence of the ban on killing seals. Do not be in any doubt about the damage that those devices can cause dolphins. They have been described as acoustic torture and have been shown to cause severe and widespread disturbance.

Why has the Scottish Government allowed a free-for-all in the use of ADDs on fish farms? According to one study, they could be polluting over 12,500km<sup>2</sup> of our seas. Why are fish farms not required by Marine Scotland to apply for licences to use ADDs? Is that because Marine Scotland knows full well that applications would not pass the licensing tests because there are clear alternatives for fish farms to protect their stock by using tension nets and seal blinds, as is done in Shetland?

The Scottish Government's goal to double the economic value of the aquaculture sector comes at an unacceptable cost to our environment, to the extent that even the chlorine-washed US Government believes that we are not protecting our marine wildlife properly.

That is why I am moving amendment 55 and seeking a ban on the use of ADDs specifically in the aquaculture sector. As is often the case in the absence of 100 per cent scientific certainty, we must make a judgment. Given what is at stake, by applying the precautionary principle and introducing a ban we can be confident that damage is not being done to marine mammals and that we are not falling foul of both US and European laws.

I expect that a ban on ADDs, particularly on conventional ones, will come soon. I have listened to the minister's comments about scope, particularly in relation to pingers on fishing vessels. As a result of that, I will not press amendment 29A.

I hope that members will support my amendment 55, along with the manuscript amendments from the minister, which require a timely report to Parliament on ADD use, monitoring and the implications for licensing. I am aware that work is under way to understand the use of ADDs, but there are urgent considerations that should be brought directly to Parliament before the US deadline of March 2021.

Any changes to the licensing regime will need parliamentary time for approval. I suspect that we will still be staring at the need for a ban on the majority of ADDs to rid our seas of noise pollution in six months' time.

I move amendment 29A.

**Claudia Beamish:** Amendment 61 is an important one that deserves the support of Parliament. It applies a new maximum penalty for the few instances in which fisherpeople are convicted of contravening a marine conservation order or of committing offences relating to the protected features of nature conservation MPAs. I drew the amendment narrowly. I hear what the minister says about other marine protected

features, but I focused particularly and deliberately on marine protected areas.

As with the amendments dealing with vicarious liability, I am talking about the few vessels that operate illegally and with disregard for those invaluable habitats and species.

I stress the word "habitats" as well as "species" because what is right for the land is also right for our marine environment. Marl beds, kelp areas and other protected areas are invaluable habitats. They are as valuable as the creatures themselves. There can be damage to the sea, just as there can be on land to the badger setts and the nesting and resting places that Parliament has already agreed to protect. It is high time that our sea creatures and habitats had the same respect and protection as those on land. Damaging the marine environment is no less of a wildlife crime than the destruction of a hen harrier nest.

Illegal damage to marine protected areas can mean the loss of precious habitats that took decades to establish and threatens our iconic biodiversity. I understand that the minister says the bill is about wildlife, but all creatures exist within habitats.

The measures to which amendment 61 refers are not overly punitive. They relate to serious damage, and the provisions seek to ensure that those who inadvertently cause damage would not be disproportionately punished.

I understand that members may be concerned because I am raising the issue for the first time at stage 3, but the amendment is analogous to the Scottish Government's amendment 29 on the conservation of seals.

Before stage 2, I genuinely thought about how I might say something about the marine environment. I missed a trick. I should have thought about introducing the marine protected area amendment at stage 2, which I agree would have given more opportunity for discussion, but I thought about doing so only after stage 2. However, I consider the case to be very strong.

It is clear that the penalties issued in response to fishing in closed areas are inadequate as a deterrent. There have been multiple reports of vessels operating illegally in sites. In November 2018, there was wide reporting of the illegal damage to Loch Gairloch by two vessels. In July 2019, that happened again a few miles north in Wester Ross MPA.

I thank Open Seas and the Sustainable Inshore Fisheries Trust for their support with amendment 61. Open Seas states that part of the reason for repeat offences is that illegality is treated as a fisheries offence and not as a wildlife offence. Part of the offence in the amendment includes the

intentional killing or injuring of animals in a protected area. It is hardly a stretch to say that that is committing a wildlife crime.

The Government guidance for penalties states that the level of fixed penalty imposed will reflect any financial gain. Other factors that can be taken into account in determining the level of fixed penalty are whether the stock in question is identified by commissioners as a recovery stock and whether the person has received a fixed penalty for the same category of offence. That cannot be right. In addition to the value of the stock, it has to be about the effect on the habitat and on the wildlife.

I recognise that the Government may think that the issue can be tackled by the roll-out of the inshore vessel monitoring systems to the entire fleet, but progress on that has been slow, and it looks as though it will continue to be slow. In addition, Marine Scotland's resources are stretched.

As the minister highlighted when talking about taking action in the round, the inshore fisheries bill has now been shelved. We do not know when it will come, especially given the situation with Covid.

In light of the climate and environment emergencies, it would be very disappointing if the Government does not support this important shift on marine wildlife crime. Higher penalties are a much-needed deterrent to keep MPAs thriving.

Scottish Labour will support amendment 29, on the conservation of seals. That issue came to the committee in 2018, and I am not sure why we had to wait. We are where we are, although I hope that it is not because of US demands that we are only now considering the amendment.

We had intended to abstain on Mark Ruskell's amendment 29A, but I understand that he will not press it. We have concerns about dolphins and other cetaceans, but I have concerns about that amendment for a number of reasons. The Fisheries Management Scotland briefing highlights the concerns about seals preying on wild salmon in our rivers. The issue is not only about fish farms as the minister has highlighted; it is also about wind farms and other installations.

In that context, it makes sense to support Mark Ruskell's amendment 55, which seeks to place an obligation on the Government to report by March 2021, which is in only 10 months or so. We should really tackle the issue, and look at whether we should be banning acoustic deterrent devices altogether or at how we should otherwise progress matters. The issue is unresolved, and it needs to be tackled quickly.

We will also support amendments 55A and 55B, in the name of the minister.

**Finlay Carson:** We welcome the proposed changes regarding ADDs, but we are concerned about how late the Government has lodged its amendment regarding the shooting of seals, given that the issue was raised in committee at stage 2, as Claudia Beamish mentioned. The research work was first looked at way back in 2018, so bringing the issue to the chamber so late is not really acceptable and gives us little chance to look at the consequences of removing the ability to control seals in that way.

The use of ADDs is important, but there are lots of elements that we need to look at in that regard, too. The use of ADDs by the Scottish aquaculture industry is pretty much unregulated and largely unrecorded and undocumented. We are concerned about the effect that the devices will have on porpoises, which we have heard about, as they are sensitive to underwater noises, and their effects on a range of other animals including whales and dolphins. We should have been looking at that issue at stage 2 rather than lodging amendments at this stage.

If we ban the use of ADDs altogether, that will have a potential impact on the protection from seal predation of wild Atlantic salmon and sea trout populations in our famed rivers. The amendment on shooting seals would have a huge effect on that. We need to keep some sort of deterrence in our rivers to protect our salmon and trout, so I welcome the fact that we will do more work on that issue, and I hope that the amendments will address those concerns.

Again, we are a bit concerned that Claudia Beamish's amendment 61 was lodged at stage 3.

**Andy Wightman (Lothian) (Green):** On a number of occasions, Finlay Carson has mentioned amendments being lodged at stage 3. Oliver Mundell lodged amendments at stage 3 of the Children (Equal Protection from Assault) (Scotland) Bill; Liam Kerr lodged many amendments at stage 3 of the Management of Offenders (Scotland) Bill; and Dean Lockhart, Annie Wells and Graham Simpson lodged amendments at stage 3 of the Transport (Scotland) Bill. Is Finlay Carson saying that Conservatives have never lodged amendments at stage 3 that have not been debated at stage 2?

**Finlay Carson:** I am quite taken aback. Andy Wightman is probably getting in a strike first because he understands the displeasure across the chamber at some of the amendments that the Greens have lodged at this late stage. There has been no discussion about the amendments that the Greens have lodged—none whatsoever. It is

more about virtue signalling and grandstanding than about making good law.

However, I do not believe that that is the case in relation to the late lodging of amendment 61. Claudia Beamish did what she thought was right at stage 2. We have concerns, because we do not want to inadvertently and disproportionately penalise our fishermen, who might be seen to be committing offences without actually damaging any protected animals. The fishing industry is making progress with positioning technology, and that work should be allowed to continue. There will be a dramatic increase in the responsibilities of trawlers, and we do not want them to be unfairly punished with the burden of proof that currently lies with them.

We will not support amendment 61.

**Edward Mountain:** Given that Mr Carson mentioned wild fish, I declare that I have an interest in a freshwater salmon farm, but that is not what I want to talk about.

The discussion about acoustic deterrents is interesting. The matter was brought up when the Rural Economy and Connectivity Committee did its aquaculture report. We took evidence on it, but it was unclear by the end of our inquiry how acoustic deterrents work. As a member of the REC Committee, I welcome amendments 55, 55A and 55B, because I think that they will shed light on and close one of the issues that the committee looked at.

I am also delighted that Mark Ruskell is withdrawing amendment 29A. That is the right decision. My understanding is that acoustic deterrents have moved on considerably from where they were a few years ago, such that you can use detection methods to turn on an acoustic deterrent and use it to move an animal away only when it moves into a danger area. God forbid that some of the developments that we are carrying out in the Moray Firth, for example, should affect our dolphins—which we enjoy so much—within the inner Moray Firth. The use of an acoustic deterrent to drive them away while pile-driving work is carried out so that their hearing is not damaged seems to be a sensible solution. I thank Mr Ruskell for protecting the bottlenose dolphins that inhabit the inner Moray Firth—he has made the right decision.

**Liam McArthur:** The shooting of seals is perhaps one of the most controversial issues—if not the most controversial issue—that I and my colleagues on the then Rural Affairs Committee had to deal with back in 2010, when we were considering the bill that became the Wildlife and Natural Environment (Scotland) Act 2011. At the time, we made progress in restricting the practice, but it felt as though we were on a journey that was

far from complete, and so it has proved with the minister's amendment 29 today, which the Scottish Liberal Democrats strongly support.

I was concerned to see Mark Ruskell's amendment 29A. During the passage of the WANE act, those who were advocating a ban on the shooting of seals insisted that acoustic devices were perfectly adequate for protecting fish farms from seal attacks. As the minister has explained, and as Edward Mountain has just mentioned, their use is perhaps far more widespread than it was a decade ago, and I absolutely accept the point that there will be good acoustic devices as well as those that cause unnecessary harm, which we need to get rid of.

I welcome amendment 55 from Mark Ruskell and the Government's amendments to that amendment, which will ensure that the regulation of these devices is fit for purpose, so that we can weed out devices that really have no business being used while still allowing the use of acoustic devices in appropriate circumstances by those in the aquaculture sector or in other sectors, if it is appropriate. I thank Mark Ruskell for lodging amendment 55 and for allowing us to make progress in an area that the current REC Committee has clearly been giving quite a bit of consideration to over the past couple of years.

**The Presiding Officer:** I call the minister to wind up on the group and on amendment 29, in particular.

**Mairi Gurgeon:** I am happy that the amendments have had broad support across the chamber.

I press amendment 29.

*Amendment 29A, by agreement, withdrawn.*

*Amendment 29 agreed to.*

*Amendment 55 moved—[Mark Ruskell].*

*Amendments 55A and 55B moved—[Mairi Gurgeon]—and agreed to.*

*Amendment 55, as amended, agreed to.*

*Amendment 61 moved—[Claudia Beamish].*

**The Presiding Officer:** The question is, that amendment 61 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
Baker, Claire (Mid Scotland and Fife) (Lab)  
Beamish, Claudia (South Scotland) (Lab)  
Boyack, Sarah (Lothian) (Lab)  
Gibson, Kenneth (Cunninghame North) (SNP)  
Grant, Rhoda (Highlands and Islands) (Lab)  
Gray, Iain (East Lothian) (Lab)

Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)

Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 21, Against 59, Abstentions 0.

*Amendment 61 disagreed to.*

18:00

**The Presiding Officer:** Group 9 is on programme requirements. Amendment 58, in the name of Claudia Beamish, is the only amendment in the group.

**Claudia Beamish:** Amendment 58 seeks to keep the issue of programme requirements for empathy training on the agenda. When a person is convicted of an animal or wildlife offence and given a community payback order, it would enable the court to impose a programme, be it “restorative justice” or

“a rehabilitation programme to develop empathy skills”.

I thank OneKind for its careful thought on amendment 58 and its commitment to continued work on the issue. Appropriate cases for those measures do not include the most serious cruelty cases, but alternative disposals could be valuable in preventing future offending and thereby helping to protect animals.

OneKind notes that the Scottish SPCA's animal guardians programme for children and young people who are starting to display offending behaviour towards animals is well recognised, as is the considerable amount of training on developing empathy that is available for adults. That is all focused on human-to-human interactions, which I will not go into today; however, there are precedents for empathy training.

I hope that the chamber will see the value in amendment 58 but will also be reassured that it is not too prescriptive at this stage, where there is more room for research, as I have discussed with the minister. I welcome comment from the minister on her intentions for that policy area in the future. OneKind also proposes a Scottish Government-supported partnership to co-ordinate research into good practice in other countries and investigate the potential for a restorative justice clause as an option for sentencing in that field of animal welfare crime.

I move amendment 58.

