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Scottish Parliament

Wednesday 21 June 2023

[The Deputy Presiding Officer opened the meeting at 14:00]

Portfolio Question Time

Rural Affairs, Land Reform and Islands

The Deputy Presiding Officer (Liam McArthur): Good afternoon, colleagues. The first item of business is portfolio question time, and the first portfolio is rural affairs, land reform and islands. I invite members who wish to ask a supplementary question to press their request-to-speak button during the relevant question.

Question 1 has been withdrawn.

Agriculture Bill (Views of Ayrshire Farmers)

2. Willie Coffey (Kilmarnock and Irvine Valley) (SNP): To ask the Scottish Government how it will take account of the views of Ayrshire farmers as part of its proposed agriculture bill. (S6O-02393)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): In the autumn of last year, in preparation for the agriculture bill, we ran a wide-ranging series of consultation events across Scotland to listen to the views of stakeholders and members of the public. Those events included a well-attended event in Ayr, at which Ayrshire farmers and producers shared their views on what needs to feature in the draft bill in order to ensure that the future adaptive framework can respond to social, economic and environmental changes, challenges and opportunities.

Willie Coffey: I recently met Ayrshire farmers in Kilmarnock and heard about some of their issues as well as their hopes for the new agriculture bill. One of their recurring concerns is that they feel powerless to influence the behaviour of the supermarkets when it comes to getting fair prices for their quality products.

Does the cabinet secretary recognise that? Although we have no powers in that regard, would she be willing to meet the farmers—perhaps at some point over the summer—to hear directly from them about their concerns and to hear their suggestions on how such matters could be taken forward?

Mairi Gougeon: I would be more than happy to engage with Willie Coffey and to meet farmers in his constituency. I absolutely recognise the importance of the issue that he has raised, which

is one that is repeatedly raised with me in my capacity as cabinet secretary by different producers as I travel across Scotland.

I look forward to the engagement that I will have over the next few days through the Royal Highland Show. In addition, I have been in touch with supermarkets directly to have conversations about the issue with them. Willie Coffey will undoubtedly be aware that the issue was raised by the food security and supply task force that we had last year. One of the recommendations in the task force's report was about engaging with the Competition and Markets Authority and the Groceries Code Adjudicator to raise such issues.

Sharon Dowey (South Scotland) (Con): It is better for the climate to use home-grown produce than it is to fly in costly imports, with their associated food miles emissions. Local food is high quality and is produced to high environmental standards. Buying local also helps Ayrshire farmers to keep producing the first-class food that they are renowned for. The Scottish Conservatives have a plan for that as part of our sustainable food future policy. Will the agriculture bill learn from our policy and help to encourage more people and organisations in Ayrshire to buy good local food?

The Deputy Presiding Officer: We will need to have briefer supplementaries and briefer answers.

Mairi Gougeon: I will try to be as brief as possible, Deputy Presiding Officer.

I absolutely agree with the points that Sharon Dowey has made about the importance of supporting our local producers and having short and resilient supply chains. That is why it is unfortunate that her party, through the United Kingdom Government, has signed us up to trade deals that will result in imports that undercut our industry in Scotland.

Colin Smyth (South Scotland) (Lab): On a recent visit to Meinside farm, near Lockerbie, the message from farmers, once again, was that the uncertainty over future funding mechanisms is causing significant concern. When will the agriculture bill be published? Will it provide details of what will be expected of farmers in order to secure that funding in future? The uncertainty about that is a major concern.

Mairi Gougeon: First, I make the point—which is one that I have made previously in the chamber—that there will be no cliff edges when it comes to support for our farmers.

With regard to when the agriculture bill will be introduced, in line with the commitments that I have already outlined, we aim to introduce it this year.

In relation to clarity on the future direction of support, it is important to highlight to Colin Smyth

and to other members across the chamber the existence of our “Agricultural Reform Route Map”, which outlines when the key changes will come forward and when we will provide more information and detail on those. I encourage Colin Smyth to take a look at that route map, which we will, of course, update as we proceed.

Muirburn (Prevention and Control of Wildfires)

3. Roz McCall (Mid Scotland and Fife) (Con): To ask the Scottish Government what its position is on whether muirburn is a crucial tool for preventing and controlling wildfires. (S6O-02394)

The Minister for Energy and the Environment (Gillian Martin): I am aware of the recent devastation caused by wildfires. The Cabinet Secretary for Rural Affairs, Land Reform and Islands recently visited a site at Daviot to thank forestry staff, firefighters and the local community for their work tackling wildfires. Sadly, the risk of wildfires in Scotland is likely to increase with climate change. We must continue to tackle the issue and encourage people to behave responsibly when outdoors.

Muirburn can make a significant contribution to the prevention and control of wildfires. Our Wildlife Management and Muirburn (Scotland) Bill includes provisions that permit muirburn to prevent and reduce the risk of wildfires.

Roz McCall: Professor Heinemeyer of the University of York has been studying peatlands for two decades. Regarding ways to prevent wildfires, he said:

“you come across a lot of ‘rewetting will solve all the issues’. But it’s not guaranteed. You can’t get a wet bog everywhere because of different rainfall amounts. That is wishful thinking.”

If we want down-to-earth thinking that will prevent wildfires and protect peatland and the species that live in an area, muirburn must be an important tool in our land management inventory.

I recognise that the minister said that there will be some muirburn. Can she confirm that the muirburn bill will not regulate the practice to be the last resort, which would risk the damage of unnecessary wildfires?

Gillian Martin: I agree with a lot of what Roz McCall has said, and I can confirm again, if she would like me to, that we recognise that licensing muirburn will allow it to take place, particularly in areas where it mitigates the risk of wildfire.

Peatland is also a tool that we have in our box to control wildfires, not just from the point of view of climate change and sequestering carbon, but with regard to the provision of areas where burning will be controlled because of wet peatland and re-established peatland.

The Deputy Presiding Officer: I have a number of supplementaries, which will need to be brief, as will responses.

Karen Adam (Banffshire and Buchan Coast) (SNP): Given the seriousness of recent wildfires and the impact that that has had on forestry staff and fire officers, shame on the Tories for turning the issue into a political football. The Scottish Government has already stated that there are situations in which muirburn is the best option. Can the minister confirm that the Government is seeking to ensure that muirburn is used only where appropriate and that best practice is followed?

Gillian Martin: I appreciate that there is a range of views on muirburn. As I said in my response to Roz McCall, I am completely aware that muirburn can be a positive tool when used appropriately, in creating beneficial habitats for certain species, helping to reduce fuel loads, and lowering and controlling the risk of wildfires.

The introduction of muirburn licensing, through the Wildlife Management and Muirburn (Scotland) Bill, will ensure that muirburn is undertaken in a safe and environmentally sustainable manner, in line with best practice. The licensing scheme will allow muirburn for a number of purposes, including preventing or reducing the risk of wildfires.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Upland management is very important, particularly for public health, but also for biodiversity. Will Asulox be approved in Scotland? That is an urgent matter.

The Deputy Presiding Officer: I do not think that that is relevant to muirburn. I will move on to Murdo Fraser.

Murdo Fraser (Mid Scotland and Fife) (Con): I was going to ask a similar question. Clearly, dry bracken is a major contributor to the risk of wildfire, which is the topic of the question. When will the use of Asulox to control bracken be permitted in Scotland, given that permission for its use was given in England last week?

The Deputy Presiding Officer: Minister, is there anything that you can add to what you have already said?

Gillian Martin: No, there is not. I made my point on the licensing of muirburn, and I will stick with that.

Beaver Relocation (Impact on Farmers)

4. Jim Fairlie (Perthshire South and Kinross-shire) (SNP): To ask the Scottish Government what discussions the rural affairs secretary has had with ministerial colleagues regarding the reported concerns of farmers about the potential

impact on their productivity of beaver relocation. (S6O-02395)

The Minister for Green Skills, Circular Economy and Biodiversity (Lorna Slater): The reintroduction of beavers brings clear benefits for our biodiversity and ecosystems. However, I understand that beavers can have adverse impacts on some types of agriculture. I have not met ministerial colleagues, including the Cabinet Secretary for Rural Affairs, Land Reform and Islands, to discuss that particular issue.

NatureScot has a range of mitigation measures to help to protect farms, and there are arrangements that allow lethal control of animals as a last resort. Additionally, all translocation projects must follow the process in the Scottish code for conservation translocations, including appropriate engagement with the people who are most likely to be affected.

Jim Fairlie: Beaver numbers are expected to rise to 10,000 before the end of the decade. That is clearly a cause for concern for farmers, who are justifiably worried about the threat that beavers pose to their land, given the evidence that they cause significant and costly agricultural damage should they appear in the wrong areas.

Back in 2019, the then environment secretary, Roseanna Cunningham, gave an assurance that Scottish farming would not be compromised by beavers. What mitigation does the Government intend for those who have already been affected by beaver damage? How will relocated beavers be managed to avoid unnecessary damage to farmland in the areas to which they are relocated?

Lorna Slater: Our Scottish beaver strategy, which was developed in partnership with stakeholders including NFU Scotland and Scottish Land & Estates, provides the direction of travel for beaver management in Scotland. The Scottish code for conservation translocations sets out the consultation process for proposed projects and ensures that those who are likely to be affected by proposals can have their views heard.

NatureScot's beaver management scheme is integral to our work on managing beaver impacts. The scheme provides farmers and other land managers with mitigation advice, including proactive measures to prevent beaver impacts. Those include tree protection and the installation of flow devices and beaver exclusion fencing.

Although we consider lethal control to be a last resort, licensing approaches are available to prevent serious damage where mitigation cannot resolve conflict.

Edward Mountain (Highlands and Islands) (Con): I remind members of my entry in the

register of members' interests, which relates to farming and fishing on Speyside.

Beavers do not just damage crops; they damage trees, too. Given that the Government again missed its tree-planting targets last year, how does the minister propose to protect important young riparian trees that are being planted to mitigate damage caused by beaver reintroductions? Please do not suggest wrapping them in plastic, minister.

Lorna Slater: As I set out in my previous answer, our beaver strategy, which outlines the direction of travel for beaver management in Scotland, has been developed with more than 50 stakeholders that have worked towards it, including the Scottish Wildlife Trust, NFUS and Scottish Land & Estates. They have collaborated on the strategy's aims, which are in line with the Government's aims. The strategy also sets out the importance of community engagement in achieving those aims. As I have previously set out, the installation of protection for valuable trees is part of our beaver mitigation measures, which we will continue to support as we move forward.

New Entrants into Agriculture

5. Liz Smith (Mid Scotland and Fife) (Con): To ask the Scottish Government what measures it has put in place to support new entrants into agriculture. (S6O-02396)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): The Scottish Government continues to invest in new entrants and the rural workforce. Since 2015, we have granted in excess of £28 million through a combination of national reserve, start-up and capital grant schemes.

Additionally, we have provided 122 land opportunities through the farming opportunities for new entrants programme group and have supported more than 82 joint ventures through the Scottish Land Matching Service. We continue to offer a range of general and bespoke consultancy advice to new entrants through the Farm Advisory Service. We are also pleased to support the machinery ring pre-apprenticeship programme to create opportunities for young people in rural areas.

Liz Smith: That is helpful, but the cabinet secretary will be aware that several large corporate entities are buying up large tracts of property for forestry in order to meet climate change targets. That means that substantial areas of land are being taken out of agricultural use at a time when we desperately need food security. That is concerning my constituents in Perthshire, who have raised the matter with me on the basis that it also deters new entrants into agriculture.

What will the Scottish Government do to address such concerns?

Mairi Gougeon: I am aware of those concerns, and Liz Smith has raised an important point. One factor that we see coming through the forestry grants scheme is that about 80 per cent of applications to it are for smaller pieces of land and small farms.

We want to ensure that we are putting the right trees in the right places. There is a strong role for both forestry and agriculture, including through agroforestry. We have an integrating trees network, which shows how we can combine those aspects.

The member also raised a critical point about our food security. As with many of the issues that we discuss in the chamber, our approach needs to be about ensuring that we get the balance right. We want to continue to see integrated land use, which has benefits not only for our environment but for our farming businesses.

Emma Harper (South Scotland) (SNP): Can the cabinet secretary confirm how much funding the Scottish Government has provided for new entrants and young farmers since 2015 and how that compares with other nations of the United Kingdom?

Mairi Gougeon: The Scottish Government has invested considerable sums for new entrants during the course of a number of years. Since 2015, we have provided just over £7-million worth of support via direct payments. We have provided around £12 million through the young farmers start-up grant as well as £600,000 for the new entrants start-up grant. It is important to highlight that those forms of support for new entrants were discontinued in England.

Beatrice Wishart (Shetland Islands) (LD): Given the contributions that new people in the sector can make to both food security and biodiversity loss, what additional measures can the Scottish Government take on retention of new crofting and agriculture entrants?

Mairi Gougeon: The member raised a very important point. We committed in our manifesto to providing new-entrant support, and it is important that we learn from the schemes that we have had in the past.

I was delighted to attend one of the farming opportunities for new entrants groups in Bute last week. It was interesting to hear from the farmers directly, and from the young farmers who were there, about some of the challenges that they faced in getting those opportunities. We want to ensure that we are breaking down barriers and providing opportunities.

I am keen that we learn from schemes that we have had in the past as we look to develop new support.

Wildlife Crime Investigation Powers (Report)

6. Meghan Gallacher (Central Scotland) (Con): To ask the Scottish Government when the report by the taskforce to consider whether to extend wildlife crime investigation powers to the Scottish SPCA will be published. (S6O-02397)

The Minister for Energy and the Environment (Gillian Martin): The report provided by the Scottish SPCA task force has been published on the Scottish Government web pages this morning. I thank the task force for conducting the review and producing its final report. I will be providing a response to the recommendations in the report in due course.

Meghan Gallacher: On Monday, I had the pleasure of joining the Scottish raptor study group to visit red kite nests. The conversation centred around the importance of red kite conservation. However, the team also highlighted incidents of raptor persecution—a practice that I am sure we all condemn.

The SSPCA faces financial difficulties at present, and I am concerned that, should the Scottish Government not fund the organisation correctly, officers will be stretched when trying to fulfil their duties. That would include investigation powers should the bill be approved by Parliament. What reassurance can the minister provide that she will ensure that the SSPCA is fully supported?

Gillian Martin: I appreciate everything that Meghan Gallacher said about raptor persecution, and I agree with an awful lot of her concerns. The SSPCA is not Government funded, but Scottish Government officials regularly meet the SSPCA to discuss current issues and to provide support, when appropriate. Like many charities, its income comes from other means—including membership, fundraising and legacy donations among other things. We will do everything that we can, in consultation with the SSPCA, to ensure that it is supported to carry out any duties, should we decide to give them to the SSPCA.

Mark Ruskell (Mid Scotland and Fife) (Green): Barriers under existing powers mean that SSPCA inspectors who are already on the ground investigating animal abuse are prevented from seizing and securing evidence of wildlife-related crimes, and inspectors are further limited to enforcing powers only on living animals, with their hands tied if a wild animal is found dead. Does the minister agree that that is inexcusable, and will she close the loopholes during future stages of the Wildlife Management and Muirburn (Scotland) Bill?

Gillian Martin: Mark Ruskell will know, because I was on the same committee as him during the previous session, that we heard exactly that kind of concern being raised about SSPCA officers not being able to act in certain situations when they found that there had been animal cruelty—particularly in situations involving wildlife.

The report that has been published today outlines what the SSPCA says that it can do. I am open to ideas about what we can do to support it to do that and close those loopholes.

Land Assembly Powers (Public Bodies)

7. Ariane Burgess (Highlands and Islands) (Green): To ask the Scottish Government whether it will introduce compulsory sales orders through its proposed land reform bill, in light of its plans to address the need for effective, efficient and fair land assembly powers for public bodies, as referred to in the Bute house agreement. (S6O-02398)

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): We recognise the importance of effective, efficient and fair land assembly powers for public bodies. That is why we are committed to reviewing compulsory purchase order powers to ensure that they remain fit for purpose. In 2023-24, we will appoint an expert advisory panel to inform the development of options for reform.

Work on the introduction of compulsory sales orders was undertaken in the previous parliamentary session and it will be considered more fully in this one, too.

Ariane Burgess: It is encouraging that, this year, the Scottish Government is investing £10 million in projects to tackle the waste of derelict land, such as the decontamination and redevelopment of former military land at Cromarty Firth so that affordable homes can be built.

However, given the exceptional demand and skyrocketing prices for land right now, we must make better use of the 9,500 hectares of land that is currently benefiting neither people nor nature. Does the cabinet secretary agree that compulsory sales orders for councils to auction long-neglected land are a necessary tool for ensuring that the people of Scotland are getting the most out of their land?

Mairi Gougeon: In my initial response, I mentioned the work that would be undertaken on compulsory purchase orders. Councils already have such tools, which they are using to repurpose land for the benefit of local communities and their local areas.

However, as I have highlighted, we are considering how the introduction of compulsory

sales orders might enhance the tools that are already available to local authorities. We will continue to engage with our stakeholders on that in order to really understand the need for those orders and to discuss the issues that were identified when the matter was initially raised, during the previous parliamentary session. Ultimately, that also has to include how any introduction of compulsory sales orders might comply with the European convention on human rights.

Mercedes Villalba (North East Scotland) (Lab): The Bute house agreement also refers to applying a public interest test to transfers of large-scale landholdings, but very few large landholdings are transferred in Scotland each year. Does the minister agree that waiting for all large landholdings to be transferred will take decades and that we need a public interest test that applies to existing holdings?

Mairi Gougeon: The member will, no doubt, be aware that we published the results of our consultation on our proposals for legislation a couple of weeks ago. We will be considering the views that have been expressed through that consultation as we develop our proposals for a land reform bill, which we will be looking to introduce soon. I look forward to working with the member and discussing the issues that have arisen from that as we take forward the work on the bill, which will look to address the issues.

Brian Whittle (South Scotland) (Con): If the Scottish Government takes the proposal forward, can the minister confirm whether, in the event of a compulsory sale, the new landowner will be required to put the land to the use that it is designed for? If so, can she explain how that will be enforced?

Mairi Gougeon: It is not possible for me to set that out at the moment because, as I have said, although the issue was considered in the previous parliamentary session, a lot of work still needs to be undertaken in relation to that. However, we would of course look to bottom out some of the issues that the member has raised.

Crofting Law (Reform)

8. Alasdair Allan (Na h-Eileanan an Iar) (SNP): To ask the Scottish Government whether it will provide an update on its plans to reform crofting law. (S6O-02399)

The Minister for Energy and the Environment (Gillian Martin): As stated in the Scottish policy prospectus, I am committed to the reform of crofting law by 2026, subject to agreement by Parliament, to support the future of crofting.

The crofting bill group has made good progress, since it was reinstated in May 2022, and it has

reached a consensus on many topics. The group is considering the issues raised by the bill group in 2016 to 2018; the issues that the Law Society of Scotland singled out for a crofting law reform project in 2020; and the issues identified by the Crofting Commission to make crofting regulation less onerous for crofters and the commission.

Alasdair Allan: A range of issues daily highlight the need for crofting law reform, not least the issue of common grazings. Given that crofting law expert Sir Crispin Agnew has noted that the current law is inadequate to manage subsidy regimes, environmental obligations and renewables opportunities, can the minister say whether the legislation will deal with those issues—in particular, in relation to common grazings?

Gillian Martin: As is stated in the 2021 manifesto, work on crofting law reform will be undertaken during this parliamentary session and a decision on the timing of the bill will be taken by the Cabinet in the context of setting out future legislative programmes in the normal way.

Mr Allan will know that the crofting bill group is looking at a wide range of issues to inform that draft bill, and we have asked the group to look at how we can make crofting legislation more relevant to modern crofting. Some of the things that he has mentioned are under consideration, and one of the issues being considered by the crofting bill group in its work on crofting law reform is common grazings.

The Deputy Presiding Officer: That concludes portfolio questions on rural affairs, land reform and islands. There will be a brief pause before we move on to the next portfolio to allow members on the front benches to change.

NHS Recovery, Health and Social Care

The Deputy Presiding Officer: The next portfolio is national health service recovery, health and social care. Members who wish to ask supplementary questions should press their request-to-speak buttons during the relevant question. We have a lot of interest in asking supplementaries, but we are due to sit late this evening and have no time in hand. Questions will, therefore, need to be brief, as will responses.

Surgery Waiting List (Pelvic Organ Prolapse)

1. Michael Marra (North East Scotland) (Lab): To ask the Scottish Government how many women are currently waiting for surgical treatment for a pelvic organ prolapse. (S6O-02400)

The Minister for Public Health and Women's Health (Jenni Minto): Information on the number of patients waiting for pelvic organ prolapse

surgery is not held centrally by the Scottish Government.

However, we are keen to ensure that those patients are seen as soon as possible, so we are working with the centre for sustainable delivery to adopt a national approach to expediting waits for a range of urogynaecology treatments, and work has started on that with the relevant health boards.

Michael Marra: The minister might recognise some of the cases that I have raised in the chamber, including one of an eight-and-a-half year wait for one woman in my region. I have since been contacted by another two women, one of whom has been waiting 14 years for surgery. I am very keen to understand from the minister whether that is a national situation or one that pertains only to Tayside. If the minister could commit to looking into the matter, that would be appreciated.

Jenni Minto: First, I apologise to the women who have had those experiences. I will check with my officials to find out what information we hold and will get back to Michael Marra. I absolutely commit to doing that.

Dermatology Services (Investment)

2. Stephanie Callaghan (Uddingston and Bellshill) (SNP): To ask the Scottish Government what impact it anticipates that its recent £1.8 million investment will have on dermatology services. (S6O-02401)

The Minister for Public Health and Women's Health (Jenni Minto): The new programme, which enables primary care teams to send digital images of a patient's skin condition to specialists, with the potential for up to 90 per cent of referrals to include a digital image, could reduce demand for outpatient dermatology appointments by up to 50 per cent.

That will lead to a better and quicker service for patients, allowing clinicians to see patients in the right place and sooner. Modernising our services with such innovations supports patient care, reduces pressure on our workforce and is absolutely vital for the future of our healthcare service.

Stephanie Callaghan: Such innovations in our national health service are, indeed, welcome.

I have a specific question about topical corticosteroid treatments for inflammatory skin conditions. Although those are generally safe and effective in the short term, a number of my constituents have experienced withdrawal reactions after using those creams for longer periods. They describe a range of symptoms including burning or stinging, intense itching, peeling skin and skin redness extending beyond

the area that was originally treated. The physical and emotional impact can be devastating.

Can the minister confirm whether there will be a key focus on reducing the number of patients using topical corticosteroids for prolonged periods while the work to improve treatment pathways continues?

Jenni Minto: Having spoken with some people who are affected by that, I recognise the impact that topical steroid creams can have. That is why we are bringing in that new way of working. By capturing images in primary care and enabling triage in secondary care, the programme will support timely access for patients who need secondary care and treatment, while providing quicker and more specific advice to primary care to support patients who do not need that secondary care.

Management within primary care might include reassurance for patients with lesions, guidance to monitor the condition, or medical treatment. I note that prescribing decisions are matters for clinicians, taking into account the individual circumstances and treatment needs of each patient.

Grass-roots Sport (Support)

3. Graham Simpson (Central Scotland) (Con): To ask the Scottish Government what steps it is taking to support grass-roots sport in Scotland. (S6O-02402)

The Minister for Social Care, Mental Wellbeing and Sport (Maree Todd): Earlier this month, sportscotland announced record annual investment figures to support the delivery of sport and physical activity. Across 2023-24, sportscotland will invest up to £36.7 million of Scottish Government and national lottery funding into Scottish governing bodies of sports, local authorities and wider national partners. That includes significant investment in support for grass-roots sport in Scotland, supporting local authority partners in the delivery of community and school sport through community sport hubs and the active schools network.

Since April 2007, sportscotland has invested more than £204 million to help sports clubs, community groups, local authorities, sports governing bodies and other organisations to deliver new and upgraded sporting facilities.

Graham Simpson: The minister will be aware that councils have been forced to close facilities due to Scottish National Party cuts. I am sure that she is also aware that the United Kingdom Government has invested in facilities across Scotland—including £500,000 in Lanarkshire—through its multisport grass-roots facilities

programme. Does the Scottish Government have a similar specific fund for grass-roots sport?

Maree Todd: We have discussed the issue of investment in grass-roots sports a number of times in the chamber. As I have set out, sportscotland is the body that we use to make those investments, and there has been a substantial increase this year in the investments that we are making in that regard.

In terms of local government finance, we absolutely recognise the crucial role that councils and their employees play in communities across Scotland, and the challenging financial circumstances that they face. However, under the UK Government, we have suffered a decade of austerity, with average real-terms cuts of more than 5 per cent, which equates to a loss of £18 billion. Despite that, local authority revenue funding is £2.2 billion—22.9 per cent—higher in cash terms in the current financial year than it was in 2013-14. That shows that we have managed to protect local authority budgets.

Of course, local authorities are democratically elected bodies and they make their own decisions about how they spend their money and where they focus their attention. As anyone would expect, central Government cannot interfere in those decisions.

The Deputy Presiding Officer: A couple of members want to ask supplementary questions. They will need to be brief, as will the responses.

Emma Harper (South Scotland) (SNP): The minister mentioned active schools. Can she provide an update on the work that is being done with sportscotland to ensure that active schools programmes are free for all children and young people by the end of this parliamentary session?

Maree Todd: We are working with sportscotland and local authorities to phase out charging for active schools, which is a really important commitment of this Government. Sportscotland continues to work with partners to address the very small number of cases where charging remains, and is taking a managed approach in order to avoid unintended negative impacts on the level of sport and physical activity provision in those communities.

Sportscotland's record annual investment in local authorities—which reached £16.2 million last year—will support councils with rising staff costs and allow them to drive and strengthen the active schools programme's focus on inclusion. That focus is about supporting children who are living in poverty, those with additional support needs and care-experienced young people to participate.

Brian Whittle (South Scotland) (Con): School provided many of us with our introduction to sport.

Can the minister tell us more about investment in school sport and enabling the school estate to remain open after 4 o'clock, because sport is now becoming the bastion of the middle classes?

Maree Todd: Brian Whittle and I have engaged on this issue many times. I recognise that we share a passion for sport. I argue that sport is not becoming a bastion of the middle classes, but has long been a bastion of the middle classes. In fact, our data illustrates that, other than participation in football, which is equitable across socioeconomic groups, almost all other sports favour the rich and wealthy. It has long been thus, which is why this Government is focused on tackling that inequality. We are focused on the active schools programme and on removing charging for it to ensure that every child who lives in Scotland can have the opportunity to participate in sport and gain the benefits that that brings them. Those benefits include not only benefits that would be associated with physical activity; as Brian Whittle can testify, involvement in sport brings other lifelong benefits.

Community Link Practitioners (General Practice)

4. John Mason (Glasgow Shettleston) (SNP):

To ask the Scottish Government what plans it has for the future of community link practitioners working with general practitioner practices, in particular in more deprived areas. (S6O-02403)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): We remain committed to community link workers in general practice. Their role aligns strongly with the missions on equality and community in our policy prospectus, "Equality, opportunity, community: New leadership—A fresh start", in which we also committed to increasing investment in general practice serving disadvantaged areas.

Funding for primary care improvement plans has been maintained at £170 million in the current financial year, and each health and social care partnership determines how to deliver link worker services within its own improvement plan. The Scottish Government recognises that there are service variations across Scotland, and we are currently reviewing local community link worker delivery in order to understand the benefits and challenges of those different approaches.

John Mason: I take the cabinet secretary's point that the HSCPs are central to how that delivery goes forward. However, would he agree that those link workers are very much valued by GP practices, especially in deep-end areas in constituencies such as mine? Would he agree that, if the GP practices and everybody else had a bit more certainty over funding for the future, that would help the patients, the GP practices and the staff?

Michael Matheson: Yes—I agree with the points that Mr Mason raises, including on the specific issues regarding his constituency. I appreciate that there has been a level of uncertainty for those staff and for the patients who have benefited from the community link worker programme. I am pleased that we have been able to address that uncertainty, as the member referred to, and I recognise that the health and social care partnerships are working to try to address some of the contractual issues as we move forward.

In addition, I reassure the member that, as part of the review programme that we are taking forward, I want to look at how we can give a greater level of certainty and consistency into the future with regard to how community link workers will be provided in general practices, particularly in our more deprived areas, in order to ensure that we are dealing with the issues in a consistent way that gives people assurance about our long-term vision in taking the programme forward.

The Deputy Presiding Officer: A number of members have supplementary questions. They will need to be brief, as will the responses.

Sandesh Gulhane (Glasgow) (Con): I agree that we need more community link workers. I absolutely value them when I get to work with them in practice. However, the Scottish National Party has broken its promise to GPs with the new contract. The £65 million cut has broken the SNP promise to all primary care, and the GP contract was and is detrimental to rural areas. I therefore ask the cabinet secretary why primary care and GPs should believe him now.

Michael Matheson: We have a very strong commitment to primary care. One of the examples of our commitment to improving and investing in it has been the rapid expansion of the multidisciplinary team across primary care. More than 3,000 additional staff, including allied health professionals, were brought into that particular group in order to expand capacity in our primary care setting by supporting GPs in their work alongside the very important work that our community link workers carry out. That is a clear example of this Government's determination to expand and develop our primary care setting.

Paul Sweeney (Glasgow) (Lab): Community link workers play a crucial role in community mental health support in particular. The SNP's previous programme for government, "A Fairer, Greener Scotland: Programme for Government 2021-22", committed to establishing 1,000 additional mental health roles to support wellbeing hubs for every GP practice and improve community mental health resilience. Given that the summer recess begins next week, will the Scottish Government have created those roles before the

next programme for government or will that be yet another failed commitment from this Government?

Michael Matheson: We are determined to do everything that we can to help to support the issues around mental health and the services that can help to support individuals who are experiencing mental health challenges. However, we have also had to look at prioritisation in our budget, given the budget cuts that we are experiencing as a result of decisions that have been made by the United Kingdom Government, which have a direct impact on the Scottish Government's budget.

I assure the member that we will continue to look at what further support we can provide to GP practices in the way of community mental health support in order to ensure that we provide the support and assistance that is required.

Willie Rennie (North East Fife) (LD): The cabinet secretary's presentation of the situation is not what people are facing in our communities. They are waiting a long time to get through to a GP because the recruitment has failed completely. The number of GP whole-time equivalents has dropped, 23 practices have closed in the past three years, and the multidisciplinary recruitment that he talked about has fallen well short of the targets.

I support link workers, but why does the cabinet secretary not get real and understand that people are really suffering in trying to access GPs?

Michael Matheson: Community link workers are an important part of the primary care team, but I suspect that the member has chosen to ignore the more than 3,000 additional staff that we have recruited into primary care over the past couple of years in order to expand and help to support capacity in that sector.

Notwithstanding that, however, I recognise that there are challenges. As a constituency MSP, I am very aware of the challenges that some of our constituents face, which is why we are also looking to increase recruitment within general practice. We need to consider how we configure primary care, ensuring that we refer people to the right services in the right way. That involves looking at the whole multidisciplinary team—GPs and the wider AHP team—so that they can support patients with long-term conditions, and even short-term conditions. That is exactly what the Government is determined to do, and that is the approach that we are taking going forward.

Ferry Cancellation Impacts (Highlands and Islands)

5. Donald Cameron (Highlands and Islands) (Con): To ask the Scottish Government what discussions it has had with national health service

boards in the Highlands and Islands region regarding whether there has been any impact on the delivery of their services as a result of recent ferry cancellations. (S6O-02404)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): Scottish Government officials regularly meet representatives of all NHS boards, including those that cover the Highlands and Islands, to discuss any challenges that are impacting on activity and to provide any necessary support. We have not been made aware of any specific impact on the northern isles. However, I understand that some out-patient activity was postponed in the Western Isles, where the travel of visiting consultants was disrupted. The patients affected were reappointed at the next available opportunity.

Contingencies are in place for patients. For example, CalMac Ferries has a medical protocol, which guarantees islanders a booking on the ferry and a taxi should they have to attend an urgent medical appointment on the mainland. NorthLink Ferries will provide assistance to any northern isles residents who have issues in travelling to the mainland for medical appointments.

Donald Cameron: In addition to the problems that the cabinet secretary has mentioned, *The Oban Times* recently reported that the hospital on Islay was unable to book patients on to ferries this month due to reduced deck space, and the Scottish Ambulance Service has confirmed to me that the recent Corran ferry breakdown resulted in longer travel times for patients and delays in getting cover back to the area. What additional help can be provided to health boards to ensure that patients can access vital health services in the event of problems with the ferry network?

Michael Matheson: I recognise that some challenges have been experienced by patients who require to make use of ferries for the purposes of accessing services or coming on to the mainland for services. We would, of course, expect boards to consider putting alternative arrangements in place where it is feasible to do so, but the critical aspect is to get greater consistency and reliability within our ferry network in order to address the issues.

The member will be well aware of the actions that are being taken in order to address those issues. We expect boards to ensure that alternative arrangements are put in place when necessary and that, if appointments have to be rearranged, they are rearranged at as early a point as possible for patients.

