OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 7 February 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 7 February 2024

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RURAL AFFAIRS AND ISLANDS COMMITTEE
4th Meeting 2024, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)
*Alasdair Allan (Na h-Eileanan an Iar) (SNP)
*Ariane Burgess (Highlands and Islands) (Green)
*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Rhoda Grant (Highlands and Islands) (Lab)
*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Kerr (Central Scotland) (Con)
Gillian Martin (Minister for Energy and the Environment)
John Mason (Glasgow Shettleston) (SNP)
Edward Mountain (Highlands and Islands) (Con)
Colin Smyth (South Scotland) (Lab)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 7 February 2024

[The Convener opened the meeting at 08:32]

Wildlife Management and Muirburn (Scotland) Bill: Stage 2

The Convener (Finlay Carson): Good morning, and welcome to the fourth meeting in 2024 of the Rural Affairs and Islands Committee. I remind all those members who are using electronic devices to please turn them to silent.

Our business this morning is consideration of the Wildlife Management and Muirburn (Scotland) Bill at stage 2. I welcome to the meeting Gillian Martin, Minister for Energy and the Environment, and her supporting officials. I also welcome Colin Smyth and Edward Mountain. I believe that John Mason and Stephen Kerr will be joining us later to speak to their amendments.

Before we begin, I will briefly explain—if it is possible to do such a thing—the stage 2 procedure for members and the public. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in that group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call any other members who have lodged amendments in that group. Members who have not lodged amendments in the group but who wish to speak should catch my attention. If the minister has not already spoken on the group of amendments, I will then invite her to contribute to the debate. The debate on the group will be concluded by me inviting the member who moved the first amendment in the group to wind up.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to withdraw it. If they wish to press ahead, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member objects, the committee will immediately move to the vote on the amendment. If a member does not want to move their amendment when called, they should say, “Not moved.” Please note that any other member present may move the amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in any division is by show of hands. It is important that members keep their hands clearly raised until the clerk has recorded the vote.

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

It is unlikely that we will conclude stage 2 at today’s meeting. If we do not, we will do so at our next meeting.

Section 1—Offence of using glue trap

The Convener: Amendment 176, in the name of Edward Mountain, is grouped with amendments 106, 4, 107, 108 and 5 to 7.

Edward Mountain (Highlands and Islands) (Con): I am pleased to be here to speak to my amendments. Before I do so, I will make a full declaration of my interests, so that people are aware of them. I have attended the committee before, but I would like to reiterate my interests. I am a member of a family farming partnership and a joint owner of a wild fishery. Both roles require the controlling of some species of wildlife, including stoats, weasels, mink, rats, mice, foxes and corvids, including crows, rooks and jackdaws. I have been controlling and managing wildlife to manage environments for more than 40 years. I use licensed firearms and spring traps. I make it clear that I do not own any hill ground, but I have been involved for more than 40 years in muirburn and burning to manage grassland and farmland and protect it from invasive species such as gorse and broom. In the past, I have supervised muirburn and have contributed to muirburn consultations and management plans. I hope that what I have said is sufficient for the committee to understand that I have an interest.

I will speak to amendments 176 and 5 to 7. The point of amendment 176 is to allow the use of glue traps in certain environments—educational, catering and medical facilities. I have met the minister to discuss the issue, and I am grateful for the time that she gave me. I am unclear about how she is going to progress things, because I am not clear on what effect the United Kingdom Internal Market Act 2020 could have on the banning of glue traps, but, on the basis that the ban might well continue, I am keen for glue traps to continue to be able to be used in tightly controlled circumstances—in, as I said, educational, catering and medical facilities.

Amendment 5 sets out that the use of such traps would be subject to having a glue trap licence. That is really important. Amendments 6 and 7 set out that a glue trap licence can be issued only to a pest controller who is engaged in

"preserving public health or public safety".

That is also important.

I have suggested some safeguards in relation to the licence. A licence should not be granted unless there is no other solution, and the person must have taken a course. The licence would also be time limited. A fee for the licence could be charged by the Scottish Government, which would be responsible for overseeing the licensing scheme. It seems to me that what I have proposed is a sensible option to ensure that glue traps are used only when they are needed.