**Mark Ruskell:** I support amendment 58; it is similar to amendments that I lodged at stage 2. We have been in constant discussion with the

minister about empathy training; it is important that it is backed up in legislation today.

Every member in this chamber will find criminal offences against animals repulsive. That is partly because the victims have no voice; we rely on organisations such as the Scottish SPCA to represent them. However, it is also important that we understand the root causes of a lot of that criminal behaviour; some of it might come back to someone's upbringing, with regard to whether they have been abused or bullied in their life. If we are rehabilitating offenders into society to be safe around animals, it is important that we proactively take the opportunities to do so. Many of those offenders who abuse animals might also extend that abuse to people, so it is important that we adopt that restorative justice agenda, roll out proper programmes of empathy training in Scotland and ensure that we can move forward.

**Finlay Carson:** We support the use of a wide range of targeted, imaginative measures and payback orders and programmes such as the empathy courses, as referred to in amendment 58. There may be resource issues in that regard, but we believe that it would be worth while to look at, and invest in, such measures.

International research suggests that there is a complex association between animal abuse, child abuse, the abuse of vulnerable adults and so on. Violence and animal abuse are associated with a lack of empathy, so we should look at the amendment's proposal to ensure that people who are on non-custodial sentences—community payback orders, for example—can get empathy training. In addition, the evidence shows that time in prison can result in a reduction in empathy, so that sort of training could go a long way towards ensuring that such offenders do not reoffend.

**Christine Grahame:** I rise in support of amendment 58. Some animal cruelty is deliberate, but the vast amount arises out of sheer ignorance. When people who are ignorant in the true sense of the word are causing animals unnecessary suffering, one wants to make them learn about what they are doing to the animal and why they should not do it. Another issue is that children watch their elders and repeat things that they see. We talk about the rehabilitation of offenders. Let us rehabilitate people—those whom we can rehabilitate—who are unnecessarily cruel to animals simply because they do not know the right thing to do at the right time with the right animal.

**Mairi Gougeon:** The proposal that Claudia Beamish describes was raised at stage 1 and thoroughly explored in the stage 2 debate. At that point, it was agreed that a similar amendment would not be pressed, as I said that I would commit to giving the matter greater consideration by looking at a non-legislative route.

The non-legislative approach to which I committed is exactly what I have been working on, and I am very pleased to announce today that I have approved a proposal for a Scottish Government-funded research project to gather evidence on how empathy training and related approaches have been used in other countries to rehabilitate offenders who have been involved in crime relating to animal welfare or wildlife. The research will consider available publications and involve discussions with the key stakeholders in Scotland on the feasibility of using or developing similar approaches here.

I expect that the research will be commissioned in the next few weeks, and that the project will run for around six months. The research project sits alongside the £300,000 that was invested in the delivery of the restorative justice action plan, which was published in June last year, and additional funding has been made available in the current financial year. It will complement the Scottish Government's existing vision of having restorative justice services available across Scotland by 2023, with the interest of victims at their heart.

I am pleased to have the support of OneKind for the project, and I look forward to the research involving that organisation and other stakeholders such as the Scottish SPCA and criminal justice social workers. I am confident that the project will provide a more satisfactory basis on which to take forward any future development or provision of such courses in Scotland. I believe that that can be done collaboratively, with potential training for providers, if the research suggests that such an approach would be worth while.

I trust that it is clear that I share the interest of Claudia Beamish, and other members on all sides of the chamber, in this area, and I thank her for raising the subject initially. However, I believe that the non-legislative approach will be a much more productive way of moving forward in this important area. I also point out that Claudia Beamish's amendment appears to have a fundamental flaw, in that it seeks to give courts a power that they already have. For all those reasons, I ask her to consider withdrawing her amendment.

**The Presiding Officer:** I ask Claudia Beamish to wind up and to press or withdraw amendment 58.

**Claudia Beamish:** I listened to what the minister said. It is quite difficult—I tried to frame an amendment that would have an enabling function so that if the research showed that such an approach would be possible, the legislation would already be in place to enable guidance to be provided. I do not know whether the minister is able to clarify why that approach is not acceptable.

**Mairi Gougeon:** The issue with amendment 58 is that it seeks to give the courts powers that they already have. If, as a result of the research project, we thought that a specific approach would work in Scotland and we were able to develop some sort of course, the courts would already have the ability to put people on those courses should they be found guilty of an offence.

We are trying to establish the groundwork for that; I have already committed to that and that is what we are looking to do. I ask the member if she would be happy to withdraw her amendment if she is content with the approach that we are taking.

**Claudia Beamish:** That was a helpful intervention, for which I thank the minister. On the basis of better understanding where the Scottish Government is positioning itself in taking forward that research with a view to putting those possibilities into what already exists in relation to community payback orders, I am prepared to withdraw the amendment.

*Amendment 58, by agreement, withdrawn.*

**The Presiding Officer:** Group 10 is on the review of requirements for additional offences. Amendment 59, in the name of Maurice Golden, is the only amendment in the group.

**Maurice Golden:** Amendment 59 relates to the requirement to conduct a general review of the provisions of the act to ensure that it is sufficient to safeguard animal welfare and protect wildlife.

Animal welfare should never have an end point, but should be something that we constantly strive to improve. In particular, but not exclusively, such a review should be required to consider the inclusion of pet theft as a specific offence, as well as following up on previous statements in Parliament to act against wearable electric shock training aids for dogs. Both of those positions have received considerable support within and outwith the Parliament from organisations such as the Kennel Club, the Scottish SPCA, OneKind and the Dogs Trust, and a serious appraisal of both should be conducted.

I have listened to the feedback from stage 2 and I thank Labour and Claudia Beamish for their support at that stage. The questions facing the other parties are whether a pet should be treated as an inanimate object, such as a book, when a crime is committed; and whether it is acceptable to electrocute pets to train them.

**Mark Ruskell:** I back the member's amendment, but does he agree that a fundamental problem with the bill is that its scope is far too narrow? It is difficult to get a lot of the issues that he and I want to see action on into the scope of the bill, to get proper scrutiny and get progress from the Government.

**Maurice Golden:** I agree that the scope of the bill is very tight and therefore on those particular issues I have not been able to lodge amendments that I otherwise would have lodged. The amendment is the best that we could do within the confines of the bill and I hope that everyone in the chamber supports it, so that there will be an opportunity to test and strengthen the act.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I look at the proposal for the specific offence of the theft of a pet. A peacock has been in our vicinity for the past 18 months. I do not own the peacock and I have failed to find out who does. If I take the peacock into my possession to address its welfare requirements, am I guilty of theft by finding?

**Maurice Golden:** That would be a matter for the courts to determine—[*Laughter.*] I am sure that the member would give a strong account of himself were that to come into play.

I move amendment 59.

**Christine Grahame:** I feel like saying, "Welcome back, Stewart. Beam me up, Scotty." I would like to see the case in court when the peacock is brought in as a piece of evidence and asked if it was complicit.

I appreciate that the Scottish Animal Welfare Commission has been set up, but I have great sympathy for the amendment for a couple of reasons. In law, a pet is a piece of property, but nobody who has a pet ever thinks that. The emotional heartache if it is stolen and the effect that there may be on the animal—as we now know, animals down to the lowest levels have sentience—makes the whole thing more horrific, but there are big bucks to be made from such offences. Animals can be targeted and people might not find them for years. I am sympathetic to the Government looking at that.

18:15

The second issue is electronic shock collars. I think that when Maurice Golden was first elected I was going on about those, because at a Scottish National Party conference many years ago they were giving us all electric shocks at one of the stalls—maybe it was a Conservative who had that stall—and they put a collar on my wrist, which I said would not be a problem. It was set at about level 3 out of 10 and it was really sore. That is when I became immediately converted to understanding that it is nonsense to apply shock collars to dogs, cats or any other animal. Anybody here who has any doubt about that should put a collar on any part of their body that they choose, and I bet that they will then be against electronic shock collars.

You do not train animals with pain; it does not succeed. Many years ago, I had a radio debate with a farmer who was in favour of the collars. He kept putting an electronic shock collar on his collie and he said that it was because the dog ran under the wheels of his tractor—in other words, he was looking out for it. I asked whether he had to keep shocking the dog and he replied that he had to do it again and again. What was the point? The animal was in pain, but it was not associating it with the wheels of the tractor; it might have been associating it with something else that was lying around. An animal does not know why it is being shocked.

I note the role of the Scottish Animal Welfare Commission.

I may or may not support the amendment, which asks ministers to report only in 2025. However, it is important to keep the issue on the agenda as we look more and more at the sentience of animals. I will see how it goes with the minister before I make up my mind. I should not say that; I have done enough breaking of the whip.

**Claudia Beamish:** We supported the amendment at stage 2 and I think that it is appropriate, in view of the range of animal cruelty issues in Scotland that are very important and still need to be addressed, that Maurice Golden, in his stage 3 amendment, has moved the review period to five years. Labour is happy to support amendment 59.

**Mairi Gougeon:** Amendment 59 is similar to that which the member lodged at stage 2 and, although I note that the proposed timeline for the review has been amended, I still cannot support it for a number of reasons. Many of those are similar to the ones that I laid out at stage 2, but I will repeat them.

My reasons are not that I fundamentally disagree with the points that Maurice Golden and other members have made. I agree with Christine Grahame that it is important that the issues do not fall off the agenda, and it is absolutely not the intention that they do so.

The amendment raises the issues of pet theft and electronic training collars, which are matters of concern to members. I completely understand that, because those are matters of concern to me, too. However, the amendment is not necessary to ensure that those important matters are considered. Indeed, they are being looked at already and will be able to be pursued through the Scottish Animal Welfare Commission, which has now been established.

The Scottish Animal Welfare Commission will be able to consider a wide range of specific animal welfare issues concerning companion animals and wildlife, and provide independent, expert advice on

how those should be prioritised and taken forward. Members will be aware that the regulations regarding the Scottish Animal Welfare Commission were recently accepted by the ECCLR Committee. I really am excited by the prospect of having—

**Maurice Golden:** If the commission will cover the issues raised in the amendment, why would the minister choose not to support the amendment?

**Mairi Gougeon:** We are already addressing the issues through non-legislative means. If the member will let me finish my points, I will further illustrate that.

The close and expert consideration of the issues that have been raised by Maurice Golden is exactly why the Scottish Animal Welfare Commission was established, and I think that we need to allow it to do that work.

I reassure members that many of the important improvements in the bill have been developed through close and co-operative working relationships with those who would be on the front line of enforcing the legislation, and through on-going consideration of the operation of their powers. I have absolutely no doubt that that will continue.

I assure Maurice Golden that work on the issues is very much under way and will be taken forward. There is no intention that they will fall off the agenda, because they are vital. I ask that he considers withdrawing his amendment because I believe that the issues that he has raised do not require the amendment of primary legislation.

**Maurice Golden:** I have listened to the minister's arguments and I respect her passion for animal welfare. However, there is a requirement to put the review in statute, because we have heard previously—not from the current minister but from the previous portfolio holder—that there would be a ban on electric shock collars, and that has not happened. Having a review in statute is the only way in which we can bind the current Government and the next one to review both that and other matters. I will press amendment 59.

**The Presiding Officer:** The question is, that amendment 59 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)



Carson, Finlay (Galloway and West Dumfries) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)

Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Abstentions

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

**The Presiding Officer:** The result of the division is: For 42, Against 37, Abstentions 1.

*Amendment 59 agreed to.*

**The Presiding Officer:** Group 11 is on an information-sharing report. Amendment 60, in the name of Colin Smyth, is grouped with amendment 62.

**Colin Smyth:** Amendment 60 and its consequential amendment 62 would require ministers to produce a report on information sharing in relation to animal welfare and wildlife offences. A number of stakeholders have raised the issue during the bill process and have noted that the lack of information sharing on offences between relevant bodies and across geographical boundaries inhibits investigations and makes it difficult to track offenders and identify patterns of behaviour.

The issue was raised by the Environment, Climate Change and Land Reform Committee in its stage 1 report, which concluded:

“information-sharing on convictions ... may help track patterns of offending, including animal welfare and other forms of offending such as domestic abuse and criminal activity.”

The committee recommended that the Scottish Government

“set out proposals to establish a registration system or a means of effectively sharing information between authorities.”

At stage 2, I raised the issue through an amendment that called on the Scottish Government to bring forward guidance on the issue, in the hope that such guidance could have been used to underpin the creation of a more effective and better-integrated information-sharing system. I did not press that amendment, and I took on board the concerns that were raised at the time by the minister.

I have therefore suggested a different approach in my stage 3 amendments, which would simply require a report to be produced on the issue within five years of the proposed new section that amendment 60 would introduce coming into force. The report would set out what had been done and what steps the Government would take to take the matter forward. That would ensure that the issue is not forgotten again after the bill is passed, and it would provide an opportunity for more detailed

work to be done to identify the existing problems and potential solutions.

The Scottish Government has indicated that work is on-going to address the issue and has provided reassurance that it expects to make progress in the coming years. My amendments would simply give that important work a statutory underpinning and would introduce a greater element of accountability and urgency.

No one underestimates the various challenges with issues such as data protection when it comes to information sharing but, to be clear, my amendment 60 does not in itself have data protection implications, as it would simply commit the Government to producing a report on what action it plans to take to ensure that information is shared better. I have no doubt that that report would highlight any issues and, if they could be overcome, how they would be overcome.

I move amendment 60.