Nursing and Midwifery Staff

6. Paul O'Kane (West Scotland) (Lab): To ask the Scottish Government how many nursing and

midwifery staff have left the national health service in the last 12 months. (S6O-02405)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): A total of 8,831 nursing and midwifery staff have left the NHS in the past 12 months. That information can be found on Turas in the information on the Scottish Government's workforce planning programme.

Paul O'Kane: I thank the cabinet secretary for that answer. New statistics have revealed that the use of agency staff increased dramatically in that period, rising to the equivalent of 1,741 whole-time equivalent nursing and midwifery staff in 2022-23. That is an increase of 1,018, or more than 70 per cent, on 2021-22. We know that nurses and midwives continue to leave the profession in droves due to stress and burn-out, and we know that, even though there is an astronomical use of agency staff, people cannot even access them, and wards are being left in perilous positions.

The cabinet secretary has not been in post for all that long, but he must accept that those are clear failures in workforce planning and he must take responsibility for addressing the issue. When is he going to prioritise the work of the new nursing and midwifery task force in order to ensure that it delivers a plan for providing the nursing workforce that Scotland needs?

Michael Matheson: Let me deal first with the use of agency staff and the member's call for us to take action to address those issues. I am not sure whether he is aware of this, but action has already been taken. New protocols were introduced at the beginning of this month that place restrictions on health boards in order to reduce the amount of agency resources that they are using and to switch more towards using bank staff. Action has been taken on that, with restrictions being applied to health boards. I hope that the member will find that new information helpful to him.

On the point about prioritising the work of the task force, I am a little surprised by the tone of the member's question. The task force has already met. I chair it, and we are due to have a second meeting. The work of the task force is already progressing. I will work with all the partners on the task force to ensure that we address the issues that it has been set up to address, including the examining of further pathways into the profession. No doubt, the member will welcome the work that the task force has carried out to date.

Clare Haughey (Rutherglen) (SNP): An analysis by the Nuffield Foundation, among others, makes it clear that Brexit is a key factor in the NHS's staffing crisis. This week marks seven years since Scotland voted overwhelmingly to remain in the European Union, yet we continue to

feel the full force of the Tories' hard Brexit deal, which Labour fully supports. Can the cabinet secretary provide an update on efforts to ensure the further recruitment of midwives and allied health professionals from overseas in the face of those pressures?

The Deputy Presiding Officer: Please answer as briefly as possible, cabinet secretary.

Michael Matheson: Brexit is undoubtedly having a significant impact on recruitment in a range of sectors—not just in Scotland, but across the United Kingdom—including in the health and social care setting. That is the reality and those are the facts on the ground. We now have to address that challenge despite the fact that the people of Scotland voted by a significant majority against leaving the EU.

We have been taking action to help to increase our recruitment from overseas. Recently, we were able to exceed our target of recruiting an extra 750 nurses and AHPs from overseas by making some 800 offers to staff. We will continue to take work forward with our health boards to consider how we can further increase recruitment in the years ahead.

Sue Webber (Lothian) (Con): Some fearsome new facts from the ground show that, for the first time, the number of staff who are leaving the health service has outstripped the number who are joining it, with 75,000 NHS staff being absent due to mental illness over the past five years. It is little surprise that record numbers of NHS staff are leaving the health service. Recruiting more NHS staff will have little effect if existing staff are leaving at a higher rate, so what steps is the cabinet secretary taking to ensure that our NHS staff are valued, respected and protected? Does he accept that his predecessor, Humza Yousaf, bears the responsibility for that exodus?

Michael Matheson: We have taken forward a range of work in order to continue to recruit into our NHS. I am sure that the member recognises the very significant challenges that Brexit is now posing for the recruitment of staff, as I mentioned. Our work includes—[*Interruption.*]

Does the member want to hear what I have to say or is she just going to shout at me from a sedentary position?

Paul O'Kane mentioned the nursing and midwifery task force, which is looking specifically at new routes into the healthcare professions and particularly into nursing through apprenticeships and earn-as-you-learn programmes, both of which can open up opportunities.

I gently point out to the member that we have more NHS staff in our NHS since the Government has come into office and that, in Scotland, we

have more NHS staff per head of population than the Tories have in England. That demonstrates our commitment to investing in our staff, which we will continue, despite the very poor record that her party in England has on that matter.

Gender Identity Services for Children and Young People

7. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Government what action it and NHS Scotland are taking to implement the recommendations of the Cass review into gender identity services for children and young people, as they apply to Scotland. (S6O-02406)

The Minister for Public Health and Women's Health (Jenni Minto): The NHS England-commissioned Cass review extends only to clinical services offered by NHS England. It is not considering or reviewing services provided by NHS Scotland. As members will know, how the national health service is structured and how services are commissioned differ in England and Scotland. However, as we continue to state, the on-going findings of that review, alongside other national and international evidence in the field, are being closely considered in the context of how such healthcare can best be delivered here as we work collectively to improve service delivery to children, young people and their families. Various workstreams are under way to deliver that.

To date, officials and senior clinicians from both the Scottish Government and NHS Scotland have met Dr Cass twice to share information on improvement work in Scotland, expected outputs of that review, associated timelines and opportunities for shared learning.

Murdo Fraser: As the minister will know, the Cass review has highlighted the significant uncertainty surrounding the use of hormone treatments for children and adolescents with gender dysphoria, reflecting the views and concerns of many in the medical profession. On 9 June, NHS England announced that puberty blockers would not be commissioned for children and young people in those categories except as part of clinical research. In light of the very serious concerns that have been highlighted, will the NHS in Scotland now take that step, too? If so, when? If not, why not?

Jenni Minto: Decisions on prescribing that type of treatment are for clinicians to make in consultation with the patient, following individualised assessment, and they are subject to regular monitoring. The Scottish Government remains proactive in its commitment to help to deliver high-quality healthcare to children and young people in that sensitive field of medicine.

Consistent with that, preliminary discussions are taking place between Scottish Government and NHS England officials as to what form of engagement may be possible and appropriate with NHS England's recently announced but not-yet-in-place clinical research study on puberty blockers. However, the situation in Scotland remains unchanged.

Significant Adverse Event Reviews

8. Kaukab Stewart (Glasgow Kelvin) (SNP): To ask the Scottish Government what analysis it has undertaken of the results from NHS Scotland significant adverse event reviews. (S6O-02407)

The Cabinet Secretary for NHS Recovery, Health and Social Care (Michael Matheson): The national adverse events notification scheme has been in place since 1 January 2020, following the then Cabinet Secretary for Health and Sport's instruction to Healthcare Improvement Scotland to collect significant adverse event review data for category 1 adverse events from health boards.

Health boards are responsible for delivering safe, effective and person-centred care at a local level. That includes inputting into the national notification system. The Scottish Government does not routinely request that data from Healthcare Improvement Scotland, but we work closely with it to ensure that the processes are implemented and improved in line with national policies and frameworks.

Kaukab Stewart: According to NHS Greater Glasgow and Clyde's publication of 2020-21, the most common contributory factor to be identified in a SAER was guidance not being followed. Last year, my constituent Kathanna McGivern, who is in the public gallery, sadly lost her grandfather, John, when he was receiving NHS care. The SAER that was carried out confirmed that guidance had not been followed, which may have caused or contributed to his death.

How can the Government and NHS Scotland effectively learn from adverse events in order to improve the guidance that is provided and allow best practice to be actively promoted across Scotland?

Michael Matheson: I am sorry to hear of the loss Ms McGivern's grandfather, John. I believe that she has written to me separately on the matter.

Safety is at the heart of everything that we do. The national adverse events framework has been developed by Healthcare Improvement Scotland in collaboration with NHS boards and its purpose is to provide an overarching framework. It has been developed using best practice to support care providers to effectively manage adverse events when they occur.

I assure Kaukab Stewart that Healthcare Improvement Scotland is currently reviewing the framework. We are considering what further work can be taken forward to ensure that we continue to learn from significant adverse events. We are taking forward a piece of work around what is called the community of practice, which is being trialled with NHS boards as part of the adverse events framework to ensure that we maximise the learning that can come from such incidents.

The Deputy Presiding Officer: That concludes portfolio questions. There will be a brief pause before we move on to the next item of business.

Business Motion

14:54

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is consideration of business motion S6M-09621, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Bail and Release from Custody (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Bail and Release from Custody (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 and 2: 1 hour 45 minutes

Groups 3 to 5: 3 hours 15 minutes

Groups 6 to 8: 4 hours 30 minutes

Groups 9 to 11: 5 hours 30 minutes

Groups 12 to 14: 6 hours 30 minutes

Groups 14 to 16: 7 hours.—[*Martin Whitfield*]

Motion agreed to.

Bail and Release from Custody (Scotland) Bill: Stage 3

14:54

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is stage 3 proceedings on the Bail and Release from Custody (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP Bill 16A—the marshalled list and the groupings of amendments. The division bell will sound and proceedings will be suspended for around five minutes for the first division of the stage 3 proceedings. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after any debate, and subsequent divisions will be 45 seconds. Members who wish to speak in the debate on any group of amendments should press their request-to-speak button or enter the letters RTS in the chat function as soon as possible after I call the group.

I advise members that there will be some comfort breaks and that members will be notified of the timings and duration of those in due course.

Members should now refer to the marshalled list of amendments.

Section 1—Decisions on bail: relevant information from officer of local authority

The Deputy Presiding Officer: Group 1 is on “Decisions on bail: relevant information”. Amendment 67, in the name of Pauline McNeill, is grouped with amendments 15, 16, 68, 19, 20 and 21.

Pauline McNeill (Glasgow) (Lab): The focus of the bill is to limit custody to those who pose a risk to public safety or to when it is necessary to prevent significant risk of prejudice. There are clearly benefits to reducing the damaging effects of short-term detention. Section 1 requires the court to give criminal justice social work the opportunity to provide information to the court when making decisions about bail.

Under the current language in the bill, that opportunity is mandatory. Although I think that the intention is good, I raised concerns at stage 2 about the inconsistencies in the provision of justice social work in courts across the country. In Glasgow, we are well served, but other parts of Scotland are not. Therefore, the opportunity will not be equal across the country.

Amendment 67 would replace the requirement that the court “must” request information from justice social work, and it would make that discretionary by inserting that the court “may”

request that information. In a written submission to the Government, the Senators of the College of Justice stated:

“there will be many occasions on which such input is plainly irrelevant and the imposition of a statutory requirement to seek a report in such circumstances would seem inappropriate. For example, if an accused person is charged with a serious offence of violence and has a significant record of similar offending there is, on the face of it, very little prospect of that person being granted bail. In such cases it is difficult to see any purpose in requiring the court to seek a report with the attendant delay and demands upon the resources of the social work department.”

David Fraser of the Scottish Courts and Tribunals Service also noted that, if justice social work reports were required in every case, that would create the potential for reports not being available when they were required in court.

I would like the Parliament to note that, in my exchange with the Cabinet Secretary for Justice and Home Affairs at stage 2, she clearly and helpfully set out that there is no intention behind the provision to delay any proceedings of the court in that manner, although some people had thought that that was the case. It just seems to me that it would make more sense to say that there “may” be an opportunity, rather than that there “must” be one, because the opportunity does not have to be taken up in every single case.

My amendment 67 would remove the statutory requirement to seek a report and, instead, allow the court a degree of discretion, depending on the context of the case and the history of the alleged offender.

I move amendment 67.

Maggie Chapman (North East Scotland) (Green): Before I speak to my amendments in this group, I would like to thank the victim support organisations and others who have worked tirelessly to ensure that the voices of victims and survivors are heard in this process. I appreciate that we will not all agree on everything today, but I am grateful to them for their insight and expertise. I refer members to my entry in the register of members’ interests.

Amendments 15, 16 and 21 focus on the new victim safety element of the proposed bail test. Throughout the scrutiny process, I have listened carefully to the voices of victims organisations, which rightly wish to ensure that the court has the fullest possible information about victims’ safety concerns at the time of making a bail decision, including decisions on special conditions of bail.

15:00

Amendment 15 aims to strengthen that area. In particular, it would add to the court’s general

power to seek further information that is relevant to the bail decision from the prosecutor, the legal representative of the accused or, as amended by the bill, justice social work by expressly enabling the court to ask the prosecutor to provide it with information on the risk of harm to the complainer.

Amendment 15 would make clear the situations in which victim safety is a relevant consideration in a case before the court, such as cases of domestic abuse or sexual offending. The court could then ask the prosecutor for additional information to help it to make a determination on bail. The amendment would also serve to emphasise to the court the importance of the victim safety element of the new bail test and of being as fully informed as possible when making bail decisions.

Amendments 16 and 21 are consequential on amendment 15. Amendment 16 is a technical amendment that will be necessary if amendment 15 is accepted. It would make minor and technical amendments to section 1(3)(c) to reflect that section 23B(7) of the Criminal Procedure (Scotland) Act 1995 will no longer immediately follow section 23B(6). Amendment 21 would amend the definitional power in section 2(2)(c) of the bill to ensure that the definitions of complainer harm and psychological harm also apply for the purpose of the new section 23B(6A) that I am proposing to be inserted into the Criminal Procedure (Scotland) Act 1995. I ask members to support amendments 15, 16 and 21.

The Deputy Presiding Officer: I call Katy Clark to speak to amendment 68 and other amendments in the group.

Katy Clark (West Scotland) (Lab): Amendment 68 focuses on the resources that local authorities need to provide justice social work. It requires the Scottish Government to report on the operation of section 1 of the bill and the impact on local authorities, particularly on whether they have adequate resources to meet the requirements of the legislation, whether further resources are required and, if so, what action needs to be taken to address that.

Amendment 68 would require the Scottish Government, in the preparation of the report, to consult local authorities and any professional bodies that represent social workers. The background is that funding for justice social work has been flat for the past three years, which is a real-terms cut of £86.5 million. Social Work Scotland said that

“members report that waiting times for assessments, support and treatment are all increasing, and in some social work teams over 30% of posts are unfilled”.

Unison Scotland said that justice social workers are faced with some of the highest case loads and

that many local authorities are scaling back social work services as a result of real-terms cuts in local government funding.

It is clear that the Scottish Government wishes to enhance the role of justice social work in the provision of information to the courts. Scottish Labour also wants that, but it is difficult to see how it can happen without additional resource. When I lodged the same amendment at stage 2, the cabinet secretary acknowledged the budgetary challenges and said that the introduction of the legislation would be phased. However, the financial memorandum does not recognise the serious cost and resource implications of the proposals. It is not possible to lodge amendments to require the funding that is needed for adequate resourcing, so amendment 68 has been lodged to ensure focus and scrutiny on the resourcing issues.

The Deputy Presiding Officer: I call Jamie Greene to speak to amendment 19 and other amendments in the group.

Jamie Greene (West Scotland) (Con): I put on the record my and my party's thanks to all those organisations that have worked with committee members and others during the passage of the bill.

The bill is a bill of two parts. Part 1 is the substantive part because it deals with the pivotal moment when a judge has to decide whether to remand someone in custody or bail them on release back into society, often with conditions attached. That is a grave and difficult decision.

As we go through the next couple of groups, I want to make it clear that there is little doubt that the real and general intention of the bill is to reduce the remand population in Scottish prisons. However, the question that I sought to answer from day 1 was a simple one: is that the stated intention of the bill or the inferred one? In unearthing the answer to that, we need to look at how the Government's proposals have been responded to by the judiciary, by victims organisations, by justice practitioners, by our courts and our police and, most importantly, by victims.

This afternoon, I will present a series of amendments that I think deal with some of the deficiencies that exist in the bill even at this late stage. Indeed, I would go as far as to say that, when the bill was published, we spent far too long talking about improving the experience of the accused or the offender rather than that of victims and complainers. I sought to redress that imbalance at stage 2, and I will do the same today at stage 3. I do not think that we can vote for amendments that change our bail system and that will put families or victims at any greater risk than

they are currently at. The onus is on all of us as members to look considerately at the amendments before us. We should reflect not on the source of the amendments but on their content. I make that ask of all members.

I have worked extremely closely with Victim Support Scotland, which will feature often in my comments today, in drafting my amendments. I am really grateful for its support and for its backing for most of my amendments.

I turn to my first set of amendments. Amendment 19 seeks to add a provision to the bill that would allow the complainer, if they wanted to, to make representations to the court during the bail hearing on how they would be impacted if the accused person was granted or refused bail. Members should note that I took care to use the word “may” rather than the word “must” in the amendment. I absolutely do not want complainers in such scenarios to feel forced, or to be forced, to make representations when they would not be comfortable doing so or when it would not be relevant for them to do so. Amendment 19 would not force them to do that.

I also wanted to ensure that the wording of amendment 19 was broad through the use of the word “representations”. Those members who have been to a busy custody court will know that the judge has to weigh up whether to remand an individual in custody in the immediacy of that environment using the information that has been presented to them during that hearing. Much of part 1 of the bill goes some way in allowing criminal justice social work and other relevant parties to make greater representations to the judge on the day on behalf of the accused, presumably with a view to informing their decision so that they make the best decision possible. I do not have a problem with that, but I ask that the same privilege be afforded to the complainer or the complainer’s representative in such instances, because both voices must be heard.

Some victims organisations said that, although they agreed that that might be a helpful provision in most cases, they were concerned that victims of domestic abuse, for example, could be coerced into making representations to the court that did not accurately reflect their circumstances. I share that concern, which is why amendment 19 is an enabling one that simply creates a mechanism by which the complainer—if, and only if, they want to—can ensure that the court is in full possession of all the relevant information about the case that is before it. I think that that is vital, but I am willing to hear what the cabinet secretary has to say in response to my well-meaning amendment.

If amendment 19 is problematic, I ask the chamber to consider amendment 20, which seeks to amend the 1995 act by including a clause that

states that a submission by the Crown must include

“information in relation to the complainer’s safety or safety of other persons”.

It also states that that information could be obtained from a wide range of sources, including a victims advocacy or support organisation. For me, consideration of the complainer’s safety should be the top priority in such deliberations. Therefore, I am delighted that Victim Support Scotland, Scottish Women’s Aid and ASSIST have urged members to support amendment 20.

I turn to the other amendments in the group, which other members have spoken to. I am very happy to support amendment 67, in the name of Pauline McNeill. Similarly, we will support amendment 68, in the name of Katy Clark. I am also happy to support Maggie Chapman’s amendments 15 and 21, which would allow the court to request information from the Crown on the risk of harm to the victim.

I had a problem with amendment 16, albeit that Maggie Chapman described it as a technical amendment, which, in my interpretation of it, at least, would allow the prosecution and the defence to give an opinion to the court on the risk of something occurring, as mentioned in the bail test. Amendment 16 does not have the backing of VSS or other victims organisations, much to my surprise, but I will trust their judgment on that.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): I will speak to all the amendments in the group.

Amendment 67, from Pauline McNeill, seeks to remove the mandatory requirement for the court to provide an opportunity for justice social work to provide information relevant to the question of bail and, instead, make that discretionary. An identical amendment was lodged by Ms McNeill at stage 2 and was fully debated by the Criminal Justice Committee.

The purpose of section 1 is to ensure that justice social work is always given an opportunity to provide information to the court. Amendment 67 would completely cut across that policy, as it would be left to the court to decide.

As was discussed at stage 2, there have been suggestions that decisions on whether to admit an accused to bail could be delayed as a result of the changes proposed in section 1. That will not happen, however, as Ms McNeill acknowledged in her remarks. Section 1 does no more than require the court to give justice social work an opportunity to provide it with information that is relevant to the question of bail. It does not mean that justice social work has to provide information in every case, nor does it mean that the court cannot make

the bail decision if information from justice social work is not provided.

If a person appears, for example, on a Monday, the bail decision must be made by the end of Tuesday—in other words, the next day. That is and will remain the legal timescale.

The court will continue to make bail decisions on the basis of the information that is put before it, whether or not justice social work has provided information. There is no risk that bail will be refused because the court is awaiting information from justice social work. The court cannot refuse bail because it is waiting for information from any party.

Amendment 67 would leave it to the discretion of the court whether to offer an opportunity to justice social work to provide information. There is a risk that that could mean that valuable information would not be provided in individual cases, as the court might not always be aware of whether criminal justice social work held relevant information, because it had not asked justice social work.

I ask Pauline McNeill not to press amendment 67. If she does, I ask members to vote against it.

The Scottish Government supports amendments 15, 16 and 21, from Maggie Chapman, which respond to some of the issues raised at stage 2 by the Scottish Liberal Democrats. As Ms Chapman has set out, under existing bail law, at any time when the question of bail is being considered, the court has a general power to seek further information that is relevant to the bail decision from the prosecutor or the accused's legal representative. The bill seeks to extend that power to include justice social work.

Sitting alongside that general power, amendment 15 expressly enables the court to ask the prosecutor for additional information in relation to victim safety, to help inform the bail decision. That highlights to the court the importance of the victim safety aspect of the new bail test and that it is primarily the role of the prosecutor, who acts in the public interest, to provide the court with information about any perceived risks of harm that the accused poses to the complainer that would be relevant to the court's decision on whether to grant the accused bail.

I am aware that, throughout scrutiny of the bill, ensuring that the court has the best information to inform its bail decision has been a key issue. Amendment 15 acknowledges the important position of the prosecutor in that regard and is a sensible and helpful provision that will aid the operation of the new bail test, including consideration of victim safety, which is at its heart. Amendments 16 and 21 are consequential amendments.

Katy Clark's amendment 68 would require the Scottish ministers to report to Parliament on the operation of section 1 during its first year in force. The amendment is identical to the one that Ms Clark lodged at stage 2, which was fully debated by the Criminal Justice Committee.

I very much recognise that the enhanced role of justice social work through section 1 carries resource implications, as set out in the financial memorandum. It is important to remember, though, that the bill simply requires the court to give justice social work an opportunity to provide information that is relevant to the question of bail in each case before the court.

It does not place any duty on justice social work to provide such information. Ultimately, it will be for justice social work to identify the cases in which it can best help to inform the court's decision making by providing additional information.

15:15

Throughout the passage of the bill, I have made it clear that the Scottish Government will continue to work with justice agencies during implementation planning to review the resourcing requirements and the timescales for commencement.

Members will be well aware, as we all are, of the real challenges that exist in relation to budgets across Government and across the country, and that those are likely to continue. However, I remain close to the issue, and I contend that the ring fencing of criminal justice social work has certainly given it a stability notwithstanding those pressures.

Of course, the Parliament has the power to carry out post-legislative scrutiny of any act of Parliament. It may also choose to scrutinise particular provisions of an act. The Parliament also requires to pass the Government's annual budget bill, and so elements of the justice budget, including that of justice social work, can be looked at through that process. Accordingly, the Parliament would be able to consider the impact of the bail reforms on justice social work through those scrutiny processes without having to add a further reporting requirement to the bill to allow for that.

I ask members to vote against amendment 68.

Amendment 19, in the name of Jamie Greene, would give the complainer the right to make representations to the court when it is determining whether to grant or refuse bail.

The subject of how the court is best informed about the potential risks to complainer safety is a key issue that was, quite rightly, discussed in

some detail at stage 2. With the new bail test explicitly embedding public and complainant safety within its operation, it is clearly important that the court has appropriate information to assess that.

Amendment 15, which is being considered in this group, emphasises to the court the route by which information on complainant safety should be obtained: it is from the prosecutor. As was discussed at stage 2, I would have concerns about placing in the bill any requirement or expectation that a complainant should appear in front of the court. I know that that is not Mr Greene's intention.

It is clearly important in many cases, such as those involving domestic abuse, that information on potential harm is made known to the court, but that should be done via the prosecutor, and amendment 15 helps to strengthen the law in that regard.

Jamie Greene: I am grateful to the cabinet secretary for explaining the Government's position. However, I pose the scenario of a busy custody court. I do not understand how the situation would be best addressed there. On the day, Crown counsel would probably be presenting a large number of cases to the judge. Amendment 15 says:

"the court may ... request the prosecutor to provide it with information in relation to the risk of harm".

How is that practically achievable in a scenario in which neither the complainant nor their representative is in court on the day? The advocate depute would have no access to such information, particularly if the arrest has been made in the course of a weekend, as is often the case in domestic abuse cases.

Why is it such a problem to allow the complainant to provide such information to the court—potentially in advance—so that it can be heard by the judge on the day? The process that is outlined in amendment 15 alone would not suffice in every scenario, and it certainly would not give every complainant the opportunity to make representations to the court.

Angela Constance: The whole purpose of section 1 of the bill is to ensure that the court has the best possible information available to it. Notwithstanding that prosecutors are busy—as are judges, criminal justice social workers and victim support organisations—we are well within our rights to be crystal clear on the role of the prosecutor in providing vital victim information where it exists.

I put another scenario to Mr Greene. Although I am sure that it is not his intention, my worry is that amendment 19 might have unintended consequences and carry an increased risk of harm if a complainant were to make representations at

court in person. It might increase the risk to their safety or that of their being coerced into making representations to help to secure an accused person's release on bail.

Therefore although I accept that amendment 19 is well intentioned, it is not one that the Government can support.

Amendment 20 from Jamie Greene would place a mandatory requirement on the prosecutor to always include information on the safety of the complainant or other persons in their bail submission. Where such information is relevant to the question of bail, the prosecutor will of course provide such information. However, to require it in every case—even when, for example, there is no complainant or where there is no question of complainant safety being an issue, such as may be the case in a shoplifting case—is a step too far.

In addition, amendment 20 would require the prosecutor to include information on complainant safety obtained from a victim advocacy or a victim support group. Again, I understand the intent, but if there is no complainant, or if the complainant has no wish to engage with such a group, the prosecutor would still require to include such information, even where clearly it is not relevant or where it is not available from the victim group.

It is for the independent prosecutor, who acts in the public interest, to ensure that relevant information is presented to the court in relation to complainant safety, and amendment 15 strengthens the law appropriately in that regard.

There are also some technical issues with amendments 19 and 20. For example, there is no definition of a "victim support or advocacy group," which is referred to in amendment 20. Given that the amendment imposes a new duty on the Crown in connection with court decisions on bail, it is important that there is legal certainty.

On that basis, I ask members to oppose amendments 19 and 20.

Pauline McNeill: I agree with the cabinet secretary that the principle of providing the maximum amount of information to the court is very important, but I do not think that the Government addressed the question of the inequality of resources across the country. In fact, I argue that it is a meaningless mandatory requirement to provide an opportunity, and in some courts that is just not possible.

Although the cabinet secretary said that resources can be considered, what she said in relation to Katy Clark's amendment seems to leave that question totally unanswered. If no social work is available in some courts, the opportunity will simply not be taken up, and that creates inequality, so it becomes a bit meaningless, and it

makes more sense to change the “must” requirement in legislative terms.

With that, I will be supporting amendment 20, in the name of Jamie Greene, but not amendment 19, because there was not enough technical information. There is quite a lot to be considered around how this will be done before the court. I will support amendment 15, in the name of Maggie Chapman, but not amendments 16 or 21.

The Deputy Presiding Officer: The question is, that amendment 67 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division of the day, I will suspend the meeting for around five minutes to allow members to access the digital voting system.

15:23

Meeting suspended.

15:28

On resuming—

The Deputy Presiding Officer: We will now restart proceedings, and we will proceed with the division on amendment 67. Members should cast their votes now.

The vote is now closed.

Brian Whittle (South Scotland) (Con): On a point of order, Presiding Officer. My app would not connect, but I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Whittle; that will be recorded.

Neil Bibby (West Scotland) (Lab): On a point of order, Presiding Officer. I could not connect but would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Bibby; your vote will be recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)

McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 46, Against 66, Abstentions 0.

Amendment 67 disagreed to.

Amendment 15 moved—[Maggie Chapman]—and agreed to.

Amendment 16 moved—[Maggie Chapman].

The Deputy Presiding Officer: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey): On a point of order, Presiding Officer. My device would not work. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Dey. Your vote will be recorded.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): On a point of order, Presiding Officer. My app did not work. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Hamilton. Your vote will be recorded.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)

Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 67, Against 47, Abstentions 0.

Amendment 16 agreed to.

After section 1

The Deputy Presiding Officer: I call amendment 68, in the name of Katy Clark, which has already been debated with amendment 67. I invite Katy Clark to move or not move the amendment.

Katy Clark: I move amendment 68, which has the support of organisations such as the Convention of Scottish Local Authorities. The provision of justice social work and the cuts to justice social work budgets need greater scrutiny, and I therefore urge members to support the amendment.

The Deputy Presiding Officer: Thank you, Ms Clark. We do not need that; we just need the moving of the amendment.

The question is, that amendment 68 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

The Minister for Independence (Jamie Hepburn): On a point of order, Presiding Officer. I cannot tell whether the vote went through. I would have voted no.

The Deputy Presiding Officer: I confirm that your vote was recorded.

Colin Smyth (South Scotland) (Lab): On a point of order, Presiding Officer. My device did not work, but I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Smyth. Your vote will be recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)

Whittle, Brian (South Scotland) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
Adam, Karen (Banffshire and Buchan Coast) (SNP)
Adamson, Clare (Motherwell and Wishaw) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Arthur, Tom (Renfrewshire South) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Brown, Siobhian (Ayr) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
Chapman, Maggie (North East Scotland) (Green)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Natalie (Renfrewshire North and West) (SNP)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
FitzPatrick, Joe (Dundee City West) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Greer, Ross (West Scotland) (Green)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Maguire, Ruth (Cunninghame South) (SNP)
Martin, Gillian (Aberdeenshire East) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
McKee, Ivan (Glasgow Provan) (SNP)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLennan, Paul (East Lothian) (SNP)
McMillan, Stuart (Greenock and Inverclyde) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Minto, Jenni (Argyll and Bute) (SNP)
Nicol, Audrey (Aberdeen South and North Kincardine) (SNP)
Regan, Ash (Edinburgh Eastern) (SNP)
Robertson, Angus (Edinburgh Central) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Slater, Lorna (Lothian) (Green)
Somerville, Shirley-Anne (Dunfermline) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kaukab (Glasgow Kelvin) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Swinney, John (Perthshire North) (SNP)
Thomson, Michelle (Falkirk East) (SNP)
Todd, Maree (Caithness, Sutherland and Ross) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 51, Against 63, Abstentions 0.

Amendment 68 disagreed to.

Section 2—Determination of good reason for refusing bail

The Deputy Presiding Officer: Group 2 deals with entitlement to bail. I draw members' attention to the procedural information relating to this group, as set out in the groupings. If amendment 22 is agreed to, I cannot call amendments 69 to 71, due to a pre-emption.

Amendment 17, in the name of Jamie Greene, is grouped with amendments 18, 22, 69 to 72, 23 and 74.

Jamie Greene: I apologise to Labour for the pre-emptions in this group—I will explain those shortly.

Amendments 22 and 23 in this group are largely consequential on the primary amendment, which is amendment 17. I apologise to members for the fact that the speech that I am giving just now is the main one that I will give today, from my point of view, because it relates to the bail test, which is the core of part 1 of the bill.

Whether we like it or not and whatever our views on Governments using primary legislation to restrict parameters around the independent decision making of the judiciary, the effect of this section has caused debate and consternation. I would go as far as saying that it has attracted, perhaps unusually, widespread criticism from the judiciary and, at the other end of the spectrum, those who represent victims and their rights.

As currently drafted, the bill limits the scope of the court's ability to refuse an individual bail. At the moment, as per the Criminal Procedure (Scotland) Act 1995, judges have a list of criteria that they use to determine whether someone should be remanded or granted bail. The Government's proposals in the bill change all of that. The proposed bail test requires that bail must be refused only if both of the following tests are met. The first is that the court deems that the case involves at least one of the criteria that are set out in section 23C of the 1995 act, including, for example, things such as the likelihood of absconding, the risk of further offences being committed if bail is granted and the risk of the person interfering with witnesses or otherwise obstructing the course of justice—all sensible things that we would expect judges to consider. The second test is that the court must be satisfied that the accused should be refused bail

"in the interests of public safety ... or ... to prevent a significant risk of prejudice to the interests of justice."

It is no longer an “or” scenario; it is an “and” scenario. That is an important difference—it is the so-called two-stage test that we have been referring to throughout this scrutiny process. Here is the problem with that: questions have been posed by the judiciary about the properness of such a move by a Government. There is a fundamental question here about how ministers who frequently rest on their laurels in relation to the so-called independence of the judiciary when posed questions about such matters are very quick and keen to legislate to narrow the decision-making powers of the judiciary.

There are a range of views on the efficacy of the change in its entirety. Some stakeholders seem to hint that judges will just ignore it altogether, doing what they always do, making the sort of decisions that they think are right and that they always make anyway. In fact, Lord Carloway stated that the bill “introduces an unnecessary, cumbersome and artificial process”

without changing outcomes in bail decision making. That is extremely strong criticism from the highest judge in the land of the proposed changes to the bail test, and we ignore it at our peril.

There was also a huge amount of debate about what constitutes the second test: the new public safety test. Some argued that it was too narrow—that it would effectively bind the hands of judges and severely limit their use of remand even where that option may be appropriate. There were substantive arguments about how, or even whether, to define “public safety” and what effect that will have in practice on remand decisions and remand numbers.

What is the compromise here? There has, so far, been no answer on that from the Government, yet the committee’s stage 1 report said:

“the factors that judges need to take into account would be preferable on the face of the bill.”