Rats and mice often get into catering establishments, and it is really important that we get rid of them as soon as possible, in the same way as we would want to get rid of them if they were in our accommodation. However, it is especially important in relation to food. The only way of ensuring that is to use a glue trap. I know from personal experience that you can set snap traps for vermin such as rats and mice, but they can become trap shy, and some of them are pretty clever. You can be clever, too, by using chocolate and apples, but that does not always attract them to the trap. However, if you put a glue trap in the right place, you can get rid of them overnight, and that gives you confidence that the animals have been removed.

I do not see any reason why that should not be allowed, especially if the glue traps are set and checked within a set period. I think that that is a humane way of doing it.

Amendment 106 clarifies that the amendment is about traps that restrain animals. Amendments 107 and 108 introduce vicarious liability, which I do not believe is needed if we limit the control of where glue traps can be used. I look forward to the debate and hearing the arguments on either side.

I am interested in hearing about the other amendments in the group.

I move amendment 176.

Colin Smyth (South Scotland) (Lab): Amendment 106 relates to the wording of the offence of using a glue trap in section 1 of the bill. A glue trap, as we know, is intended as a restraining trap. As members know, rats and mice and sometimes other non-targeted species walk across the boards and get stuck to the strong glue. They often remain there until the person who set the trap comes to kill them. They suffer terribly during that time, which is why the ban on the use of glue traps is necessary and something that I welcome.

Amendment 106 seeks to strengthen the ban, as "taking" and "restraining" can have different meanings and the intention is to ban all use of glue traps. The aim of the amendment is to clarify the definition of the offence and probe a potential loophole. As it stands, the bill says that it is an offence

"to use a glue trap for the purpose of killing or taking"

whereas the Welsh legislation prohibits

"the use of a glue trap for the purpose of killing or taking an animal, and use of a glue trap in any other way that is likely to catch an animal",

which seems more comprehensive than the proposed Scottish bill definition.

The UK Parliament's Glue Traps (Offences) Act 2022 also uses the terms "catching" and "caught" in its description of the offence.

I hope that the minister's response is clear on the Government's legal definition of "taking" and that it also outlines why the Scottish Government has chosen wording that is different from that used in the Welsh and UK acts.

Amendment 107 would make it an offence to knowingly cause or permit another person to use a glue trap. On the main offence of using a glue trap, the explanatory notes accompanying the bill state:

"The offences do not apply if the person has a reasonable excuse for using or setting a glue trap. For example, it is not the intention to criminalise circumstances where a person is compelled to use a glue trap by a workplace superior."

That raises the question of who would be responsible in that scenario, and it creates a potential loophole that amendment 107 seeks to close. In other words, could someone get around the ban by compelling someone else to use the trap? Causing or permitting offences are used in a wide variety of legislation to prevent individuals escaping sanctions when they have made or allowed another person to commit an offence. In fact, there is an example of such a provision in section 9 of the bill, which makes it an offence to cause or permit another person to make muirburn without a licence. It is unclear why such a provision is not included in the section on glue traps.

Amendment 108 is consequential to amendment 107.

Ariane Burgess (Highlands and Islands) (Green): I put on the record my sympathy for the intention behind Colin Smyth's amendments 107 and 108. Glue traps are inhumane and indiscriminate as a pest control tool, and I understand the concerns about unintended loopholes being created. However, I would like to know from the minister whether there is any scope for further discussion of the amendments ahead of stage 3.

The Minister for Energy and the Environment (Gillian Martin): Edward Mountain's amendment 176 would allow members of the public to use glue traps to control rats and mice in educational, catering or medical premises. The Scottish Animal Welfare Commission published a report on glue traps that concluded that

"animal welfare issues connected with the use of glue traps would justify an immediate outright ban on their sale and use."