**Christine Grahame:** I have sympathy for amendment 60, but I am not mad keen on reports on a five-yearly basis. There are lots of other ways of holding the Government to account, whichever Government it is. There are parliamentary questions and debates, and at any point committees can call ministers before them to look retrospectively at how a bill has been implemented. I do not think that the measure is necessary.

In fact, it is an out, because a report would have to be produced only every five years, and a lot can happen in five years, whereas legislation can be evaluated through other mechanisms in Parliament. That should be done more often, although the Public Audit and Post-legislative Scrutiny Committee is doing it. I would rather have that than bind any Government to producing a report every five years. There are better ways to achieve the aims, so I do not support amendment 60.

**Finlay Carson:** We are minded to support Colin Smyth's amendment 60. It is important that a system of information sharing is in place. From the early stages of the bill, we have supported the idea of a central register of penalties to allow the various enforcement authorities easy access to those details. We have seen issues with information about fixed-penalty notices being shared between local authorities, which highlighted the importance of information sharing. The issue will become even more important with the roll-out of additional fixed-penalty notices.

**Mairi Gougeon:** I say from the outset that I sympathise with the aims of amendment 60. The Scottish Government recognises the importance of improving information sharing and co-ordination between the various bodies that have an

enforcement role in relation to animal health and welfare and wildlife. Those bodies include local authorities, the Animal and Plant Health Agency, Food Standards Scotland, the Scottish SPCA and Police Scotland.

My officials are involved in on-going discussions with enforcement bodies on this very subject, and I have been informed that there are moves to standardise the databases that are used by local authorities and others, and to agree protocols for greater sharing of information between the various bodies that are involved in the wide range of animal health and welfare enforcement work. That includes many forms of information and intelligence; it is not limited simply to the outcomes of criminal cases, as described in amendment 60.

Although I support the amendment in principle, and I am undertaking much of the work already, my serious concerns about its drafting mean that I am unable to support it.

First, amendment 60 does not specify exactly what information about those who have relevant convictions should be shared; secondly, it is not clear who the information should be shared with; and, thirdly, it is not clear why such information is to be shared.

**Claudia Beamish:** Surely one of the principal purposes of such an amendment is to give some legislative framework without being too detailed, because of the commitment to move forward without tying anyone's hands.

**Mairi Gougeon:** We talked about that when we debated the vicarious liability amendments; in particular, we talked about how important definitions are in law. That is especially true when it comes to things such as information sharing. I will come on to talk about that in more detail.

Without the basic detail that I was just talking about, it is difficult to understand what steps Scottish ministers should report on and what steps they should take to further progress information sharing. Clarity of legal expression is of the utmost importance, and that is particularly true when we are dealing with the use of personal information.

That leads me on to my other major concern, which is about the sharing of information on criminal records. That could be regarded as interfering in matters that are properly for Police Scotland, which holds individuals' criminal records, and it raises difficulties with data protection legislation. For example, we are required to ensure that any personal data that is shared will be processed lawfully, fairly and transparently, and collected for specified, explicit and legitimate purposes only.

We also need to consider human rights and whether any information sharing would comply

with article 8 of the European convention on human rights, which concerns the sharing of information about the private lives of individuals.

Information sharing is a complex area, so it is important that we take the time to fully understand the issues and consult the relevant people.

Because work is on-going, because amendment 60 is exceptionally unclear and because of the serious legal implications that I have outlined, including those around human rights, the amendment is unworkable and I cannot support it. I am happy to repeat the offer that I made at stage 2 to have further discussions with Colin Smyth on how the aims, which we share, of improving information sharing and co-ordination between enforcement authorities in general can be progressed and achieved more effectively in ways that do not require a legislative approach. However, I say again that amendment 60 is neither workable nor necessary, and I ask Colin Smyth to withdraw it.

**Colin Smyth:** The lack of information sharing around animal welfare and wildlife offences is a significant issue, and the Environment, Climate Change and Land Reform Committee, along with many stakeholders over a long period of time, have agreed that it needs to be addressed.

I am mindful that the area is complex and that there is a range of technical and legal problems to avoid. However, it is for that reason that I did not pursue an amendment that could have any unintended consequences. What I have proposed in amendments 60 and 62 is more than a fair compromise: my proposal will ensure that the issue receives the attention that it needs and so far has not had, without dictating any specific changes.

18:30

Given that the minister has confirmed that the Government is working to make progress on the issue, there should be no problem in introducing some additional parliamentary oversight of that work through the delivery of a report to Parliament on the matter. Amendment 60 allows for a period of five years after the proposed new section comes into force for the report to be produced. However, that is at the later end of the scale, and I hope that we will see progress before then. The aim is to give ministers an opportunity to make progress on the issue before reporting on it and setting out future steps.

I struggle to see how that could cause legal problems or impinge on human rights. The legal complexity of the area—in particular, the challenges around data protection and instructing the legal system—is exactly why I have not attempted to legislate on the issue directly in the

bill. Amendment 60 does not call for a specific course of action beyond the production of a report on existing systems and any proposed Government action, and it gives the Government a very generous five years to come up with that report.

Christine Grahame highlighted that there are other ways to pursue the issue in Parliament. However, as many stakeholders have consistently said, the reality is that those other routes have not yet delivered what we want. I will therefore press what is a very modest amendment. As Claudia Beamish highlighted, it has been deliberately left general, because it involves a number of issues. However, those issues should be addressed in a report to Parliament.

I press amendment 60.

**The Presiding Officer:** The question is, that amendment 60 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 41, Against 38, Abstentions 0.

*Amendment 60 agreed to.*

**The Presiding Officer:** Group 12 is on additional protection for certain wild animals. Amendment 30, in the name of Alison Johnstone, is grouped with amendments 56 and 56A. I remind members to refer to the second supplementary marshalled list for amendment 56A.

I call Alison Johnstone to move amendment 30 and to speak to all the amendments in the group.

**Alison Johnstone (Lothian) (Green):** I declare an interest as deputy convener of the cross-party group on animal welfare.

In normal times, many of the more than 23,000 people who signed my petition calling for protection for Scotland's mountain hares would have been with us in Parliament today. They would have rallied outside and they would be filling the seats of the public gallery. However, I know from the incredible volume of support that I have

received for amendment 30—and as colleagues will also know from the vast amount of correspondence that they have received calling on them to support it—that people across Scotland are watching and listening to this debate. I thank each and every person who has written in support, and I also thank OneKind, the League Against Cruel Sports, RSPB Scotland and the Scottish Wildlife Trust for their support.

In 2016, I joined a mass rally of folk outside the Parliament building. Young and old, they came from across the country to rally outside because they felt compelled to act after they had learned about the indiscriminate and brutal slaughter of mountain hares in Scotland. They carried placards with photos of mountains of mountain hares dumped in the back of trucks—their once white fur bloodied, and their limbs mangled.

Having been invited by the organisers to speak at the rally, I committed to campaign until that slaughter ceased. The Cabinet Secretary for the Environment, Climate Change and Land Reform also addressed the rally and said that she, too, would act—if she had sufficient evidence.

A year later, in 2017, OneKind had to challenge the granting of Government funds—public money—via VisitScotland to groups that promote recreational hare killing.

In March 2018, OneKind, the League Against Cruel Sports and Lush released a video that is narrated by Chris Packham that exposes the shocking reality of Scotland's mountain hare culls. The video aired on national television. Sadly, it provided evidence aplenty. It showed an armed squad of quad bikers wearing balaclavas driving across the Cairngorms national park. What was their aim? Apparently, it was to shoot as many hares as they could. We saw hares suffering from injury and maiming limping off—one was caught by a dog in a drawn-out struggle. I asked the First Minister for her views on that obscene activity and she agreed that such slaughter is unacceptable.

It is now 17 June 2020. Since then, I have pushed on with my proposed protection and conservation bill to protect wild mammals in Scotland better. I consulted for 12 weeks between 12 June and 15 September 2019. My consultation specifically asked for consultees' views on protection of mountain hares—my amendment 30 seeks to deliver protection for that iconic mammal—and almost 10,000 responses were received, 74 per cent of which were supportive. I have just checked, and more than 23,000 individuals have now explicitly supported the amendment. It is hard to think of an amendment to this or any other bill that has received such a mandate from the Scottish public.

Amendment 30 seeks to protect the iconic mountain hare and to preserve the species, which is in decline. A major academic paper that was published in August 2018 found that mountain hare populations on some grouse moors in the north-east Highlands had declined by 99 per cent since the 1950s. The authors concluded that

“intensification of game bird management has resulted in severe, recent declines in mountain hare numbers”.

In August 2019, the Scottish Government reported to the European Union that mountain hares’ conservation status is “unfavourable”. Hunting and intensive grouse moor management were identified as key drivers of that decline. We cannot continue to turn a blind eye to the ruthless and widespread persecution of this fabulous species. Voting for my amendment will end the killing and afford mountain hares the protection that they urgently need.

**Finlay Carson:** I have a simple question. Can Alison Johnstone let Parliament know why she did not lodge her amendment at stage 2 so that the committee could have scrutinised it fully?

**Alison Johnstone:** Finlay Carson will be aware that I have engaged whole-heartedly with the democratic process. All the organisations that we would expect to have responded on my amendment have done so in my consultation, which lasted 12 weeks. I am entirely entitled to bring my amendment to the chamber at stage 3. Given that I have received probably thousands of items of correspondence, and that more than 23,000 people in Scotland have responded to a petition about an activity that is taking place in Parliament, I would say that democracy is being served.

In closing, I will speak to and support my colleague Mark Ruskell’s amendment 56, which seeks to protect beavers better. I urge colleagues to listen to the people of Scotland and to vote to protect Scotland’s mountain hares.

I move amendment 30.

**The Presiding Officer:** Thank you. I call Mark Ruskell to speak to amendment 56 and the other amendments in the group.

**Mark Ruskell:** I offer my thanks, and pay tribute, to Alison Johnstone. Many of us in the chamber are species champions, but I have seen no one more determined and driven to protect her species than Alison Johnstone. That has come over very strongly in the preparation work that she has done for amendment 30 and her proposed member’s bill. Clearly, the lack of protection for the mountain hare is a bloodstain on Scotland’s uplands. We have to restore that species to conservation status of “favourable”.

In turning to my amendment 56 on beavers, I will sound a warning for the way ahead, because granting European protected species status is just the first step on the journey to full protection. Beavers typify how nature can help to tackle the climate emergency—they are a species that, in the right places, can slow water flows, create storage and restore habitats for other species. Those ecosystem engineers are the absolute keystone species for recovery of our river systems in an age of climate change.

We all voted for the beaver’s protected status last year, and for a licensing regime in which culling would be used as a last resort. However, in the past 12 months, I have seen rotting carcasses in the fields around Strathearn and shot beavers floating out to the mouth of the River Tay. Of a population of about 500 animals, nearly a fifth have been killed in the past 12 months. That makes an absolute mockery of the protection that we are supposed to have given the beaver.

The cull figures, which were eventually prised out of the Scottish Government after they had sat for months in an unpublished SNH report, are disgraceful. The beaver should be restored to favourable conservation status, but that will be achieved only by extending both its population and its range in Scotland.

Land managers need to be part of the solution. They need financial support to manage beavers when that is possible, and to move them to other locations when it is not. However, at the moment, farmers and land managers cannot move beavers out of an area if there is a problem; their only option is to cull them. Sadly, there is no alternative.

The Scottish Government is restricting spread of beavers even though there are communities and landowners who would welcome them. I also invite Edward Mountain to walk with me so that, in our shared Balmorality, we might see some of the communities that I have mentioned. *[Laughter.]*

Until the beaver achieves favourable conservation status, this iconic but vulnerable species, which is struggling to return from extinction, absolutely should not be killed in Scotland.

My amendment 56 would ensure a ban on culling beavers. Manuscript amendment 56A would clarify that their translocation under licence would still be permitted. The minister shared with me her concern about that. I have reflected on that and have, accordingly, lodged the manuscript amendment. I am grateful to the Presiding Officer for allowing it to be considered by members this afternoon. I hope that it will give the Government the confidence now to back amendment 56.

**Mike Rumbles (North East Scotland) (LD):** I will concentrate my remarks on amendment 30, which is in the name of Alison Johnstone.

The stage 3 process was designed to adjust draft legislation after the taking of evidence at stage 1, amendments being debated and voted on at stage 2, and evidence being taken at stage 2 if the lead committee so wishes. The final stage of the legislative process was intended to be the last chance to fine tune and adjust successful bills before they go for royal assent and pass into law.

In my view, entirely new subjects such as amendment 30 deals with, that have not been the subject of evidence sessions, should not be introduced at this last stage of the process. Unfortunately, amendment 30, in the name of Alison Johnstone, is just the sort of amendment that should never be introduced at this final stage of the process. Why is that? It is because if it were to be agreed to, we would very likely end up with bad law.

Alison Johnstone said that she has been campaigning on the subject since 2016. I congratulate her for that. However, she did not answer Finlay Carson when he asked her why she had not lodged amendment 30 at stage 2. It would have been quite appropriate for her to have done so, because the committee could have taken evidence on the issue and we would all have been properly informed about it.