At stage 2, I lodged a simple amendment that sought to change the “and” in the test process to an “or”, thereby allowing judges more scope to remand individuals who they believe pose a risk to the complainer or to other individuals. That amendment was rejected by the Government, notably on a 4:4 split and the casting hand of the convener. The Parliament, the judiciary and victims organisations are split on the issue. That is why I have brought the amendment back at stage 3.

Amendment 17, in my name, again seeks to replace the “and” in the two-stage process but instead inserts five conditions as reasons for which a judge could remand someone. It would provide that, in addition to the so-called public safety test,

“at least one of the following”

criteria must also be met:

“(i) the ... person is likely to breach ... bail conditions,

(ii) the ... person is likely to commit further offences whilst on bail,

(iii) the ... person is likely to abscond”

from court;

“(iv) the ... person ... is likely to interfere with witnesses or ... obstruct the course of justice”;

and finally, in subparagraph (v), the court feels that

“there is another substantial factor”

that would justify

“keeping the person in custody”.

The fundamental question, which the Government has been either unable or unwilling to answer throughout the bill process, is what is driving the remand population in our prisons in the first place. It must be a number of any of the following factors. Is it a result of the overuse, or the wrong use, of the existing bail test by sheriffs or judges? That is a key question, but we saw no evidence of that.

Is it, perhaps, a result of the huge backlog in our courts, which is driving up the remand population, with many people lingering in prison for months—or, in some cases, years—while their trials are continually delayed? We have evidence for that, because Audit Scotland recently revealed that our backlog for solemn cases will not be cleared until at least March 2026, some three years away. Someone who is held on remand will be waiting for their trial, and therefore the remand numbers will be higher.

Another question that it is right to pose is whether we have a comparatively high remand population relative to the types of crimes for which those people are being remanded. What do I mean by that? What is the proportion of people who are remanded, for example, for serious assault, attempted murder, sexual assault, rape or serious organised crime? My point is this: is it the profile of crime that has changed and resulted in the inevitable action of a judge having to, or feeling that they have to, remand someone?

The Criminal Justice Committee struggled with those questions to get below the skin of the issue. As far as I can see, remand is already the option of last resort by sheriffs and judges, which is perhaps why 8 per cent of custody hearings in summary cases result in remand, and 40 per cent of solemn cases result in remand, largely due to the seriousness of those cases.

If the system is not broken, why change the bail test? That is not just the question from members

on the Conservative benches but a question that the judiciary are asking the Government, to which the Government has not replied.

Pauline McNeill: I appreciate the member giving way on that point in particular, given that he mentioned the Lord President's 13-page letter. With regard to the change not having the confidence of the judiciary, would he acknowledge that we put to both cabinet secretaries the very question that, as he says, the judiciary highlighted, as to whether the proposed changes may make no "practical difference" to outcomes? Would he agree that the committee did not really get an answer to a 13-page letter that was full of substantial questions?

Jamie Greene: No, we did not, and—disappointingly—neither did the judiciary come and give evidence to us. I would have liked to have heard from judges and sheriffs in front of the committee at stage 1, as we gathered evidence for our stage 1 report. Nonetheless, they produced—unusually—a 13-page letter, which we cannot ignore. It is not often that the most senior judge in Scotland would criticise such a change to the law in such a way, but the Government has not replied. The Government may disagree with Lord Carloway, which is fine—there is nothing wrong with the cabinet secretary and the Government having a different policy direction—but it was not forthcoming with an answer to that letter. I do not think that we should ignore those concerns.

15:45

Pauline McNeill is absolutely right. The problem here is about what effect the bail test change will have on the remand population, and the answer is that we do not know. It could go a number of ways. The remand population could stay the same, because judges will still use their own judgment, and the bail test will make no difference, in which case the policy objective will have failed at the first hurdle and is therefore unnecessary. The other option is that more people are released into the community who would hitherto have been remanded in custody. That may present a problem, and that is perhaps why victims organisations have a problem with it. The opposite outcome is that the definition of "public safety" could be so wide ranging that it could be used in any scenario to remand someone in custody, and therefore more people may end up being remanded.

We have heard all the scenarios, and the Government does not seem to know what the outcome might be, nor has it done any modelling on it. That is my concern, and that is why I am seeking to insert the original bail test back into the bill, so that we are clear about the parameters that judges can use. The public safety test is so vague,

so weak and so misunderstood; the original five-condition test is clear, and it is being used by judges—fairly, in my view. I am not sure whether the Government trusts judges on this matter; I perhaps have more faith in them, and I urge members to support my amendments in this group.

I turn briefly to other amendments in this important group. I support amendment 18, in the name of the cabinet secretary, because it changes the wording of the public safety test in some way to consider the protection of the complainer from the risk of harm. That seems to be a technical change from what was proposed at stage 2, which is welcome.

Amendments 69 and 70, from Pauline McNeill, add to the bail test the ability for judges to refuse bail on the basis that the person has previously breached their bail conditions, for instance. That is not in the existing tests as set out in the Criminal Procedure (Scotland) Act 1995.

Amendment 71 adds to the existing bail test a provision that allows bail to be refused if the court considers that there is a substantial risk that a person, if granted bail, might breach bail conditions. Amendment 70 does something similar.

Those amendments are important because, as we know—and as I will discuss in relation to a different group of amendments—a high volume of prisoners breach bail conditions. Many people who are released on bail are repeated bail breachers, and the effect on victims, particularly on domestic abuse victims, is quite horrific. We have had first-hand evidence of that.

There are other amendments in this group that I will not speak to, but I am keen to hear what the cabinet secretary has to say in response to the many criticisms that I have laid out.

I move amendment 17.

Angela Constance: Amendment 72, in the name of Katy Clark, would remove the proposed new bail test from the bill in its entirety. A similar amendment was lodged by Ms Clark at stage 2 and was debated at the Criminal Justice Committee. I cannot support the amendment.

Part 1 of the bill does not change the general entitlement to bail under section 23B of the Criminal Procedure (Scotland) Act 1995. Under the new bail test, as is the case now, bail is to be granted to an accused person unless the court determines that there is good reason for refusing it. That determination continues to involve a two-part test.

The first part of the test remains the same. The court may determine that there is good reason for refusing bail only where at least one of the

grounds in section 23C(1) of the 1995 act applies. The bill narrows the second part of the test to provide that bail may be refused only if the court considers it necessary for one or two specific public interest reasons. The first is that it is necessary in the interests of public and victim safety. The second is that it is necessary to prevent a significant risk of prejudice to the interests of justice. If an accused person does not present a threat to public and victim safety or to the delivery of justice, bail should be the default.

The new statutory limit on the use of remand is a direct response to calls made by the Criminal Justice Committee and others to take action to reduce the number of people being held on remand. If Katy Clark's amendment 72 is agreed to, the potential benefit of the new bail test in reducing the use of remand would be lost. I ask members to vote against that amendment.

Amendments 17, 22 and 23, in the name of Jamie Greene, would expand the circumstances in which remand can be used by the court not only under the framework that is envisaged by the new bail test in section 2 of the bill, but even in terms of the current system.

It is, of course, the job of Parliament to set legal parameters. The Scottish Government is seeking to do so in this instance via primary legislation. Mr Greene and others are also seeking to do so via their amendments. However, Mr Greene's amendments would represent a significant change in the operation of bail law, and no consultation has been undertaken on the specific changes that he has proposed.

Amendment 17 is the main amendment; amendments 22 and 23 are largely consequential. Jamie Greene lodged a similar amendment at stage 2, and it was debated and defeated. Amendment 17 would separate the two requirements of the new bail test to make them alternative instead of cumulative. That would mean that the court could remand an accused person either when one or more of the grounds that are listed in Jamie Greene's amendment 17 are established or when there is a risk to public safety or a significant risk of prejudice to the interests of justice.

The current bail test and the new bail test are two-part tests. By removing the need to satisfy both parts of the test, the change has the potential to massively expand the court's ability to remand and to massively expand the legal parameters. It would mean that an accused person who poses no risk to public safety or to the delivery of justice could be remanded solely on the basis that at least one of the grounds that are listed in amendment 17 applies. That includes any other

"substantial factor which appears to the court to justify keeping the person in custody".

That would give the court an extremely broad discretion to refuse bail for any reason that the court determined met the criterion of being a "substantial factor".

Jamie Greene: The point of the amendment is precisely to give the courts that discretion. The factors that are listed in my amendment are reasonable grounds. The problem is that, if someone meets all those criteria—there is evidence of their breaching bail conditions; they had previously been released on bail and committed further offences, of which there is evidence; and they have repeatedly absconded or failed to attend at a court diet—but does not meet the secondary test, the judge will be forced, again, to release that person on bail. Where is the discretion and the fairness in that? All that I am trying to do is reinsert into the system that the judges on the day—not ministers here today—are the best people to make that decision.

Angela Constance: I will come to embedding the important principles of the interests of justice and victim and public safety in a few moments. The fundamental point is that Mr Greene, here today, at stage 3, is proposing to massively expand the court's ability to remand, and that is a proposition on which he has not consulted. He might disagree with the Government's proposal to narrow the statutory limits on remand, but we have at least consulted thoroughly and debated that matter thoroughly at stage 1, stage 2, and now at stage 3.

Mr Greene's amendment 17 would remove from the new bail test the requirement for at least one of the grounds that are specified in section 23C(1) of the Criminal Procedure (Scotland) Act 1995 to apply in order to justify refusal of bail and would replace it with a new set of grounds. Although the replacement grounds in amendment 17 are broadly similar to the grounds in section 23C(1), a different threshold is set for when each of the grounds applies, moving from "substantial risk" to "likely". Exactly what the intent is in changing the threshold from "substantial risk" to "likely" is not immediately clear. If there had been earlier scrutiny of that change in wording, it could have been considered. However, I contend that stage 3 of an important bill is not the time to adjust a part of bail law that has not been fully considered.

Amendment 22 is largely consequential, but not insignificant. That is because, although section 23C(1) of the 1995 act has largely been replicated in amendment 17, section 23C(2) has not been. Repealing section 23C would mean that the court would no longer be required to have regard to important factors that are set out in section 23C(2) when making the bail decision, including the

nature and level of seriousness of the offences before the court, and the character and antecedents of the accused person, including, in particular, their previous convictions. Exactly why the court should not have regard to those long-standing factors is unclear, and, in my view, not to allow it to do so is unwise. Therefore, I ask members to vote against amendments 17, 22 and 23.

Amendments 69 to 71, in the name of Pauline McNeill, would make changes to section 23C(1) of the Criminal Procedure (Scotland) Act 1995. The effect of those amendments would be to add two new grounds to the list in section 23C(1) so that the court may cite one of those grounds as part of a determination to refuse bail. The two new grounds would be where

“the person has previously breached bail conditions”

or there is

“any substantial risk that the person might, if granted bail, breach bail conditions”.

Although they are well intentioned, those amendments are not necessary. I will explain why.

First, the breach of bail conditions is a separate criminal offence in its own right, and any substantial risk that an accused person might, if released on bail, breach bail conditions is already covered by the existing ground for refusal of bail set out in section 23C(1)(b). Amendment 70 is, therefore, not necessary and already covered by existing bail law, which the bill does not change.

Secondly, existing section 23C(2) already instructs the court, when considering the grounds upon which bail may be refused, to have regard to all material considerations, which include whether the person was subject to a bail order when the offences are alleged to have been committed, and the character and antecedents of the person, including the nature of any previous convictions. That means that the court is already required to have regard to whether a person has previously breached any conditions of bail when deciding whether there is good reason to refuse bail in a given case, so amendment 71 is not necessary.

Therefore, I ask Pauline McNeill not to move amendments 69 to 71. If she does so, I ask members to vote against them.

Katy Clark’s amendment 74 would remove section 4 from the bill in its entirety, with the effect that the duties contained in it for the court to state certain reasons for its decisions on bail and record its reasons when bail is refused would not be introduced. Again, an identical amendment was extensively debated by the Criminal Justice Committee at stage 2, although it was not pressed to a vote.

Amendment 74 may be a consequential change to amendment 72, but section 4 has its own specific policy reasoning. The removal of section 4 would directly contradict the committee’s stage 1 report recommendation that more information be collected about the reasons why remand is used. The importance of collecting more detailed data on the use of remand was universally supported by people who gave evidence to the committee at stage 1.

I understand that concerns were expressed at stage 1 about the potential burden that the recording duty as originally drafted would place on the courts, but the bill was amended at stage 2 to reduce the amount of information that the courts would be required to record and to focus it more clearly on only the reasons why the court decided to remand the accused. It is that key set of information that we consider will be most useful in the coming years to understand the reasons why remand is imposed.

Therefore, I ask Ms Clark not to press amendment 74. If she does so, I ask members to vote against it.

Finally, my amendment 18 is a minor and technical amendment to the new bail test that section 2(2)(a) of the bill will introduce. It revises the limb of the new bail test that deals with public and victim safety, so that the court may refuse bail if it considers it necessary to do so in the interests of public safety, including for the

“protection of the complainer from a risk of harm”.

That is a slight change from the original wording of the provision, which provided that the court may refuse bail if it considers it necessary to do so

“in the interests of public safety, including the safety of the complainer from harm”.

That minor revision does not change how that aspect of the bill test operates; it simply reflects that it is more natural to talk about protecting the complainer from a risk of harm. For that reason, I ask members to support amendment 18.

16:00

Pauline McNeill: I will start with a similar point to the one that Jamie Greene made. In some senses, the debate that we are having now is about the heart of part 1 of the bill. The basis of the discussion is that we have the bail test under the 1995 act, and the bill has a completely new bail test. I have to say from the outset that I do not envy the cabinet secretary in taking on the bill halfway through the process, but I say in all genuineness that I am trying to get to the bottom of the real purpose of the bill.

I noted down a phrase that the cabinet secretary used that I have not heard before. She talked about a

“new statutory limit on the use of remand”.

The Government has to be consistent so that people understand what the bill is attempting to do. For those who have not been involved in the scrutiny of the bill, I point out that it is a highly complex and technical piece of legislation. I do not pretend to understand it all, but I am trying to get clarity on the purpose of the new bail test. The reason why I mention that phrase that I had not heard before is that the committee, in its entirety, raised concerns about the extent of the use of remand and, every time we asked whether the purpose of the bill is to reduce the remand population, we could not really get a clear answer. The Government needs to be clear about whether or not that is the purpose of the test.

I will move on to the test itself—Jamie Greene made the same points that I am about to make. In the 13-page letter that I referred to earlier, the judiciary seemed to say that it has issues with the new test and is not convinced that it will make any real practical difference. That is a problem in legislation. The bill will introduce a new test, which the cabinet secretary has outlined very well, but it is unclear whether it will actually make any difference. Furthermore, it could be complex for people to understand.

In amendments 69 to 71, I am trying to do something similar to what I think Jamie Greene is attempting to do, by putting some prescription back in the test to get clarity. One of the first comments that was made to me about the bill was that the bail test does not have as a specific consideration whether someone has previously breached their bail. I know that it is not in Jamie Greene’s amendment 17, and that his amendment also introduces a slightly different test in that, where my amendment 71 references “substantial risk”, Jamie Greene talks about the “likelihood” of bail being breached. Those are important aspects.

Section 2 seeks to change the grounds on which a court may decide to refuse bail, and amendments 69 to 71 would allow consideration of the risk of breach of bail. The Scottish Government has said that the amendments are not necessary, and I accept that it has been said that, under the new test, the court will be able to consider whether there is substantial risk. However, my preference is to make it clear in the bill that, in fact, breach of bail is a ground for refusing bail.

The Law Society of Scotland said that a

“one-size-fits-all ... solution ... does not really assist the court to make proper judgments as to who could or could not be trusted with being admitted to bail”.—[*Official*

Report, Criminal Justice Committee, 18 January 2023; c 19.]

It said that, although the Government is seeking to introduce a more focused use of remand, it must be careful that a recalcitrant offender is not continuously released on bail without any consideration of the rights of the general public.

The Scottish Government’s written response at stage 1 stated:

“The new bail test in the Bill is intended to refocus how imprisonment is used to ensure that, as much as possible, the use of custody for remand is a last resort”.

However, it is important to note that that is already the case under the 1995 act, where there is a presumption against the use of remand. Again, I am seeking clarity about the purpose of the bill.

The policy memorandum explains that the purpose of the provisions is

“to refocus the legal framework within which bail decisions are made by a criminal court, so that the use of custody is limited to those accused persons who pose a risk to public safety, which includes victim safety, or to when it is necessary to prevent a significant risk of prejudice to the interests of justice in a given case.”

Given the phrasing there, it is important that the language of the new test is quite different from that in the 1995 act and that we all understand exactly what the bill is intended to do.

It concerns me deeply that the provision in that part of the bill does not yet appear to have the full confidence of the legal profession and the judiciary. I admit that the letter was written some time ago, but we have not had an update since then, and I asked the question. It would be helpful at some point to have an update on whether any changes that have been made to the provision now have the confidence of the judiciary.

Katy Clark: Amendments 72 and 74 would remove sections 2 and 4 from the bill. That would, in essence, maintain the current bail test, which in the vast majority of cases includes a presumption that the court will grant bail. The approach that I am taking is similar but slightly different to that proposed by Jamie Greene.

Scotland has the highest number of people in prison and the highest remand rate in Europe. The figures that were provided to the Criminal Justice Committee show that almost 30 per cent of the male prison population is on remand and that, in the women’s estate, 37 per cent of women are remand prisoners. It has to be said that that is not because Scotland is a more violent country than comparable countries. Our contention is that those high remand rates are not because of the law or the bail test that we are discussing, but because of a lack of robust alternatives to custody being available to the courts. In addition, it is clear that decisions of Parliament to extend the time limits

relating to criminal cases and, perhaps, culture might be other reasons. The pandemic clearly increased the number of people who are being held on remand, but Scotland having extremely high remand figures is a historic issue.

The Criminal Justice Committee first discussed the bill at our away day last August, and although we have taken extensive evidence since then, we have been unable to find evidence about how changing the bail test from a public interest test to a public safety test will reduce the number of people being remanded. The current test has been in place for many decades and is settled law. What the Scottish Government is proposing

“is likely to make submissions to the local sheriffs lengthier, increase the time taken to determine the issue of bail, result in some accused persons being detained unnecessarily while inquiries are carried out, produce more errors, increase the opportunities for appeals and add to the heavy burden on the sheriffs and the staff who are tasked with the management of what can be extremely busy custody courts.”

Those are not my words but the words of Scotland’s senior judge, Lord Carloway, in his submission to the Scottish Government on behalf of judges.

Pauline McNeill and I have spoken to dozens of practising lawyers about the proposed new bail test and it is clear that what the Scottish Government is proposing does not have the support of victims’ organisations, it does not seem to have the support of the judges and, from the discussions that we have had and the evidence that we have taken, it does not seem to have the support of the legal profession. Pauline McNeill and Jamie Greene have also referred to the submission that I have just referred to, which said clearly that the proposed new bail test introduces

“an unnecessary, cumbersome and artificial process”,

and that it is

“difficult to see how the proposed new structure will make any practical difference in outcomes.”

When we are scrutinising the bill, we need to look at whether the law will make it easier for the courts to make decisions and make the law more certain. It is far from clear how the Scottish Government believes that changing the bail test in the proposed way will either reduce the remand population or, indeed, make it clearer to the courts what Parliament intends.

We believe that, instead, the focus should be on developing more robust forms of supervised bail and electronic monitoring.

As the cabinet secretary said, amendment 74 is consequential to amendment 72. It seeks to remove section 4 of the bill. During the Criminal Justice Committee’s evidence taking on the bill, section 4 was opposed by victims organisations,

as it fails to provide complainers with an explanation of why bail is being granted. In addition, as we heard already, many parts of the legal profession are opposed to the proposals that are outlined in section 4. We believe that section 4 is unnecessarily onerous and that it would extend the length of hearings.

On those bases, I urge the chamber to support my amendments.

Jamie Greene: I thank all members for their contributions. The debate on this group has been a long one, but it is an important one. As Pauline McNeill said, it gets to the heart of what the bill is trying to do and what the Criminal Justice Committee has spent many months trying to unearth.

I have a number of brief comments to make in response to the cabinet secretary and other members. It is still entirely unclear, even as we come to the end of stage 3 consideration of section 2, what the Government’s real intention is. The Government has not been up front about that at any stage in the proceedings. Today, it has been given ample opportunity to be clear about its intention to members, who must vote on the amendments. Is it simply the Government’s intention that making the proposed change to the bail test will result in a reduction in the number of people who are remanded in custody? It is clear that that is what lies at the heart of the proposal. If that is the policy intention, the Government should say so. There is no point in hiding behind the idea of modernisation or change for change’s sake.

It is clear that the Government has not listened to any of the criticisms that have been made, not by politicians here today or at stage 2, but by the people out there who reflected on and reacted to the publication of the bill.

Angela Constance: Will Jamie Greene give way?

Jamie Greene: I will shortly. I want to pose a question to the cabinet secretary.

Of the proposed change, the Lord President said:

“It is difficult to see how the proposed new structure will make any practical difference in outcomes.”

I will stop the quote there and carry on in a second. Surely that is the whole point of what the Government is trying to do—to make a practical difference to outcomes—but the Lord President does not seem to think that the new structure will do that.

The Lord President went on to say:

“The overarching test, that bail is to be granted unless there is a good reason to refuse it, remains the same.”

The problem is that that view is also shared by the Crown; it is not simply the view of the judiciary—judges—or defence advocates and solicitors. In its evidence to the committee, the Crown Office and Procurator Fiscal Service said:

“Different sheriff courts or, indeed, different sheriffs in the same court might take a different view of what public safety encompasses ... The issue for me is that sheriffs could broaden the definition of ‘public safety’ for other crimes in some jurisdictions and not in others. That would lead to inconsistency, confusion and, ultimately, inefficiency.”—*[Official Report, Criminal Justice Committee, 25 January 2023; c 24, 27.]*

“Inconsistency”, “confusion”, “inefficiency”, “unnecessary”, “cumbersome” and “artificial” are all words that were used by the judiciary and the Crown. Why are they all so wrong and the Government so right?

Angela Constance: It is very important that members do not claim to represent the entire legal profession. Although I have come to the bill relatively late in the process, the Government has been absolutely transparent in setting out three reasons for this part of the bill.

The legal profession has welcomed the fact that we are seeking to simplify bail legislation. Perhaps Mr Greene would agree that it is imperative that we embed the focus on public safety, including victim safety, and the interests of justice, in all cases. We are seeking to place statutory limits on the use of remand in the full knowledge—I think that we are in danger of agreeing on this—that there are many measures that will reduce the remand population and that we need to look at all the solutions.

However, it is disingenuous of the Conservatives to complain to Parliament about our high remand population and then not seek to take every opportunity to take measures that could at least play a part in reducing it.

16:15

Jamie Greene: We have been really clear about how to deal with the remand population: get through the backlog and get through it more quickly. That will reduce the remand population massively, cabinet secretary, and you have the power to do that. Apologies—I should be speaking through the chair.

I am not paraphrasing anyone in anything that I have said this afternoon. I am quoting directly the words of the Lord President, Lord Carloway; the evidence of the Crown Office and Procurator Fiscal Service; and the words of Kate Wallace of Victim Support Scotland. No one has been misrepresented; they have been quoted, and there is a massive difference. I would ask the cabinet secretary to reflect on that.

Victims lie at the heart of this. The last word should go to Victim Support Scotland, which has grave concerns about the new test that the Government is introducing. It said:

“It will be a concern to the public in general and victims of crime specifically that the provisions relating to bail narrows the court’s discretion to refuse bail.”

The cabinet secretary has just reinforced that message. Kate Wallace went on:

“That is, no doubt, with the intention of reducing the prison population.”

What that tells us is that more people will be put at risk. There will be more victims of crime and more lives will be ruined. Again, no one is being misrepresented, misquoted or paraphrased. Those words are in black and white in the stage 1 report. If the cabinet secretary will not listen to us politicians, she should listen to victims.

I press amendment 17.

The Deputy Presiding Officer (Liam McArthur): The question is, that amendment 17 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Rachael Hamilton: On a point of order, Presiding Officer. I would have voted yes. My app was not working.

The Deputy Presiding Officer: Thank you, Ms Hamilton. I will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)

Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)

Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 47, Against 67, Abstentions 0.

Amendment 17 disagreed to.

Amendment 18 moved—[Angela Constance]—and agreed to.

Amendment 19 not moved.

Amendment 20 moved—[Jamie Greene].

The Deputy Presiding Officer: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Finlay Carson (Galloway and West Dumfries) (Con): On a point of order, Presiding Officer. I was unable to connect. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Carson. I will ensure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)

Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 47, Against 67, Abstentions 0.

Amendment 20 disagreed to.

Amendment 21 moved—[Maggie Chapman]—and agreed to.

Amendment 22 not moved.

Amendment 69 moved—[Pauline McNeill].

The Deputy Presiding Officer: The question is, that amendment 69 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Kenneth Gibson (Cunninghame North) (SNP): On a point of order, Presiding Officer. My app would not connect to the system. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Gibson. I will ensure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)

Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lennan, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)

Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 50, Against 63, Abstentions 0.

Amendment 69 disagreed to.

Amendment 70 moved—[Pauline McNeill].

The Deputy Presiding Officer: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Neil Bibby: On a point of order, Presiding Officer. I could not connect. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Bibby. I will make sure that that is recorded.

Paul McLennan (East Lothian) (SNP): On a point of order, Presiding Officer. My app did not connect. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr McLennan. I will make sure that that is recorded.

David Torrance (Kirkcaldy) (SNP): On a point of order, Presiding Officer. I could not connect. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Torrance. I will make sure that that is recorded.

Alexander Stewart (Mid Scotland and Fife)

(Con): On a point of order, Presiding Officer. I could not connect. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Stewart. I will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)

Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 49, Against 64, Abstentions 0.

Amendment 70 disagreed to.

Amendment 71 moved—[Pauline McNeill].

The Deputy Presiding Officer: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Kenneth Gibson: On a point of order, Presiding Officer. I am afraid that I could not connect to the system. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Gibson. I will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 50, Against 64, Abstentions 0.

Amendment 71 disagreed to.

Amendment 72 moved—[Katy Clark].

The Deputy Presiding Officer: The question is, that amendment 72 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

Craig Hoy (South Scotland) (Con): On a point of order, Presiding Officer. My app froze—I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Hoy. I will make sure that that is recorded.

16:30

Keith Brown (Clackmannanshire and Dunblane) (SNP): On a point of order, Presiding Officer. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Brown. I will make sure that that is recorded.

Jamie Greene: On a point of order, Presiding Officer. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Greene. I will make sure that that is recorded.

Richard Leonard (Central Scotland) (Lab): On a point of order, Presiding Officer. My app did not connect. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Leonard. I will make sure that that is recorded.

For

Baillie, Jackie (Dumarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)

Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)

Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 47, Against 67, Abstentions 0.

Amendment 72 disagreed to.

Section 3—Removal of restriction on bail in certain solemn cases

The Deputy Presiding Officer: Group 3 is on restriction on bail in certain solemn cases. Amendment 73, in the name of Pauline McNeill, is grouped with amendments 1, 27, 30 to 33, 35, 36 and 63.

Pauline McNeill: Amendment 73 is on report on bail in certain solemn cases. It concerns a debate that we had at stage 2 in relation to a provision in the bill referring to section 23D of the Criminal Procedure (Scotland) Act 1995.

Amendment 73 is a similar amendment to amendment 1, which Jamie Greene will speak to. I moved a similar amendment at stage 2 and I will now go through the rationale for the amendment. Amendment 73 would remove section 3. It would also add a requirement for Scottish ministers to carry out, within 12 months of royal assent, a review of bail restrictions in solemn cases in order to consider what the effect has been of removing section 23D of the 1995 act.

Section 3 of the bill seeks to repeal section 23D of the 1995 act, which restricts the granting of bail in certain solemn cases. Section 23D provides that bail is to be granted only in exceptional cases if the accused is being prosecuted under solemn procedure—which is used in more serious cases—for a violent, sexual or domestic abuse offence and has a previous conviction under solemn procedure for any such offence, or a drug trafficking offence, which is also included within the provision.

With the repeal of section 23D, the courts would instead simply apply the general rules that we have been discussing—the new bail test or the old bail test, depending on what happens at the end of stage 3—but victims' organisations believe that removal of section 23D from the 1995 act presents a serious risk to the safety of people, and the victims of gender-based abuse in particular. For them, retention of section 23D is a vital part of Scotland's commitment to eradicating violence against women and girls.

The proposed grounds for refusing bail are not sufficient on their own in relation to protecting people who are affected by crime, and are an inadequate alternative to the additional safeguard that is contained in section 23D of the Criminal Procedure (Scotland) Act 1995. The Faculty of Advocates is of the same view as Sheriff Mackie, who, when speaking for the Howard League, supported removal of section 23D to allow discretion, so we can see that opinion is split on the issue. On one hand, victims think that it does one thing, and on the other hand, many practitioners are quite happy to repeal it.

I should say that the provision in section 23D of the 1995 act has a bit of a history, because it was discovered that the reference in subsection (3A)(c) to previous convictions for domestic abuse was only inserted into the 1995 act by the Domestic Abuse (Scotland) Act 2018, whereas all the other offences that I have referred to were previously mentioned in it.

Initially, my view was that the court should have discretion. As one witness said, if someone had been convicted of an offence 20 years previously, that would tie the hands of the sheriff, because they would need to apply that particular provision. However, on balance, I feel that that provision should probably be removed. I am certainly concerned that there is a difference of opinion about leaving it in or taking it out. One of the things that puzzles me is why the Government, having put the provision on domestic abuse into section 23D, would take something out that was only put in four years ago.

My suggestion is that, if we take that provision out, that should be reported on. We should, arguably, report on it anyway because of the difference in opinion about what it actually does. We need some clarity about what the impact of keeping it in or taking it out would actually have.

I move amendment 73.

The Deputy Presiding Officer: I call Jamie Greene to speak to amendment 1 and other amendments in the group.

Jamie Greene: I will speak for long enough for folk to have a cup of tea so that they are not rushing back.

This is an important group of amendments, and I am glad that Pauline McNeill was able to open the debate on it. I will speak first about the other amendments in the group and am supportive of all the amendments in the group, for the following reasons. Amendment 73, in the name of Pauline McNeill, comes closest to my amendment 1 and therefore has my support. She would add an additional review to the restrictions on bail in solemn cases. My only concern is that such

reporting would not go far enough, so I will talk about my proposal on that in a moment.

I also support the amendments that are in the name of the cabinet secretary, and I particularly welcome amendments 63 and 36, which seek to add a requirement to report on the reasons for granting bail in certain solemn cases. I think that that is a good step forward, but I do not think that the amendments go far enough.

That leads me to my amendment 1, which is number 1 for me in both name and nature, because it is the most important amendment that I will speak to today and is my red line, on the bill. It is not only my red line: it is the red line of many organisations and victims whom I have spoken to in the past nine or so months, as we have scrutinised the bill.

There are people who sympathise with many elements of the bill and who sympathise with the Government's intention to make changes to the bail test and with part 2 of the bill, which seeks to improve the throughcare of offenders after their release. There are aspects of that with which I, too, have sympathy.

The one thing that might make people struggle on technical and moral levels, and which might make them struggle to support the bill at all, would be rejection of my amendment 1. If that amendment were to be rejected, the whole bill would fly in the face of the evidence that every victims organisation gave to the Criminal Justice Committee and the work that they do not only with that committee but, frequently, with the Government itself on a wide range of proposals. There are people whom we rely on time after time. We quote them in the chamber or in committee; the Government and Opposition members quote them. They are, to an extent, overquoted, but their voices are as useful as they are imperative.

My amendment 1 is a simple one—it is simple because it must be. It would entirely remove section 3 from the bill. The reason for that approach is that section 3 of the bill would remove from the existing law section 23D of the Criminal Procedure (Scotland) Act 1995. Let us be clear about what section 23D does: it effectively states that a person should be granted bail under solemn proceedings only if there are exceptional circumstances to justify that. That means that someone who is charged with a violent sexual or domestic abuse offence must be granted bail only in exceptional circumstances. As Pauline McNeill said, that was not always a feature of our legal system, but it was rightly put into law to highlight the acute impact of violence against women and girls and to show how seriously the matter should be treated.

I agree with the current law and I am not the only one. Section 3 of the bill, which seeks to remove section 23D from the current law, is controversial. I admit that there are two schools of thought. There are members of the judiciary, who practise law and who look after defendants, and there are those who have suffered domestic abuse, assault, rape and other serious crimes. It is them to whom I will be listening and it is for them that I am seeking to amend the bill.

Scottish Women's Aid, which I have not yet mentioned today, has very serious concerns about the removal of section 23D. I would really appreciate it if the cabinet secretary would reflect on and respond to the following three quotations. Scottish Women's Aid told us that, far from acting as a protection to victims, the proposal in the bill would effectively

"allow bail to be granted to convicted repeat and serial perpetrators of domestic abuse and sexual offending against women and who present a particular danger to women's safety."

It also said:

"women need as much protection as the law can afford them".

Rape Crisis Scotland commented, too, saying that it has "significant concerns" about removal of what it sees as "an important safeguard". Those comments were echoed by other organisations, including Victim Support Scotland and Speak Out Survivors, which is a wonderful organisation that supports victims of such abuse. It said:

"We certainly have concerns about repealing section 23D, because it was specifically intended to address violence against women and girls".