Because of the weight of evidence that glue traps are the least humane method of rodent control and that they cause unacceptable levels of suffering to the animals that are caught by them, continuing to allow their use was not considered to be a viable option. More than three quarters of respondents to our consultation also agreed that glue traps should be banned completely in Scotland.

In its stage 1 report, the committee stated:

"It is clear to the Committee that glue traps do cause suffering to vertebrate animals."

It went on:

"The Committee agrees, therefore, that members of the general public should be banned from using or purchasing glue traps."

It is also important to note that professional pest controllers fully support a ban on the use of glue traps by members of the public. Both the UK and Welsh Parliaments have already passed legislation that makes it an offence for members of the public to use them for any purpose. I do not believe that we can ignore the weight of evidence that glue traps lead to unacceptable levels of suffering, not just for rats and mice but for other animals that are not the intended catch but can also become trapped in them.

08:45

I am not entirely sure why Mr Mountain has submitted the amendment in its current form, as it does not really have any support from animal welfare experts or professionals, or from the committee, because it would allow the public to use glue traps. I understand the rationale for setting out circumstances in which glue traps can be used as a last option in the settings that he described. Nevertheless, the amendment would still allow members of the public to have access to such traps. I hope, therefore, that he will not press the amendment. If he does, I would encourage other members to vote against it.

Amendments 4 to 7 propose the creation of a licensing scheme to allow pest controllers to continue to use rodent glue traps and provide for associated training requirements on applicants for the use of such traps. I note that the amendments seek to apply the same sort of regime in Scotland for which the UK Government has legislated largely in England.

I spoke to the British Pest Control Association in January, when we discussed glue traps, and I welcomed the constructive conversation that I had with its representatives. They explained that the association's members rarely use glue traps but that, when they do, it is in order to react quickly to an infestation in a high-risk area such as a hospital or food environment. It is worth noting that 11 of the 14 local authority pest control departments from which the committee heard already do not use glue traps at all to control rodents in any setting for which they are responsible.

I am sympathetic to what the pest controllers had to say to me in that meeting, because public health is an absolute priority. However, if we were to allow pest controllers to continue to use glue traps in any capacity, that would need to be very tightly regulated in order to ensure that no one got hold of such a trap if they were not supposed to, and that, when the traps were used, there were safeguards in place to reduce animal suffering. I am prepared to give that aspect further consideration.

I understand why Edward Mountain has put forward those proposals; however, I do not think that his proposed licensing scheme is workable as it is currently drafted. Amendment 6 would not limit who could undertake the approved training or who could apply for a licence other than "a pest controller". There would be difficulties in ascertaining who is a pest controller, as there is no standard occupational classification code for pest controllers, no qualifications or licensing are needed to work in the pest control industry, and there is no regulatory authority that oversees them.

Those issues mean that it would be very difficult for retailers to restrict sales to so-called professionals, thereby increasing the risk that members of the public would be able to continue to purchase and use glue traps. In addition, there are no requirements to adhere to the standards that are set out in the training course. That could give rise to the inconsistent deployment of glue traps.

Those amendments fall far short of providing the reassurance that I need that the risks to animal welfare from using glue traps have been mitigated, so I cannot support them. For all those reasons, I encourage the committee members to vote against them.

I turn to Colin Smyth's amendments. Amendment 106 specifies that the offence of using a glue trap to kill or take an animal includes "restraining". In my view, with the greatest respect,

the amendment is unnecessary. Section 1 of the bill as currently drafted makes it

"an offence ... to use a glue trap"

to kill or take

"any animal other than an invertebrate."

I assure Colin Smyth that the ordinary meaning of "take", or "taking" as the bill states, would include "restrain", so it is not necessary to change the wording. Restraining a rodent using a glue trap would be comparable to using a live capture trap in that the animal is considered to be taken from the wild and is under the control of the person who is setting or laying the trap. If that aspect would benefit from more clarification, I could arrange to update the explanatory notes that accompany the bill in order to set that out. On that basis, I ask Mr Smyth not to move amendment 106. If he does so, I would encourage committee members to vote against it.