As far as I am aware, all the evidence that has emerged over the years since I was first elected in 1999 means that, if this misguided amendment is agreed to, Alison Johnstone will have achieved exactly the opposite of what she wants to do. Amendment 30 will not protect hares on our—

**Alison Johnstone:** Will the member take an intervention?

**Mike Rumbles:** I will, in a moment. I would prefer that Ms Johnstone listen to what I have to say, first.

Amendment 30 will not protect hares on our managed moors, because the evidence shows that our hares are more populous on such moorland than they are on unmanaged moorland. That might be counterintuitive, but if members were to read the evidence that has been sent to them by very many people—of whom Alex Hogg of the Scottish Gamekeepers Association, who has huge experience in the area, is just one—they would know it to be true. The Werritty report found that mountain hares benefit from moorland management—

**Alison Johnstone:** Will the member take my intervention now?

**Mike Rumbles:** Okay.

**Alison Johnstone:** As Mr Rumbles will appreciate, I am entirely entitled to have lodged amendment 30 at this stage. It is notable, too, that he seems to have a concern only with that particular amendment.

I have read the submission from the Scottish Gamekeepers Association, which is quite remarkable in how it completely disregards the evidence that in some parts of the north-east Highlands, the mountain hare population is at 1 per cent of what it was in the 1950s. Of course the hares thrive on grouse moors, where we have stink pits, snaring and people shooting every apex predator that exists. They might well thrive there—but only if they are not shot, in their thousands, in a misguided attempt to reduce transmission of a virus.

18:45

**Mike Rumbles:** I never said that Alison Johnstone was not entitled to lodge amendment 30, so I do not know why she defends herself on that point. What I said was that lodging it was unwise. [*Laughter.*] It is unwise; that is not how law should proceed in our system. We have a proper stage 1 process and a proper stage 2 process, and stage 3 is meant to be about fine tuning of bills through amendments that are based on evidence. However, amendment 30 is not about fine tuning.

I said that the Werritty report found that mountain hares benefit from moorland management. Other studies, conducted as recently as last year, have found that our managed moorland remains a stronghold for mountain hares and has the highest density of mountain hares in Europe.

The problem for amendment 30 is that studies from some areas, including Langholm, indicate that if the hare population explodes in the short term—which it will, if amendment 30 is passed—there will be an increase in disease and hares will die in large numbers. I do not want that to happen, and I do not want a rise in the number of ticks on our hills and in the incidence of Lyme disease. Those unintended consequences will be the result, if amendment 30 is passed.

**Christine Grahame:** I want to respond to the reference to the Werritty report, which recommended that shooting of mountain hares be subject to increased legal regulation and licensing, with improved evidence-based reporting of numbers. That is not a ban on culling hares; it is licensing of the practice. The introduction of licensing regulation would be in compliance with the Werritty report.

**Mike Rumbles:** Amendment 30 will not implement the Werritty report. There is no way that

it would. I am afraid that, if Christine Grahame is pretending that it does, she is overegging the issue.

I believe—some members do not—in listening to the evidence on such matters. I do not believe in voting for amendments such as amendment 30, which is not based on science or on the available evidence. We have made too many bad laws by doing that, and I do not want to add another one. That is why I will vote against the amendment.

**Brian Whittle:** Instinctively, I cannot imagine picking up a gun and shooting an animal. However, it is also true to say that I have never had to consider how to manage a farm—or any land—or the biodiversity on it. On such matters, I would always seek out expert advice.

The petition against the culling of mountain hares was brought before the Public Petitions Committee when I was a member of it, and we took extensive evidence on the matter from both sides. As ever, the evidence that was given by people on either side was weighted towards their own side. Nevertheless, the case for a ban on mountain hare culling was not convincing. That is not to say that the debate should not continue, because it should. However, as others have stated, the way in which the Greens have shoehorned the amendment into stage 3 of this bill is not the way to effect change. Where was this amendment at earlier stages, when we could have gathered evidence and had it scrutinised by the appropriate committee, which might have allowed for opinions to evolve?

**Alison Johnstone:** I thank Mr Whittle for pointing out that the issue has been discussed in Parliament, by the Public Petitions Committee and others. However, did he have the same concerns about other amendments that have been voted on this afternoon having been lodged at stage 3, or is this amendment the only one about which he has such concerns?

**Brian Whittle:** Alison Johnstone will find that those other amendments concerned issues that had been discussed at previous stages. Amendment 30 has been shoehorned in—it has been thrown in as an afterthought in a way that, in truth, threatens the overall bill, which is a bill that contains some important provisions.

If the issue is so important, where were the Greens during the evidence sessions in the Public Petitions Committee? They would have had ample time to question witnesses and make their points. As has been said already, the Greens are opportunists and they are grandstanding, which does the good work of this bill no good whatsoever.

As is the case with nearly all of the petitions in this area that have come before the Public

Petitions Committee, including the raptor persecution petition, it seems to me that the solution is to do with enforcing the law as it stands rather than with creating new law. That is what we should be considering: how we can better prosecute those who break the law, not how we can penalise those who lawfully work the land and maintain the countryside. I will vote against the amendment this afternoon.

**Stewart Stevenson:** The one thing in this debate that we might all agree on is that we want a healthy and sustainable population of mountain hares. However, the process by which we get to that, if it is to be the one in amendment 30, causes me considerable concern.

I commend Alison Johnstone's efforts on the issue and her support of the subject for some years. She referred to the completion of a consultation on 15 September last year. Curiously, that was a mere 15 days before the publication of the bill that is before us. To me, it would have seemed a sensible, rational way of progressing support for mountain hares to have brought that forward as part of the committee's and Parliament's consideration of the subject—*[Interruption.]* Not yet; maybe later.

However, it is not only a question of the evidence in favour of supporting mountain hares as Alison Johnstone proposes; it is also a question of testing the counter-arguments that might refine the approach to supporting mountain hares. Those arguments have not had an opportunity to be put within the process that we are following today.

**Alison Johnstone:** I wonder at which point Mr Stevenson feels that the counter-arguments to amendment 29, on seal culling, which he voted for earlier today, were tested in that way.

**Stewart Stevenson:** It is not as though seal culling is a subject in which I have not previously been engaged. In 1968, when I was a water bailiff for the Tay Salmon Fisheries Board, it was an issue for me. It is not new, and I have made comments in Parliament on seal culling before.

The key point is this: why did the member not do what any sensible consideration of the interest of mountain hares would have led to and consider that, only 15 days after the completion of her consultation, a bill created the opportunity for the provisions in the amendment to be included in the process? She recognises that opportunity by bringing forth the amendment today, and that is the abuse of parliamentary process that is causing us a number of concerns.

That does not necessarily mean that I am turning my face away from the rights of mountain hares—I absolutely support those rights. However, in the future, it would be useful if the member and her colleagues were to use all the parliamentary

opportunities there are to progress the point of view that she espouses so passionately. She has signally failed to do that in trying to put in the statute book as a protected species *Lepus timidus*. Translated from Latin, “timidus” has four meanings: timid, cowardly, apprehensive and without courage. Those words might be applied to the process that got us here.

**Edward Mountain:** I apologise for being slightly long in my response, but I want to respond to both amendments. Before I do, I refer members to my interests in that I have a farm, although there are no blue hares on it, and I have an interest in a river, but there are no beavers on it. Maybe there will be one day.

I also come to Parliament having spent 40 years managing habitats across Scotland. I want to talk about farming before I move on to hares. Members will see the link.

When it comes to farming, farmers manage habitat to achieve the goals that they want to achieve. When it comes to the farm, we manage our soils: we make sure that there is not low fertility; we make sure that there is not bad structure, by ensuring that straw and manure are used; and we make sure that our soils are not too acidic. When it comes to grazing pressures, we make sure that the cows and sheep on the farm match the capability of the farm. For example, a field might support 40 cows for a summer but it could not support 35, because then the field would be undergrazed and the grass would go rank, which would adversely affect the output. It certainly could not support 41 cows, because then it would be overgrazed. The decision that is made has to match the habitat that we have.

Turning to moorland, that is exactly what we have to do. The problem is that we cannot—and rightly so, under good environmental practice—manipulate the soils, because we do not have them. We have peat, which comes in different forms: it could be narrow levels, deep peat, wet peat or boggy peat. We cannot manipulate that, nor should we seek to do so. We therefore have to manipulate the stuff that is on the peat, and there are two ways of doing that.

I will give an example of an area that I took on to manage some years ago. The low-ground calcareous grassland was bitterly overgrazed and unproductive. The heather ground in the middle was rank heather that had a peaty mass that prevented any growth. The upland was overgrazed, and the only way to manipulate it was to manage the mouths on the hill. We had to work out how we would stop the overgrazing.

The first thing that we did was take off 1,000 sheep, which went to market. We then took off 800 deer, because there were too many of them.

When we come to our deer debate, later in the year, I will be interested in the proposals that are supported by many parties that would increase the length of the hind culling season. That would mean that hinds would be culled while they were carrying calves, which would have to be euthanised after the hind culling, because they would be viable. If I took cattle to market in that state, I would be prosecuted, and rightly so. Members should think carefully when we come to consider deer.

However, we had to manage the deer, so we removed them. We had to manage the hares, because they were overgrazing the upper high ground, so we removed 400 hares. The final component that had to be removed was the biggest of the lot—the rabbits, which had spread across all the calcareous grassland and were decimating it. Over time, we removed 10,000 rabbits from the low ground; many went to market, some could not. We kept the pressure up, and the moorland started to come back.

We also had to do one more thing: heather burning. Many people in the chamber frown at that. They say that it is not right and that it is used for only one purpose. However, we used heather burning to remove the mat. What was the point of doing all that? Some members may be thinking that it was all done for grouse shooting, but it was not. I am proud to say that I was part of a group that established 1,000 acres of native Caledonian pinewoods in the Cairngorms, with birch and aspen. It was a huge achievement, and it could not have been achieved without the culling that was required.

If members do not believe me, they can go to Creag Meagaidh to see what SNH has achieved with the trees that have been grown. It was done only by culling hares and deer as they moved in. Licensing is not that responsive. As the snow closes in and the hares are forced to the area of—*[Interruption.]* Does Gillian Martin want to make an intervention? I would be very happy if she would like to do so. If she does not, I am happy to continue.

The problem with licensing is that the snow forces the hares in and they need to be killed there and then to prevent damage to the trees, which can happen in days. I do not think that a ban on controlling hares is the right way forward. It would not protect Scotland. In my opinion—from 40 years’ experience—banning the control of hares would hasten their demise.

Presiding Officer, I am sorry to go on, but I will speak briefly about amendment 56 and beavers. You will remember—as everyone in the Parliament will remember—that a trial reintroduction of beavers was undertaken in Knapdale forest. It was done scientifically, to



inform the Government's position prior to a national conversation about the reintroduction of beavers across Scotland. Unfortunately, due to wildlife crime and the illegal reintroduction of beavers into Tayside, beavers spread out and jeopardised all the work of that trial. That was not helpful, and it was certainly not the way to deal with the reintroduction of species.

19:00

The beaver population in Tayside has naturally spread out. I will take Mark Ruskell up on his offer to go on a walk to see beavers any day. In the afternoon, he can walk with me and some farmers whose grade 4 arable land has been destroyed because beavers have blocked all the drainage pipes and no crops can be grown on it.

I, too, welcome the work that the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham, has done on the issue, and I welcome the management plan that she put in front of the Environment, Climate Change and Land Reform Committee, which I supported. I went along and listened, and the debate and the management plan were useful. The problem is that we do not know whether the plan is working. We need to give it time.

We need to ensure that the human translocation of beavers outside areas that they are already in does not happen. That is not helpful. Maybe beavers can spread out themselves, but humans have been picking up beavers and moving them to other areas.

**Mark Ruskell:** Does Edward Mountain accept that translocation that is done legally under licence is acceptable?

**Edward Mountain:** That is a decision for the cabinet secretary to make under the management plan. Mark Ruskell suggests that no culling of beavers could take place. I have been involved in management across Scotland, and I know how much money the Government has pumped into trees and re-established riverine habitat. The Cabinet Secretary for Rural Economy and Tourism, Mr Ewing, has rightly pushed the reintroduction of trees and native species to create habitat. It would be a pity if they were all destroyed. I cannot support an amendment that would prevent the removal of problem beavers.

I will give members an example in response to Mr Ruskell's comment about beavers building dams and creating burns for water to be stored in the catchment. Imagine three baths in a row and one bath filling the next one every time that it fills. That is what happens when beavers dam a river. A series of dams will be full of water. The first thing that will happen when the rain comes along is that the water will come whooshing out over the

top because there is nowhere else for it to go. That usually breaks the dam and causes a massive flood.

For those reasons alone, I cannot support the amendments on hares or beavers. I think that they would damage species that, in many ways, I have sought all my life to protect.

**Claudia Beamish:** I want to speak in support of amendment 30.

The time has come to properly support and protect mountain hares. Scottish Labour is clearly and absolutely against the mass culling of that species. It is clear that that should be done only under licence where it is necessary and evidence has been presented. That is highly relevant to the future of the Scottish uplands, and especially in relation to some driven grouse moors.

I will not say any more about that, as time is moving on. We support Alison Johnstone.

We also support Mark Ruskell's amendment 56. I listened to what Edward Mountain said but, with the possibility of translocation under licence, which Mark Ruskell highlighted in his manuscript amendment, there would be a properly managed process that would prevent the culling of a protected species. Taking that forward would have to be a matter of whether, under the European Union habitats directive, the beavers were in a favourable or an unfavourable condition.

The contribution that beavers can make is also important in relation to climate change issues.

**Edward Mountain:** Under amendment 56, the culling of beavers could take place only if the beaver's conservation status was favourable across all of Scotland. That means that, if there were no beavers in Deeside, there could be no culling of beavers in Tayside because the beaver did not have favourable conservation status. That is another significant flaw in amendment 56.