We had plenty of other evidence of that ilk, including evidence from a number of individuals. I know how strongly people feel about this.

In my view, we have to be careful about this element of the bill. If we choose not to remove section 3 and we therefore repeal section 23D of the 1995 act, that will have implications for the decision making of judges in those types of cases. That is something that places a huge responsibility on us when we vote today, and I ask the Government to reflect on that.

God forbid that anything should happen if, as a result of voting against my amendment, section 3 is not removed, and the safeguard—perceived or otherwise—in section 23D of the 1995 act is removed. However, if a judge grants bail to someone who, prior to the passing of the legislation, they would have remanded in custody because of section 23D, and that offender walks free from the court and commits another horrific crime of domestic abuse or assault, as the victims organisations have warned might happen, that would be an unforgivable outcome, and we would

have to look that person's victim or victims in the eye and justify our decisions today. I am comfortable with my decision today, as I have lodged an amendment that would keep that vital safeguard in our current law.

Angela Constance: There are two amendments in this group that seek to retain the operation of the presumption in favour of remand that is contained in section 23D of the 1995 act— amendment 1, in the name of Jamie Greene, and amendment 74, in the name of Pauline McNeill. In addition, there is amendment 73, which would require a review of the operation of the restrictions on bail in solemn cases by the Scottish ministers.

The policy content of the bill was first consulted on in 2021. That was a full, open public consultation to which anyone with an interest could offer their views. Included in the consultation was a proposal to move towards one core bail test with public safety and victim safety at its heart. Following consultation, the bill was developed and introduced to Parliament more than a year ago for effective scrutiny, which has taken place over the past 12 months. That involved the committee holding numerous evidence sessions throughout the autumn with full stage 1 scrutiny and detailed stage 2 amendment sessions. With respect, I therefore dispute the need for the further review of the operation of this aspect of bail law that is envisaged by amendment 73, but I will talk later about other reporting requirements that the Government will come forward with.

It seems to me that the key question that Parliament is faced with in this group of amendments is whether to move to a new single bail test that has embedded within it public safety and victim safety. Those are exactly the issues that will arise in section 23D cases, where the court can use its expert judgment in assessing when remand should be imposed.

If amendment 1 or amendment 73 was agreed to, the current statutory restriction on bail that is contained in section 23D of the 1995 act would apply alongside the new bail test that is set out in section 2 of the bill, which would mean, in effect, that there would be two bail tests. The new bail test would operate for most cases, while the section 23D test would operate for certain solemn cases. It is important to remember that bail can be granted under section 23D in exceptional circumstances.

16:45

I am very aware that, through the scrutiny process, concerns have been expressed about the removal of the statutory restriction on bail in such cases. It is important to note that those who have expressed concerns have tended, overall, to focus

less on concern that the repeal of section 23D of the 1995 act would lead to a change in bail decisions in such cases and more on concern about a perception that bail law is being weakened. I note for the record that I consider matters of perception to be of fundamental importance, particularly with regard to trust and confidence. I will come back to that in a moment.

We know that most people, especially in the legal sector, accept that there will be no significant change, given that the new bail test has at its heart public safety and the need to protect the complainer from the risk of harm. However, I am aware from my direct discussions with victim support organisations, including Victim Support Scotland and Scottish Women's Aid, that they would prefer the continuation of the statutory restriction on bail for that category of case. I acknowledge that those perceptions matter. If the law is to be credible, it should command support from those who are affected by its operation. That is why I have lodged amendments that will help us to understand more, and give reassurances, about how the new bail test will be used in the future for cases that would previously have been subject to section 23D of the 1995 act.

My amendments 27, 30 to 33 and 35 will extend the reporting requirement in section 5A, which relates to part 1, on bail and remand. Amendment 27 will require information to be included on

"the number of bail orders made in respect of ... individuals ... accused"

of certain serious offences where those individuals have a previous analogous conviction. With the bill seeking to move to a new single bail test for all cases, the requirement for information to be reported on cases that would previously have been subject to the restriction on bail in section 23D of the 1995 act will help us to assess the operation of the new bail test for those cases.

Amendments 32, 33 and 35 are consequential to amendment 27. They simply define the types of offences that the specific reporting requirement covers.

Section 5A also contains a general power for the Scottish ministers to include in the report other appropriate information over and above that which is specifically listed. Amendment 30 adds to that to make it clear that such information can, in particular, include information on the repeal of section 23D of the 1995 act, as provided for in section 3 of the bill. Where the report includes such information, amendment 31 requires the Scottish ministers to consult certain groups in preparing the report, including persons who provide support services to victims.

Overall, my amendments will strengthen the reporting requirements so that information will be

available on how the new bail test will operate for types of cases that would previously have been covered by section 23D of the 1995 act.

Throughout the scrutiny process, there was strong support for the repeal of section 23D from many, including the judiciary. That support was based on the law being simplified so that one core bail test can be used for all cases. Crucially, consideration of public safety and the risk of harm to the victim is embedded in the new bail test. That is an essential element of the new test, which will continue to allow the court to remand those who pose a risk to public or victim safety.

The new bail test caters explicitly for exactly the types of cases that section 23D of the 1995 act currently covers—that is, where an accused person is charged with a serious sexual, violent or domestic abuse offence and they have similar previous convictions. That is exactly the type of case in which public and victim safety will be of critical importance and it is exactly the type of case in which the new bail test provides for the court to refuse bail.

Jamie Greene: I appreciate the cabinet secretary taking an intervention. I have two points to make on that. First, she said—I think that she used these words—that there is “strong support for” the removal of section 23D of the 1995 act. I do not think that that is the case. Support came from some quarters, but not all. In fact, views were quite split. I sat through all the evidence sessions, so I know that to be the case. I ask the Government to reflect on that.

My second point is about the new single bail test. Is the cabinet secretary confident about that? Can she give confidence to the many organisations that have voiced concerns, many of which I have raised, although there are others? Is she comfortable that the new bail test will cover every scenario that section 23D of the 1995 act has covered and that no one will be released where, under the old system, the judge would have preferred to remand the person, given the risk to a victim or their family? Will that be followed up as a result of any reporting that takes place due to the amendments? If it transpires that the provisions are not working and that people are committing further offences while on remand, will the Government consider changing the law further, perhaps by including the provisions of section 23D in future legislation?

Angela Constance: I always acknowledge, of course, where there are a range of views. At the end of the day, it is the job of the Government and Parliament to balance views, particularly where there are competing views and views that are particularly strong. I would have hoped that members of the Criminal Justice Committee would have heard me speak often enough to know that I

very much believe that policy should be led by the evidence. There has to be a purpose to gathering information, and that purpose is not just to put it on a shelf; it is, of course, to vindicate a system and verify that it is working. If it is not working, it is beholden on us all to address that.

I hope that I have helped Parliament today, including Mr Greene, by putting on the record why it is the Government’s view that having an embedded public safety or victim safety test in all cases will cover section 23D cases. It is my view that having one core bail test is preferable to having two tests, which could lead to confusion and would not assist with the administration of justice.

Although it is not the main reason why the Scottish Government opposes amendments 1 and 73, they also carry a real risk of confusion under the law, as the new bail test was designed to operate as a single test of bail. Retaining a second test to be operated alongside it without having made the necessary adjustments to bail law could lead to legal uncertainty.

For those reasons, I ask members to support amendments 27, 30 to 33 and 35 and to reject amendments 1 and 73.

My amendment 36 seeks to introduce a new section to the bill. It will place a new requirement on the court to state and record its reasons when a decision is made to grant bail in certain solemn cases. I know that that has the support of victim support organisations. The relevant cases will be those that are currently subject to a restriction on bail under section 23D of the 1995 act.

As members have debated extensively throughout the scrutiny process—and as I have acknowledged—there are conflicting views on the repeal of section 23D. There is support for repeal from many quarters, such as the judiciary and the legal sector, while there is clearly opposition from others, including victims groups.

If Parliament approves the repeal of section 23D of the 1995 act, the recording of the reasons for bail in the relevant cases will support the reporting requirement under section 5A of the bill through the collection of information over the length of the reporting period for inclusion in the report that will be published. That information on those who are granted bail will help us to assess the operation of the new bail test in an area of the bill that has been contested. I hope that that demonstrates that we are building in scrutiny and greater transparency from the start.

Amendment 63 is a minor consequential amendment that provides for the new section that is added by amendment 36 to be commenced on the day after royal assent.

I ask members to support amendments 36 and 63.

The Deputy Presiding Officer: I ask Pauline McNeill to wind up on the group and press or withdraw amendment 73.

Pauline McNeill: The debate on the group has been very useful. I will make a point in response to the cabinet secretary's point about two different bail tests being provided. I have thought about that, but the provisions in amendment 73 are for serious solemn cases. We might not find it desirable, but we could have a separate test for more serious cases, so I am not persuaded by the cabinet secretary's argument on that.

From the beginning, Jamie Greene has been very particular about his reasons for not keeping the provisions in section 3. I have been more divided on that point, because I feel that sheriffs and judges should be able to use their discretion if the test was overused. However, I am not really sure what practical difference it would make to take section 3 out. I still think that it is worth reporting on bail in certain solemn cases, although I might have drafted the amendment slightly differently if I had had more time.

On that basis, I press amendment 73.

The Deputy Presiding Officer: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members should cast their votes now.

The vote is now closed.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): On a point of order, Presiding Officer. My app would not connect. I would have voted no.

The Deputy Presiding Officer: Thank you. I will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Ross, Douglas (Highlands and Islands) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 46, Against 65, Abstentions 0.

Amendment 73 disagreed to.

Amendment 1 moved—[Jamie Greene].

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

Members: No.

The Deputy Presiding Officer: There will be a division. Members should cast their votes now.

The vote is now closed.

Neil Bibby: On a point of order, Presiding Officer. My app did not connect. I would have voted yes.

The Deputy Presiding Officer: I will make sure that that is recorded.

Alexander Stewart: On a point of order, Presiding Officer. My app is not connecting. I would have voted yes.

The Deputy Presiding Officer: Thank you. We will make sure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
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 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
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 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
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 Lennon, Monica (Central Scotland) (Lab)
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 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
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 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
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 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
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 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
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 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
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 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
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Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
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 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
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 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 45, Against 65, Abstentions 0.

Amendment 1 disagreed to.

Section 4—Refusal of bail: duty to state and record reasons

Amendment 23 not moved.

17:00

The Deputy Presiding Officer: Group 4 is on “Bail decisions: statement and recording of reasons”. Amendment 5, in the name of Russell Findlay, is grouped with amendment 6.

Russell Findlay (West Scotland) (Con): Amendments 5 and 6 are the only two amendments in this group. As drafted, the bill requires the court to record bail determinations when it refuses bail. That is one-sided and does not consider the interests of victims or the wider public.

A recurring theme in the justice system is transparency—or, rather, a lack of transparency. Too often, victims are left in the dark and left to fend for themselves. They might well ask why criminals, especially those with a history of violent or sexual offending, are granted bail under the bill, so amendments 5 and 6 would require a court to record the reasons for granting bail.

To recap, the bill as drafted will give accused criminals the right to know why they are

remanded, so I can see no good reason why a victim should not be entitled to know why they are bailed. Amendment 5 would fix that oversight.

Amendment 6 would extend that transparency by making the right universal. Journalists are the eyes and ears of the public and, due to the commercial difficulties of the news media, fewer of them are able to attend court cases. Consequently, the public are increasingly deprived of information or left reliant on public relations from public bodies that are primarily concerned with pushing their own agendas.

Justice must be seen to be done. Members can vote for amendment 6 to ensure that the public are entitled to know why bail has been granted. However, if that is unsuccessful, at least amendment 5 would give that basic right to victims. I urge members to support both amendments in the group.

I move amendment 5.

Angela Constance: Amendment 5, in the name of Russell Findlay, would require the court to state the grounds for the granting of bail and have those grounds entered into the record of proceedings.

Section 4 of the bill, as introduced, required the court to state and record the grounds and reasons relating to decisions to impose remand. At stage 2, the Scottish Government responded to a committee stage 1 report recommendation by reducing the recording burden that would fall on the courts through section 4 of the bill.

Amendment 5 would significantly increase the burden well beyond what the bill required even on introduction, let alone after the duty to record reasons was narrowed at stage 2. That is because the vast majority of decisions in relation to bail result in bail being granted, so amendment 5 would place an increased burden on the courts in a very large cross-section of cases that enter the system. That might require further information technology changes by the Scottish Courts and Tribunals Service, as it is not currently required to record that information, as well as adding time to thousands and thousands of bail hearings a year.

It should be noted that there is an overarching legal presumption in favour of bail, which should only be refused when there is good reason for doing so. As such, in effect, bail is the default position. As I explained at stage 2 when a similar amendment was debated, any requirement to provide reasons why bail has been granted could simply point to the legal requirement to do so and the absence of any good reason not to.

Also, it should be noted that it is already a requirement under existing bail law that, whenever the court grants or refuses bail, it must state its reasons for doing so. Therefore, the grounds for

granting bail are information that will already be stated in open court under that duty.

For those reasons, I ask members not to support amendment 5.

Amendment 6 would require the court to publish any grounds that require to be recorded under section 4 of the bill. The information that is to be recorded is intended to be used to help to develop a better understanding of why remand is used in Scotland. It is intended that the information will be anonymised and that data will be available through statistical publications. However, it is not likely to be published by the court, as amendment 6 would require, and instead would likely be done via Scottish Government statistics.

It might be that Mr Findlay considers that the publication of information would assist individual victims to understand decisions that are made in cases specific to them. However, publishing case-specific information would raise potential data protection issues and, given the late stage at which the amendment has been proposed, we have not had the benefit of the Information Commissioner's Office's input on the implications of the proposal. It is through the Crown that victims can and do receive information about the court's decision on bail, rather than through the publication of case-specific information.

On the basis of the explanation that I have given and the fact that information that is recorded will be available through statistical publications in future, I ask members to oppose amendment 6.

Russell Findlay: The cabinet secretary talks about reducing the burden on courts but, if I understand correctly, it remains the case that remand decisions will be recorded under the bill, despite the changes that were made at stage 2. It therefore seems entirely reasonable and proportionate to record the reasons for bail being granted. This is about equality for victims and complainers—I believe that they should have the same right to information that has been given to the accused.

I do not accept the cabinet secretary's explanation about possible data protection issues—that sounds a little bit weak, to say the least. What goes on in courts and the decisions that they make ought to be a matter of clear public record. It would be no great hardship for the courts to make available to a member of the public or someone from the media the details of why a bail decision has been reached.

Angela Constance: Can Mr Findlay advise members whether, when he was drafting and doing his research for his amendments, he approached the Information Commissioner's Office? I assure him that data protection and the rule of law are not things that I have conjured up.

In addition, I wonder whether Mr Findlay would acknowledge that the Crown has a responsibility to inform victims and that victims can and do receive information via that route.

Russell Findlay: I did not use the phrase “conjuring up”; I said that the cabinet secretary did not particularly fully explain the suggestion that there are data protection issues. I think that the courts are well used to journalists and members of the public having, in theory at least, the right to access information. My amendments would just extend that principle and formalise that right in an important area.

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowe, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
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 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
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 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
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 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 83, Abstentions 0.

Amendment 5 disagreed to.

Amendment 6 not moved.

Amendment 74 moved—[Katy Clark].

The Deputy Presiding Officer: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O’Kane, Paul (West Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)

Against

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 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Maggie (North East Scotland) (Green)
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 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dowey, Sharon (South Scotland) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
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 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
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 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
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 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hoy, Craig (South Scotland) (Con)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 19, Against 91, Abstentions 0.

Amendment 74 disagreed to.

After section 4

The Deputy Presiding Officer: Group 5 is on provision of information about date of release from custody.

I advise members that we will get through this group and then there will be a short comfort break, particularly for those who are participating in the debate.

Amendment 75, in the name of Pauline McNeill, is grouped with amendments 9, 89 and 90.

Pauline McNeill: Thank you for that good news, Presiding Officer.

Amendment 75 seeks to insert a new section that will require the Scottish ministers to take all reasonable steps to ensure that victims are made aware of when an accused person is admitted to bail as distinct from being notified following their release from prison after serving a sentence. A report that was published by the Scottish Government in February looked into the experience of families who have fallen victim to domestic abuse, and female victims of domestic abuse told interviewers that the investigation, prosecution and sentencing for domestic abuse offences does not adequately reflect the sustained level of severity or impact of the abuse that is experienced. One woman told of her harrowing experience in the run up to the court case. She said:

“Eventually the police sergeant phoned me the following afternoon to tell me that he’d been released on bail, and he was released about an hour ago to two hours ago, and, if I’m in the house, make sure I get out, because he’ll be there any minute.”

In recent months, I have been meeting people—I think that we all have—who have lived experience of the criminal justice system as victim complainers. It is a common aspect of the experience of victims that they are not notified of release from remand at bail hearings or from custody so that they can take whatever steps they think are necessary to deal with that situation. I have heard of cases in which a perpetrator has been released on bail without the police informing the victim complainer of such a development, which left them feeling vulnerable and at risk.

This should also apply to bail appeals because people who are remanded to custody have the right to appeal that decision. Adding an amendment to ensure that a person against whom the offence is alleged to have been perpetrated is aware of the court’s decision would surely ensure the safety of the victims of crime.

Amendment 90 seeks to insert the wording:

“The Scottish Ministers must take all reasonable steps to ensure that a person entitled to receive information under subsection (1) is—

(a) aware of their right to the information, and

(b) given every opportunity to intimate whether they wish to receive the information.”

That is one of the issues that goes to the heart of the bill. It is about the rights of victims who come forward and have their day in court, but there is an omission in the bill in relation to the right of victims and complainers to be aware when someone has been granted bail, certainly in serious cases, as distinct from notification when they are released from prison.

I move amendment 75.

17:15

The Presiding Officer (Alison Johnstone): I call Russell Findlay to speak to amendment 9 and the other amendments in the group.

Russell Findlay: Is it not amendment 8? I am sorry—did you say amendment 9?

The Presiding Officer: Yes—amendment 9.

Russell Findlay: I apologise. I have two amendments in this group: amendment 9—despite what my dodgy notes say—and amendment 89. As with my amendments in group 4, amendments 9 and 89 relate to transparency. While doing my research for them, I made a surprising discovery. It turns out that section 16 of the Criminal Justice (Scotland) Act 2003 already gives crime victims the right to know when the person who committed a crime against them is being released from prison. That goes back to the cabinet secretary’s earlier comments about information being made available to victims by the Crown.

However, I would bet with some confidence that most victims would have no idea of that entitlement, and I strongly suspect that they are rarely told about it.

The bill presents an opportunity to put victims’ rights front and centre and, indeed, to extend them. Section 16 of the 2003 act allows victims to know about a perpetrator’s release only if they are serving a sentence of 18 months or longer. Amendment 89 would give all victims the right to know when the perpetrator was being released, no matter how long the sentence. Why should anyone who has suffered from a serious crime that has resulted in a prison sentence be kept in the dark?

For clarity, amendment 89 would give victims the right to know, no matter how long or short the sentence. That brings me back to my opening comments about transparency and the comments that I made in relation to group 4 about the importance of journalists to the justice system. Amendment 9 would create a simple database that recorded prisoner release dates. When someone is sentenced, the public rightly expect to

know the details of the sentence, so it surely follows that people are also entitled to know how much time is actually served.

The right to know is even more pertinent given the confusion that exists about what prison sentences mean in reality. Yes, there is the victim notification scheme, but it has been acknowledged that that is not doing the job that it should be doing. Yes, there have been some chinks in the opaque armour of the Parole Board for Scotland, but accessing basic information can be complex, confusing and conditional. There remains a culture of secrecy around the justice system. Far too often, the sentence that is stated by a judge, and which ends up in the headlines, has no bearing on the eventual reality of the time that is served.

The public are entitled to the truth. A public record of the duration of prison sentences is such a basic and fundamental thing that I find it odd that that information is not already a matter of public record.

Amendments 9 and 89 represent an opportunity for a long overdue reform of the Scottish criminal justice system. In the same spirit, I support Pauline McNeill’s amendments 75 and 90.

Angela Constance: The amendments in this group seek to place duties on the Scottish ministers to provide information on bail and release and to make changes to the victim notification scheme—the VNS.

Pauline McNeill’s amendment 75 seeks to amend the Criminal Procedure (Scotland) Act 1995 by inserting in it new section 33A, which would require the Scottish ministers to take all reasonable steps to ensure that victims were made aware when an accused person was admitted to bail. Although amendment 75 is well intentioned, I would like to set out why I am asking Pauline McNeill not to press it.

It is the duty of the Crown Office and Procurator Fiscal Service to take all reasonable steps to ensure that victims are made aware when an accused person is admitted to bail, either proactively or, in cases with no identified sensitivities, on request from the victim. It is, of course, the Crown Office that will have access to that information, not the Scottish ministers.

The Crown Office has advised that, when marking a case, prosecutors must refer certain cases to its victim information and advice team. In the normal course of events, a victim information and advice referral would be instructed when a case is being marked, but a referral can happen at any point during the lifetime of a case, should the requirement for VIA involvement become apparent at a later stage.

Certain categories of case must be referred to VIA, such as any solemn case with an identifiable victim, and cases with hate crime victims, domestic abuse victims and sexual offence victims. There is also general discretion for a legal member of staff to refer any case to VIA where they consider that a victim would benefit from the service. The criteria for a VIA referral are therefore extremely broad.

Where a case has VIA involvement, that will mean that the victim who is named in the charge, and any witness who is listed in any relevant bail order, will receive a notification by telephone, which will be followed up in writing, that an accused person has been released on bail and whether any additional bail conditions are imposed. That will usually happen within 24 hours of the case calling in court.

For any cases where the victim or witness has not been assessed as requiring VIA involvement, the victim or witness may contact the Crown Office and Procurator Fiscal Service inquiry point team or the local procurator fiscal office directly to ask about the bail status of the accused and any relevant bail conditions. That can be done at any time.

Brian Whittle: I recognise the system that the cabinet secretary is describing. However, I have a constituent who was allegedly raped. The alleged perpetrator was arrested, held in custody and then given bail, and my constituent found out only when she walked into him in the supermarket.

I accept that the rules state that my constituent should have been told but, in reality, that is not happening in many cases. How can we in this chamber make sure that that does not happen again if we do not support Pauline McNeill's amendments?

Angela Constance: I very much appreciate the information that Mr Whittle has shared on behalf of his constituent. That is clearly unacceptable. I suppose that the point that I am making to Ms McNeill is that, in effect, the purpose of her amendments already exists in law. However, Mr Whittle points to issues of practice, and the events that he describes are, of course, unacceptable. I am quite sure that he will be pursuing that vigorously on behalf of his constituent, and if he wishes to keep me informed, I will be more than happy to receive any further information or communication from him.

I return to amendment 75. Given the approach that should be taken by the Crown Office, which I have described, through the operation of the victim information and advice service, and the fact that any victim not covered by VIA can ask the Crown for that information at any time, I ask Pauline

McNeill not to press amendment 75. If she does, I ask members to vote against it.

Amendment 9, in the name of Russell Findlay, would place a requirement on the Scottish ministers to publish a database containing information about the release date or expected release date of everyone in custody. I cannot support the amendment, as I have significant concerns that it would place ministers in potential breach of data protection requirements and the European convention on human rights. The amendment potentially interferes with a prisoner's article 8 right to a private life and, more seriously, potentially their article 2 and 3 rights—the right to life and the prohibition on inhuman or degrading treatment.

Russell Findlay: I am curious as to whether the cabinet secretary could expand on the specific issues of the general data protection regulation and data protection that she has referred to.

Angela Constance: I am sure that I do not need to give Mr Findlay a lecture on GDPR or the importance of the European convention on human rights. It might be more useful to him, and indeed to other members, if I were to give a practical example of how his proposition, which is detailed in amendment 9, could put people at risk.

Let us say that there was a woman in the female estate who was at significant risk of further abuse from her partner or ex-partner. If ministers were to publish her release date, it would make that information freely available to the person who intended to harm her, who, on her published release date, could simply wait outside the establishment in which she had been held—and the Scottish ministers would have provided him with that information. To be frank, that is not a risk that I am willing to take.

Although I appreciate that the motivation behind amendment 9 is not to cause harm in the way that I have described, it is a possible outcome. If Mr Findlay's amendment is intended to ensure that victims have more information about a prisoner's release date, the victim notification scheme provides that route. Further, we are of course extending access to information about prisoner release to victim support organisations under section 11 of the bill.

It is for those reasons that I ask Mr Findlay not to move amendment 9. Should he do so, I strongly recommend that members vote against it.

I turn to amendment 89, which is also in the name of Russell Findlay. That amendment would amend the victim notification scheme for the victims of prisoners who are serving sentences of 18 months or more, by removing the threshold of 18 months. That means that the remit of the scheme would be extended so that every victim in

cases where the perpetrator has received a sentence of imprisonment would be eligible, regardless of the length of that sentence.

However, there is already a branch of the victim notification scheme for the victims of prisoners who are serving sentences of less than 18 months, which was brought in by the Victims' Rights (Scotland) Regulations 2015. Those regulations inserted section 27A into the Victims and Witnesses (Scotland) Act 2014, which has been in force since 2015. Section 11 of the bill builds on that by adding a new section 27B into the 2014 act to give victim support organisations the right to information about release of those prisoners, too.

The information that is provided to victims differs slightly according to which of the two branches of the VNS is applicable as it is appropriate for more detailed information to be available for longer sentences, which are usually imposed for more serious offences. However, information in relation to prisoner release and, where applicable, licence conditions imposed for the purposes of protecting the victim, are shared under both branches of the scheme.

Mr Findlay might be interested to read recommendation 15 of the review of the victim notification scheme that has just been undertaken, which comments on potential improvements to the provision of information on the release of short-term prisoners.

Amendment 89 would result in two simultaneous but different schemes applying to prisoners serving sentences of less than 18 months, but it is not clear how the two schemes would operate or interact with each other. The amendment therefore seems likely to bring a significant degree of chaos to the process. I am concerned about the impact that that could have on victims. It is crucial that they can be certain about their entitlement to information. Unfortunately, amendment 89 simply will not provide that certainty. I am sure that members will agree that we cannot legislate in a way that will undermine victims' rights rather than enhance them.

Furthermore, such a substantial change to the VNS process would require proper scrutiny, including consideration of victims' views, rather than being brought in at stage 3 of the current bill's progress. As I have said, there is also the matter of the independent review of the victim notification scheme, and the recommendations contained in its report, to consider.

It is not appropriate to pre-empt any changes to the VNS at this stage, given the need to collaborate with partners and victims organisations on the VNS review's recommendations and the possibility of changes to the scheme in the future.

The Scottish Government is working with those partners as a matter of priority on developing a response to the report, which we will publish as soon as we can.

I understand the appetite to make changes to the VNS, but I ask Russell Findlay not to move amendment 89 and to engage with the work—

17:30

Russell Findlay: To be completely clear, I think that the cabinet secretary is suggesting that, with the review of the VNS, the general direction of travel is that the information relating to amendment 89 will be forthcoming. Is that the case?

Angela Constance: The Government has still got to formally respond to the independent review of the VNS. I am pointing to the importance of not cutting through that work, but I think that the findings of the independent review will be of interest to Mr Findlay.

Furthermore, I have also pointed out to Mr Findlay that there is already a scheme in existence for victims in cases where the perpetrator is serving less than 18 months, and the purpose of the VNS review is to improve that further.

I understand the appetite to make changes to the VNS, but I would ask Russell Findlay not to move amendment 89 and to engage with the work coming out of the VNS review at the appropriate time.

Amendment 90, in the name of Pauline McNeill, would place a requirement on the Scottish ministers to ensure that all victims who are eligible to receive information under the VNS are made aware of their right to receive the information and that they are given every opportunity to intimate whether they want to receive the information. Currently, the Crown Office and Procurator Fiscal Service brings the VNS to the attention of eligible victims after sentencing. Requiring the Scottish ministers to be involved in that process would be a significant change that would require detailed scrutiny and collaboration with partners, particularly in relation to data sharing.

I also notice that amendment 90 seeks to make changes to the VNS only for victims of prisoners serving 18 months or more and that there is no comparable amendment making changes to the scheme for those serving less than 18 months.

As with amendment 89, I think that amendment 90 potentially cuts across the recommendations of the VNS review, so I do not think that it is appropriate for it to be included in the bill at this late stage without the chance to give it the scrutiny that it requires.

I therefore ask Pauline McNeill not to move amendment 90 and to await the work that will come out of the VNS review.

Pauline McNeill: There is no difference of opinion between any of the parties and the cabinet secretary on the importance of victim notification, so that is not the question here.

I acknowledge what the cabinet secretary said in relation to my amendments and how they might have been different, but I think that we would have taken the same approach either way.

It is important to recognise that what Russell Findlay and I are trying to achieve in this group of amendments is highlighting that the system is failing many victims. The cabinet secretary said that, in reality, people can contact the procurator fiscal's office and ask these questions, but anyone who has ever tried to phone that office—even an MSP—knows how difficult it is to do that.

By the way, I have had this conversation with the Lord Advocate, who said that it is one of the things that she would like to change about the system. I once wrote to the Glasgow fiscal and asked whether there was any chance that they could call me, because there was absolutely no possible chance that I could get in touch with them because their phone system was totally inaccessible.

Russell Findlay: Does the member share my frustration that, when we examined the bill at stages 1 and 2, we did not have the same level of detailed response that is now being provided by the cabinet secretary at stage 3, when it is too late to meaningfully address the issue?

Pauline McNeill: Yes. I acknowledge that there are a lot of big issues—particularly in part 2 of the bill, which we are yet to come to—that relate to huge policy areas that we all have the best of intentions to change, and it is not outwith the scope of the bill for us to discuss doing that.

I plead with the cabinet secretary for the piece of work that she referred to. It is obviously not enough to have law, and I recognise that, even if you support the bill, the system needs to be fit for purpose, and that, if there is a notification scheme, victims will be notified. I also recognise that, although it might not be in every single case that a victim needs to know, they should know in serious cases about release at bail hearings and bail appeals. I think that there was an omission in relation to bail appeals. I would happily stand corrected, but there does not seem to be provision for notification where someone who has been remanded to custody is subsequently successful in their appeal. However, I raised the issue for that very reason.

Angela Constance: I will just point to some of the recommendations in the VNS review. There are some very interesting points about automatic referrals that might be of interest.

Pauline McNeill: Yes, absolutely. I think that we are all interested in making the administration of this much better than it is and I think that the Parliament is at one on that. However, I am still proposing to move my amendment.

I press amendment 75.

The Presiding Officer: The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is now closed.

Mr Balfour, I am pleased to confirm that your vote has indeed been recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)

Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Presiding Officer: The result of the division is: For 50, Against 63, Abstentions 0.

Amendment 75 disagreed to.

The Presiding Officer: As announced previously, we will now move to a comfort break, for 10 minutes or so. I suggest that members return around 10 to 6, but the division bell will ring to advise that we are about to recommence.

17:38

Meeting suspended.

17:53

On resuming—

Section 5—Time spent on electronically monitored bail

The Presiding Officer: Group 6 is on time spent on electronically monitored bail. Amendment 24, in the name of Jamie Greene, is grouped with amendments 25 and 2.

I call Jamie Greene to move amendment 24 and speak to all amendments in the group.

Jamie Greene: Thank you, Presiding Officer—let me just get my bearings.

For the benefit of members who have not been following the bill, group 6 is on a section concerning time spent on electronically monitored bail. For most folks, that is commonly known as electronic tagging as a condition of bail. Section 5 as currently drafted will require judges to consider the period of time that an offender has spent on electronically monitored bail when passing a custodial sentence.

The bill states that if the court is passing a sentence of imprisonment, time spent on electronically monitored bail will be somehow equitable by the application of a prescribed formula for the purposes of sentencing.

In other words, it may lead to a reduction in an offender's sentence if they have spent time on electronic monitoring, and the sentence is backdated accordingly to include that time spent. *[Interruption.]*

I see members coming back into the chamber from their tea break, so they will be full of sugar and rowdy, Presiding Officer, but I hope they will listen to what we have to say on what is quite an important aspect of the bill.

I have a few points to make, on which I hope we can reflect. As members will spot from the marshalled list, my colleague Russell Findlay and I

have taken two quite different approaches in our amendments as to how to resolve this issue.

My first point concerns the policy context—and perhaps even the legal context—of the Government’s proposal around what the point of electronically monitored bail actually is. Electronic monitoring is commonly perceived to be a condition of bail. Indeed, a judge or sheriff may use it as a tool to avoid remanding someone in custody by releasing them on bail with such a condition.

Someone who has been bailed in that manner has not yet been convicted of any crime. They are, to all intents and purposes, an accused person. A sentence, however, is the custodial punishment given after someone has been convicted of a crime. The two are not the same.

The second point that I wish to make about the Government’s proposal is more of a moral one, rather than a technical one. The proposal goes as far as to dictate the formula that judges should use in such a scenario. The Government proposes that two days spent on electronically monitored tagging will somehow equate to one day spent in prison—in custody. I would argue that time spent in the house, at work, outside with friends or in shops with an electronic tag on is in no way the same as or equal to prison time. The formula mandates how much time judges must take off an offender’s sentence if they are going to prison. It was not entirely clear to the Criminal Justice Committee where that idea came from, where the formula came from and whether it was cooked up in research, by academics or by Government policy advisers. That is entirely unclear.