Amendments 107 and 108 would introduce the offence of knowingly causing or permitting the use of a glue trap. As the committee knows, I had initially wanted to include in the bill an offence regarding the sale of glue traps, and it is still my intention to do so at stage 3. However, as work is continuing to be taken forward to secure an exclusion to the UK Internal Market Act 2020, I have not lodged any of my amendments on glue traps at stage 2.

Having listened to Colin Smyth's reasons for including an offence of knowingly causing or permitting the use of a glue trap, I am minded to include that in the bill. He makes a good argument, and I understand it. However, I would like to reflect on the matter a bit further and make sure that the provision is appropriately drafted. I therefore ask Colin Smyth not to move his amendments today so that I can consider the matter further with a view to potentially lodging at stage 3 a suitably redrafted amendment, which we can work on.

The Convener: I call Edward Mountain to wind up and indicate whether he wishes to press or withdraw amendment 176.

Edward Mountain: In some ways, I am actually encouraged by what I have heard this morning, but I would still like to make a few comments in response to what the minister has said.

First of all, amendment 176, in my name, clearly limits the use of glue traps and makes them subject to a licence. As a result, the general public could not get access to them; instead, those who could get access would be considered to be professionals and would have completed the course to get the licence. There is a way of doing that, and I am sure that the industry would work with the minister to ensure that a professional qualification was in place that would allow that to be identified.

I do not share the minister's view that banning glue traps is the only way of limiting sales. There are other ways of limiting sales to professionals, and in that respect I would highlight the example of phostoxin, a gas that can be sold only to those who are qualified to use it. In fact, no one can sell it to them. The place where they get it must have a register, and the person who signs that register to allow the gas to be used or sold must be convinced that the person who wants it is properly qualified and has the necessary equipment.

I understand the concern about glue traps being cruel, but invariably what we are talking about here is putting traps out for a short period at night. I would also suggest that other means are not appropriate for use in, say, schools, hospitals or restaurants. Indeed, no one would want poison to be used in a restaurant—I certainly would not want that, and I would not want it to be used in hospitals or schools either. Moreover, as I have explained, traps in themselves do not necessarily guarantee that the animal will be caught.

I am not convinced that amendment 107, in the name of Colin Smyth, is required, for the simple reason that I do not believe that anyone will be told or ordered to do this sort of thing. The people who use these traps and other means fully understand the law and will not be prepared to break it, even if instructed to do so.

In summary, I do not believe that amendment 176 gives the right for glue traps to be sold to the general public. I believe that the licensing system does work, and it is vital that we have the ability to use glue traps in schools, hospitals and restaurants.

That said, I am slightly caught between two points. If the minister were prepared to work with me on these amendments before stage 3, that would give me some indication that I could withdraw or not move them and then bring them back at the next stage, hopefully with ministerial support. However, she did not convince me that that was going to happen. If she were to do so now, I would consider withdrawing and not moving my amendments.

The Convener: Would you like to comment, minister?

Gillian Martin: I think that I have made it clear that I am sympathetic to the argument that there might be some settings where we cannot have an infestation and where pest controllers might have to use these traps as a last resort. At the moment, though, I find it difficult to see how that would work in practice, given everything that I have said about pest controllers not being an accredited title for which you need a qualification.

All I can say to Mr Mountain, then, is that I need to give this an awful lot more thought with my officials and see what levers are available to us. I am still not wholly convinced that an outright ban is not the way to go.

There are a couple of moving parts here, too. I have still not had any agreement from the United Kingdom Government on the exemption under the United Kingdom Internal Market Act 2020. Several letters have gone back and forth, and a meeting to discuss the matter with UK Government ministers was cancelled at the very last minute, so I have not had satisfaction there. There are a lot of balls up in the air in relation to this matter, which is why I have not lodged my proposed amendments here. If I had been able to lodge them, I could have spoken to them. That is all that I can really say on the matter.

I understand why Edward Mountain has lodged his amendments, but I do not think that his proposals are workable in practice, given the licensing scheme that he outlines. His proposals are not doable, given how the amendments are written.