**Claudia Beamish:** Perhaps Mark Ruskell will comment on that; I was about to finish. Beavers would be translocated only to places where it was appropriate for them to be—I hope that that is clear.

Scottish Labour will support all the amendments in the group.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I will comment briefly on amendments 56 and 56A, from Mark Ruskell.

All members who represent the Tayside area will be familiar with the large, active and growing beaver population on the Tay, the Earn and the Isla. The population has grown from nothing to 500 over the past two decades or so.

We need to put this issue in context. This bill is about wildlife crime. The Tayside beavers exist only because of a wildlife crime: the illegal release into the wild of an animal that, at the time, was an alien species in Scotland. No one has ever been arrested or charged for that crime, far less prosecuted for or convicted of that crime. In the context of a bill about wildlife crime, that is an important starting point for the debate.

Having said that, I agree with a lot of what Mark Ruskell said. The beavers are generally a welcome addition to Scotland, in my view. They are good for biodiversity. They are popular with tourists. People like to see the beavers. However, the beavers are not an unqualified good thing. Not everyone loves them. As Edward Mountain said, they damage river banks, they undermine natural flood defences, they gnaw down trees and they are responsible for the flooding of low-lying, productive agricultural land in places such as the Strathmore valley.

Therefore, there is a conflict between conservationists and environmentalists, who are pro-beaver, and farmers, who think that beavers are a pain in the backside that causes them problems.

During the debate in the Parliament about what to do about the beavers, which went on for years, the farming lobby put forward a strong argument that because the beavers had been illegally introduced they should be eradicated and removed entirely.

In fairness, the Scottish Government worked hard to find a balanced solution, and in 2019 it came forward with a policy that was the result of a great deal of work and consultation, whereby the beaver would be not just tolerated but given protected species status. There was an important quid pro quo, which was that farmers and land managers would be given the right to control beavers in areas where they damaged agricultural land.

The problem that I have with Mark Ruskell's amendments is that they would drive a coach and horses through that balanced and sensible approach, which the Scottish Government arrived at after a great deal of hard work, consultation, negotiation and discussion.

As Edward Mountain just pointed out, amendment 56 makes no sense at all. It talks about beavers having a "favourable conservation status". We have a large and growing beaver population in Tayside, but there might not be beavers in other parts of Scotland. How will we assess the conservation status of beavers, if there are lots in Tayside but none elsewhere? Under amendment 56, no beavers could be removed

from Tayside, because beavers do not exist elsewhere in Scotland.

Like other Green amendments, amendment 56 has been lodged at the last minute, at the final point in the parliamentary process. There has been no consultation and no engagement with stakeholders. The amendment has not been properly thought through—it is just a publicity stunt. I encourage members to reject amendments 56 and 56A.

Members should have no fear. The Tayside beavers will continue to thrive. Their numbers will continue to expand, as they have done over the past two decades. The population will grow. Mark Ruskell's grandstanding is not needed to protect the Tayside beaver.

**Liam McArthur:** As we have heard, there has been understandable disquiet about the Green Party parachuting in various amendments to the bill at stage 3 without any scrutiny at stages 1 or 2. That has become a hallmark of the Green Party playbook but, however well it might play with supporters, it shows a cavalier attitude to making good law, particularly in a Parliament without a revising chamber.

That said, I readily acknowledge the considerable amount of work that Alison Johnstone has put in over the years on mountain hares. She has argued her case with tenacity, seeking to convince members of the need for further action to protect the hare population in Scotland. As we have heard this evening, even those who disagree with her position at least recognise the commitment that she has shown to delivering change.

Scottish Liberal Democrats will support Alison Johnstone's amendment 30, although we share some of the concerns that have been expressed not just about the process, which Stewart Stevenson and Mike Rumbles mentioned, but about the effect. In a situation where we still do not fully understand the effects of, for example, tick burden or population density, it is clear that more work will need to be done even in the event that, as seems likely, Parliament agrees to the amendment this evening.

It will also be important to ensure that the licence scheme that Christine Grahame mentioned in an intervention will still enable measures to be taken, where appropriate, to control disease or prevent serious damage to agricultural land, as Edward Mountain, Murdo Fraser and others rightly highlighted. However, I am confident that that work can be done, and on that basis I confirm our support for amendment 30.

**The Presiding Officer:** As we are nearing the agreed time limit, I confirm that I am prepared to exercise my power under rule 9.8.4A to allow the

debate on the group to continue beyond the limit in order to avoid the debate being unreasonably curtailed.

**Liam Kerr (North East Scotland) (Con):** I will be suitably brief.

I have a deep disquiet about the process behind amendment 30. Like many MSPs across the chamber, I made sure to read the huge number of representations that we received from those who are in favour of preventing mountain hare culls and those who are against it, so that I would be as informed as possible. I can see from those representations that, if the amendment is agreed to, the consequences could be huge. Those in favour say that that is to the good and that mountain hares will be protected. Those against say that it could be a disaster, as it would lead to a proliferation of ticks and Lyme disease and that, ironically, it could have a negative impact on the hare population.

Who is right? I do not know, and that is the problem. The banning of any practice, but particularly one that has been around for such a long time, needs very careful consideration and a forensic analysis of what is proposed, what the correct balance might be and what the wider implications will be. We have not had that.

During the Covid-19 crisis, there has rightly been much talk about pursuing evidence-led, science-based approaches, yet amendment 30 was lodged without the proposal being scrutinised by the relevant committee at stage 2. Presumably, the committee could have heard from expert witnesses, scrutinised the Werritty review, sought a Government response to it and taken advice from Scottish Natural Heritage. Instead, we will vote this evening in a unicameral Parliament that has dispensed with that key scrutiny stage. MSPs will decide whether to vote for or against the amendment based not on a committee's interrogation of facts and expert scrutiny but on our pre-existing views and the hundreds of emails that we have all received, which take fundamentally opposing positions.

Will the amendment stop mountain hare culls? It will. Will there be a negative impact on hare health and numbers in the medium or long term? I do not know, but some who know a lot more about this than I do say that it will. Will it result in wider negative consequences and a massive increase in Lyme disease-bearing ticks? I do not know, but those who are involved professionally say that it will.

Just in case those people are right, and to ensure that the public have confidence in our system, I ask Alison Johnstone not to press her amendment but, instead, to bring the proposal forward separately, in its own right, to be

scrutinised and debated. If she presses her amendment, I ask MSPs to vote against it. That is the way to ensure that there is proper scrutiny, to make good law and to protect mountain hares.

**Christine Grahame:** I will be brief because it is a late time of night. I very much support Alison Johnstone's amendment 30.

I support the spirit of Mark Ruskell's amendment 56, but I want to hear what the Scottish Government has to say about the technicalities that I have heard Opposition members discuss. Again, however, it is a matter of licensing. The amendment on hares would not ban culling in its entirety but would require licensing to be observed. That needs to be made clear.

19:15

I have already quoted from the Werritty report. The Joint Nature Conservation Committee's 2019 report to the European Union, covering the period from 2013 to 2018, categorised mountain hares in the UK as having an "unfavourable-inadequate" conservation status—the term "inadequate" referring to a lack of data.

All that comes in addition to the animal welfare concerns. Shooting hare is notoriously challenging, as they are small, fast-moving animals, and the shooting takes place in an environment where plenty of cover is available. That heightens the risk of injury, rather than clean kills. Furthermore, commercial hunts may involve hunters with little experience, adding to the risk. As shooting is not a licensed activity, there is no welfare monitoring or reporting, making it impossible to know the scale of the suffering. After shooting, many hares are not eaten and are dumped in stink pits, which I have talked about previously, as waste.

We are talking about a licensing regime, not an outright ban. That is what we must remember in this instance. I see no harm in a licensing regime where genuine containment and reduction in the hare population is required, but it should not just be a free-for-all, as seems to take place these days.

As for the beaver amendment, amendment 56, I wait to hear what Alison Johnstone and the Government say. There seem to be technical difficulties with it.

**Mairi Gougeon:** I have concerns about this process. I will not rehearse or go over all the arguments, as that has been done adequately by members across the chamber.

Amendment 29—the seal amendment—has been mentioned, and I accept Finlay Carson's earlier criticism of me for that. The situation was not ideal, although we tried to get the information

to the committee to give it a limited chance to scrutinise that as much as it could. Regrettably, that did not happen in this instance.

The Scottish Government has always maintained that large-scale culls of mountain hares are not acceptable if they threaten the hares' conservation status. That is why we were the first country in the UK to introduce a closed season to protect both brown hares and mountain hares during the breeding season.

It is also why we commissioned the independent grouse moor management group, led by Professor Werritty, to examine the issue closely as part of its remit. The group examined the environmental impact of grouse moor management practices such as muirburn, the use of medicated grit and raptor persecution, and it advised on the option of licensing grouse-shooting businesses. Its members, who were experts in environmental research, environmental law, conservation and land management, spent a year taking evidence and visiting estates. I firmly believe that that consultative, evidence-based approach is the best one.

Although the Scottish Government is still to respond formally to the Werritty report, I can say that the report contains a number of important recommendations relating to mountain hares that I am mindful of today. However, I believe that it would have been better for members to wait until we had the response to that report in full before suggesting legislative changes, rather than lodging pre-emptive stage 3 amendments.

As members will be aware, I represent a rural constituency, and I completely understand and accept that, in a variety of circumstances, the control of hares as well as of other species is essential—for example, to protect new trees, manage grazing impacts and mitigate the spread of disease. I know that many people who undertake those activities care deeply about Scotland's countryside and its maintenance.

However, I am also mindful of the concerns that have been shared by many—in particular, the concern that mountain hares currently have an unfavourable-inadequate conservation status, and the very real concern among some stakeholders and members of the public over the number of hares that are killed each year.

The mountain hare is a priority species for conservation action under the UK biodiversity action plan, and it is also on the Scottish biodiversity list. That means that it is considered to be of principal importance for biodiversity conservation.

On the numbers, I acknowledge the work that Scottish Natural Heritage, in conjunction with the Game and Wildlife Conservation Trust and those

involved with land management, is undertaking to develop and deploy practical methods for estimating hare densities.

I have given amendment 30 a great deal of thought and, in the short time that was available to me, I sought to gather views. I have been inundated with correspondence on the matter, as I know every other member in the chamber has been. I have read about all the points and I have considered them very carefully. One of the most important points for me to understand was how any proposed licensing scheme would operate in practice if hares were to become a protected species, in terms of how that might prevent the large-scale culling of mountain hare and, crucially, how it would allow those with legitimate management responsibilities to continue that work.

Amendment 30 would mean that there would no longer be an open season for mountain hares. Control of their numbers would need to be done under licence all year round and for permitted purposes, such as preventing serious agricultural damage, protecting timber or preventing the spread of disease.

On balance, and notwithstanding our concerns about the late lodging of amendment 30, the Scottish Government has decided to support it. I am content that that move strikes an appropriate balance between the interests of those involved in legitimate land management and protecting an iconic Scottish species.

Having said that, and as I have already suggested, I am not happy with the manner in which the amendment has been advanced. Therefore, although I intend to accept it, I will give careful thought to how any proposed licensing regime will work and to when the protection will come into force. There are still many issues to tease out. I intend to discuss that in detail with stakeholders over the coming months, as part of a proper consultation process.

Mark Ruskell's amendment 56 on beavers is another addition that was not discussed at any previous stage in the bill process and which was submitted at the last minute. The manuscript element—amendment 56A—was lodged yesterday, just 24 hours before the stage 3 proceedings. I have very serious concerns about the impact that both amendments could have.

Amendment 56 would require Scottish ministers to be satisfied, through the licensing body, Scottish Natural Heritage, that the beaver population is in a favourable conservation status before they would be allowed to issue any licences for any purpose.

Under the current licensing regime, which was introduced by the Government after a process of wide and inclusive consultation and which, I

remind members, has been in place for only a year, SNH can issue licences for a number of actions, including ringing or marking animals or introducing them to particular areas.

Amendment 56 would prevent SNH not only from issuing licences to control beaver numbers but from issuing licences to relocate or even to tag beavers. That would mean that we would have no non-lethal options to deploy when beaver dams create large-scale damage to prime agricultural land and no options to assist in studying their behaviour as part of monitoring their welfare. For those reasons, I cannot support amendment 56.

Although the Parliament has had only 24 hours to consider amendment 56A, it is clear that there are fundamental problems with it. Amendment 56A would prevent SNH from issuing a licence for lethal control for any purpose if beavers were found to be in an unfavourable conservation status.

Members will be particularly concerned that Mark Ruskell's amendment 56A would severely constrain the options to intervene in beaver populations when that was necessary as a matter of public health or if disease were to break out among the beaver population. The proposal would pose a danger to the public as it would to the species.

The Scottish Government has always maintained that beavers should be killed only as a last resort, but that it is essential that we retain the ability to take action, including lethal control, particularly where matters of public health or disease control are concerned.

The Conservation (Natural Habitats, &c) Regulations 1994 already provide that Scottish Natural Heritage cannot grant a licence for anything to do with beavers

“unless they are satisfied—

(a) that there is no satisfactory alternative, and

(b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status”.

The existing law is therefore already framed in a way that ensures that SNH does not issue licences relating to beavers if the licensed activity would be detrimental to beavers being maintained at favourable conservation status. That is proportionate, and it ensures that animal welfare considerations are taken into account while allowing a range of interventions to be carried out when necessary.