It is the moral argument that is important. For the complainer or victim in such scenarios, time spent worrying that the offender is out there with an electronic tag is in no way equal to how they would feel in the scenario where they know that the person is in custody, behind bars.

Turning to my third point, I have no idea what this element of policy has to do with the bill whatsoever. The bill concerns bail and release, not sentencing. For me, that means separate legislation. My comments and views do not stand alone on that. A number of concerns were raised with the committee and with members, as was reiterated in the briefing that we got just ahead of today’s debate. Three organisations—Victim Support Scotland, ASSIST and Scottish Women’s Aid—were very explicit and clear about section 5 and about the Government’s proposal. They said:

“Our organisations do not believe that any time spent on bail subject to electronic monitoring (EM) should count as time served.”

That could not be more simple.

They went on to write:

“The sentence received for a serious crime including domestic abuse, sexual violence or rape, should consider the severity of the crime, victim safety and victim protection, rather than time spent subject to EM.

It is suggested that time spent on bail with EM could be interpreted as being more limiting to the accused, but this is an artificial and inaccurate construction.”

Kate Wallace from VSS went further. She said:

“A custodial sentence is completely different from electronic monitoring at home, so we continue to disagree with others on that.”—[*Official Report, Criminal Justice Committee*, 11 January 2023; c 5.]

Scottish Women’s Aid was equally damning about the proposal, saying that electronic monitoring is only partial inconvenience to the movements of the accused, that it is not in any way comparable to time spent on remand, and that it should not be treated any differently from any other form of bail—which relates to my first, technical, point.

That issue came up at stage 2, as the cabinet secretary will know, and Collette Stevenson lodged an amendment—perhaps after the conversation with some victims organisations—is the prerogative of any back bencher.

18:00

I was disappointed that she chose not to move that amendment—perhaps under pressure from the Government—when it was handed to her in good faith by those victims organisations. However, I moved the amendment and it was rejected—again, on a four/four split, which I think is quite telling. I do not blame members for bringing such amendments forward—indeed, I am sure that they were heartfelt.

If the Government insists on retaining this bizarre proposal in the bill, I have lodged two amendments to try to resolve it. Amendment 24 would mean that, when passing sentence, rather than saying that the court “must” take into account the bail period, including the period where the person was electronically monitored, the section would say that it “may” do so. That is a simple change, but it gives the judge discretion. If, in his eyes, he feels that it is appropriate to take into account the time that the person has spent being electronically monitored, he can do so, but it is not a “must” or an absolute.

Amendment 25 would remove the bizarre formula that suggests that two days spent being electronically tagged equates to one day in prison. It does not, and I think that everyone knows that. No evidence whatsoever has been given to support the use of that formula.

My amendments take two approaches; my colleague Russell Findlay’s amendment takes a third, and he will speak to it accordingly.

It is important to say that the committee felt overwhelmingly strongly about the issue. The stage 1 report made a specific recommendation to the Government, and I am not convinced that the Government has responded to it. Recommendation 228 says:

“Our view is that sheriffs and judges are best placed to determine the extent to which time spent on electronic monitoring should be deducted from the length of custodial sentences.”

We were clear that the formula does not work and is not appropriate. That was the cross-party consensus on the committee; there was no division on that recommendation.

Recommendation 229 says:

“The Committee is content that if the Bill allows time spent on electronic monitoring to be taken into account, and if the court so decides, this would be a helpful change.”

However, no such change was forthcoming—no Government amendment along those lines was lodged, so I had to lodge one.

We were clear that it is an important principle that the courts are to be given a degree of concession to determine such matters themselves, and that those matters should not be prescribed in primary legislation in the way that the Government has done.

I look forward to hearing what the Government has to say about this issue, but I think that it will struggle to defend this one.

I move amendment 24.

Russell Findlay: I have one amendment in this group: amendment 2—a small number but a big amendment, as it would completely remove section 5 from the bill.

To reiterate what my colleague Jamie Greene has just said, the bill as drafted will allow judges to deduct time off a prisoner’s sentence based on time spent on bail while wearing an electronic tag. The bill states that two days subject to electronic monitoring is equivalent to one day behind bars. That cannot be right, as a point of principle. As Jamie Greene said, bail is not a punishment. Those subject to bail are not yet convicted, and this bill is entirely about bail and release, not sentencing. I believe that those proposals could have unintended consequences that could be far reaching.

I refer to a freedom of information request covering the period from May 2022 to March 2023, which I think could be useful for members. In that time, 638 accused criminals in Scotland were subject to electronically monitored bail. They spent an average of 120 days under those bail conditions. Therefore, using the proposed two-for-one formula that is set out in the bill, they could each expect to have 60 days—two months—

deducted from their eventual prison sentence. I admit that these calculations are somewhat rudimentary, but that equates to a combined reduction of 112 years less jail time. I believe that that would risk undermining public faith in justice, and it would add to an existing perception of a gulf between sentencing spin and the reality. I also believe that it would be a gift to career criminals and their creative lawyers, because surely an offender with an electronic tag would be further incentivised to postpone the trial if every delay that they chalk up would result in less prison time. I think that that risks fuelling court churn and making the court backlogs even worse than they already are. The outcome of that will be further misery and uncertainty for victims and other witnesses.

We have already heard from Jamie Greene about amendments 24 and 25, which seek to address those issues. I agree with his solutions and we are working as a team, but I see his amendments as perhaps a plan B and I think that the better solution and more efficient approach would be to scrap section 5 of the bill in its entirety.

Members should note that Victim Support Scotland supports amendment 2 and should also note something that Jamie Greene touched on, which is that a Scottish National Party member of the Criminal Justice Committee proposed a similar amendment at stage 2, citing “huge concerns”, only to not move her amendment, which we supported at stage 2.

If the Government is serious about this two-for-one deal for prisoners, it must go away and produce a properly researched and coherent argument for it, rather than taking this back-of-a-fag-packet approach.

Maggie Chapman: I appreciate that this is an area in which there is a stark difference of opinion between victim support organisations and most of the others who have engaged with the bill in the past year or so.

During committee scrutiny, Social Work Scotland stated that electronic monitoring is “punitive, restrictive and intrusive” and that it is therefore

“right that the court considers this when imposing a prison sentence.”

As Jamie Greene has already said, Kate Wallace and others who oppose taking electronically monitored bail time into consideration during sentencing are of the view that a custodial sentence is completely different to electronic monitoring at home. I agree. However, I am also of the view that it is different to being on bail without any form of monitoring or surveillance. I believe that putting someone on bail and

subjecting them to electronic monitoring is a not insignificant curtailment of their rights, including their right to freedom of movement and their right not to be monitored by the state, to name but two. Electronic monitoring is a restriction of liberty. Our laws should recognise that and should do so in a fair and consistent way.

Angela Constance: Section 5 of the bill seeks to provide a new power for the court to take into account any time that an accused person spends under a relevant electronically monitored curfew condition of bail and to treat that as time served in relation to any custodial sentence.

Section 5 does that by granting discretion to the court to decide how much of any period that is subject to such a curfew condition should be taken into account. The court has complete discretion on that key question and can take into account none, some or all of that period. Once the court has decided on that, a formula is used to convert that period in a consistent and fair manner for the purpose of calculating the time-served portion of the sentence. As members have said, every period of two days spent subject to a relevant curfew from the qualifying bail period is regarded as one day of time served, should the court wish to implement that.

Mr Greene asked where that idea comes from. It is based on a very similar formula that is in operation in England and Wales. As I have explained, the court will have discretion to assess the circumstances of a specific case before it decides whether an accused person should have some, all or none of their bail period accounted for, which allows for consideration of an accused person's conduct while they are subject to a relevant curfew condition. Clearly, any person who does not comply with a relevant curfew is unlikely to have any period accounted for in their custodial sentence. That is very much best left to the court to decide in any given case, and the bill would ensure that the court has the necessary and important discretion to do so.

The combined effect of amendments 24 and 25 would be to provide the court with the statutory discretion to account for time spent on a relevant curfew condition, but to do so in such a way that there would be no legal requirement for consistency across the country, because no formula would be set out in statute for the court to use in converting a time period that is subject to a relevant curfew condition into time served from a custodial sentence. It would lead to potential inconsistency in how the relevant time period is converted for time-served purposes and is also not how the law in England and Wales—which the bill is informed by—approaches that subject.

I therefore ask Mr Greene not to press amendment 24 or to move amendment 25. If he

does, I ask members to vote against the amendments.

Amendment 2, in the name of Russell Findlay, seeks to remove section 5 from the bill in its entirety. The principle of enabling time spent on electronically monitored curfew to be accounted for at sentencing was consulted on by the Scottish Government in 2021. It was in the bill at introduction and, of course, the Criminal Justice Committee has given it due scrutiny and consideration. It is worth noting that it was supported in the committee's stage 1 report, which said that allowing time spent on electronic monitoring to be taken into account at sentencing if the court decides is "a helpful change", although I acknowledge that there are different views among committee members, as we have heard today.

Although a person who is subject to electronically monitored bail with a curfew condition is not in the same position as someone in custody, such a measure represents a restriction on their liberty. The bill therefore enables the court to take cognisance of that if it chooses to do so in a proportionate way when a custodial sentence is imposed. As I mentioned, the measure brings Scotland into line with similar arrangements in England and Wales, and the committee, on balance, reported favourably on it. I therefore ask Mr Findlay not to move amendment 2 but, if he does, I ask members to vote against it.

Jamie Greene: I thank members for participating in this short debate, and I thank the cabinet secretary for her comments. I want to sum up with a number of points that reflect on the point that Maggie Chapman made about the correlation between being electronically monitored while on bail versus being in custody. The whole premise of the bill, which we discussed at great length earlier, is that the Government is trying to reduce the number of people who are being remanded. One of the tools that has been proven to do that over the past couple of years is the use of electronic monitoring as a condition of bail. In some ways, it is an incentive to keep people out of custody when they can be monitored in other ways. As we know, there are many other conditions of bail.

However, it is not the same when someone has been convicted of a crime. If someone has been given a custodial sentence, there are two things to consider. First, it is quite likely to be a serious crime, given the presumption against short sentences, which rules out any form of custodial sentence for less serious crimes. Secondly, there is the fairness aspect, which many victim support organisations rightly raise. Take the scenario in which someone is on bail. As we know, there are lengthy delays to trials. There is the added element that Russell Findlay rightly pointed out,

which is the issue of court churn and, in many cases, the delaying tactics that are used by the accused. It is feasible that someone could spend a tremendous amount of time on bail under electronic monitoring, only to be given a custodial sentence when the trial diet finally comes to court. The sentence would be backdated and, according to the formula, converted into a reduction. The two together could mean that someone could be given a custodial sentence—bear in mind the seriousness of the types of offences that generally result in a custodial sentence—and could effectively walk out of court that day as a result of the delay in the trial and the electronic monitoring formula.

Victim Support Scotland is right that the two situations are not the same and that there is a sense of unfairness and injustice in that. That is why I lodged the amendments.

Angela Constance: As I said in my remarks, time on electronically monitored curfew in the community is not the same as a custodial sentence. Does Mr Greene accept that, under the bill, there is no compulsion on the court to take time on electronic monitoring into consideration and that the court has complete discretion in that matter and may choose not to implement it?

Jamie Greene: In that case, perhaps the cabinet secretary would be happy to accept my amendment 24, which makes the situation abundantly clear. In section 5, which is headed

“Time spent on electronically monitored bail”,

it says that,

“After section 210 of the 1995 Act (consideration of time spent in custody)”,

we insert:

“When passing ... sentence, the court must ... have regard to the bail period”,

and so on—it is all on page 4 of the bill. Changing the word “must” to “may” would make it abundantly clear that it was a matter of discretion for judges. If that is the policy intention, that is fine but, at the moment, the “must” is what concerns me, which is why I lodged amendment 24.

18:15

It is not entirely clear that judges have full discretion. If they did, surely they would be the ones to decide how much time should be deducted from a sentence, not a prescribed formula that is set in primary legislation by politicians. I am not convinced that they have full discretion in the matter, which is why my amendment 25 seeks to remove the formula that is stated in the bill. No evidence has been given to back it up. No equation says that spending two

days being electronically monitored is in any way the same as spending a day in custody. Anyone who has ever been inside a prison to visit or to speak to people will know that it is an entirely different environment to that experienced by those who are on bail—and I understand that being electronically monitored is a condition of bail—and they will know that the two are in no way the same and that electronic monitoring is certainly not a punishment. Any victim of crime who has experienced a serious offence would be astonished to think that, somehow, somebody’s sentence will be reduced as a result of wearing a tag. A sense of fairness has been lost and that is what I am trying to reintroduce to the proposed legislation. For that reason, I will press amendment 24.

The Presiding Officer: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)

Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)

Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 28, Against 85, Abstentions 0.

Amendment 24 disagreed to.

Amendment 25 moved—[Jamie Greene].

The Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

Pam Duncan-Glancy (Glasgow) (Lab): On a point of order, Presiding Officer. My app did not refresh. I would have voted no.

The Presiding Officer: Thank you. We will ensure that that is recorded.

Jeremy Balfour (Lothian) (Con): On a point of order, Presiding Officer. I could not connect. I would have voted yes.

The Presiding Officer: Thank you, Mr Balfour. We will ensure that that is recorded.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)

Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
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 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)

Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 28, Against 86, Abstentions 0.

Amendment 25 disagreed to.

Amendment 2 moved—[Russell Findlay].

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

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)

Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
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 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)

Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 28, Against 85, Abstentions 0.

Amendment 2 disagreed to.

Section 5A—Report on bail and remand

The Presiding Officer: Group 7 is on reports on bail and remand. Amendment 26, in the name of Jamie Greene, is grouped with amendments 76 to 78, 28, 29, 79, 80, 34, 81, 82 and 62. I call Jamie Greene to move amendment 26 and speak to all the amendments in the group.

Jamie Greene: Thank you, Presiding Officer—in the interests of time, I will speak only to my own amendments in the group.

This group of amendments relates to the new section 5A, which was added to the bill at stage 2 by the cabinet secretary in response to many requests from members across the board for additional reporting requirements on how the bill will affect the justice system.

Essentially, section 5A requires the Scottish ministers to produce quite a wide-ranging report on bail and remand, and a number of statistics, such as the remand population in our prisons and the number of offences for which people are convicted. All that was set out in the bill at stage 2.

Amendment 26 is fairly simple. It would require that the Scottish ministers must first of all consult victims and/or support organisations when producing the report. I think that consultation is helpful in addition to statistical analysis because, as part of that report, we will be recording the number of convictions for bail-related offences to be reported, including offences that are committed by individuals on bail.

Behind the statistics on bail-related offences, there are generally victims—often victims of the primary crime itself to which the bail condition, and the subsequent breach thereof, is attached. It is unclear to me, therefore, how a report on the use of bail and remand, as dictated by the rest of the bill, could be properly informed without consulting the victims of crime to whom the statistics relate. That is why I ask members to support amendment 26, which is also supported by victims organisations.

Amendment 34 is a technical consequential amendment that describes what a victim support service is. In the debate on another group, the cabinet secretary said that the phrase “victim support services”, which was used in another amendment, was not defined. It is defined in

amendment 34, although that is an amendment to a different section. I caught up eventually on that and tried to use appropriate language, as recommended by drafters.

Amendment 79 concerns a more overarching and fundamental ask that I have of the Government, which relates to the impact that the bill will have. Rather than having just the statistics and numbers, reports can be qualitative as well as quantitative in their nature. Whatever one's views on the bill, it is important that the Government analyses how it affects the remand population, because that seems to be the main driver of the bill—certainly part 1.

It is important that amendment 79 would require ministers to assess how any changes to the remand population impact on victims—that is the second ask. The experience of victims is something that we talk about often. Given the uncertainties about the outcomes that measures in the bill will have, it is entirely right to ask that the Government looks at the effect that changes to the remand population—be they increases or decreases—will have.

Indeed, I would go as far as saying that, if the only two things that we learn are the effect that the bill has had on the remand population and the effect that it has had on the experiences of victims in our justice system, that in itself would make it a good report with good information. That is why I lodged amendment 79, which I hope the cabinet secretary will look on sympathetically and not see as overly onerous. It does not go into any great detail on how detailed or lengthy the report must be, but it asks for useful information.

Amendments 28 and 29 would introduce two specific data metrics that I would like to see included in the report. Amendment 28 specifies that the use of particular types of bail should be recorded in the report that ministers will publish. It specifically references the type of electronically monitored bail that, as we have just discussed, will be able to be used to deduct time from sentences. That would be helpful information.

Amendment 29 goes a little bit further than that and asks ministers to record the number of people who enter the prison population following a conviction for a bail-related offence or having been accused of a further offence. The reason for that is quite simple.

If the bail numbers increase, I would like to know how many people end up back in the system as a direct result of a bail-related offence. That would be helpful data in helping us to see whether the bill has produced good outcomes or otherwise. Equally, it would be helpful to collect data on people who have been bailed, perhaps as a result of changes to the test, who then go on to commit

other types of offences, and data on the nature of those offences. We know that there is a reoffending rate. It would be good to know how many people who reoffend are on bail or have been released on licence under previous convictions.

More data on this matter is better than less. I hope that members will look sympathetically on my asks and that the Government will not see them as difficulties.

If the Government seeks to reject my amendments, as I suspect that it might do, based on the cabinet secretary's comments, I would ask for at least a willingness, when it produces the guidance on the report for civil servants, including on its structure, to consider what further information could be collected—even though that may not necessarily be in the bill in black and white—that we or members in a future parliamentary session could find useful as we analyse the efficacy of the bill.

I move amendment 26.

Katy Clark: Amendments 76, 77 and 80 would require the Scottish Government to give more information about women on remand.

We know that Scotland has high numbers of women on remand and that that is not because women in Scotland are more violent than women in countries that do not have as many women in custody. There has been concern over many years about the number of women in Scotland who are sent to prison for non-violent offences.

We also know that women prisoners are a significantly different demographic from male prisoners. A recent study shows that almost 80 per cent of the former had suffered head injuries as a result of domestic abuse. We know, too, that many women have caring responsibilities. Legislators need as much information as possible about women who are refused bail to better scrutinise the justice system.

18:30

Amendments 76, 77 and 80 are modified versions of amendments that I lodged at stage 2. I thank the Scottish Government for working with me on the wording of the amendments to ensure that the data that is asked for is available.

Amendments 78 and 81 are also similar to amendments that I lodged at stage 2. They ask the Scottish Government to report to Parliament

“Within 3 years of Royal Assent”

on the health issues, including drug addiction issues, of women who are being held on remand. Again, that is a less onerous requirement than those that were sought in the amendments that I

lodged at stage 2. I hope that the Scottish Government will be able to agree to my amendments on this occasion.

Amendment 82 also involves a reporting requirement. It focuses on the alternatives to custody that are available to the courts in Scotland when they are considering bail applications. For Scotland to reduce the number of prisoners who are held on remand, we need to develop more robust alternatives to custody, including a range of supervised bail options. I should say that the Convention of Scottish Local Authorities supports amendment 82.

The amendment asks the Scottish Government to consult local authorities and others and to report to Parliament

“Within 3 years of Royal Assent”

on the work that is being done to develop further alternatives to remand so that accused persons, whenever possible, can be kept in the community, pending trial. That would include information on the resources that are being devoted to ensuring adequate resourcing of the services that are needed to ensure that bail conditions are complied with. We know that there is currently considerable criticism by victims organisations of the implementation of the tracking of electronic monitoring, for example.

The report would focus on the resourcing of non-custodial alternatives to remand. In many other countries, such as the Scandinavian countries, there is far greater use of alternatives to custody, such as GPRS electronic monitoring and supervised bail. We believe that there is considerable scope for those alternatives to be expanded in Scotland.

The Deputy Presiding Officer (Annabelle Ewing): I call the cabinet secretary to speak to amendment 62 and other amendments in the group.

Angela Constance: I will speak to all the amendments in this group starting with amendment 62, which is in my name. Amendment 62 is a technical amendment, which amends the commencement provisions at section 14 of the bill to account for the addition of the reporting requirement provision at section 5A of the bill.

Jamie Greene’s amendments 26 and 34 are intended to place a duty on the Scottish ministers to consult with providers of victim support services when preparing the report on bail and remand under section 5A of the bill. I support the intention behind the amendments, but I do not consider them to be necessary because I consider, humbly, that my amendment 31 in group 3 makes similar provision. As I have already explained, amendment 31 provides that, where the report

includes information on the operation of the legislative changes made by part 1 of the bill,

“the Scottish ministers must consult”

with providers of victim support services as well as others, including Police Scotland, the Scottish Courts and Tribunals Service and local authorities, when preparing the report. I ask members to vote against amendments 26 and 34 and to support my amendment 31 instead.

I speak in support of Katy Clark’s amendments 76, 77 and 80. I will, however, not be able to support amendments 78 and 81, for reasons that I will explain. At stage 2, I lodged an amendment that the committee welcomed, which added a new general reporting requirement on the Scottish ministers in relation to bail and remand. Alongside my amendment at stage 2 was an amendment from Ms Clark, which sought to add specific elements relating to reporting on women on remand. We were not able to support that amendment, as it contained certain requirements that could not be included because data simply does not exist and could not readily be collected.

For example, detailed data on health conditions of women on remand, such as their mental health, is not presently collected, nor could such data easily be collected. There would also be potential privacy concerns, given the small overall number of women who are held on remand, as well as other possible challenges, given that some of the information in question would be national health service information and that a new data collection process would be required. However, I hope that members will be reassured by the general power that exists to add matters for consideration in the future, as required and as new information becomes available.

Amendments 78 and 81 would bring back the requirements to report on health conditions of women on remand, with amendment 78 adding them into the general reporting requirement in section 5A of the bill, and amendment 81 separately seeking to add them in a new section. In essence, amendments 78 and 81 seem to do the same thing. Although I am sympathetic to the intent, I cannot agree to a legal duty to report on issues when I cannot be satisfied that it would be possible for the Scottish ministers to deliver on that requirement. For those reasons, I cannot support amendments 78 and 81.

We accepted the overall thrust of what Katy Clark was seeking to achieve at stage 2, which was to ensure the inclusion of good, achievable data that helps to improve our understanding of why women are remanded, including details of their background and what happens after remand has ended. We are pleased to support Katy Clark’s amendments 76, 77 and 80, which will

ensure that the report that is to be produced by the Scottish ministers will explicitly include certain information relating to women on remand, such as the age profile of those women. In addition, as I mentioned, the general power for ministers to add in to the report additional matters that are not listed is strengthened by emphasising the fact that gender-specific information can be added.

I ask members to support amendments 76, 77 and 80, while asking them to oppose amendments 78 and 81.

Jamie Greene's amendments 28 and 29 seek to amend the reporting requirement by adding to the list of matters that the report must include. Although amendments 28 and 29 are well intentioned, I am unable to support them as they are currently drafted, because they have technical deficiencies that would mean that the Scottish ministers might not be able to fulfil the reporting requirement.

However, that does not mean that data in the areas in question cannot be published, as the reporting requirement in the bill only specifies the minimum information that the report must include. The Scottish ministers retain a general power to include any other information that they consider appropriate.

On amendment 28, specifically, I agree with Jamie Greene that it would be useful to publish data on the use of electronic monitoring of bail conditions. Although the Scottish Government does not hold such information, we can work with the provider of electronic monitoring—G4S—in order to report in that area in line with the reporting duty that is already contained in the bill.

Due to the manner in which data is collected, I understand that the report would require to be on the number of bail orders that contained a condition of electronic monitoring, rather than the number of individuals who were subject to a condition of electronic monitoring. I commit to looking into the issue. That information can be delivered without legislative provision being added to the reporting requirement.

The second aspect of amendment 28 relates to the number of individuals who are released on bail with special conditions. Again, that is not data that is currently held by the Scottish Government, and no corresponding amendment has been lodged to provide for the recording and collection of that data. However, we will undertake to work with the Scottish Courts and Tribunals Service to better understand what data the courts hold in that area and how it could be reported on for future publication.

It is important to strike a balance between publishing more meaningful data on bail and remand and not unduly placing onerous burdens

on the Scottish Courts and Tribunals Service and other justice agencies.

For amendment 29, as there is no definitional provision within the amendment, it is assumed that the reference to "prison population" relates to the number of individuals who entered custody having been sentenced to imprisonment or detention for a bail-related offence.

I can advise members that the published criminal proceedings data already provides a breakdown of sentencing outcomes for bail-related offences, including custodial sentences. The data is not a count of individuals, as it is possible for the same person to be convicted of multiple offences and each is counted separately in the data.

The meaning of the second aspect of amendment 29 is not clear, although it appears to seek data about the number of individuals who are remanded into custody after being accused of committing a further offence while on bail—in essence, the number of people being accused of offences with a bail aggravation attached. Because that data is principally held by the Scottish Courts and Tribunals Service, we will explore with the service whether data that the Scottish Government has access to could be used to provide such information and, if so, we will make use of the general power of Scottish ministers to add additional information beyond that specifically set out in section 5A.

At this stage, without any guarantee of the ability to provide that information, we cannot support amendment 29, but I hope that I have showed willingness to explore that area. The Scottish Government will explore with justice agencies what data can be published as part of the general powers in the reporting requirement of part 1 of the bill. Within that context, and for the specific reasons that I have outlined, I ask Jamie Greene not to press amendments 28 and 29. If he does, I ask members to vote against them.

Jamie Greene's amendment 79 seeks to amend the reporting requirement in section 5A of the bill by introducing two new requirements to be included in reporting. Those requirements would be to carry out an analysis of the effects that the reforms that the bill makes to the legal framework for bail and remand have on the remand population, and an analysis of whether any changes to the remand population that result from that have had an impact on the experiences of victims.

I very much sympathise with the intention behind that amendment. In an ideal world, Parliament would want to know exactly how the legislation that it passes has an impact on education, health and, in this case, justice outcomes. However the operation of the justice

system is a complex mix of ever-changing variables and it is not always possible to separate those variables from the effects of specific legislation, such as this bill. Many factors can affect the size of the remand population, including the nature and number of offences committed or changes to police detection rates. All of those have an impact.

Because of that, it is simply not possible to isolate the specific impact of this legislation, as distinct from other factors that influence the remand population, and to enable Scottish ministers to report on that. By extension, it will also not be possible to identify the extent to which victims' experiences may be impacted as a result of changes to the law on bail and remand as distinct from other factors that may also affect decisions on bail and remand in individual cases.

I accept the point that there is always a need to gather qualitative as well as quantitative information, but I ask Mr Greene not to press amendment 79. If he does, I ask members to vote against it.

Katy Clark's amendment 82 seeks to put in place a requirement for Scottish ministers to report to Parliament on the resourcing of the implementation of bail conditions. I am not persuaded by that amendment, nor that it would be possible to assess what specific resourcing is required to implement bail conditions. Because it is not clear what is meant by "implementation" of conditions, the impact on resources would be difficult to measure. I assume that that may refer to the enforcement of bail conditions. The amendment also refers to bail conditions in general, rather than to any specific type of condition. In every case where bail is granted, conditions are imposed as standard, so preparing a report of that nature would be a significant undertaking.

I note that amendment 82 focuses particularly on the impact on local authorities of implementing bail conditions. Local authorities are involved in bail supervision schemes, but the enforcement of bail conditions is primarily a matter for Police Scotland. It is not clear how Scottish ministers would assess whether the enforcement of bail conditions is adequately resourced, given that that forms part of the general responsibility and day-to-day activity of Police Scotland. As such, the requirement is not one that Scottish ministers would realistically be able to meet and I therefore ask members not to support amendment 82.

I thank members for their forbearance during a lengthy speech.

The Deputy Presiding Officer: I call Jamie Greene to wind up and to press or withdraw amendment 26.

Jamie Greene: I thank the cabinet secretary for her extremely comprehensive response, which is duly noted and is now a matter of public record.

I pay tribute to Audrey Nicoll, who was the only person who sat with her eyes up through most of the debate. It was a bit like being at a bingo hall, with everyone sitting with their eyes down.

18:45

I appreciate that a group on reporting requirements is not the most exciting but, as we all know, they appear in every bill. I felt that it was an opportunity for members right across the board to ask for more from the Government, and a number of commitments have been made, all of which are a matter of public record. I am sure that future MSPs and respective portfolio holders will hold the Government to account on them.

There is a wider issue to address, which is data in general. One of the things that we as a committee really struggled with was the use of data to inform decision making and scrutiny. The cabinet secretary said earlier that she was a big fan of evidence-led policy; well, here is an opportunity to ensure that, whatever the outcomes of the bill, evidence is used. I say that with particular regard to amendment 79, because we want to know this specific bill's impact on the remand population and on the experience of victims in the justice system. After all, that is what really lies at the heart of this; if it can be achieved some other way, that will be perfectly fine by me.

The chamber will be pleased to know that I will not be moving any of the amendments in group 7. *[Applause.]*

The Deputy Presiding Officer: Can I confirm with Mr Greene that he is seeking to withdraw amendment 26?

Jamie Greene: That is correct.

Amendment 26, by agreement, withdrawn.

Amendments 76 and 77 moved—[Katy Clark]—and agreed to.

Amendment 78 moved—[Katy Clark].

The Deputy Presiding Officer: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): On a point of order, Presiding Officer. I would have voted no, but the system failed.

The Deputy Presiding Officer: Thank you. That vote will be recorded.

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): On a point of order, Presiding Officer. I, too, would have voted no.

The Deputy Presiding Officer: And the system failed.

Angus Robertson: The system was not working.

The Deputy Presiding Officer: Thank you. That vote will be recorded.

The Minister for Victims and Community Safety (Siobhian Brown): On a point of order, Presiding Officer. I am sorry—the system was not working. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Brown. Your vote will be recorded.

Angela Constance: On a point of order, Presiding Officer. The system would not allow me to vote. If it had, I would have voted no.

The Deputy Presiding Officer: Thank you, cabinet secretary. Your vote will be recorded.

Sharon Dowey (South Scotland) (Con): On a point of order, Presiding Officer. I would have voted yes.

The Deputy Presiding Officer: Thank you, Ms Dowey. Your vote will be recorded.

Jeremy Balfour: On a point of order, Presiding Officer. The system would not load. I would have voted yes.

The Deputy Presiding Officer: Thank you, Mr Balfour. Your vote will be recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)

(Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)

McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Deputy Presiding Officer: The result of the division is: For 48, Against 63, Abstentions 0.

Amendment 78 disagreed to.

Amendment 27 moved—[Angela Constance]—and agreed to.

Amendments 28, 29 and 79 not moved.

Amendment 30 moved—[Angela Constance]—and agreed to.

Amendment 80 moved—[Katy Clark]—and agreed to.

Amendments 31 to 33 moved—[Angela Constance]—and agreed to.

Amendment 34 not moved.

Amendment 35 moved—[Angela Constance]—and agreed to.

After section 5A

Amendment 36 moved—[Angela Constance]—and agreed to.

Amendments 81 and 82 not moved.

Section 6—Prisoners not to be released on certain days of the week

The Deputy Presiding Officer: We move on to group 8, which is on release on certain days of the week. Amendment 10, in the name of Russell Findlay, is grouped with amendments 11 and 12.

Russell Findlay: Amendment 10 is one of three amendments in the group. Amendments 11 and 12 are the substantive amendments while amendment 10 is consequential on amendment 11.

The bill seeks to extend the days on which prisoners may not be released. It is already the case that prisoners may not be released on

Saturdays, Sundays or public holidays, and the bill as drafted would also prevent them from being released on Fridays. The reasoning is that prisoners who have been released on those days have often not had the support that they needed, whether that has related to housing, benefits or healthcare. That can result and indeed has resulted in serious issues including reoffending and overdoses.

Various criminal justice organisations, not least the Scottish Police Federation, have concerns about the proposal. Members might not realise that, in effect, the bill also seeks to end Thursday releases. I say “in effect” because there is an exception. Thursday releases will be allowed, but only if the scheduled release date happens to fall on one of the non-release days that have been identified.

In effect, the bill will concentrate almost all releases into just three days of the week: Mondays, Tuesdays and Wednesdays. That is, I presume, well intentioned, but it risks putting greater pressure on the Prison Service and others, including criminal justice social workers. The Criminal Justice Committee’s stage 1 report, which all its members agreed to, says that that may result in

“significant practical challenges and additional resources” being required.

That is where amendment 12 comes in. It would empower prison governors and allow them to release a prisoner on any day of the week that they see fit if they consider that to be appropriate. My party believes that governors should be trusted to use their knowledge and experience to exercise judgment and discretion. A blanket ban on release days is clumsy and ill judged, given the risk of unintended consequences, some of which I have already touched on.

If members reject amendment 12, I hope that they will support amendment 11, which would give prison governors the option of ordering a Thursday release. Agreeing to amendment 11 would go at least some way towards mitigating the potential damage by increasing the proposed three standard release days to four.

I move amendment 10.

Angela Constance: Section 6 seeks to end scheduled liberations on a Friday or the day before a public holiday by adding those days to the existing list of days when release from prison may not take place. The list currently includes weekends and public holidays. The aim is to enable more people to access the community-based services that they will need immediately on release, such as housing, mental health and addiction support services and contact with justice

social work. Those are services that will keep them and others safe.