I also remind members that beavers became a European protected species only in May last year. Our beaver mitigation strategy is still evolving and we will continue to refine it as we learn more about the animals and how they interact with their

environment. On that note, I am happy to assure members that Scottish Natural Heritage is working closely with stakeholders to address potential beaver conflicts. For example, SNH is working with farmers to trial new and innovative measures to reduce the impact of beavers, which should help to reduce the need for such control measures.

I mentioned that the licensing arrangements have been in place for only a year. We must give those measures time to bed in, rather than rushing to make further legislative changes that could have very significant consequences and which Parliament has not had sufficient time to scrutinise.

I hope to see the beaver population start to expand away from high-conflict areas and into suitable habitats where they can thrive and where we can all see the positive benefits that those remarkable eco-engineers can bring.

We must also remember that no one wanted to be in a situation where licences to control beavers would need to be issued. As Murdo Fraser said, it was the unsanctioned release of a colony into prime agricultural land in Tayside that brought about the conflicts that the Government is now seeking to manage sensibly and with consultation.

Amendments 56 and 56A are not only unnecessary but have the potential to be detrimental to the future of beaver colonies in Scotland. The amendments are ill considered and could be detrimental to animal welfare in Scotland. That is why I cannot support them, and Mark Ruskell should not move them.

**Alison Johnstone:** I thank colleagues across the chamber who share my passion for animal welfare and the protection of Scotland's mountain hares. Their support is invaluable and appreciated.

We have spent quite a bit of time on the debate on this group. Mr Rumbles, Mr Stevenson and Mr Kerr focused very much on process—a process that I note did not concern them when it came to voting on an earlier amendment. I regret that very much. It is either a principle or it is not.

**Mike Rumbles:** Will the member give way?

**Alison Johnstone:** I will not, Mr Rumbles.

Animal welfare is a public good, and decreasing violence against animals is beneficial to society, as we heard in earlier discussions. Mountain hares are currently protected in the closed season between 1 March and 31 July each year, but there is increasing concern about their population status and their welfare. In 2014, Scottish Natural Heritage, Scottish Land & Estates and the Game and Wildlife Conservation Trust issued a statement calling for “voluntary restraint” on large-scale hare culls. Since then, analysis of game bag

data by SNH suggests that, on average, 26,000 hares are killed annually, and calls for action have, unsurprisingly, increased.

My amendment 30 is supported by RSPB Scotland, the Scottish Wildlife Trust, OneKind, Revive and the League Against Cruel Sports. The Scottish public strongly support mountain hare protection. Almost 10,000 people responded to my member's bill, which included the very provision in my amendment, and 74 per cent of those respondents were supportive. I thank them all for their determination to see this much-needed change in the law.

The mountain hare is the UK's only native hare, and it was listed as "near threatened" in a recent review by the Mammal Society. The late Dr Adam Watson, who was one of Scotland's great ecologists, said:

"Having counted mountain hares across the moors and high tops of the eastern Highlands since 1943, I find the decline in numbers of these beautiful animals both compelling and of great concern. We need the Scottish Government and Scottish Natural Heritage to take action to help these iconic mammals of the hill—I hope that they will listen to the voice of scientific research."

Professor Jeremy Wilson, RSPB's head of conservation science in Scotland, who assisted in the analysis of the data, said:

"It has been an honour to support Dr Watson in the analysis of his extraordinary long-term data set. This data reveals severe recent declines on grouse moors that are strongly correlated with the start of mountain hare culls—for which there is no clear scientific justification. Urgent action is needed if the future conservation status of mountain hares is to be secure."

Mountain hares are being culled on the basis of no real evidence of the benefit to grouse populations, especially where deer and other tick host species, including grouse, are present, so such measures could be described largely as a precautionary response to promote grouse numbers by sporting estates. Let us ensure that we adopt a real precautionary measure—a real precautionary principle—and that we do not continue to allow the on-going mass killing of Scotland's mountain hares.

I whole-heartedly endorse the arguments of my colleague Mark Ruskell, who has campaigned with great commitment for the better protection of beavers, which have suffered in recent times.

I warmly urge my colleagues across the chamber to vote for amendment 30, which is important in order to better protect Scotland's mountain hares.

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

**Members:** No.

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

## For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

## Against

Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Corry, Maurice (West Scotland) (Con)

Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rumbles, Mike (North East Scotland) (LD)  
 Simpson, Graham (Central Scotland) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 60, Against 19, Abstentions 0.

*Amendment 30 agreed to.*

19:30

*Amendment 56 moved—[Mark Ruskell].*

*Amendment 56A moved—[Mark Ruskell].*

**The Presiding Officer:** The question is, that amendment 56A be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)

Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 20, Against 60, Abstentions 0.

*Amendment 56A disagreed to.*

**The Presiding Officer:** I ask Mark Ruskell whether he wishes to press or withdraw amendment 56.

**Mark Ruskell:** I will press the amendment.

**The Presiding Officer:** The question is, that amendment 56 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)

Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Green)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)

Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 20, Against 60, Abstentions 0.

*Amendment 56 disagreed to.*

### Section 14—Commencement

*Amendment 62 moved—[Colin Smyth].*

**The Presiding Officer:** The question is, that amendment 62 be agreed to. Are we agreed?

**Members:** No.

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

### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wells, Annie (Glasgow) (Con)  
 Wightman, Andy (Lothian) (Green)

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)



Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 41, Against 37, Abstentions 0.

*Amendment 62 agreed to.*

### Long Title

*Amendment 63 moved—[Maurice Golden]—and agreed to.*

*Amendment 31 moved—[Mairi Gougeon]—and agreed to.*

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

As members will be aware, at this point in the proceedings, I am required under standing orders to decide whether any provision of the bill relates to a protected subject matter—that is, that it alters the franchise for Scottish parliamentary elections. In my view, this bill does no such thing, and it therefore does not require a supermajority to be passed at stage 3.

We will move to the stage 3 debate after a short suspension.

19:34

*Meeting suspended.*

19:37

*On resuming—*

## Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill

**The Deputy Presiding Officer (Lewis Macdonald):** The next item of business is a debate on motion S5M-22044, in the name of Mairi Gougeon, on the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill.

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** I am delighted to present the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill to Parliament for the stage 3 debate. I am passionate about protecting Scotland's animals, as are many other members, as we saw during the debate on amendments. I can definitely say that we have thoroughly scrutinised the bill throughout the process, as demonstrated during the final amendments that we have just dealt with.

I will use my opening contribution to discuss some of the other measures that the bill introduces. The debate has tended to focus on issues such as those addressed in the amendments that we have just discussed, but I do not want us to lose sight of or forget about some of the groundbreaking measures that the bill introduces.

The bill increases the maximum available penalties for the worst animal cruelty and wildlife offences to enable courts to impose appropriate sentences, depending on the circumstances of each case. That follows growing public concern about the truly horrific nature of some of the crimes against wild and domestic animals that have been reported. Thankfully those crimes are rare, but they rightly attract a great deal of concern when the maximum penalties that can be imposed seem inadequate, considering the sickening behaviour involved.

The ability to try serious wildlife and animal welfare offences either by summary proceedings or indictment gives the courts much greater flexibility in the range of penalties that are available to them. That will allow a court to take full account of all the facts of a case, and the penalties awarded to more closely reflect the nature and impact of any specific offence.

A welcome and helpful aspect for enforcement agencies of the increase in maximum penalties to five year imprisonment and the availability of trial by indictment is that the six-month time limit to investigate offences will be removed. That will be of great benefit to the enforcement agencies and

the Crown Office and Procurator Fiscal Service because, in many cases, it can be difficult for them to gather within that timescale all the relevant evidence and complete the detailed forensic investigations that are often needed to secure a conviction.

Another improvement that will be welcomed by the enforcement agencies is the power to put in place fixed-penalty notice regimes for animal health, animal welfare and wildlife crimes. That will facilitate the development of more modern, proportionate and efficient ways of encouraging compliance with future regulations. Those will mostly be technical in nature and applicable where offences do not involve serious harm to animals but where regulations might benefit animal health, welfare or wildlife protection overall. That important additional enforcement tool has been widely welcomed by local authorities and the Scottish SPCA for its potential flexibility, proportionality and efficiency.

The bill also improves protections for police dogs and horses by introducing Finn's law in Scotland. It recognises the important role that such animals play in protecting us in sometimes very difficult circumstances. I know that that matters to quite a few members and I am sure that we will hear more about it. I had the pleasure of meeting Finn and his handler, Dave, as well as colleagues in Police Scotland, and I have been touched by their support for the measures proposed in the bill. By removing a potential legal defence for an attacker, we will provide police animals with equivalent protection to other animals that are not routinely used in dangerous situations to apprehend a suspect or control a crowd. Alongside that, the increase in the maximum penalties available means that all Scotland's animals will benefit equally.

One of the most strongly welcomed parts of the bill for animal welfare enforcement agencies will be the provisions on emergency arrangements for animals that have been taken into possession to protect their welfare. The Scottish SPCA, which I have worked closely with on the bill, has described the measure as transformative. It should allow the Scottish SPCA in future to quickly rehome animals that it has taken into its care, rather than having to keep them for months on end while waiting for the outcome of a court case. The bill will therefore deliver meaningful changes to assist dedicated enforcement staff without placing new obligations or financial burdens on them. With the amendment that was agreed to earlier, the bill also improves the welfare of seals, restricting the reasons why industries can receive licences to lawfully shoot seals, and raising the penalties for those who do so unlawfully without a licence.

**Jamie Greene (West Scotland) (Con):** I appreciate that today has been a long day and I deliberately did not participate in the stage 3 deliberations. However, I want to put on the record two important points. Given the point about seal culling, will the minister give appropriate guidance to the aquaculture industry, so that it knows what options are available to it in the event that a seal breaches a net in a fish farm? I know that that is a real issue and a number of farms are now unsure about the mechanisms that are available to them in that scenario, so I hope that the minister will follow that up.

The second issue is the mountain hare amendment that has just passed. If, down the line, we discover that there are unintended negative consequences that fly in the face of the well-meaning intention of the amendment, will the minister have the resolve to come back to Parliament and amend the legislation at a future date if it is necessary?

**The Deputy Presiding Officer:** Minister, can you start to wind up, please?

**Mairi Gougeon:** Yes, I will be as brief as I can.

We tried to give the committee as much notice as we could about the seal amendment, and we have engaged with the industry throughout the process. I assure the member that that engagement will continue so that we can work through any issues.

I said at the end of my comments on the mountain hare amendment that we will have to monitor the situation closely. We want to make sure that we have the consultation, because the provisions will have an impact. We have to be sure that we know what that impact might be. We have to work with Scottish Natural Heritage because there will be an impact there. We want to be able to do the groundwork and consult properly as we develop a licensing regime and before the protection comes into force. I assure the member that we want to make sure that all that work is done. As we said during the debate on beavers, we have to closely monitor the measures that we will bring into force if the bill is passed.

I will conclude, as we are under time pressure. Despite all the measures that I have outlined, this is just the start of the process and it does not mean that the work will stop. We have planned a whole programme of work on licensing, consulting on animal transport improvements, and continuing our successful publicity campaign and collaborative work on illegal puppy dealing. There are lots of important issues when it comes to animal welfare and the bill is very much the start of the process.

I move,

That the Parliament agrees that the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill be passed.

19:45

**Finlay Carson (Galloway and West Dumfries) (Con):** From the outset and at all stages, the Scottish Conservatives have supported the general principles of the bill, which are to update the Animal Health and Welfare (Scotland) Act 2006. After a decade of experiencing and enforcing that act, it was clear that some aspects of the penalties that were applicable under it should be updated.

We have also supported most of the provisions that are now, after the stage 3 amendments, in the bill and that have the overall objective of increasing the range of sentencing options in relation to animal welfare and wildlife offences. We fully support the provision of more stringent sentencing powers, which will send the strong and clear message that cruelty to wildlife and animals is totally unacceptable.

There were, however, several amendments that we could not support, in particular those introduced at stage 3 that had not been subject to the normal scrutiny and examination that they would have had at stage 2. Not going through the committee process, when there was no good reason not to, only increases the potential for poorly drafted and bad law. I fear that that might happen, particularly with regard to the amendment on mountain hares.

It is very disappointing, but not surprising, to see the Greens once again—in my opinion—abuse the flexibility in the parliamentary process by bringing in amendments at the last minute. I believe that their stage 3 amendments were outside the original scope of the bill as we in the Environment, Climate Change and Land Reform Committee understood it and were on an issue that we had been told at the outset of the bill that it would not cover. Not only does that bring good law-making process into question, it is disrespectful to the committee process. With particular reference to the ECCLR Committee, I and my fellow members pride ourselves on the evidence-based way in which we look at legislation in a sensible and generally non-party-political way.

There is only one reason for the Greens doing that: it is grandstanding and the worst type of virtue signalling. They fail to recognise that that method actually puts bill proceedings at risk. There is so much good law in the bill, and inserting a last-minute, controversial amendment put the whole thing at risk. That method is counterproductive and actually prevents potentially

good legislation, which the Greens could have brought forward; in this case it puts at risk the hugely important topic of animal and wildlife offences.

Throughout the bill process, we have supported fixed-penalty notices, which the minister touched on and which are now part of the bill. They will give authorities a greater degree of flexibility to determine penalties. We need to ensure that people face the consequences of their criminality, and we need to see an improvement in the disparity between the number of fixed-penalty notices that are issued and the number that remain unpaid.

Concerns about the use of fixed-penalty notices and how information related to them was shared and held between the relevant authorities had been previously raised. There is no central register to hold that information, and the committee recognised a need for more joined-up thinking when it comes to intelligence sharing.

It is clear that animal welfare crimes are linked with other crimes. I therefore welcome Colin Smyth's amendment ensuring that there will be a report to ensure that we make the best use of the data to provide valuable information to the public, to stakeholders and to the Parliament on animal welfare crimes. Having access to data to identify convicted offenders is a vital part of the bill, but it must be done in the right way.

I have very little time left, but I must welcome one excellent piece of the bill. Maurice Golden's amendment on the review of additional animal offences will lead to reconsideration of electric dog collars, which the Government has, unfortunately, failed to ban.

Finally, my colleague Liam Kerr has done terrific work to ensure that Finn's law, which aims to protect the police dogs and horses that serve alongside our officers and which has already been introduced in England and Wales, will be extended to Scotland.

The bill is long overdue. It ensures that those who continue to commit painful and cruel crimes against animals will now know that they will be dealt with with the full force of the law. It is welcome to see the Scottish Government deliver on its commitment to make that happen and to ensure that all parts of the United Kingdom have legislation that cracks down on wildlife crime.

19:49

**Claudia Beamish (South Scotland) (Lab):** This is, indeed, an important bill, and it is right that penalties and powers related to the offences in the bill are brought into line with a more modern understanding of the severity of those offences.

Scottish Labour understands that all animals are sentient. It also understands that we are in the midst of an environmental emergency. The Government's record on biodiversity is not that strong. One in 11 of Scottish species is threatened with extinction, and there is a serious need for a plan for accelerated action after 2020.

With those two points in mind, my colleague Colin Smyth and I worked hard to reinforce the legislation to make the bill even more meaningful than when it first came to our committee. My sincere thanks go to OneKind, the RSPB, Open Seas, the Sustainable Inshore Fisheries Trust and Scottish Badgers for their input to the bill and for helping us with our amendments.

I am relieved that the nesting and resting places amendments have been agreed to. The devastation of those shelters has been well documented in the bill process, and we know that the harm done can be equivalent to a direct attack—and just as fatal.

I am disappointed that my amendment 61, on marine protected areas, was not agreed to. To base the penalties simply on the value of the fish caught misses the other untold ecosystem damage and the damage to specific marine species that may have been done. Such actions are wildlife offences just as they would be on land, where it is much easier for people to take notice.

However, I welcome the fact that—surprisingly—Alison Johnstone's amendment 30, on the protection of mountain hares, was agreed to. That protection is long overdue. I am very pleased that the amendment on vicarious liability for the illegal use of traps and snares, which I was supported in lodging by the minister, was agreed to. However, I am disappointed that the other amendments were not supported, given the many suspected incursions in relation to raptors in my region and other issues of which I am keenly aware, involving a small number of managers and landowners.

Briefly, I want to highlight the issue of the extension of the SSPCA's powers of investigation, which is an issue that has been live since the previous session of the Scottish Parliament in the then Rural Affairs, Climate Change and Environment Committee, of which I was a member. It surely cannot be right that officers can deal with a live animal that is caught in a trap but cannot deal with a nearby trap that has a dead animal in it. As we know, wildlife crime often happens in remote and isolated rural parts of Scotland.

It makes sense for the minister to further investigate the possibility of extending the SSPCA's powers, including by considering any conflict of interest or governance arrangements

implications. The expertise of the SSPCA would be a welcome addition to tackling such crimes in the context of constrained police resources and remote locations.

Finally, I turn to the programme requirements for a more restorative or rehabilitative approach to less serious animal and wildlife crimes. I am very pleased that the minister is acting quickly to commission research on that approach.

In his closing speech for Scottish Labour, my friend and colleague Colin Smyth will highlight some of his amendments that have been agreed to. The protection of animals and wildlife is something that people in Scotland feel impassioned about—and rightly. I have sought to listen to those voices and to strengthen the bill accordingly. Scottish Labour will support the bill today.

19:53

**Mark Ruskell (Mid Scotland and Fife (Green)):** The Greens will back the bill tonight. The minister makes the important point that we should not lose sight of the significant provisions in the bill—in particular, increased maximum sentences, fixed-penalty notices, disqualifications from owning animals and Finn's law. However, there has been a missed opportunity to have a full reform of the Animal Health and Welfare (Scotland) Act 2006. The late amendments on seal culling are the clearest example of where, if the bill had been introduced with a much broader scope, it could have fully addressed a much wider range of animal welfare and wildlife issues. This afternoon, members from all parties—with the exception of the Liberal Democrats—have introduced amendments that have, in effect, broadened the scope of the bill.

If the bill had been broader, the Parliament would have been able to properly scrutinise seal culling, the related issue of acoustic deterrent devices and many more issues that have had only a brief airing today. Looking forward, I hope that the next bill on animal welfare and wildlife will come soon and that we will not have to wait years for the Government to move its position on issues such as the extension of the powers of the SSPCA or outlawing electric shock collars. The timeline for extending the SSPCA's powers so that its officers can investigate wildlife crime has been a farce thus far.

Although I welcome the commitment that the minister has given to setting up an independent review body, I ask her to show real leadership on the issue. Up until now, we have had six environment ministers over the past nine years who have announced consultations, reviews, delays and alternative ways forward such as

special constables, which have manifestly failed. Every time we go round that cycle, we come back to the same conclusions—that wildlife crime is rife, that the police are overstretched and that the role of the SSPCA needs to be extended.

The Greens have placed considerable faith in the minister to deliver on that. The SSPCA's powers could have been included in the bill, but they were not and I did not lodge any further amendments at stage 3. We have accepted the independent review, but it must have a firm timescale for delivery, and an up-front Government commitment to extending the powers must be its starting point. I would like to hear from the minister, in her closing speech, a timescale for not only the reporting of the review but the enacting of its long-overdue recommendations.

Many of those who work at the front line of tackling wildlife crime and upholding the rights of animals will warmly welcome the passing of this bill. However, there is still much more to do, and many crimes will still go undetected and unprosecuted. Traditions must be challenged by evidence, and decisive action and legislation are still needed to restore our relationship with the natural world. I look forward to this Parliament delivering that agenda in the years to come.

**The Deputy Presiding Officer:** I call Liam McArthur to make a remote contribution, for which he has up to three minutes.

19:56

**Liam McArthur (Orkney Islands) (LD):** It has been a long afternoon. Some of us have probably exceeded our screen time for the week and it is only Wednesday, so I will be brief.

Scottish Liberal Democrats warmly welcome the passing of the bill. I commend the minister and her officials on steering the bill through; those who gave evidence throughout the process; and, of course, the ECCLR Committee members for their valuable scrutiny work. Of course, the committee can scrutinise only what it has in front of it, and I again question the approach that has been taken by the Greens. Stage 3 is—and always has been—an opportunity to tidy up a bill and not a point at which new proposals are parachuted in, backed by email campaigns. That is not a substitute for evidence gathering and robust scrutiny.

All that said, Scottish Liberal Democrats strongly back the aims and provisions of the bill. At the outset, we were reminded by a number of witnesses that Scotland currently has among the lowest sentences and penalties for animal cruelty anywhere in Europe. As I said during the stage 1 debate, 12 months in prison, a fine and a ban on keeping animals for the worst acts of animal

cruelty compare poorly with up to five years' imprisonment for fly-tipping. That comparison does not reflect well on our justice system and does not reflect public attitudes towards crimes of animal wildlife cruelty. The system was in need of reform.

By increasing the maximum available penalties for cruelty and causing unnecessary suffering to both wild and domestic animals, the bill helps to address that—thanks in no small part to some of the amendments that were agreed to earlier this afternoon. As the Law Society of Scotland made clear, broadening the range of the prosecutorial options that are available is helpful. It also has the effect of potentially increasing police powers in the detection of more serious crimes.

It is to be hoped, however, that the measures in the bill act more as an effective deterrent. It is in all our interests to see a reduction in the number of cases rather than an increase in the prison population. In that context, I commend Claudia Beamish for the work that she has done in pursuing alternative approaches around restorative justice, which not only have the potential to be more effective in reducing reoffending but can also help to avoid compounding the serious problem of prison overcrowding in Scotland.

Claudia Beamish also led much of the effort to extend the use of vicarious liability. Although, ultimately, it has been expanded to include only a small number of practices—including illegal trapping and snaring—that represents an important step forward and, I hope, a way of deterrence.

Finally, I again congratulate Alison Johnstone on her successful amendment on mountain hares. Although I stand by my earlier comments about the Greens' cavalier approach to parliamentary scrutiny and note that there is much work to do to make those proposals workable in practice, on a personal level, I acknowledge and respect the work that Alison Johnstone has put in on the issue over a prolonged period.

The bill enjoys overwhelming public support and will help to address the number of long-standing shortcomings in the way that animal welfare and cruelty are treated under our legal system. However, as with the Wildlife and Natural Environment (Scotland) Act 2011, it is almost certainly only the latest step, which will be followed by others in due course. For now, the Scottish Liberal Democrats welcome and strongly support the passing of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill.

**The Deputy Presiding Officer:** Gillian Martin is the only speaker in the open debate. I will have to hold her to three minutes.

20:00

**Gillian Martin (Aberdeenshire East) (SNP):** The clock starts now, Presiding Officer.

As the minister did, I will concentrate on the initial policy aim of the bill, which is to increase penalties for animal abuse. However, first, I will put on my Environment, Climate Change and Land Reform Committee hat and mention the committee's vital role in scrutinising policy and teasing out all the consequences. I will not say any more about that; other people have mentioned it.

The committee scrutinised the bill well. We had some quite incredible evidence on the need for increased penalties, including the potential for increased custodial sentences for the most heinous crimes against animals. That evidence prompted the committee to push the Government to make changes to the bill, including changes in relation to the criminalisation of the wilful destruction of animal habitats, which in many cases is tantamount to killing them; the power of the SSPCA to investigate a case when an animal is found dead as a result of suspected cruelty; and better intelligence sharing between law enforcement and the SSPCA.

I thank the minister for her receptiveness not only to the committee's recommendations, but to the many amendments that were lodged at stage 2. She worked with members, which is to her credit—she has done an outstanding job.

One of the most important measures in the bill is that relating to the ability to quickly and permanently rehome animals that are seized as part of a police investigation. Along with colleagues at the SSPCA, I have called for that for a long time. I have spoken before about the devastating situation in Fyvie, in my constituency, where hundreds of bitches and pups were illegally kept in appalling conditions. Many members will have seen the BBC Scotland documentary that featured shocking pictures of the burnt bodies of puppies in a burnt-out car. The memory of that will never leave me. The outcome of the prosecution of those responsible could not include significantly proportionate custodial sentencing. The surviving animals were cared for by the SSPCA in shelters for the two years that it took for the animal abuser who bred them to be sentenced, as, time and again, he attempted to frustrate the legal process. Many of the animals had to be put to sleep as they were in such poor health. The bill will rectify all of that and will send a strong signal that in Scotland time is up for animal abusers such as Frank James.

I still have a few seconds left, so I have time to say that, as the grey seal champion, I am delighted that seals cannot be shot any more, even if that measure came in at the last minute.

We saw hardly any seals when I was growing up in Newburgh, but now, because they are not being shot any more, the haul-out site there is filled with thousands of them—we are becoming quite famous for it.

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

20:03

**Colin Smyth (South Scotland) (Lab):** Scotland has some of the lowest penalties in Europe for animal welfare and wildlife crimes. The bill is an important step towards addressing that. It will give courts the powers to make sure that the penalty fits the crime. It sends a clear message that we take those issues seriously, that we recognise the sentience and value of animals and that we will not tolerate animal cruelty and wildlife crimes.

I pay tribute to the animal welfare organisations for their hard work and campaigning on those issues, including Battersea Dogs & Cats Home for its campaign on Finn's law and five-year maximum sentences. Blue Cross, Edinburgh Dog and Cat Home, the People's Dispensary for Sick Animals and Cats Protection were also instrumental in championing that campaign.

I pay tribute to Scottish Environment LINK for campaigning for higher penalties for wildlife crime and extending protection to resting places, and for raising the issue of vicarious liability. I pay tribute to the Royal Society for the Protection of Birds for its calls for higher penalties for wildlife crime. I pay tribute to OneKind for its work on many issues—from rehabilitative sentencing and disqualification orders to information sharing, to name but a few. I pay tribute to OneKind's revive coalition partners for helping to end the mass cull of mountain hares. Finally, I pay tribute to Scottish Badgers for its support and help with my amendments on badger setts. I thank all those organisations for giving our animals a voice.

Those organisations, together with cross-party co-operation, have ensured that, since its introduction, the bill has been strengthened, including by a number of important amendments that we have agreed to at stage 3. I am delighted that my amendments on strengthening the penalties for disrupting a badger sett, on increasing the maximum penalties available for offences introduced by regulations, on disqualification orders and on information sharing were all agreed to today.

I am also delighted that Alison Johnstone's amendment on making mountain hares a protected species was agreed to. The on-going culling of mountain hares and the growing risk of local extinction is shameful, and proper protection is a long-overdue step forward.