It is clear that adding Friday and the day before public holidays to the existing list of excepted days could mean that more releases would take place on a Thursday. That would place increased pressure on community-based services and the Prison Service on that day of the week and would risk undermining the intent of the provision. That is why section 6 also provides that individuals whose release date ordinarily falls on a Thursday will have their release date moved to the nearest preceding suitable date.

Russell Findlay: Does the cabinet secretary accept that reducing the number of days even further will only increase the pressure?

Angela Constance: The point that I wish to explain to Mr Findlay is that releases will take place not on three days of the week, but on four. The bill recognises that, if we displace people who would have been released on a Friday to a Thursday, we need to spread the load by moving those who would have been released on a Thursday to a Wednesday.

The statistics that I have received from the Scottish Prison Service show that the numbers of releases on Mondays and Tuesdays tend to be much lower than the numbers on Thursdays and Fridays. Section 6 is about spreading the load over four days of the week to ensure that people can access the services that will keep them and others safe. In most instances, prisoners who are due to be released on a Thursday will therefore be released on a Wednesday—the day before.

Mr Findlay's amendments 11 and 12 seek to alter that provision by including the ability for a prison governor to override that restriction. In the case of the list of excepted days, the governor would, if amendment 11 was agreed to, be able to override the restriction if they considered that release of a prisoner was necessary

"in the interests of public safety".

I assume that the intention is to address situations where there might be a public safety concern about bringing the release forward to avoid the excepted day, but that is not clear from the drafting or the legal effect of the amendment.

19:00

In the case of a scheduled release on a Thursday, the power would apply where the governor considered it appropriate. Even putting aside the technical difficulties with the amendment, in order to make that assessment, governors would have to assess every release that was scheduled to take place on an excepted day or on a Thursday. That is a significant ask.

The amendment would also cut across the intent of the provision, which is, as I have explained, to support access to the services that people need to keep them safe.

Jamie Greene: The committee spent a lot of time looking at this point. It is important, for the benefit of other members in the chamber, to recognise that the reason why we are having to curtail the days on which people may be released is the lack of provision of public services even on working days, and especially on a Friday. It is because of a failure of other public services that we are having to resort to this measure. It is not necessarily about a benefit to those who are being released; it is, in fact, detrimental in some ways.

We should have proper access to public services for those who are being released—particularly those with specific addiction problems, mental health issues and other healthcare problems—to try to reduce reoffending and that vicious circle. Does the cabinet secretary accept that we would not have to restrict the days if public services were meeting the demands that are placed on them?

Angela Constance: I accept in part that the issue of flexibility of provision in public services has informed considerations, but it is not the sole consideration. I remind members that the measure was a key recommendation of the Scottish Drug Deaths Taskforce, and there have been moves south of the border in the direction of ending Friday liberations. As I said, if we are to end Friday liberations, we need to give prudent practical consideration to the rest of the week. There is strong stakeholder support for the provision. As I said, I accept that matters could be improved if there was more flexibility in opening hours and out-of-hours services. However, we must acknowledge that, with the best will in the world, not all services that someone requires on release will be open 24/7.

For a broad range of reasons, the proposal in the bill is a prudent way forward. It is difficult to see how releasing someone on a day when access to services is limited for a variety of reasons, whether it is a Saturday or a Sunday, would be in the interests of public safety. That is one reason why I question Mr Findlay's proposition to allow prison governors to exercise discretion in the area. Furthermore, adding more complexity and uncertainty to the release process could make it more difficult to make effective plans for a prisoner's release.

I therefore cannot support amendments 11 or 12 or the associated technical amendment 10. I ask Mr Findlay not to press amendment 10 and not to move the other amendments in the group.

Russell Findlay: I struggle to follow the logic. It seems that, by ending Friday releases for the reasons that have been given, we in effect take Thursday releases off the table, too. The cabinet secretary referred to SPS statistics, to which she is privy, about release dates and the number of prisoners. I only wish that the committee had had access to that data during our considerations. That is a recurring theme: as with some of the earlier amendments, if information had been forthcoming and the Government and its agencies had been frank and willing to share information and data, we would be in a much better place to produce competent amendments that could withstand Government scrutiny.

Angela Constance: Will the member take an intervention?

Russell Findlay: I will.

Angela Constance: I thank Mr Findlay for giving me the opportunity to put on the record some of the information that I was referring to. We see almost 15,000 liberations per annum. In 2022-23, there were more than 4,000 liberations on a Friday, but there were 2,613 liberations on a Thursday. To be clear, I say to Mr Findlay again that, in most cases, those whose liberation date falls on a Thursday will be released on a Wednesday. I assure him again that the Scottish Prison Service is using its opportunities to release prisoners on Mondays, Tuesdays, Wednesdays and Thursdays, and not on just three days a week.

Russell Findlay: It is great that the cabinet secretary has that data. However, I go back to the point that I was trying to make, which is that we did not have it. On the point about the days of the week, if we followed the approach to its logical conclusion, we would end up with releases on only one day of the week: Monday. It does not make sense. The cabinet secretary has still not addressed the point that was made by members of her party and others across the parties in the Criminal Justice Committee's stage 1 report.

As Jamie Greene said, the provision to reduce the number of days of the week on which prisoners may be released has been arrived at through a failure by the Government to properly fund the services that support prisoners. The cabinet secretary talked about services not being available 24/7, but I do not think that it is too much to ask for them to work from 9 to 5.

For all those reasons, I intend to press amendment 10. I ask members to give proper consideration to supporting it.

The Deputy Presiding Officer: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Hacro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellhill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)

Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 27, Against 83, Abstentions 0.

Amendment 10 disagreed to.

Amendment 11 moved—[Russell Findlay].

The Deputy Presiding Officer: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members should cast their votes now.

The vote is now closed.

Kenneth Gibson: On a point of order, Presiding Officer. The system did not work. I would have voted no.

The Deputy Presiding Officer: Thank you, Mr Gibson. Your vote will be recorded.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)

Lennon, Monica (Central Scotland) (Lab)
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 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O’Kane, Paul (West Scotland) (Lab)
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 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 27, Against 84, Abstentions 0.

Amendment 11 disagreed to.

Amendment 12 not moved.

After section 6

The Deputy Presiding Officer: Group 9 is on release of short-term prisoners. Amendment 83, in the name of Russell Findlay, is the only amendment in the group.

Russell Findlay: This amendment is, as before, about building public trust and confidence by striving to improve sentencing transparency. In 2015, Nicola Sturgeon stated:

“Our objective remains to end the policy of automatic early release completely as soon as we are able to.”—*[Official Report, 2 April 2015; c 19.]*

Eight years later, however, automatic early release remains in place for criminals sentenced to four years or less. Every single prisoner is set free early, regardless of how badly they have behaved in prison or what risk they might pose to the public.

Amendment 83 can finally put that right. It would mean that the release of an offender sentenced to four years or less must be approved by either the Parole Board or the relevant prison governor.

There are frequent examples of those automatically released early who go on to commit heinous crimes. Martin Stewart is a serial criminal who was jailed for two years for robbing an elderly woman. He was released after serving just eight months, yet two days later, he was back on the streets and back targeting the elderly, in this case disguising himself as a postman to do so. He then killed a 79-year-old woman in her own home in Edinburgh.

If a prison governor or the Parole Board were able to conduct an assessment of whether prisoners are fit to be released, perhaps we might prevent some of these crimes. Surely those professionals are best placed to make such critical assessments.

The principle behind amendment 83 is that prisoners should have to demonstrate improved behaviour and that they are safe to be released. At stage 2, my version of this amendment gave only the Parole Board the power to approve release but, due to the risk of overloading the board, I have widened my amendment to give prison governors the power, too. That will, I think, help share the burden. Crucially, the amendment allows sentences imposed by sheriffs and judges to be served in full, unless an offender can prove that they have improved their behaviour and are fit for release.

This is, I believe, common sense, and I hope that all members agree with me—and, indeed, with Nicola Sturgeon.

I move amendment 83.

Maggie Chapman: Automatic early release has been part of our justice system for 30 years, and ending it would represent a significant change to that system. However, ending it in this way would be quite concerning with regard to process. The proposal was not subject to specific consultation, nor was it a focus of the bill’s consultation or scrutiny, and it was not discussed at all in the committee, apart from when Russell Findlay lodged a similar amendment at stage 2. I do not consider this to be an appropriate way to legislate, and I urge colleagues to vote against the amendment if it is pressed.

Angela Constance: I appreciate that people have very strong views on automatic early release.

Amendment 83 would end it for short-term prisoners, and it would require release of all short-term prisoners to be recommended by the Parole Board or by the prison governor. However, Mr Findlay's amendment does not specify which cases the Parole Board would be the decision maker on and which cases would fall to governors.

Amendment 83 is largely the same as the one that Mr Findlay lodged at stage 2. The issue was briefly debated in the committee then, although not in nearly as much detail as a change of such magnitude would require, as I think that most members of the committee recognised. The committee members also expressed their concerns about a change of this nature being introduced at stage 2 and, as a result, Mr Findlay did not press the amendment to a vote.

19:15

Ending automatic early release for short-term prisoners would be a significant change to the justice system, with associated substantial costs; it is important that I make members aware of that. The level of change that would be needed requires careful and detailed consultation and consideration. I contend that such a change should not be made on the basis of a short debate in committee at stage 2, nor should it be made today at stage 3, when it has not been subject to any scrutiny or consultation.

I highlight again that Scotland is not alone in having a system of automatic early release. Such a system also operates in England and Wales, and in other jurisdictions in one form or another. As I said at stage 2, I am not dismissing the points that Mr Findlay has raised. The amendment raises wider and important questions about who and what prison is for, and sentencing more generally. However, as I said during the stage 2 debate, if a change were to be made, those points

"should ... be discussed ... in more detail and with context."
—[*Official Report, Criminal Justice Committee*, 17 May 2023; c 13.]

Ending automatic early release would have significant consequences for the operation of the justice and prison system, and I do not think that we should be deciding on such a fundamental shift in justice policy and practice without proper and full consideration of the consequences. That would include consultation with experts and stakeholders as well as with victims. I am interested to know why Mr Findlay thinks that it is appropriate to make such a radical change without that detailed consultation.

Amendment 83 could lead to a high prison population by substantially increasing the proportion of their sentence that short-term prisoners serve. As an illustration, if short-term

prisoners served an average of five-sixths of their sentence rather than one half, the population could be expected to rise by almost 1,400. That would have financial implications—the estimated cost of a prison place is £42,000 per annum, so this unfunded amendment could lead to additional costs of around £59 million, along with potentially significant capital costs associated with expanding the prison estate to address the increase in population.

The amendment also creates risks, as with Mr Findlay's amendment at stage 2. Although amendment 83 would result in short-term prisoners being released on licence, it makes no provision for how that is to work in practice, or for what would happen were a released short-term prisoner to breach a condition of their licence. What would happen in that instance? That needs to be thought through if the member is making a serious proposition. Under Mr Findlay's amendment, there would be no mechanism for the Scottish ministers to take any action to address that, as there is for all other prisoners who are released on licence, whose licences can be revoked and who can be recalled to prison. Such action requires a clear legislative basis that is not provided here. It is for those reasons that I ask Mr Findlay not to press amendment 83.

The Deputy Presiding Officer: I call Russell Findlay to wind up and say whether he wishes to press or withdraw amendment 83.

Russell Findlay: I start with reference to Maggie Chapman's contribution. As has been said, the bill is about bail and release, and is not about sentencing, yet there is a whole section that relates to sentencing around electronic monitoring. If the Government is able to piggyback on this legislation to talk about sentencing, I think that it is perfectly reasonable for Opposition members to do the same.

The cabinet secretary describes my proposition as "radical"; I do not think that she means that in a good way. I would like to think that it is bold and ambitious but, as far as I can see, there is no reason why it cannot be enacted. The real reason for the Government's refusal, perhaps, is that it is all part of the drive to reduce the prison population, which—as Jamie Greene stated at the outset—has not really been properly explained as the real intent behind the entire bill.

I intend to press my amendment, knowing that it will fall. Based on the conversations that we have had today and at stage 2, I urge the Scottish Government to look again at its eight-year-old commitment to put this matter right.

The Deputy Presiding Officer: The question is, that amendment 83 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is now closed.

The Minister for Small Business, Innovation and Trade (Richard Lochhead): On a point of order. My app signed out. I would have voted no.

The Deputy Presiding Officer: We will make sure that that is recorded.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
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 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
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 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
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 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)

Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 80, Abstentions 0.

Amendment 83 disagreed to.

Section 7—Release on licence of long-term prisoners

The Deputy Presiding Officer: Group 10 is on release on licence of short-term and long-term prisoners. Amendment 37, in the name of the cabinet secretary, is grouped with amendments 38 to 40, 7, 13, 14, 8, 41 and 3. I call the cabinet

secretary to move amendment 37 and speak to the other amendments in the group.

Angela Constance: Section 7 introduces a new temporary release licence for long-term prisoners. The bill does not name the licence, but the term “reintegration licence” is used in the supporting documentation, so I will use that.

There was a detailed discussion on section 7 during stage 2, and I do not propose to rehearse all of those arguments here. However, I highlight at the outset that the intention of the licence is to support the reintegration of certain long-term prisoners—for example, by helping them to link to community services and build a relationship with their supervising officer.

In addition, release on this licence provides the opportunity for structured testing in the community, which will provide further evidence to the Parole Board to inform its decision making. The approach is supported by the chair of the Parole Board.

I appreciate that there are questions about the introduction of a new temporary release licence; that is to be expected and welcomed, and I welcomed the detailed and helpful debate about this section at stage 2.

For those in the chamber who did not hear the detailed discussion when this section was agreed to at stage 2, I will make two further points. First, release on this licence will not be automatic. In the scenario where Scottish ministers can release a prisoner on this licence before their parole qualifying date, that decision will be taken by the SPS on the basis of risk assessment and consultation with the Parole Board. In circumstances when the Parole Board may direct release on this licence, it will already have considered the case and determined that the individual is suitable for release on parole. Prisoners released on this licence will be subject to conditions. Those conditions will include curfew, which can be electronically monitored, and—importantly—supervision by justice social work.

Secondly, the provision will not operate in isolation. The bill requires the Scottish ministers to prepare a statutory operating protocol to underpin the use of the new licence. That operating protocol must detail the risk assessment process that will inform release on the licence and the factors that must be taken into account when undertaking the risk assessments. It will also cover matters such as how prisoners will be monitored when they are released on reintegration licence.

I turn to the amendments. At stage 2, Jamie Greene lodged an amendment that sought to add the protection of the victim or victims of the prisoner, or of a class of person to whom the prisoner may pose a risk, to the existing list of considerations to which the Scottish ministers and

the Parole Board must have regard before releasing a prisoner on this licence.

I agreed with the principle of Mr Greene’s stage 2 amendment, if not the specific drafting of it, and I committed to lodging an amendment that would meet the same aim. My amendments 37 to 41 deliver on that commitment. They add the protection of victims to the list of legal considerations to which the Scottish ministers and the Parole Board must have regard when deciding to release on this licence.

My amendments also include consideration of the protection of members of the victim’s family and extend the protection of the public consideration to “identifiable” groups. They also ensure that that consideration is replicated for short-term prisoners in the home detention curfew process.

I turn to Russell Findlay’s amendment 7. It is clear that we have the same outcome in mind. However, Mr Findlay’s amendment does not include consideration of the protection of the victim’s family, and there is no comparable amendment for short-term prisoners who are subject to the HDC process. Therefore, I argue that my amendments go further and, for that reason, I ask Mr Findlay not to move amendment 7.

Mr Findlay’s amendment 13 aims to prevent release on the new temporary licence until the individual reaches the halfway point of their sentence—their parole qualifying date, or PQD. The bill currently provides that long-term prisoners can be temporarily released on such a licence by the Prison Service up to 180 days in advance of their PQD. That is subject to risk assessment and consultation with the Parole Board, as I have already described. Removing the ability to temporarily release certain prisoners on this licence in advance of their parole qualifying date would negate one of the main benefits of the licence, which is to provide further evidence to the Parole Board to inform its decision on whether to recommend release at the prisoner’s PQD.

The approach in the bill is supported by the chair of the Parole Board, so I ask Mr Findlay not to move amendment 13.

Mr Findlay’s amendment 14 would reduce the limit on the maximum period that an individual could spend on the licence from 180 days to eight days. One of the underpinning principles of the licence is to support the effective reintegration of long-term prisoners—for example, by providing the individual with the opportunity to make positive connections in their community and with support services. The SPS can already allow appropriate individuals to have access to the community for short periods under the existing regime of

temporary release. Where appropriate, the SPS can permit periods of home leave of up to a maximum of seven nights.

In the light of that, reducing the new temporary release licence to a maximum of eight days would simply duplicate the existing home leave arrangements. Amendment 14 would undermine the intention of the licence, which is to provide a more sustained period of structured testing in the community to improve a prisoner's chances of a successful, and safe, reintegration, so I ask Mr Findlay not to move it.

Amendment 8, which is also in the name of Mr Findlay, seeks to add individuals who are subject to the sexual offences notification requirements to the list of statutory exclusions from release on this licence. That issue, too, was debated at stage 2. The list of existing statutory exclusions in the bill does not include offence-focused exclusions, and there are reasons for that. The approach in the bill is based on feedback that we received during the consultation, and from stakeholders, that decisions about release should be based on risk assessment, not on offence type alone. I know that the chief executive of the Risk Management Authority, Mark McSherry, also made that point to the committee.

As I have previously highlighted, the provision has been designed with risk assessment at its core. The risk posed by all individuals who are considered for the licence will be carefully assessed and considered as part of that process and it will use offence-specific risk assessments such as those for people who have been convicted of sexual offences when required. It will help to ensure that the decisions to release on licence are informed by all relevant information. Statutory exclusions on the basis of offence type alone cut across that, so I ask Mr Findlay not to move amendment 8.

Amendment 3, in the name of Russell Findlay, seeks to remove section 7 from the bill entirely. An identical amendment was lodged by Jamie Greene at stage 2 and, although it was not pressed to a vote, it was debated thoroughly at committee. It will not surprise members to know that I do not support amendment 3 for all the reasons that I have given, and I ask Mr Findlay not to move it.

I move amendment 37.

19:30

The Deputy Presiding Officer: I call Russell Findlay to speak to amendment 7 and the other amendments in the group.

Russell Findlay: I have five amendments in this group—7, 13, 14, 8 and 3—and they all relate to section 7 of the bill, which allows Scottish

ministers to release prisoners on licence even when the Parole Board has not recommended that they do so. Scottish ministers could exercise that power before the prisoner is even halfway through their sentence. Ministers could authorise the release of a prisoner on licence a full six months before they had even reached the halfway point of their sentence, and the length of time for which a prisoner could be released on licence is six months. In practice, that means that a prisoner who was given a four-year sentence could spend 18 months in prison before being released on licence for a period of 180 days. That could be followed by permanent release on licence after the prisoner had served just half of their sentence. That makes a bit of a mockery of sentencing and risks damaging public confidence in the process.

It is worth noting that the Scottish Government's initial consultation proposed that early release should be considered after just one third of all prison sentences, with that being automatic for sentences of four years. That particular proposal was withdrawn following Scottish Conservative pressure, and it was clear that the public were not on side with it. I suspect that the proposal in amendment 37 is a way for the Scottish Government to introduce radical early release plans similar to the ones that were proposed earlier under the radar, effectively by stealth. That is why I propose that section 7 should be removed altogether, which is what amendment 3 would do.

However, if the Scottish Government does not want to remove section 7 entirely, there are other options in the amendments in the group. Amendment 7 aims to ensure that a victim's protection is considered when early release of a long-term prisoner is decided by Scottish ministers or the Parole Board. I am grateful to Victim Support Scotland for working with me on amendment 7 but, on the basis of what the cabinet secretary just said, I do not intend to move it.

There are, however, other important amendments in the group. The Scottish Government has omitted the protection of a specific victim or group of people from the bill. That seems like a strange oversight, although I note that the Scottish Government has other amendments that might seek to address that point, and I am sure that the cabinet secretary can explain that when she sums up. In addition, the Scottish Government says that the safety of a complainer should be considered under section 2 of the bill, which relates to bail and remand decisions. We are saying that a complainer's safety should also be a consideration when decisions are being made about release.

Amendment 13 would remove the provision that allows Scottish ministers or the Parole Board to

release a prisoner on licence under section 7 180 days before the halfway point of their sentence.

On amendment 14, a prisoner can be released temporarily for a period of up to eight days of home leave. The bill seeks to increase that temporary release period from eight days, which seems modest and reasonable, to 180 days, which is six full months, which goes too far. It is another radical and far-reaching proposal that seeks to reduce prisoner numbers by stealth. If amendment 14 is passed unamended, I would go as far as to say that the act of sentencing risks becoming a sham that misleads the public and betrays crime victims.

Finally, amendment 8 would exempt prisoners who are on the sex offenders register from being eligible for this type of release. Amendment 8 is also supported by Victim Support Scotland.

To recap, if the bill passes unamended, long-term prisoners can be released on licence for 180 days at a time. For the earlier stated reasons, that is wrong. For sex offenders, it is especially wrong. I would rather that members backed amendment 7, which removes that 180-day mechanism entirely. If not, I would urge them to curb its worst excesses with my other amendments in this group. I am glad that amendment 7 has, in effect, been replicated and adopted by the Scottish Government, but the other amendments are also worth pushing.

Maggie Chapman: I wish to comment on just some of the amendments in the group.

First, Russell Findlay's desire to remove the whole of section 7 with amendment 3 would remove all the provisions in the section that are expressly designed to better support the integration of certain long-term prisoners back into their communities. Providing prisoners with the opportunity to form positive connections with family, friends and others in their wider community, with the help of support services, is important for reintegration following incarceration and it helps to reduce reoffending. It promotes healthier relationships for all involved post-incarceration, which we should all welcome. It also provides the Parole Board with further evidence to inform its decision on whether to recommend release of a prisoner. The chair of the Parole Board has welcomed that. He told the Criminal Justice Committee that this

"will allow the board to direct temporary release on certain conditions, if it recommends release on parole licence. It does not have that power just now."—[*Official Report, Criminal Justice Committee*, 25 January 2023; c 7.]

He also acknowledged the importance of better integration into post-prison life, which can happen if a prisoner can talk to social work, addiction support, their general practitioner or others before

the point of release on parole licence. We should retain section 7, because structured support that will help prisoners to prepare for life after prison is vital. Therefore, I ask members to vote against amendment 3.

For similar reasons, which have been outlined by the cabinet secretary, we cannot support amendments 13 and 14. Finally, I welcome Russell Findlay's intention not to press amendment 7.

Jamie Greene: In relation to the amendments in this group, I will briefly say two things. One is to thank the cabinet secretary for responding to my amendments at stage 2, which are now reflected in amendments 37 to 41, which we will support and which I encourage all members to support. I would like to put that on the record. I appreciate that, at stage 2, we draft amendments in a way that we think is appropriate, but, sometimes, it is pointed out by the large entourage in front of us in stage 2 proceedings in committee that there are technical deficiencies in our drafting. The same is probably true at stage 3 as well, unfortunately, but such is the nature of how we legislate in the Scottish Parliament.

On more substantive points, though, I note that we have grappled with the issue of release of long-term prisoners on licence. Having reflected on it considerably, it seems to me that it is a massive jump between the status quo and what the Government is proposing and that 180 days—in effect, six months—is a disproportionate amount with regard to a relatively short sentence. I wonder why the Government took that approach rather than a tapered approach, for example, that was relative to the length of the sentence.

What Russell Findlay was saying is that for someone on a four-year sentence—which is generally the headline that you read in the newspaper—the assumption is that they would be eligible for automatic early release by two years into their sentence. However, this bringing forward of a release date by six months will reduce a four-year sentence, to all intents and purposes, to 18 months.

When the Government consulted on that, one of the questions that was put was about the potential to reduce automatic early release from 50 per cent of the sentence to a third, which was a massive jump. It is fair to say that that went down quite poorly among stakeholders and it was quite quickly dropped from the drafting of the bill. However, it has sort of snuck in the back door, because 18 months served for a four-year sentence is not far off a third, if you look at it that way. I appreciate that it is release under licence, but it is something that we have to reflect on. I am uncomfortable with it, to be quite honest, which is

why I support Russell Findlay's amendments in this vein.

The Deputy Presiding Officer: Thank you. I call the cabinet secretary to wind up.

Angela Constance: Let me be clear: the provisions at section 7 have been part of the bill since it was introduced, and they have, of course, been subjected to full scrutiny, so I take exception to the notion that those provisions have been sneaked in.

I will emphasise a few points. The new reintegration licence is not automatic, and it is for up to 180 days. The important point is that it is available only to long-term determinate prisoners, so it is not a licence for life-sentence prisoners. Long-term determinate prisoners will be released, and it is therefore appropriate that we have a number of tools in order to prepare prisoners for that release. The measure is not an automatic entitlement. In fact, it might benefit only between 75 and 200 prisoners at any one time. Risk assessment is core.

Russell Findlay: It is worth pointing out again how helpful it would have been if we, as members of the Criminal Justice Committee, had the kind of data and statistics that the cabinet secretary has just quoted to us in defence of her bill. That would have made our job much easier.

Angela Constance: The figure that I have quoted for the number of prisoners who are anticipated potentially to have access to the reintegration licence is taken from the policy memorandum accompanying the bill, and I am quite sure that all members of the Criminal Justice Committee will be well acquainted with the policy memorandum. I am afraid that I have not made any startling revelations to Parliament on that today.

It is important that the focus of our deliberations is around risk assessment and consultation with the Parole Board for Scotland. One of the commitments that I made to the committee at stage 2 was to keep it fully informed as to how the standing operating procedure would develop.

We need to have the courage to acknowledge that successfully preparing prisoners for release and reintegration leads to better rehabilitation, and that leads to better community safety. I would dispute that that proposition is particularly radical; it is of course learned from experience elsewhere in Europe—in the Netherlands and Norway. I know that some members of the committee certainly cast an eye to that broader European experience where countries have achieved better results with the rehabilitation of offenders.

Amendment 37 agreed to.

Amendments 38 to 40 moved—[Angela Constance]—and agreed to.

Amendment 7 not moved.

Amendment 13 moved—[Russell Findlay].

The Deputy Presiding Officer: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

19:45

The Deputy Presiding Officer: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)

Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 83, Abstentions 0.

Amendment 13 disagreed to.

Amendment 14 not moved.

Amendment 8 moved—[Russell Findlay].

The Deputy Presiding Officer: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
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 Marra, Michael (North East Scotland) (Lab)
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 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
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 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 82, Abstentions 0.

Amendment 8 disagreed to.

Amendment 41 moved—[Angela Constance]—and agreed to.

Amendment 3 not moved.

After section 7

The Deputy Presiding Officer: We move to group 11, which is on powers to block release. Amendment 84, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene: I thank members for their forbearance—it has been a long day.

Group 11 contains one amendment, which concerns a sensitive issue. I hope that members will bear with me while I explain it. I make no apology for bringing the issue back to the chamber. The bill is about bail and release, and amendment 84 concerns release in a specific circumstance. That issue is important to me, as it featured in the consultation on my proposed member’s bill on victims. It is more commonly known as Suzanne’s law, which has featured in debates in the chamber in recent years. When I consulted on a broader issue, as opposed to a solution to the current situation, I posed the following question:

“Which of the following best expresses your view of the proposed aims of implementing Suzanne’s law whereby an offender convicted of murder could be denied release on the grounds that they have failed to disclose the location of the victim’s body?”

That is the essence of what Suzanne’s law is about. The response was overwhelming and quite clear: 85 per cent of those who took part in my consultation either fully or partially supported the proposal.

I know that the Scottish Government has historically been keen to address the issue and I give it credit for that—but for that alone. When Humza Yousaf was the justice secretary, back in 2019, he announced that he would introduce a form of Suzanne’s law. I understand that laws are not laws until we see them in black and white, but when Government ministers seem to make promises, they are received by the public as such.

The announcement was welcomed and was well received at the time. Kate Wallace of Victim Support Scotland said:

“We welcome this announcement, which includes the introduction of Suzanne’s law.”

That shows that there was an expectation that the Government was moving in a certain direction.

More recently, the Scottish Government went as far as consulting with the Parole Board about what could be done. I am sure that we will hear more about that from the cabinet secretary. In February of this year, the Scottish Government issued a press release that effectively lauded its moves to introduce Suzanne’s law. I have a copy of that press release here. It hit the headlines and appeared in a much-read BBC News story. After it was released, I was contacted by some of the families affected by this scenario, who were frankly disappointed because, when you scratch below the surface, it is clear that the solution on offer is far from ideal and certainly does not go far enough in delivering what was promised.

In fact, it does not really go anywhere. Our Criminal Justice Committee papers show that, on 8 February, I sought clarification about what the Parole Board changes would mean in practice and we were told that the disclosing of the whereabouts of a victim's body

"may be considered where relevant, but does not change the underlying test for release applied by the Board".— [Official Report, Criminal Justice Committee, 8 February 2023; c 14.]

To me and to the families who contacted me, that felt like a massive fudge.

An offender who refuses to reveal the location of their victim's body when they know where that body is can, under the current rules, still be released, because that has very little effect on decision making. [Interruption.] This is quite a sensitive subject, and I hope that members will bear with me. I know that it is late in the day.

When a family loses a loved one to murder, the simplest comfort that we can offer them is information about where their loved one may rest, so that they can properly put them to rest.

Suzanne's law is called Suzanne's law for a very good reason. Suzanne Pilley was murdered by a colleague, but the comfort of being able to bury Suzanne is one that her family is yet to realise, and I do not know whether they will ever be able to. They are not the only such family. Suzanne's murderer will be eligible for parole in the next couple of years, so this is a live issue. I am grateful that it does not affect many people, but it badly affects those whom it does affect.

My amendment 84 is one of the ways in which I have tried to resolve the issue. The Parole Board was quite clear that the meaningful introduction of anything like Suzanne's law can be achieved only through legislative change. Amendment 84 might provide that change. It states that, in the Parole Board's exercising of its function under the 1993 act, which affords it the

"duty to release discretionary life prisoners",

we should add one simple, additional and vital test, which is that

"the Board is satisfied that the prisoner concerned has no information about where or how their victim's remains were disposed of which that person has not disclosed".

I am talking about knowingly not disclosing—not about being unable to disclose or having forgotten, but about knowingly not disclosing.

To be clear, and before I am accused of doing so, this is not the introduction of whole-life sentences through the back door; this is about the power of release and the Parole Board's decision-making process. Nor is it imposing a definitive bar on releasing someone, in contradiction of any human rights that they may hold. I have heard all

the imaginable arguments about that and I understand them. What the amendment does is ensure that the board is wholly satisfied that the offender is not, in its opinion, willingly withholding that information.

I am sorry to say that there are other stories like Suzanne's out there. The amendment will affect only a small number of people, but the insufferable pain of seeing a murderer released on parole when they know that we know that he or she knows the whereabouts of the victim is unacceptable.

A number of organisations wrote a joint statement in response to my amendment, which states that they

"are strongly supportive of Jamie Greene's proposed amendment to the Prisoners and Criminal Proceedings (Scotland) Act 1993. ... Victim Support Scotland's Support for Families Bereaved by Crime Service are acutely aware of the suffering and anguish victim's families face when they are denied this information by the perpetrator ... As such, this amendment has the potential to have a significant impact on the experiences of families bereaved by crime."

I ask members in the chamber to just do the right thing here. We have heard far too many warm, well-intended and well-meaning words over the years, but they deliver nothing. Let us deliver something meaningful.

If the Government chooses to reject the amendment—perhaps even sensibly, respectfully or for technical reasons—I ask it at the very least to come up with a proposal of its own in its place.

I move amendment 84.

Angela Constance: I acknowledge that this is a live issue for families and a deeply sensitive one. I will not for a minute cast any aspersions that the member did not lodge the amendment for the very best of reasons.

I appreciate that amendment 84 speaks to an issue that Jamie Greene and others have raised previously in the chamber, including with me, although it has not specifically been raised during the passage of the bill. I know that Mr Greene and many others feel very strongly about the issue, and I share his concern for the families of murder victims who are not able to properly say goodbye to their loved ones and lay them at peace. It is difficult to imagine anything worse.

Amendment 84 would require the Parole Board not to recommend the release of a life-sentenced prisoner unless it was satisfied that the prisoner had no information that they had not previously disclosed about how or where their victim's remains had been disposed of. I say to the member that the Parole Board already takes such matters into account when considering release, and it does so for very good reasons. Not

disclosing where the victim's remains are is highly germane to someone's progressing or not in rehabilitation and their having insight or not into their past behaviour, so the matter is highly relevant.

To put that beyond doubt, a specific provision was added to the Parole Board rules to make it clear that

"failure to reveal a victim's remains' is a matter that the board might take into account"

when deciding a person's release from prison. That provision came into force on 1 April 2023. I have listened to what the member has shared on the matter, but there is a legislative basis for Parole Board rules, although I know that many people will continue to campaign for them to go further.

Before I go into all the reasons that Mr Greene would expect me to go into—around ECHR and some of the drafting issues with the amendment—I acknowledge that we are all acutely aware that this is about grieving families and humans, and I am conscious that I am about to go into some of the more technical reasons for rejecting the amendment.

20:00

There are genuine difficulties, and not just for Scotland. I had a close look at the changes that were made in England—not to compare negatively, but because it is the nearest jurisdiction to this country—and it is wrestling with many of the issues with which we are currently wrestling. Although some of the language in England is a little bit different—England is a different jurisdiction—it does not alter the underlying risk-based test for the release of a prisoner, and it does not mean that a prisoner who does not disclose the information will not be released. As with many factors in the justice system, including those concerning the release of prisoners, as soon as we move to something that is far more definitive, absolute and prescriptive, we will see all those ECHR and other issues kick in. If matters are crafted in a way that gives discretion to the Parole Board, although that may seem unsatisfactory, it might result in a stronger position.

If members will forgive me, I will go through these less humane reasons for rejecting the amendment. It is important that I do so, not least because people will want to consider matters further in the future and it is important that I put these matters on the record.

Amendment 84 would cover all life-sentenced prisoners, including those who have not been convicted of murder. Therefore, as drafted, it

would have too wide a reach, which may also lead to uncertainty as to how it operates in practice.

It is not clear how the board would be satisfied that the prisoner had no information about the whereabouts of the remains of their victim. I am not clear what the test would be for that.

As I have alluded, there may also be significant ECHR concerns. Article 3 of the ECHR requires a life sentence to include safeguards against indefinite detention without the possibility of release, although that does not mean that everyone is or should be released. Mr Greene's proposal, which would require a prisoner to be held indefinitely until they provided certain information—notwithstanding that they might not know or remember the information in question—might be in direct contravention of article 3. Of course, I heard Mr Greene articulate what his amendment would not do.

Amendment 84 also suggests that prisoners would be detained for longer than the punishment part imposed by the court, with no possibility of parole, due to lack of co-operation. That takes us back to some of the sentencing issues, and it might raise issues of arbitrary detention contrary to article 5 of the ECHR. It might also interfere with the right to silence that is protected by article 6.

In my view, decisions on release are best taken by expert members of the Parole Board after they have taken account of all relevant information. Information such as that which we are discussing is, indeed, relevant, for the reasons that I have outlined.

I would also note that the failure to disclose the location of a body can already be prosecuted as a criminal offence of attempting to defeat the ends of justice. The court can and will also take into account the refusal to disclose the location of a body when sentencing.

For all those reasons, I do not support amendment 84 and I ask Mr Greene not to press it.

I acknowledge the human considerations and the suffering that Mr Greene has outlined, and I will always remain alert to opportunities to provide further comfort and redress to families who live with unimaginable pain. I do not know what those opportunities will be and I am not going to lead anybody up the path or make false promises, but I am sure that I and others will want to remain alert to the possibilities.

Jamie Greene: I thank the cabinet secretary for her comments, which I appreciate. I am not going to debate the technicalities of why amendment 84 is flawed, which I can see for myself. I guess that there are limitations to what one can do at stage 3 with an issue that is as wide ranging as this one.

The cabinet secretary made an interesting point. Sometimes, many roads lead to the same destination. I am quite content with that, and I think that the families would be content, too. Sometimes, the most direct route, which involves using the bluntest instrument available to us, might be the one that creates the most roadblocks along the way, for all the reasons that the cabinet secretary mentioned. I do not want that to be the case. I am comfortable with the road being slightly longer if we still get there. That is fine by me, and I am sure that it would be fine by those families, too. I take some comfort in that.

I will make a final point. I appreciate that the proof of the pudding will very much be in the eating when these offenders are up for parole decisions. Time will tell whether what has changed in terms of the guidelines or any perceived strengthening or weakening of the Parole Board's decision making has been effective. However, is there merit in not waiting until the point at which those individuals are up for parole? I say that for a specific reason. If the offender is sitting in their cell and they know that failure to disclose certain information now might be a major factor in their not being released on parole, will they be more likely to release that information now? We do not want to have to wait and see.

The families do not want to change the law for the sake of changing the law. What they want is to get the information that discloses the whereabouts of their loved ones. I endorse any way in which we can get them that information. Whether it is through the carrot-and-stick model that I seem to be favouring or through any other model, I am not sure that the families are that fussed.

If my amendment 84 does not achieve that goal—and given that it does not sound as though the Government is minded to introduce any other primary legislation to achieve it—we need to think about what else we can do and what other comforts we can collectively provide to those families. It is to provide those families with comfort that I brought this issue to the chamber today.

I thank members for listening to the discussion on this important subject, and I hope that the cabinet secretary is willing to work with me or any other member on the matter and to meet any of the families who wish to meet her, so that she can offer them the comfort of knowing that the Parliament and the Government take the issue seriously and that we will all collectively do what we can to offer them the closure that they need and deserve. For that reason, I seek to withdraw amendment 84.

Amendment 84, by agreement, withdrawn.

Section 8—Power to release early

The Deputy Presiding Officer: We move to group 12. Amendment 42, in the name of Jamie Greene, is grouped with amendments as shown in the groupings.

Jamie Greene: Well, that is the consensual bit out of the way, and now we move to a discussion of the power to release early, which brings us back to the politics of it all.

The amendments in this group relate to a ministerial power in section 8 that in effect gives Scottish ministers the power to release prisoners early—by that, I do not mean early release in the way we talked about in relation to other sections, or discretionary release on licence; I mean actual, open-the-doors release.

In this section, the Scottish Government is affording itself a permanent power to release prisoners, in a situation where it deems to be necessary, at short notice, with no parliamentary authority or scrutiny but with conditions and exemptions attached to it. Anyone who watched the stage 2 debate on this matter will attest to the amusing and slightly bizarre exchange that we had with the cabinet secretary.

Before we discuss the issue further, we must first ask what the power is needed for. Once we have ascertained that, it will be easier for Parliament to decide whether to afford ministers the power.

Section 8 has created a massive loophole, which I will explain. When I asked the cabinet secretary why the power is needed, she claimed that the provision was necessary

“for example, in the event of a major fire in a prison.”—
[*Official Report, Criminal Justice Committee*, 17 May 2023; c 27.]

That is entirely reasonable.

Anyone who read the news this morning will have heard of the very unfortunate and horrific case of a fire in central America at a women's prison, where a large number of inmates—I think that it was 40 that we know of, and perhaps more—died as a result. I understand that it is a very real scenario. Thankfully, it has not happened in this country, but we know that, in other jurisdictions, issues such as rioting have created fires. Those are very live issues when tempers rise.

That is all reasonable enough, and I think that it would be unreasonable for members not to afford ministers the power. The problem is that section 8 goes on to set out a vast array of exemptions from that power. On the one hand, ministers are affording themselves the power of emergency release for some prisoners, but in doing so, they

have banned themselves from releasing others. There are certain categories of prisoners who cannot be released in such a scenario—for example, life prisoners, untried prisoners, those who have more than 180 days of their sentence left to serve and terrorist prisoners, to name but a few.

That raises a question: if the reason for this power is that it is completely necessary for ministers in an unforeseen and probably quite dramatic emergency, such as a flood or fire or riots—or perhaps even disease, which I will come to—why on earth would we have exemptions? That does not make any sense. In any case, if there is such an emergency scenario in a prison, it raises a further question, which is why there are not already well-established protocols in place to deal with such a problem. The solution is not simply to throw open the doors.

In the committee's wide-ranging discussion at stage 2, the example of Covid came up, because that is the scenario that we in Parliament faced most recently, when such powers were entirely relevant. As members know, we afforded ministers those extraordinary powers of emergency release in emergency legislation. As those of us who were members at that time will know, we were very quick to pass that legislation. I think that, at the time, we all knew fine well that the powers would be extended, and extended further—so they were and, lo and behold, they still exist. They have a shelf life—I understand that; it is perhaps one of the drivers for the permanence of the powers in the bill.

Therefore, I would argue quite simply that, if the Government wants a power of this nature, should we ever face an extraordinary emergency situation like Covid again, it can bring it forward in emergency legislation.

Again, it is entirely unclear what the permanent power in the bill is needed for, because there are contradictions in it. I ask the cabinet secretary the following questions, which I think have been left unaddressed. First, why is there no current contingency protocol to deal with life-threatening emergencies in prisons? Is there a legislative vacuum that exists that necessitates the power? If that is not the case and the power already exists, why are we adding to it with the bill? To date, that has been unclear. If a power is needed to save lives urgently in an unprecedented emergency, why are there exemptions?

Is there any risk whatsoever—I say this genuinely, not politically—that the power could be used in any circumstance other than a life-threatening emergency? That is to say, is there anything in the legislation that states that ministers could use the power to release a prisoner whom they deem fit for release, perhaps contrary to the

views of the Parliament, given that there would be no scrutiny in that scenario, and probably contrary to either professional or public opinion, including the Parole Board, governors and others?

We do not need to look far into the history of some prisons for examples. There is one prison very near to my home town from which one high-profile prisoner was released by Government, and we saw the controversy that that can and does attract. If the Government can make a clear case for the power, Parliament should afford it that power.

As always, I have lodged a number of amendments, which take different approaches. Amendment 4 would simply remove section 8 altogether. I understand that that is probably quite a blunt instrument, and I suspect that the cabinet secretary will ask members not to support it.

Amendment 44, however, takes a slightly different tack, and I think that members should consider it. It would remove the powers of the Scottish ministers to be able to release prisoners due to

“an event or situation which has resulted in any prison (or part of a prison) to which the regulations would relate being unusable”.

The reason for that is that it simply does not make sense for further regulations to be used in that way, because the regulations are being used to prevent quite a large category of prisoners from being released. I would argue that, if a prison or any part of a prison becomes unusable, that power should apply to all prisoners whom the emergency directly affects. Surely there is capacity in the estate to move those people elsewhere, rather than simply releasing them under emergency powers. It is quite an illogical provision.

Amendment 42 makes it clear that a person should have served at least half their sentence before any such release can take place. If that is a repetition of other amendments or what the Government perceives to be in the bill already, I will happily withdraw it.

20:15

I hope that I will get support for amendment 45, if not from the Government from other Opposition parties, because it would ensure that the Government would at least consult Parliament via a vote on any relevant decision. It would remove the Scottish Government's ability to release prisoners without a parliamentary vote. I cannot foresee any circumstances in which a group of prisoners is released en masse in response to an emergency without some form of parliamentary intervention. That can take many shapes and forms, as we proved frequently during the Covid pandemic. I was part of many a vote dialled in on

Zoom on such matters. We can do it at short notice. We can do it the next morning if required. The Government can choose to find other options.

The Government often cites the argument that powers on emergency release exist in England and Wales, so I looked at that, as well. Of course, other jurisdictions afford themselves limited powers to release prisoners early in emergency situations. They have had those powers for four decades but have not used them.

That is in stark contrast to what happened here in Scotland. The last time that the power was used, 348 prisoners were emergency early released from Scottish prisons, but 40 per cent of them reoffended within six months. That simply creates more victims and a bigger backlog in our courts. I ask that we learn from our mistakes on that. I want the Government to learn from its mistakes on it, whatever the reasons for them.

Amendments 65 and 66 carry on with that theme. I argue that there already must be robust Scottish Prison Service procedures and protocols for dealing with the type of scenario that we are talking about. One such scenario is

“the incidence or spread of infection, contamination or the source of contamination which presents ... significant harm to human health in Scotland”.

The other one is

“an event or situation which has resulted in any prison ... being unusable”.

Despite repeated requests, the Scottish Government has been unable to demonstrate why the current SPS procedures are insufficient for dealing with those scenarios. Worse still, if the release is for reasons of public health, why on earth did we release prisoners from prison—which, by its nature, is a contained environment—into the community without testing them for Covid? That happened.

The public health argument did not stack up the last time that such a power was used. That is why amendment 66 provides a safeguard. Although it adds to the reporting requirements of section 14, it is relevant to the powers that ministers want in section 8.

If the Government will not ditch those powers, which I suspect it will not, nor agree to tidy them up or even to let us have a vote on the release of prisoners, at the very least, it must explain why the current provisions are as unsatisfactory as it claims. That would give credence to the new powers.

There is a massive difference between early release and emergency release. The Government needs to be clear about the use of either of those measures. What will the power look like in the real world? I have looked at the section many times

and it is still a bit of a mess, even at stage 3. No one has sought to tidy up its many contradictions, which is why I have attempted to do so.

That is the last amendment that I will speak to in this group and, probably, the rest of the groups this evening, so I thank colleagues for listening to our arguments and voting accordingly.

Ahead of tomorrow's stage 3 debate, I refer members to their inboxes. There is an important email in them from a number of organisations that have written a joint statement to all members. I ask them to go home and reflect on it with regard to their voting intentions for tomorrow. The email that will appear in members' inboxes will be from Victim Support Scotland, ASSIST—the advocacy, support, safety, information and services together project—Scottish Women's Aid and other organisations. I appeal to members to think carefully, as they reflect on this evening's events, about how they will vote in the final vote tomorrow. I use the opportunity to raise awareness of that.

I will listen to what other members and the cabinet secretary have to say.

I move amendment 42.

The Deputy Presiding Officer: I should have advised the chamber ahead of moving into this group that, once we have dispensed with the amendments in it, there will be a further short comfort break.

Russell Findlay: For the sake of brevity and because it is late, I will speak only to my amendment 85. Jamie Greene has already spoken to his six amendments in the group, and I wholeheartedly agree with his thoughtful and considered position, which was typically well explained. Frankly, it is unclear why ministers are seeking the power to release prisoners in an emergency, but I find it strange to then exempt certain types of prisoners from that. As Jamie Greene has touched on, that includes terrorists, sex offenders, domestic abusers, those who are serving life sentences, those who face extradition and those who are yet to stand trial.

The most obvious solution to that is to back Jamie Greene's amendment 4, which would scrap section 8 entirely. He describes the amendment as a blunt instrument, but it certainly does the job. However, if the Scottish Government rejects that, it should instead support his other amendments, which seek to improve section 8. Whether or not the Government chooses to do that, I argue that it should add another type of offender to the emergency release exemption list—that category being fraudsters. I recognise that that might be a sensitive subject for some members right now, but those who commit crimes of dishonesty should be exempted from emergency release in exactly the same way as the previously stated six categories

of prisoners. I therefore intend to move amendment 85.

Angela Constance: Section 8 is an essential provision that cannot and should not be removed from the bill. Amendment 4, in the name of Jamie Greene, seeks to remove section 8 from the bill in its entirety. The same amendment was lodged by Katy Clark and debated at stage 2, and I am not surprised to see it back again. I am not disappointed, either, because I think that such powers should be debated in peacetime and not when we are in the face of an emergency. It gives a better and more rounded opportunity for any learning from past endeavours.

Although Ms Clark did not move that amendment at stage 2, I spoke in detail about the need for the provision in section 8. As the amendment has been lodged again, I will set out again why such provision is necessary. I will do my best to provide as much clarity as possible, bearing in mind that I do not have a crystal ball, and I will try to answer questions.

To ensure the security and good order of our prisons and the health and safety of prisoners and prison staff, it is imperative that we have a mechanism in place to respond immediately to emergencies in our prisons. The power to release early in the bill is intended to provide a means to release groups of prisoners if the impact that an emergency situation is having, or is likely to have, puts the security of prisons or the safety or welfare of prisoners or prison staff at risk. Put bluntly, it is for when lives are at risk. The Scottish Prison Service has robust mechanisms in place to deal with changes in circumstances within custody. That is not what the provision is for; it is intended to be used in extremis, in the event of an emergency situation that, with the best will in the world, could not be predicted.

I highlight again that I would hope never to use the power, but we have included it in the bill because, as the pandemic showed us, we have to be able to respond to the unpredictable. Unlike the United Kingdom Government, which has had a comparable and, I would argue, wider power since the 1980s, Scottish ministers currently have no legal power to instruct early release to protect the security and good order of prisons and the safety and welfare of prisoners and staff, other than specifically in response to Covid. I therefore contend that there is a legislative gap.

Without the provision in section 8 of the bill, we would be required to introduce emergency legislation if we needed to respond to an emergency situation in our prisons to protect lives. For example, in the event of a major life-threatening fire or an outbreak of a life-threatening infection or contamination in a prison, even emergency legislation would take time and it could

be time that we just could not afford if we were to save lives.

At stage 2, the Criminal Justice Committee agreed to amend the bill to extend the governor veto to include instances when it is felt that a prisoner who would otherwise be released might pose a risk of harm to an identified group of people. That adds a further safeguard to the power. Tied to that, and taking account of discussions at stage 2, amendment 43 in my name introduces guidance on the application of the governor veto. That is intended to ensure consistency of practice across the prison estate and to offer support to prison governors on how the veto power will operate in practice, if it is ever required.

To pick up on some of Mr Greene's other issues, if any decision that was made under those emergency powers was made under the made affirmative procedure, albeit retrospectively, it would still require scrutiny akin to that which Scottish statutory instruments receive, and it would be for Parliament to decide whether emergency powers or decisions were continued beyond 28 days.

The point that Mr Greene raised about the provision was about creating space in the estate, such as self-isolating an infection. The SPS has the capacity to manage such issues and that is not what this amendment or section in the bill is about. I recall that we had quite the exchange about statutory exclusions, but the sensible point is that statutory exclusions apply because of the urgency with which the power would necessarily be used. It would not be possible to undertake individualised risk assessments in such an emergency, although obviously the exceptions and the governor veto do exist.

Amendment 42, in the name of Jamie Greene, would add a requirement that only those prisoners who have served one half of their sentence and who have 180 days or fewer to serve would be eligible in any round of emergency release. As I have indicated, the emergency release power contained in the bill already has a number of statutory exclusions that essentially limit eligibility to those who are serving short-term sentences and those long-term prisoners whose release at the halfway point of their sentence has been recommended by the Parole Board.

Under section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993, short-term prisoners are already released at the point at which they have served half of their sentence, and the Parole Board can recommend a long-term prisoner for release on parole licence only at the halfway point of their sentence at the earliest. I am therefore unclear who Mr Greene thinks could be eligible. Amendment 42 therefore seems designed

to severely limit the number of prisoners who would be eligible to be released, which is perhaps the point of Mr Greene's amendment. That will be for him to clarify.

I consider that, when taken with the existing statutory exclusions and the governor veto, the additional criterion that was accepted at stage 2 that limits eligibility to those who have 180 days or fewer left to serve provides sufficient safeguards to the use of this power. As such, I would therefore ask Mr Greene not to press amendment 42.

Amendment 85, in the name of Russell Findlay, would add to the list of exclusions from eligibility for release under the power anyone who is serving a period of imprisonment for fraud. The amendment does not provide a definition of what constitutes fraud, such as whether it would include only crimes under common law definition of fraud, other crimes of dishonesty such as uttering and embezzlement or the wide range of statutory frauds. Aside from that, it is not considered that its inclusion in the list of statutory exclusions is necessary in any event.

If any person is felt to pose a risk to a victim or identified group of people, their release can be blocked using the governor's power of veto. Therefore, I do not consider the amendment to be necessary, and I ask Mr Findlay not to move it.

20:30

I turn to Jamie Greene's amendment 44, which seeks to change the definition of "emergency situation" that is currently contained in the bill to prevent the power being used in

"an event or situation which has resulted in any prison (or part of a prison) ... being unusable".

As I outlined earlier, the power is not one that we expect to use lightly. I appreciate the concern that Mr Greene outlined at stage 2 that the Scottish ministers might use the power in situations that fell short of his idea of an emergency, but I can assure him that that is not the intention. It is important that I put that on the record.

If the Scottish ministers were not able to release prisoners in the event of a prison or part of it becoming unusable and unsafe for prisoners and staff, such as in the event of a fire, flood or structural collapse, the Scottish ministers would be forced to relocate those prisoners to elsewhere in the estate. That could bring with it a range of logistical issues, such as challenges with the housing of different categories of prisoners, and it could jeopardise the security and good order of a prison, thereby presenting a risk to prisoners and prison staff. The comparable power that is available to the UK Government could potentially be exercised in situations in which a prison or part of a prison had become unusable. That would be

dependent on the circumstances of the situation as a whole, as would the exercise of the power in the bill that is being considered today.

Therefore, it is important that we retain the relevant limb of the definition of an emergency situation and, for that reason, I ask Mr Greene not to move amendment 44.

I turn to Jamie Greene's amendment 45, which would remove the Scottish ministers' ability to use the made affirmative procedure for the emergency release regulations in situations of urgency. That would significantly impair the Government's ability to take immediate necessary and proportionate action to ensure the safety and security of prisons. For that reason, I cannot support it.

The Delegated Powers and Law Reform Committee rightly scrutinised the use that is made of the made affirmative procedure in the bill, and the Scottish Government provided the committee with further detail to inform that scrutiny. I note that, in its response on the delegated powers memorandum to the bill, it stated:

"The majority of the Committee is content with the explanation provided by the Scottish Government and accepts the power in principle. The majority of the Committee is also content that the exercise of the power will be subject to the affirmative procedure but may be subject to the made affirmative in specified circumstances and by reason of urgency."

Therefore, I ask Mr Greene not to move amendment 45.

Jamie Greene's amendments 65 and 66 would require section 8 not to be brought into force until ministers had prepared and published a report on the SPS's procedures for responding to the emergency situations that are listed in the bill and had explained why those procedures did not adequately ensure the security and good order of the prisons or the health, safety and welfare of the prisoners and staff. That would be tantamount to publishing a report to explain why the power is necessary, which is an issue that we have debated in the chamber several times. I think that I have made it clear that, if we were to hold off commencing the power in question in order to publish a report of the kind that is specified in amendment 66, there is a possibility that an emergency situation could arise and we might be powerless to act quickly enough.

I do not consider that the production of such a report is necessary. I again point out that the UK Government has had a comparable power since the early 1980s, and that the power in the bill will bring us into line with it. I urge Mr Greene not to move amendments 65 and 66.

Jamie Greene: I thank the cabinet secretary for what I thought was a predictable response to my concerns. I posed many of the questions that I

posed for good reason. As the cabinet secretary said, it is better to have this debate in times of peace than it would be to have it in times of emergency. We did not have time to debate some of the issues the last time that we were asked to make what were quite drastic decisions, which many of us were quite uncomfortable about taking. We were vocal about that at the time. Therefore, it is good that we have had this debate.

However, I find it extraordinary that there is a massive legislative gap at the moment, which says that Scottish ministers currently have no emergency power to release prisoners in any “in extremis” circumstance—as the cabinet secretary put it. That conjures up a slightly worrying image that, if there were a massive issue—such as a huge fire in HMP Barlinnie, HMP Greenock, Saughton prison or elsewhere—very few options are available to ministers, and the protocol is not satisfactory, which is why the power is needed.

Even under the proposed new solution, it still seems to be a bizarre and contradictory situation in which prisoners are segregated according to type of offence and those of a certain category will be rehoused elsewhere on the prison estate while others will be eligible for release, which is my interpretation of the proposal. It still does not make a huge amount of sense. Nonetheless, I heard what the cabinet secretary said.

Amendment 45 relates to a bugbear of mine, and I am going to move the amendment. It covers the issue of parliamentary scrutiny, and it is an important amendment. We can hypothecate a lot about scenarios that we hope we will never have to deal with. However, if we do ever have to deal with such a scenario, I would like to think that the Government and Parliament have the wherewithal to pull together quickly to decide whether ministers should open the doors of our prisons, given the consequences of what happened last time. The cabinet secretary did not address that in her comments.

Amendment 42, by agreement, withdrawn.

Amendment 85 moved—[Russell Findlay].

The Deputy Presiding Officer: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

The vote is closed.

Edward Mountain (Highlands and Islands) (Con): On a point of order, Presiding Officer. I am unable to connect to the robust voting system. I would have voted yes.

The Deputy Presiding Officer: I will make sure that that is recorded, Mr Mountain.

Claire Baker (Mid Scotland and Fife) (Lab):

On a point of order, Presiding Officer. I could not connect to the app. I would have voted no.

The Deputy Presiding Officer: Thank you, Ms Baker. I will make sure that that is recorded.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowe, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)

Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sweeney, Paul (Glasgow) (Lab)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Villalba, Mercedes (North East Scotland) (Lab)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Presiding Officer: The result of the division is: For 28, Against 82, Abstentions 0.

Amendment 85 disagreed to.

The Deputy Presiding Officer: Amendment 43, in the name of the cabinet secretary, has already been debated with amendment 42.

Amendment 43 moved—[Angela Constance]—and agreed to.

Amendment 45 moved—[Jamie Greene].

The Deputy Presiding Officer: The question is, that amendment 45 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)

Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and
 Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)
 (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine)
 (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)

The Deputy Presiding Officer: The result of the division is: For 49, Against 61, Abstentions 0.

Amendment 45 disagreed to.

Amendment 4 not moved.

After section 8

Amendment 9 not moved.

The Deputy Presiding Officer: As announced earlier, I will now call a brief comfort break. The division bell will ring when members are expected to return, but the break will be for 10 minutes or so.

20:41

Meeting suspended.

20:56

On resuming—

Section 9—Duty to engage in release planning

The Presiding Officer (Alison Johnstone):

Group 13 is on release planning and throughcare support: access to prescription drugs. Amendment 86, in the name of Pauline McNeill, is grouped with amendments 87 and 88.

Pauline McNeill: The Criminal Justice Committee pursued this issue following a visit to the Wise Group. One of the issues that was raised with the committee on that visit was throughcare for those who were leaving prison but did not always have access to the prescriptions that they needed. That can be vitally important. There are many reasons why people might falter or get into more trouble when they leave prison, and it is important to ensure that they have the necessary drugs. It was reported to us that, in many cases, that does not happen.

The committee entered into an exchange with the Scottish Prison Service. I think that we have made some progress, but it seemed to me that there was an opportunity to be more specific in legislation and that there should be a mandatory requirement.

Amendment 86 would insert:

“In section 2, in paragraph (e) of the definition of ‘relevant general services’, after ‘services’ insert ‘and prescription services’.”

Amendment 87 would insert in section 10:

“the provision of, and facilitation of access to, prescription drugs.”

Amendment 88 would insert:

“Throughcare support: duty to report on access to prescription drugs ... The Scottish Ministers must, as soon as practicable after the end of the reporting period, prepare a report on the operation of section 34C during the reporting period ... The report must, in particular, include information on ... whether individuals falling within section 34B(7) have access to the prescription drugs that they require for their physical and mental health, and ... whether medical and prison services have sufficient resources to meet that demand.”

Those are the aims of those amendments.

I do not think that it is enough to have an exchange of warm words about what we would ideally want to see. Earlier in the debate, we talked about not releasing prisoners on Fridays. As far as I am concerned, setting up a system that gives prisoners the best chance of reconstructing their lives on release is an absolute necessity.

They should not be leaving prison without their prescription drugs.

I will not press the amendment if the minister gives me anything in response that indicates that the Scottish Government takes a very strong view on the matter. However, I really think that it is not too much for us, as a Parliament, to ask that the Scottish Prison Service and the national health service ensure that prisoners who have served their sentence have, on release into the community, the prescription drugs that they need in order to live their lives.

I move amendment 86.

21:00

Angela Constance: Pauline McNeill's amendments, in various ways, look to highlight the issue of the continued supply of prescribed medications to prison leavers. I thank Pauline McNeill for raising that issue, and I agree that continued access to prescription medications is an important and essential part of the transition between custody and the community for prison leavers.

That is why the bill includes provision that health partners must be consulted in the preparation of the throughcare support standards. Those bodies must also comply with those standards in exercising functions in relation to the provision of throughcare support, in recognition of the fact that continued healthcare support, including access to medications and addiction support, is an essential part of throughcare and release planning—it is not optional.

Amendment 86 seeks to add “prescription services” to the existing definition of “relevant general services” in section 2 of the Community Justice (Scotland) Act 2016. I very much appreciate the intention of Ms McNeill's amendment, but I consider that it is unnecessary, given that the 2016 act already includes “physical and mental health” services and support in the definition of “relevant general services”. That definition therefore enables bodies engaging in the throughcare and release planning duties that are referred to in the bill to consider the provision of medication and other prescription services as part of the wider physical and mental health services to be provided. As such, it is not necessary to add a specific reference to “prescription services” to the definition of “relevant general services”.

Amendment 87 seeks to add

“the provision of, and facilitation of access to, prescription drugs”

to the definition of throughcare support services in the bill. Once again, that is unnecessary, as the

definition of “throughcare support” in section 10 includes help to access—

Pauline McNeill: Will the cabinet secretary give way?

Angela Constance: Yes.

Pauline McNeill: The cabinet secretary has mentioned existing provisions, but we are still finding that there are gaps in the delivery of the service. I acknowledge that simply passing the amendment might not necessarily fix that issue, but we cannot simply rely on provisions from 2016 legislation that have been shown to not happen in every case. I am just wondering what more can be done here.

Angela Constance: Ms McNeill makes a point about practice, but I am responding to the specifics of her amendments and saying—perhaps in a rather arcane manner—that they are not required because the provision already exists.

We are adding to the provisions that already exist pre-release planning, which will not be optional. For the first time, pre-release planning duties will be placed on other actors in the public sector. This is not just about justice social work and the Scottish Prison Service. Those actors will include our health service, which has to be at the table because it, too, has a duty of care. People have a human right to their medication—end of. I do not know how I could put my feeling more strongly and in an appropriate parliamentary fashion.

I am sorry to say that I consider Ms McNeill's amendment 87 unnecessary, as the definition of “throughcare support” in section 10 includes help to

“access and make use of relevant general services”,

as defined in the 2016 act, but carried forward into this legislation. That includes health services. That provides further comfort that any necessary support can be provided under the existing drafting.

Amendment 88 would require the Scottish ministers to produce a report on the operation of section 34C, which requires various bodies to comply with the throughcare standards. The report would have to include specific reference to whether individuals have accessed prescriptions. I understand the intention of amendment 88, and I lodged amendments 60, 61 and 64 to require the Scottish ministers to report on the operation of part 2 of the act overall. Therefore, a requirement to report on the operation of section 34C in particular would create duplication.

I appreciate that Ms McNeill and the other Criminal Justice Committee members have taken a strong interest in how individuals who are

released from prison are supported to receive the prescription medication that they need. Members may be aware of the guidance that has been developed in recent months regarding the provision of medication and prescriptions to individuals at the point of their release from custody. That guidance has been developed by the prison healthcare network and circulated to prison healthcare providers. The guidance includes instructions on how individuals should be provided with a letter upon release detailing their current medication, which can be presented to a community general practitioner, and that, on release, individuals are to be given medication or a suitable prescription for particular medications that are sufficient for 28 days after their release.

On that basis, I invite Ms McNeill not to press amendment 86 and not to move amendments 87 and 88.

Pauline McNeill: I thank the cabinet secretary for the thorough answer, and for the strong statement that the provision of medication is not optional and that there is a partnership arrangement on release. If I do not press my amendments, I hope that the cabinet secretary will not mind that I will hold her to that statement. As has been acknowledged, the Criminal Justice Committee felt strongly about the issue. When we make visits, we try to act on what we have heard. I know that other members feel strongly about the issue, too. On that basis, I seek to withdraw amendment 86, and I will not move the other amendments in the group.

Amendment 86, by agreement, withdrawn.

The Presiding Officer: Group 14 is on release planning. Amendment 46, in the name of Audrey Nicoll, is grouped with amendments 47 to 49.

Audrey Nicoll (Aberdeen South and North Kincardine) (SNP): The importance of well-planned support for people on release from prison was a theme that the Criminal Justice Committee heard about at length during our scrutiny of the bill. In my constituency MSP role, I have engaged with a number of stakeholders on release planning and on how provision around the process of release could be improved. That is why I welcome sections 9 and 10, which seek to start that release planning at an early point and will drive consistency in the provision of throughcare support for people leaving prison. I am also clear that that will contribute to keeping victims and people leaving prison safe. In our stage 1 report, the committee broadly welcomed those sections, and we will be watching their implementation with great interest.

Another theme that was raised during the scrutiny, and which I feel very strongly about, is the importance of supporting people who are

released direct from court, usually following a period of remand. I understand that, in those circumstances, release is difficult to anticipate and plan for, which makes accessing services extremely difficult for those individuals, rendering them on occasion extremely vulnerable.

I recognise that section 9, as drafted, would cover that scenario, as it covers release planning for remand and sentenced prisoners. However, I want to ensure that the Scottish ministers and, indeed, Parliament have additional levers if further action is considered necessary to make improvements in this area. I therefore consider that the Scottish ministers should have the power to make further provision in the area if they need to, particularly in relation to supporting people who are released directly from court following a period of remand, given all that we now know about how challenging that is.

My amendments 46 and 47 would hence provide ministers with regulation-making powers to make further provision in this area, should they need to. My amendments specifically reference the issue of release direct from court, following time on remand. I believe that Parliament must have a role in scrutinising any future use of the powers, so my amendments require that they be subject to the affirmative procedure.

I hope that those powers are not needed and that sections 9 and 10 work as intended. However, I feel that the additional powers would be helpful to ensure that the outcomes that we all seek—reductions in reoffending and better outcomes for people leaving prison—are achieved.

I move amendment 46.

Angela Constance: The importance of well-planned and holistic support for people leaving prison is a theme that has run through a lot of conversations that I have had. In order to be successful, release planning must start from the beginning of a person's time in custody, regardless of the length of sentence or whether they are there on remand. That is how we will help people to resettle successfully into their communities and their families, and it is how we will keep them and others safe. That is what the bill aims to do.