The bill is welcome and important, but it is just a step forward on the long journey to end the scandal of the waste and immorality of animal cruelty that still plagues and shames Scotland. I would like much more to have been agreed to in the bill. I am impatient for an end to animal cruelty: the cruelty of the use of snares, greyhound racing, hunting with dogs, live animal exports and tail docking. I am also impatient for better protection for cephalopods and decapod crustaceans.

I make a special mention of Mark, who is in primary 7 at Sunnyside primary school. Mark drew a wonderful poster for world Oceans Day, calling on us to see the suffering of our sea creatures. We might not have delivered that extra protection today, but I hope the commitment that the Government gave to consider the research on the issue further will lead us to doing so one day. My message to Mark, and to everyone who wants to see an end to animal cruelty, is that they should keep up the campaign, take pride in the bill—which is a step forward—and come back tomorrow to redouble their efforts for the long journey ahead.

20:05

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** In closing for the Scottish Conservatives, I express my thanks to the Environment, Climate Change and Land Reform Committee for its work on the bill. The Conservatives fully support tougher sentencing for animal cruelty and certainly think that the most serious cases of cruelty should be dealt with more severely.

I thank members for their thoughtful contributions. However, I must take this opportunity to call out the puddle-headed amendments that the Greens put forward at stage 3. Their manuscript amendments have proved neither elegant nor satisfactory for those of us who believe in proper scrutiny. For the Greens to lodge manuscript amendments at the 11th hour was counterproductive and has not done justice to the important bill that we are debating. This landmark bill was nearly derailed as a result of their ill-conceived amendments, which lacked solid scientific evidence and stakeholder contemplation.

The Scottish Conservatives received a huge amount of correspondence on Alison Johnstone's stage 3 amendment on mountain hares. People told us that the amendment is significantly flawed and lacked scrutiny, and many pointed out that Ms Johnstone did not mention that her amendment will have unintended consequences for birds that are on the conservation list.

The Greens ploughed on regardless with their shameful virtue signalling, trying to implement bad law that does not reflect the actual situation on

Scotland's hills and mountains, and choosing to ignore scientific facts and not taking the time to consider a balanced approach.

Now the Scottish Government is ignoring its own Werritty report, the James Hutton Institute, Scottish Natural Heritage and the Game and Wildlife Conservation Trust, and it has been strong-armed into joining the virtue signalling. The rural heartlands will remember that. Once again, we see a city-centric Government ignoring rural communities and doing dirty backroom deals with the Greens.

From the outset, the Scottish Conservatives have worked with other parties to ensure that fines and penalties for the worst animal cruelty offences are increased. [*Inaudible.*] I thank Claudia Beamish for her work on that and welcome the announcement on the Scottish Government's restorative justice programme. I hope that that work will include research to link domestic abuse and animal cruelty.

Other parts of the bill are also positive. It goes without saying that Liam Kerr should be thanked for bringing forward Finn's law. I was pleased that Maurice Golden's amendment to encourage the proper use of disqualification orders was agreed to with the support of all parties.

Reckless destruction of badger setts is not acceptable and the Scottish Conservatives were happy to support increasing maximum sentences and fines for offences against badgers.

Furthermore, the Scottish Conservatives are pleased that sense prevailed in relation to the vicarious liability amendments, which would have punished responsible landowners and others for crimes that they did not commit or had no knowledge of.

The Scottish Conservatives were content to support amendments introducing maximum penalties that provide courts with the necessary tools to deal with heinous offences, including the reckless destruction of wild habitats and the collection of and trade in rare bird eggs. We thank Claudia Beamish and Angus MacDonald for lodging those amendments.

I was disappointed that there were technical issues with the amendment on illegal pesticides. I ask the Scottish Government to consider calling for a further amnesty to deal with that specific issue.

Overall, the Scottish Conservatives support the bill, but were deeply disappointed by the actions of the Green Party.

20:10

**Mairi Gougeon:** If anything can be taken from the debate, it is the passion and strength of feeling that members across the chamber have for animal welfare and our wildlife, and the seriousness with which we treat those issues not just here in Parliament but more widely in Scotland. I am proud to have introduced this important bill to strengthen and modernise the enforcement of our world-leading legislation.

I truly believe that Scotland has some of the best animal welfare standards in the world. This important and focused bill will have impacts on the ground as soon as it comes into force. When it becomes law, the bill will send an even stronger message that animal cruelty and wildlife crime of any kind will not be tolerated in Scotland. The cases that Gillian Martin highlighted gave a good illustration of that.

The bill provides much greater flexibility for authorities to deal with a wide range of offences, and it will protect the vulnerable people and animals involved in what are often troubling animal welfare situations. It will reduce the burden on courts, enforcement authorities, police and farmers. The bill is welcomed by stakeholders and has strong support from the public. I hope that the provisions lead to behaviour changes that further reduce animal cruelty and wildlife crime.

From the outset of the process, I wanted to engage with members across the chamber to develop strong legislation with the welfare of our animals and wildlife at its heart. This was always above politics as far as I was concerned, and I thank Gillian Martin for her kind comments about that.

There are areas in which we have not always been able to agree, but I do not doubt for one second that every single one of us involved in the process has had the improvement of animal welfare as our main motivation. There are many areas in which we have come to a resolution as a result of the work that has been done in committee and with members throughout the chamber. With that consensus, for example on increasing the penalties for the destruction of setts and habitats, we have been able to move quite a long way. We have looked at, and been able to find a solution to, elements of vicarious liability. It is clear that there is a strong desire across all parties to make the significant improvements to animal protection that the bill will deliver and give our front-line enforcement bodies the legal framework that they have been asking for and which they need to be able to do their job most effectively.

I want to cover a few of the points that have been raised in the debate. Colin Smyth spoke about cephalopods and decapods. In response to

a recent parliamentary question I have committed to considering new evidence, and I have written to the Environment, Climate Change and Land Reform Committee to confirm that I will carefully consider the results of a research review that will shortly be commissioned by the Department for Environment, Food and Rural Affairs, when those are available. If appropriate, the extension of protection can be achieved by secondary legislation using an existing provision of the 2006 act.

Claudia Beamish and Mark Ruskell raised the issue of the Scottish SPCA's powers. There was a lot of discussion in the committee evidence sessions and at each stage of the bill about the issue, and I genuinely believe that we have taken the right approach by establishing a task force that will fully consider the issue and the implications of any proposed changes to those powers. I know that the SSPCA fully supports that approach. Mark Ruskell said that the starting point needed to be an up-front commitment to increase the SSPCA's powers, but that would have pre-empted the work of the task force, which should address the issue as fully as possible.

During the debate there have been a lot of hotly contested issues and strong arguments, which goes to show how passionate we all are about animals and wildlife in Scotland. Although there have been areas of disagreement, I do not want us to lose sight of where we have all agreed, the many positives that we are achieving through the bill and the massive strides that we have made in improving the welfare of animals and wildlife. We now have a full suite of penalties for animal welfare, animal health and wildlife offences. We have increased the penalties for the worst and most serious cases of animal cruelty and wildlife crime, and we have the ability to thoroughly and better investigate that crime. We have increased protection for our service animals through the introduction of Finn's law, and let us not forget the truly transformative change when it comes to the ability of our enforcement authorities to rehome and care for animals taken into their care.

I thank those across the chamber who have engaged with me on making those improvements, and I thank the Environment, Climate Change and Land Reform Committee for its detailed work and scrutiny. I thank those who work on the front line—the SSPCA and many others—who are so passionate about what they do and have worked closely with us during this process. Day in, day out, particularly during the current crisis, they work to care for and protect Scotland's animals—thank you.

I hope that members will join me in supporting the bill.



## Domestic Abuse Bill

20:15

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of a legislative consent motion. I ask Humza Yousaf to move motion S5M-22045, on the Domestic Abuse Bill.

*Motion moved,*

That the Parliament agrees that the relevant provisions of the Domestic Abuse Bill, introduced in the House of Commons on 3 March 2020, relating to amendments to the law of Scotland concerning extra-territorial jurisdiction over certain offences committed outside the UK by a UK national or habitual resident of Scotland in order to ratify the Council of Europe Convention on preventing violence against women and combating violence and domestic violence, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—[*Humza Yousaf*]

## Private International Law (Implementation of Agreements) Bill

20:15

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of another legislative consent motion. I ask Humza Yousaf to move motion S5M-22046, on the Private International Law (Implementation of Agreements) Bill.

*Motion moved,*

That the Parliament agrees that the Private International Law (Implementation of Agreements) Bill, introduced in the House of Lords on 27 February 2020, providing a clear approach to the domestic implementation of the 1996, 2005 and 2007 Hague Conventions at the end of the Implementation Period and providing a power for the Scottish Ministers or the Secretary of State with the consent of the Scottish Ministers to, on the UK entering any international agreement on Private International Law, implement that agreement in order for it to have legal effect in domestic law, in so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—[*Humza Yousaf*]

## Business Motion

20:15

**The Presiding Officer (Ken Macintosh):** The next item is consideration of business motion S5M-22057, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, which sets out a business programme.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 23 June 2020

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Scottish Government Debate: Local Government Finance (Scotland) (Coronavirus) Amendment Order 2020

*followed by* Scottish Government Debate: Advisory Group on Economic Recovery Recommendations

*followed by* Stage 3 Proceedings: Civil Partnership (Scotland) Bill

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.30 pm Decision Time

Wednesday 24 June 2020

12.20 pm Parliamentary Bureau Motions

12.20 pm First Minister's Questions

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 1 Debate: Social Security Administration and Tribunal Membership (Scotland) Bill

*followed by* Financial Resolution: Social Security Administration and Tribunal Membership (Scotland) Bill

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.00 pm Decision Time

Thursday 25 June 2020

2.00 pm Portfolio Questions (Virtual): Health and Sport

2.30 pm Portfolio Questions (Virtual): Communities and Local Government

3.00 pm Portfolio Questions (Virtual): Social Security and Older People

Tuesday 11 August 2020

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Scottish Government Business

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

Wednesday 12 August 2020

12.20 pm Parliamentary Bureau Motions

12.20 pm First Minister's Questions

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Government Business

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.00 pm Decision Time

Thursday 13 August 2020

2.00 pm Portfolio Questions (Virtual): Finance

2.30 pm Portfolio Questions (Virtual): Environment, Climate Change and Land Reform

3.00 pm Portfolio Questions (Virtual): Rural Economy and Tourism

(b) that, for the purposes of Portfolio Questions in the week beginning 22 June 2020, in rule 13.7.3, after the word "except" the words "to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or" are inserted.—[*Graeme Dey*]

*Motion agreed to.*

## Parliamentary Bureau Motions

20:15

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of three Parliamentary Bureau motions. I call Graeme Dey, on behalf of the Parliamentary Bureau, to move motions S5M-22054, on the referral of a Scottish statutory instrument; S5M-22055, on the approval of an SSI; and S5M-22056, on the suspension and variation of standing orders.

### *Motions moved,*

That the Parliament agrees that the Local Government Finance (Coronavirus) (Scotland) Amendment Order 2020 [draft] be considered by the Parliament.

That the Parliament agrees that the Budget (Scotland) Act 2020 Amendment Regulations 2020 [draft] be approved.

That the Parliament agrees that, for the purpose of its consideration of the Civil Partnership (Scotland) Bill, in Rule 9.5.3B of Standing Orders the number “10” be suspended and replaced with the number “7”.—[*Graeme Dey*]

## Decision Time

20:16

**The Presiding Officer (Ken Macintosh):** The first question is, that motion S5M-22044, in the name of Mairi Gougeon, on the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill at stage 3, be agreed to. Members should cast their votes now.

### **For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)

McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

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

*Motion agreed to,*

That the Parliament agrees that the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill be passed.

**The Presiding Officer:** The next question is, that motion S5M-22045, in the name of Humza Yousaf, on the Domestic Abuse Bill, which is United Kingdom legislation, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the relevant provisions of the Domestic Abuse Bill, introduced in the House of Commons on 3 March 2020, relating to amendments to the law of Scotland concerning extra-territorial jurisdiction over certain offences committed outside the UK by a UK national or habitual resident of Scotland in order to ratify the Council of Europe Convention on preventing violence against women and combating violence and domestic violence, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

**The Presiding Officer:** The next question is, that motion S5M-22046, in the name of Humza Yousaf, on the Private International Law (Implementation of Agreements) Bill, which is UK legislation, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Private International Law (Implementation of Agreements) Bill, introduced in the House of Lords on 27 February 2020, providing a clear approach to the domestic implementation of the 1996, 2005 and 2007 Hague Conventions at the end of the Implementation Period and providing a power for the Scottish Ministers or the Secretary of State with the consent of the Scottish Ministers to, on the UK entering any international agreement on Private International Law, implement that agreement in order for it to have legal effect in domestic law, in so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

**The Presiding Officer:** The next question is, that motions S5M-22054, S5M-22055 and S5M-22056, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, be agreed to.

*Motions agreed to,*

That the Parliament agrees that the Local Government Finance (Coronavirus) (Scotland) Amendment Order 2020 [draft] be considered by the Parliament.

That the Parliament agrees that the Budget (Scotland) Act 2020 Amendment Regulations 2020 [draft] be approved.

That the Parliament agrees that, for the purpose of its consideration of the Civil Partnership (Scotland) Bill, in Rule 9.5.3B of Standing Orders the number "10" be suspended and replaced with the number "7".

**The Presiding Officer:** That concludes decision time.

*Meeting closed at 20:18.*

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

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Pàrlamaid na h-Alba