The release planning process introduced by the bill should lead to community-based services getting involved at an earlier point in a person's sentence, co-operating to plan the prisoner's release and supporting them through the prison gates and beyond. Section 9 intends to deliver all those things, and I believe that successful implementation of that section of the bill, along with the throughcare standards, will drive real and effective change.

I welcome Audrey Nicoll's amendments 46 and 47, which would provide Scottish ministers with regulation-making powers, to make additional provision in this critical area, with the approval of Parliament, should we need it. I am particularly supportive of the specific reference in Ms Nicoll's amendments to those powers providing the ability to

"make further provision about ... the development, management, and delivery of release plans"

for individuals released direct from court following remand. I am clear that the existing provisions in section 9 would cover that group of people.

However, recent discussions that I have had on this issue, including last week, with leaders from the justice, health, local government, voluntary and housing sectors, have highlighted the challenges of providing effective support to people released in that way, and the consequences when such support is not there.

I take this opportunity to thank Sandra Geddes for meeting me, at the request of Douglas Lumsden. Sandra spoke to me about this very issue at a meeting at which Mr Lumsden was also present, supporting her. Sandra's brother Alan was tragically murdered by an individual who had been released direct from court with no support package. I recognise Sandra's courage and determination in continuing to push for improvements in the way that people released direct from court are supported. I hope that the changes that we are making through the bill will go some way to achieve that.

As I said at stage 2, I think that much of the answer to the issue lies in non-legislative solutions, and that certainly reflects the tone of the round-table discussion that I had last week. However, this is a difficult and long-standing issue. I therefore think it is prudent for ministers to have the ability to make additional provision, should we need it, to ensure that the release planning duty operates in the way that is intended, so that everyone leaving prison, whether following remand or their sentence, has their release planned for as much as possible. I therefore support amendments 46 and 47.

I turn to the amendments in my name. Amendment 48 responds to amendments lodged by Katy Clark and Jamie Greene at stage 2. Those amendments called for the Scottish ministers to publish guidance and standards applicable to the development of release planning in Scotland, and to publicly consult on those. As I highlighted at stage 2, I was not persuaded of the need for standards in this area, as I felt that they would duplicate the throughcare standards that ministers are required to develop under section 10.

I did, however, agree with the principle that guidance to underpin the delivery of the release planning duty to ensure consistency in its application would be valuable. Amendment 48 provides for such guidance and amendment 49 is an associated technical amendment.

21:15

Amendment 48 requires the Scottish ministers to publish guidance on the application of the duty to engage with the development, management and delivery of prisoners' release plans within a year of the section coming into force and before the duty itself is enacted. That will provide partners with clarity on their roles and responsibilities from the outset.

In developing such guidance, ministers are required to consult a number of named partners. Members will note that that list includes a wide range of expertise, including the victim support organisations to ensure that victim safety issues are taken into account in the drafting of the guidance. The named partners who must comply with the release planning duty, as set out in section 9, must, when doing so, have regard to that guidance.

Jamie Greene: Will the cabinet secretary give way?

Angela Constance: Eh, okay—yes. *[Laughter.]* I am sorry. Yes—absolutely.

Jamie Greene: Please do not sound so enthusiastic, cabinet secretary. I will try to make my intervention as interesting and relevant as possible.

There was an issue at stage 2, in that Conservatives felt that there was a need to include victims organisations in the consultation, but, in doing so, did not want to unduly assign any statutory duties to them to deliver throughcare. There is a fine balance to be struck, which I hope that amendment 48 will deliver.

Angela Constance: I will make two points on that. We have to consult victim support organisations on the guidance that I have just mentioned. We have committed to holding a public consultation on throughcare standards once they are in draft form. That will be a full public consultation, which I will go on to talk about in my remarks on the next group of amendments.

Douglas Lumsden (North East Scotland) (Con): I will briefly speak to amendment 48. I thank the cabinet secretary for meeting me and Sandra Geddes. Although I was disappointed that my amendment at stage 2 was not agreed to, I genuinely welcome the Government's engagement and the spirit in which its amendment 48 has been lodged.

As Sandra Geddes said at our meeting, we will be watching carefully how the throughcare and release services develop so that the despicable crime that happened to her brother Alan Geddes does not happen to anyone else. For Sandra, the search for answers as to why her brother was murdered goes on, as she still campaigns for a fatal accident inquiry to be held into his death.

Amendment 48 might bring about improvements to the release process. I welcome it, and I look forward to seeing the changes in the guidance that it will bring. I will be happy to contribute further to its development as it comes through.

The Presiding Officer: I call Audrey Nicoll to wind up and indicate whether she will press or withdraw amendment 46.

Audrey Nicoll: I am grateful to the cabinet secretary for supporting amendments 46 and 47 in my name. I welcome the additional amendments that she lodged, which provide comprehensive detail on the guidance set out on release planning. I have nothing further to add beyond the points that I set out earlier. I will press amendment 46.

Amendment 46 agreed to.

Amendment 47 moved—[Audrey Nicoll]—and agreed to.

Amendment 48 moved—[Angela Constance]—and agreed to.

Section 10—Throughcare support

Amendment 49 moved—[Angela Constance]—and agreed to.

The Presiding Officer: Group 15 is on throughcare support. Amendment 50, in the name of the cabinet secretary, is grouped with amendments 51 to 59

Angela Constance: Presiding Officer, the amendments in the group are all in my name and relate to the creation of minimum statutory standards of throughcare support. Amendment 50 changes the timescale for the first set of throughcare support standards to be published from one year to within two years of section 10 coming into force. To be absolutely clear, the reason for extending the statutory time period for this work is to allow for a significant period of consultation and joint development of the standards.

A consultation requirement was set out in the bill as introduced and supplemented at stage 2 by the addition of victim support organisations, families and organisations such as the Risk Management Authority to the list of required consultees.

My other amendments in the group will require an additional public consultation, which must be

open for a minimum of 12 weeks. Publishing the standards within the original timeframe of one year would not allow for that extensive consultation to be carried out to the highest possible standard and incorporated into the standards. I want to get these standards right, and that involves allowing time to properly listen to the stakeholders and communities that are affected. I have made it clear that this is a priority issue for me and I will ensure that the development of the standards maintains momentum and is completed as soon as is reasonably practicable.

Amendment 57 requires that the Scottish ministers publicly consult on a draft of the initial set of throughcare support standards. The draft will have been developed in consultation with the partners that are named in section 10. The initial engagement with named partners and the development of a draft will include a review of existing practice and will explore the potentially different needs of different groups of people—for example, those released direct from court. That issue was raised by Douglas Lumsden MSP and by others on the Criminal Justice Committee at stage 2. I know that this is an important issue that many are very concerned about and I thank members for their contributions on it.

Following that initial engagement, an open consultation on a set of draft standards will be undertaken. As I mentioned, the public consultation will last a minimum of 12 weeks. The addition of the further, public, consultation allows communities and individuals who are affected by the throughcare standards to have an opportunity to shape what they look like. That has been informed by Katy Clark's amendment 42 at stage 2 and by engagement with victim support organisations.

At the conclusion of the public consultation, the Scottish ministers will be required to publish an assessment of the responses and how they have been taken into account. My other amendments in the group ensure that the requirement to publicly consult applies only to the first set of throughcare support standards. The Scottish ministers will not be prevented from conducting further public consultations on significant revisions to the standards. However, a full public consultation will not be required every time that changes are made, for example if the standards are updated to reflect a change in another policy area, such as housing. The Scottish ministers will however be required to consult the named bodies in new section 34B(4) of the 2016 act in respect of any revisions to the standards.

Those standards will be vital to ensuring that throughcare support is consistent and reflects best practice across the country. Ensuring the availability of high-quality throughcare support will

help people to reintegrate and work towards more positive outcomes after a period in custody. This in turn will reduce reoffending and keep our communities safe. That is why it is essential that communities are engaged in the development of those standards and have sufficient time to engage meaningfully. I urge members to support my amendments 50 to 59.

I move amendment 50.

The Presiding Officer: Thank you, cabinet secretary. No other members have requested to speak. Perhaps the cabinet secretary would like to wind up at this point.

Angela Constance: I would not. [*Laughter.*]

The Presiding Officer: Thank you, cabinet secretary.

Amendment 50 agreed to.

Amendments 51 to 54 moved—[Angela Constance]—and agreed to.

Amendment 55 moved—[Angela Constance].

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

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dowey, Sharon (South Scotland) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 Findlay, Russell (West Scotland) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)

(Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hoy, Craig (South Scotland) (Con)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)

Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O’Kane, Paul (West Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)

The Presiding Officer: The result of the division is: For 90, Against 20, Abstentions 0.

Amendment 55 agreed to.

Amendments 56 and 57 moved—[Angela Constance]—and agreed to.

Amendment 58 moved—[Angela Constance].

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

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

Jamie Greene: On a point of order, Presiding Officer. I would have voted yes.

The Presiding Officer: I can confirm that your vote was recorded, Mr Greene.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dowey, Sharon (South Scotland) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 Findlay, Russell (West Scotland) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)

Greer, Ross (West Scotland) (Green)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hoy, Craig (South Scotland) (Con)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ross, Douglas (Highlands and Islands) (Con)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)

Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O’Kane, Paul (West Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)

The Presiding Officer: The result of the division is: For 93, Against 18, Abstentions 0.

Amendment 58 agreed to.

Amendment 59 moved—[Angela Constance].

21:30

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

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dowey, Sharon (South Scotland) (Con)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 Findlay, Russell (West Scotland) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)

Hoy, Craig (South Scotland) (Con)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lumsden, Douglas (North East Scotland) (Con)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Simpson, Graham (Central Scotland) (Con)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O’Kane, Paul (West Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)

The Presiding Officer: The result of the division is: For 92, Against 18, Abstentions 0.

Amendment 59 agreed to.

Amendments 87 and 88 not moved.

Section 11—Provision of information to victim support organisations

Amendments 89 and 90 not moved.

After section 11

The Presiding Officer: We move to group 16, on reports on operation of part 2. Amendment 60 is grouped with amendments 61 and 64.

Angela Constance: Amendment 60, in my name, responds to a number of non-Government amendments that were lodged at stage 2 by Katy Clark and Russell Findlay that sought to place various reporting requirements on Scottish ministers in relation to several provisions in part 2 of the bill. I agree that it will be important to review the impact of those provisions, which is why I committed to lodging a stage 3 amendment to encompass all the various asks for reviews into different sections of part 2 to provide a more coherent picture. Amendment 60 delivers on that commitment.

Amendment 60 introduces a new section, which places a duty on Scottish ministers to report on the operation of part 2 of the act as a whole within a specified reporting period. That reporting period is five years after the bill receives royal assent, and I would like to explain why that period has been specified. The provisions in part 2 will be commenced separately in an order and to a timescale agreed in discussion with our partners. We need time for those to be commenced and for resulting practice to bed in before the report can be meaningful. Amendment 64 commences the new section on the day after royal assent.

Amendment 60 has been drafted to be deliberately wide. Rather than listing every element that the report could cover, I wanted to have flexibility so that we can cover as wide a range of issues as possible, not all of which might be clear until after implementation. I intend that the report will address the points covered by Katy Clark's and Russell Findlay's stage 2 amendments, and Pauline McNeill's amendment 88, which was debated today. That could, for example, include information on how the provisions in part 2 are operating for men and women leaving prison, on release planning for relevant individuals and on the provision of throughcare support for remand and sentenced prisoners.

I highlight that my amendment requires the Scottish ministers to consult a range of partners in

the development of the report. That was a priority for me, and it is a critical element of the amendment.

As members will note, the list of consultees includes a range of expertise and perspectives. It includes bodies that have duties under part 2 and organisations such as the Risk Management Authority for their expertise in relation to risk assessment and management, as well as third sector bodies that provide throughcare support and those that support families and children who are affected by imprisonment. The Scottish ministers are also required to consult victim support organisations so that the perspective and views of victims are incorporated in the report. I am clear that we should listen carefully to all those voices as part of the review.

Amendment 61, which was lodged by Katy Clark, would require that the Scottish ministers review the impact of part 2 of the bill on the operation of the multi-agency public protection arrangements—MAPPa—within three years of royal assent and publish a report on that review. For a number of reasons, I cannot support the amendment. They are the same reasons why I could not support Katy Clark's almost identical amendment at stage 2.

I am sympathetic to the broader public protection motivation, if not the practical effect of the amendment. It does not seem to take into account the fact that the Management of Offenders etc (Scotland) Act 2005 already requires each MAPPa area to carry out an annual review of the arrangements for that area and publish a report. The Scottish ministers can notify the MAPPa partners of information that they wish them to include in their reports, and the Scottish Government produces an annual overview report of the arrangements. Those reports can, at present, make comment on relevant public protection matters and could provide a mechanism for reviewing the impacts of the bill that are relevant to MAPPa, if necessary.

Amendment 61 would require that a review considers changes to national guidance,

“ensuring a consistent approach across Scotland.”

Although consistency might be desirable in some areas of operation, MAPPa regions can, at present, determine how they will operate at local level, and amendment 61 does not appear sufficiently nuanced to allow such local difference. Consistency is driven currently through national guidance, which is regularly revised with partners to take account of new legislation as well as changes in policy and effective practice.

Therefore, the reporting requirement in amendment 61 is not workable or necessary, and I ask Ms Clark not to move it.

I move amendment 60.

Katy Clark: I will focus on amendment 61, which, as the cabinet secretary has indicated, relates to the multi-agency public protection arrangements, which are better known as MAPPA. They impose a duty on responsible authorities in a local authority area to establish arrangements for assessing and managing the risks that are imposed by certain categories of offender.

I lodged the amendment after the campaigner Linda McDonald got in touch with me several months ago. She was brutally assaulted by the convicted murderer Robbie McIntosh in 2017 while walking her dog. The attack took place after Mr McIntosh had been let out of Castle Huntly prison for a week, ahead of a Parole Board for Scotland meeting. He pled guilty to assault to severe injury, permanent disfigurement, permanent impairment and danger to life and attempted murder, and he received an order for lifelong restriction.

Ms McDonald must be commended for the grace and immense bravery that she has shown in the light of the attack. She has been petitioning to drive change in the parole system to prevent dangerous offenders from being released without sufficient monitoring through her Justice 4 Linda campaign.

Multi-agency meetings began taking place in relation to Mr McIntosh as early as 2016, but key management decisions were not recorded and no clear action plan was made. Despite Mr McIntosh eventually undergoing a risk of serious harm assessment, no risk management plan was put in place. In the period when he was on home leave, the local policing team was not made aware that he was on that leave.

Ms McDonald has since received an apology from the Scottish Government, and a review of the updated policy and guidance for risk management teams was completed in 2020. However, there is now scope to tighten legislation in the area.

Amendment 61 stipulates that level 3 MAPPA prisoners be monitored in the same way as equivalent offenders, with regular check-ins with police and justice social work. The amendment would require ministers to review and report on the impact on MAPPA of part 2 of the bill as enacted. That would require consideration to be given to whether changes to national guidance were required and to how MAPPA offenders were monitored after release from custody, and it would ensure a consistent approach across Scotland.

As the cabinet secretary said, I moved the same amendment at stage 2. At the time, the cabinet secretary argued that the timescale of one year that I initially suggested would not be workable. I therefore amended the wording of the amendment to “3 years”, and I am disappointed that the

Scottish Government feels that it is not able to support it.

I intend to move amendment 61.

Angela Constance: I commend Ms Clark for bringing to the chamber the very powerful and personal testimony of her constituent. I laid out the reasons why we could not accept her amendment and I am sorry that she is disappointed. She has highlighted the importance of practice issues and accountability in the delivery of services. I am sorry to say that I do not think that her amendments would add anything to the existing provisions, but I very much take on board the issues that she has raised and the importance of implementation practice and accountability at all levels of public services when it comes to public protection.

Amendment 60 agreed to.

Amendment 61 moved—[Katy Clark].

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)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)

Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Presiding Officer: The result of the division is: For 49, Against 61, Abstentions 0.

Amendment 61 disagreed to.

Section 14—Commencement

Amendments 62 to 64 moved—[Angela Constance]—and agreed to.

Amendment 65 not moved.

The Presiding Officer: Does Jamie Greene wish to move amendment 66?

21:45

Jamie Greene: I am getting a feeling of déjà vu, Presiding Officer. I will not move amendment 66.

Amendment 66 not moved.

The Presiding Officer: That ends consideration of amendments.

Keith Brown: On a point of order, Presiding Officer. I seek your guidance. We have had a number of amendments tonight that were debated at stage 2 but not moved following the debate on them. We have also had a number of amendments that were debated at stage 2 and defeated, yet they returned at stage 3. We considered an amendment that, had it been agreed to—it was not—would have resulted in a cost of £59 million a year plus expenditure of several hundred million pounds to construct a new prison. Can you provide any clarity on the criteria that are used for the bringing back at stage 3 of amendments that were considered at stage 2?

The Presiding Officer: Thank you, Mr Brown. As members are aware, the Presiding Officers do not normally give a reason for selection. The criteria that are carefully applied are set out in the guidance on public bills, which is published on the Scottish Parliament website. The key issue is that the interests of all parties and individual MSPs continue to be reflected at stage 3. All members must have the opportunity to input to and influence legislation and to fully scrutinise the laws that are passed by our national Parliament.

At this point in the proceedings, I am required under standing orders to decide whether, in my view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In this case, no provision of the Bail and Release from Custody (Scotland) Bill relates to a protected subject matter, so the bill

does not require a supermajority to be passed at stage 3.

Business Motion

21:46

The Presiding Officer (Alison Johnstone):

The next item of business is consideration of business motion S6M-09622, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 27 June 2023

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Scottish Government Debate: Illegal Migration Bill - UK Legislation

followed by Ministerial Statement: Reconsideration of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill

followed by Scottish Government Debate: Building a New Scotland - The Constitution of an Independent Country

followed by Legislative Consent Motion: Electronic Trade Documents Bill - UK Legislation

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 28 June 2023

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:
Constitution, External Affairs and Culture;
Justice and Home Affairs;
Education and Skills

followed by Scottish Government Debate: Northern Ireland Troubles (Legacy and Reconciliation) Bill - UK Legislation

followed by Scottish Government Debate: Economic Crime and Corporate Transparency Bill - UK Legislation

followed by Stage 3 Proceedings: Charities (Regulation and Administration) (Scotland) Bill

followed by Scottish Parliamentary Corporate Body Motion: Appointment of a New Scottish Information Commissioner

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.25 pm Decision Time
followed by Members' Business
 Thursday 29 June 2023
 11.40 am Parliamentary Bureau Motions
 11.40 am General Questions
 12.00 pm First Minister's Questions
followed by Ministerial Statement: Highly Protected Marine Areas
followed by Ministerial Statement: Leading Scotland's Journey to Becoming a Start-up Nation
 1.45 pm Decision Time
followed by Members' Business
 Tuesday 5 September 2023
 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
followed by Members' Business
 Wednesday 6 September 2023
 2.00 pm Parliamentary Bureau Motions
 2.00 pm Portfolio Questions: Wellbeing Economy, Fair Work and Energy; Finance and Parliamentary Business
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
followed by Approval of SSIs (if required)
 5.00 pm Decision Time
followed by Members' Business
 Thursday 7 September 2023
 11.40 am Parliamentary Bureau Motions
 11.40 am General Questions
 12.00 pm First Minister's Questions
followed by Members' Business
 2.30 pm Parliamentary Bureau Motions
 2.30 pm Portfolio Questions: Net Zero and Just Transition
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
 (b) that, for the purposes of Portfolio Questions in the week

beginning 26 June 2023, 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.—[George Adam]

The Presiding Officer: I call Alexander Burnett to speak to and move amendment S6M-09622.1.

21:47

Alexander Burnett (Aberdeenshire West) (Con): I do not wish to keep members here any longer than necessary. Unfortunately, though, next week the Scottish Government is insisting on spending parliamentary time debating the fantasy constitution of a made-up independent Scotland. I remind the benches to my right that Scotland voted no to independence, and the United Kingdom Supreme Court unanimously proved that the Scottish Government was wrong—[Interruption.]

The Presiding Officer: Colleagues, please.

Alexander Burnett: The Scottish National Party has to move on. [Interruption.]

The Presiding Officer: Let us hear Mr Burnett.

Alexander Burnett: We know that the Government likes to sneak out embarrassing announcements in the dying hours before recess. Two statements are scheduled for after First Minister's question time next week, and my amendment replaces Tuesday's independence debate with those two statements. It also inserts two more statements: one is on Circularity Scotland, which has gone into administration under the SNP and the Greens—[Interruption.]

The Presiding Officer: Can we hear Mr Burnett, please?

Alexander Burnett: —and the other is an update on the agriculture bill, although I note that a Government-initiated question was lodged on that topic while we have been in the chamber today.

Also snuck out this evening, while we have been considering amendments, was a press release that Asulox will not be permitted for use in Scotland. We should have a proper ministerial statement on that policy announcement tomorrow, and I note that the Presiding Officer has repeatedly stated that announcements such as that should be made to the Parliament in the first instance.

All of those matters are of importance to the people of Scotland, something that cannot be said of the proposed debate on Tuesday. I urge members to back my amendment.

I move amendment S6M-09622.1, to leave out from "Scottish Government Debate: Building a New Scotland—The Constitution of an

Independent Country” to “1.45 pm Decision Time” and insert:

“Ministerial Statement: Highly Protected Marine Areas

followed by Ministerial Statement: Leading Scotland’s Journey to Becoming a Start-up Nation

followed by Ministerial Statement: Circularity Scotland

followed by Ministerial Statement: Agriculture Bill Update

followed by Legislative Consent Motion: Electronic Trade Documents Bill - UK Legislation

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.20 pm Decision Time

followed by Members’ Business

Wednesday 28 June 2023

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Constitution, External Affairs and Culture; Justice and Home Affairs; Education and Skills

followed by Scottish Government Debate: Northern Ireland Troubles (Legacy and Reconciliation) Bill - UK Legislation

followed by Scottish Government Debate: Economic Crime and Corporate Transparency Bill - UK Legislation

followed by Stage 3 Proceedings: Charities (Regulation and Administration) (Scotland) Bill

followed by Scottish Parliamentary Corporate Body Motion: Appointment of a New Scottish Information Commissioner

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.25 pm Decision Time

followed by Members’ Business

Thursday 29 June 2023

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister’s Questions

12.45 pm Decision Time”

The Presiding Officer: I call George Adam to respond on behalf of the Parliamentary Bureau.

21:49

The Minister for Cabinet and Parliamentary Business (George Adam): First and foremost,

those of us on the SNP benches respect this Parliament, which is entirely different to the position of those on the Conservative benches.

Listening to Mr Burnett is sometimes like watching that movie “Everything, Everywhere All at Once” because there are snippets of reality there but it is not quite right. When we have these conversations, I sometimes feel that he does not actually listen to what is going on. However, as always, I will try to be helpful.

We have already said that there will be an agriculture bill. The cabinet secretary has committed to introducing an agriculture bill this year. That bill will seek powers to deliver our published vision for agriculture, and the findings of our consultation will be published shortly.

Regarding Circularity Scotland, the Minister for Green Skills, Circular Economy and Biodiversity has made three statements to Parliament about Scotland’s deposit return scheme in the past two months, appeared last week before the Net Zero, Energy and Transport Committee and answered a topical question on that very issue this week. It is my belief that there is more than a whiff of misogyny here, as the Tories suddenly find themselves to be concerned about the catastrophic decision made by their colleagues in Westminster. They should raise those concerns with them instead of grandstanding and staging stunts here in our chamber.

On independence, we are bringing our proposals for a modern constitution for an independent Scotland to this Parliament to be debated by politicians who have been elected to represent the people of Scotland. *[Interruption.]*

The Presiding Officer: Members!

George Adam: This is Scotland’s Parliament and the paper sets out an ambitious proposal to protect and enhance the rights of the people of Scotland. *[Interruption.]*

The Presiding Officer: Let us hear the minister.

George Adam: The Tories seem to think that the rights of the people of Scotland are not important. That may be the way that the Tories think but it is not the way that we think. This is the place to discuss the rights of the people of Scotland and this, more than any other, is the time to discuss them. Opposition members frequently, and rightly, remind us that the Government is accountable to Parliament. That is why we are bringing forward a debate that will enable Parliament to scrutinise and discuss the prospectus paper.

The Tories are running scared of having a debate because our proposition is to enable human rights —*[Interruption.]*

The Presiding Officer: Members!

George Adam: —at the very heart of civic Scotland while the Tories look to scrap human rights at UK level.

The Presiding Officer: The question is, that amendment S6M-09622.1, in the name of Alexander Burnett, which seeks to amend business motion S6M-09622, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is closed.

Michael Marra (North East Scotland) (Lab): On a point of order, Presiding Officer. My device would not connect. I would have voted yes.

The Presiding Officer: Thank you. We will ensure that that is recorded.

Miles Briggs (Lothian) (Con): On a point of order, Presiding Officer. My app did not connect, but I would have voted yes.

The Presiding Officer: We will ensure that that is recorded.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)

Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab)
 Webber, Sue (Lothian) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foysol (Lothian) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)

Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Presiding Officer: The result of the division is: For 48, Against 62, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that business motion S6M-09622, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to. Are we agreed?

Members: Yes.

The Presiding Officer: The motion is, therefore, agreed to.

The next item of business is consideration—

Members: No, no!

The Presiding Officer: Okay—[*Interruption.*] Members, I am going to take the vote again on this occasion—and on this occasion only. I make it absolutely clear that, if we cannot hear whether members are objecting or agreeing to a motion or amendment, we will act accordingly.

The question is, that business motion S6M-09622, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: Thank you. The Parliament is not agreed. There will be a division. We will move to a vote, and members should cast their votes now.

The vote is closed.

Stephanie Callaghan (Uddingston and Bellshill) (SNP): On a point of order, Presiding Officer. My app would not connect. I would have voted yes.

The Presiding Officer: Thank you, Ms Callaghan. We will ensure that that is recorded.

Marie McNair (Clydebank and Milngavie) (SNP): On a point of order, Presiding Officer. My app would not connect. I would have voted yes.

The Presiding Officer: Thank you. We will ensure that that is recorded.

For

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)

Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)
 Chapman, Maggie (North East Scotland) (Green)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
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 Duncan-Glancy, Pam (Glasgow) (Lab)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
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 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Michael (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLennan, Paul (East Lothian) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Minto, Jenni (Argyll and Bute) (SNP)
 Mochan, Carol (South Scotland) (Lab)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Sweeney, Paul (Glasgow) (Lab)	<i>followed by</i>	Parliamentary Bureau Motions
Swinney, John (Perthshire North) (SNP)	5.00 pm	Decision Time
Thomson, Michelle (Falkirk East) (SNP)		
Todd, Maree (Caithness, Sutherland and Ross) (SNP)	<i>followed by</i>	Members' Business
Tweed, Evelyn (Stirling) (SNP)		
Villalba, Mercedes (North East Scotland) (Lab)	Wednesday 28 June 2023	
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)	2.00 pm	Parliamentary Bureau Motions
Wishart, Beatrice (Shetland Islands) (LD)	2.00 pm	Portfolio Questions: Constitution, External Affairs and Culture; Justice and Home Affairs; Education and Skills
Against		
Balfour, Jeremy (Lothian) (Con)		
Briggs, Miles (Lothian) (Con)		
Burnett, Alexander (Aberdeenshire West) (Con)		
Cameron, Donald (Highlands and Islands) (Con)	<i>followed by</i>	Scottish Government Debate: Northern Ireland Troubles (Legacy and Reconciliation) Bill - UK Legislation
Carlaw, Jackson (Eastwood) (Con)		
Carson, Finlay (Galloway and West Dumfries) (Con)		
Dowey, Sharon (South Scotland) (Con)	<i>followed by</i>	Scottish Government Debate: Economic Crime and Corporate Transparency Bill - UK Legislation
Findlay, Russell (West Scotland) (Con)		
Fraser, Murdo (Mid Scotland and Fife) (Con)		
Gallacher, Meghan (Central Scotland) (Con)		
Golden, Maurice (North East Scotland) (Con)	<i>followed by</i>	Stage 3 Proceedings: Charities (Regulation and Administration) (Scotland) Bill
Gosal, Pam (West Scotland) (Con)		
Greene, Jamie (West Scotland) (Con)		
Gulhane, Sandesh (Glasgow) (Con)		
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)	<i>followed by</i>	Scottish Parliamentary Corporate Body Motion: Appointment of a New Scottish Information Commissioner
Hoy, Craig (South Scotland) (Con)		
Halcro Johnston, Jamie (Highlands and Islands) (Con)	<i>followed by</i>	Business Motions
Kerr, Liam (North East Scotland) (Con)		
Lumsden, Douglas (North East Scotland) (Con)	<i>followed by</i>	Parliamentary Bureau Motions
McCall, Roz (Mid Scotland and Fife) (Con)		
Mountain, Edward (Highlands and Islands) (Con)	<i>followed by</i>	Approval of SSIs (if required)
Mundell, Oliver (Dumfriesshire) (Con)	5.25 pm	Decision Time
Rennie, Willie (North East Fife) (LD)		
Simpson, Graham (Central Scotland) (Con)	<i>followed by</i>	Members' Business
Stewart, Alexander (Mid Scotland and Fife) (Con)	Thursday 29 June 2023	
Webber, Sue (Lothian) (Con)		
Wells, Annie (Glasgow) (Con)	11.40 am	Parliamentary Bureau Motions
Whittle, Brian (South Scotland) (Con)	11.40 am	General Questions
	12.00 pm	First Minister's Questions
	<i>followed by</i>	Ministerial Statement: Highly Protected Marine Areas
	<i>followed by</i>	Ministerial Statement: Leading Scotland's Journey to Becoming a Start-up Nation
The Presiding Officer: The result of the division is: For 81, Against 28, Abstentions 0.		
<i>Motion agreed to,</i>		
That the Parliament agrees—		
(a) the following programme of business—		
Tuesday 27 June 2023	1.45 pm	Decision Time
2.00 pm		Time for Reflection
<i>followed by</i>	<i>followed by</i>	Members' Business
<i>followed by</i>	Tuesday 5 September 2023	
<i>followed by</i>	2.00 pm	Time for Reflection
<i>followed by</i>	<i>followed by</i>	Parliamentary Bureau Motions
<i>followed by</i>	<i>followed by</i>	Topical Questions (if selected)
<i>followed by</i>	<i>followed by</i>	Scottish Government Business
<i>followed by</i>	<i>followed by</i>	Committee Announcements
<i>followed by</i>	<i>followed by</i>	Business Motions
<i>followed by</i>	<i>followed by</i>	Parliamentary Bureau Motions
<i>followed by</i>	5.00 pm	Decision Time
<i>followed by</i>	<i>followed by</i>	Members' Business
<i>followed by</i>	Wednesday 6 September 2023	
<i>followed by</i>	2.00 pm	Parliamentary Bureau Motions
<i>followed by</i>	2.00 pm	Portfolio Questions:

Wellbeing Economy, Fair Work and Energy;
Finance and Parliamentary Business

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.00 pm Decision Time

followed by Members' Business

Thursday 7 September 2023

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

followed by Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:
Net Zero and Just Transition

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 26 June 2023, 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.

Parliamentary Bureau Motions

21:58

The Presiding Officer (Alison Johnstone):

The next item of business is consideration of three Parliamentary Bureau motions. I ask George Adam, on behalf of the Parliamentary Bureau, to move motion S6M-09623, on approval of a Scottish statutory instrument, and motions S6M-09624 and S6M-09625, on designation of a lead committee.

21:58

The Minister for Cabinet and Parliamentary Business (George Adam): All moved, Presiding Officer—and goodnight. [Laughter.]

I move,

That the Parliament agrees that the Animal By-Products and Animal Health (Miscellaneous Fees) (Scotland) Regulations 2023 [draft] be approved.

That the Parliament agrees that the Net Zero, Energy and Transport Committee be designated as the lead committee in consideration of the Circular Economy (Scotland) Bill at stage 1.

That the Parliament agrees that the Economy and Fair Work Committee be designated as the lead committee in consideration of the legislative consent memorandum on the Electronic Trade Documents Bill.

The Presiding Officer: Thank you, minister. The question on the motions will be put at decision time.

Decision Time

The Presiding Officer: That concludes decision time, and I close the meeting.

Meeting closed at 21:59.

21:58

The Presiding Officer (Alison Johnstone):

There is one question to be put as a result of today's business. If no member objects, I propose to ask a single question on three Parliamentary Bureau motions.

The final question is, that motion S6M-09623, on approval of a Scottish statutory instrument, and motions S6M-09624 and S6M-09625, on designation of a lead committee, in the name of George Adam, on behalf of the Parliamentary Bureau, be agreed to. Are we agreed?

Members: Yes!

Motions agreed to,

That the Parliament agrees that the Animal By-Products and Animal Health (Miscellaneous Fees) (Scotland) Regulations 2023 [draft] be approved.

That the Parliament agrees that the Net Zero, Energy and Transport Committee be designated as the lead committee in consideration of the Circular Economy (Scotland) Bill at stage 1.

That the Parliament agrees that the Economy and Fair Work Committee be designated as the lead committee in consideration of the legislative consent memorandum on the Electronic Trade Documents Bill.

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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