Edward Mountain: On that basis, with the hope that there is light at the end of the tunnel, I am prepared to work with the minister to see if my amendments can be reviewed to make them more workable and more acceptable to her.

Amendment 176, by agreement, withdrawn.

Colin Smyth: I am grateful to the minister for her clarity on the definition of "taking" and for the offer to include further information in the explanatory notes. On that basis, I will not move amendment 106.

Amendment 106 not moved.

Edward Mountain: I will not move amendment 4 on the basis of my earlier explanation.

Amendment 4 not moved.

Colin Smyth: I am grateful to the minister for the offer to work on a possible amendment at stage 3 on the issue covered by amendment 107. On that basis, I will not move it.

Amendments 107 and 108 not moved.

Section 1 agreed to.

Section 2—Offence of purchasing glue trap

Edward Mountain: I will not move amendment 5 for the reasons that I gave earlier.

Amendment 5 not moved.

Section 2 agreed to.

After section 2

Edward Mountain: I am looking forward to fruitful discussions with the minister. Therefore, I am not moving amendments 6 or 7.

Amendments 6 and 7 not moved.

Section 3 agreed to.

After section 3

The Convener: Amendment 54, in the name of the minister, is grouped with amendments 54A, 54B, 54C, 54D, 54E, 54F, 54G, 54H, 54I and 54J.

Gillian Martin: My amendment 54 seeks to introduce a comprehensive ban on the use of snares, as is recommended by the Scottish Animal Welfare Commission. The amendment introduces an offence of using a snare or setting one in position either to kill or to take any animal other than a wild bird. It will also be an offence to set a snare in a position where it is likely to cause bodily injury to any such animal coming into contact with it. My provisions set out two very important exceptions, which Colin Smyth is seeking to remove in his amendments, and I will speak to that issue in a moment.

As I said in the stage 1 debate, I believe that the Parliament can no longer ignore the weight of evidence that snares lead to unacceptable levels of suffering, not just for wild animals but for domestic animals, which can become trapped in them. The decision to ban the use of snares has not been made lightly or quickly, and my decision takes into account the wealth of evidence and opinion that has been presented to the Parliament on the matter over the years.

Unfortunately, even where snares are used in very strict accordance with the conditions set out in the Wildlife and Countryside Act 1981, they remain indiscriminate by their nature and, as such, they pose an unacceptable risk to non-target species, including other wildlife, endangered species and domestic species such as cats. According to the Scottish Animal Welfare Commission, it is estimated that between 21 and 69 per cent of animals caught in snares are non-target species. That is simply unacceptable.

More humane methods of wildlife control such as shooting and trapping are available to land managers. Indeed, shooting foxes at night using lamps or thermal scopes remains the predominant method of fox control by a considerable margin. Moreover, alternatives such as live-capture traps are still available where, for example, the lack of a suitable backstop can mean that shooting is not appropriate in certain circumstances.

09:00

I recognise that control of predators is necessary to protect vulnerable species as well as livestock and agriculture and that land managers should be allowed to take action to effectively manage wildlife for those purposes. I am also aware that some people have claimed that the removal of snaring as an option might reduce the ability of land managers to protect ground-nesting species of bird, particularly curlew, lapwing and other wader species of serious conservation concern.

However, I remain confident that there are sufficient alternative methods of predator control, which a number of landowners, managers and organisations already use. Those include the RSPB, which has policies to prohibit the use of snares and believes that it is still able to undertake sufficient predator control to protect vulnerable species. The same view was reached by the Welsh Parliament when it banned the use of snares in the Agriculture (Wales) Act 2023, in recognition of poor animal welfare outcomes.

I am confident that a ban on the use of snares would not prevent anyone from undertaking necessary wildlife management. In our public consultation on snaring, 70 per cent of respondents supported a complete ban on the use of all snares, including so-called humane cable restraints. It is clear that there is widespread support for that among the general public. Snares are already banned in many European countries, and land managers have adapted. We can learn from that and provide advice and information where that is helpful.

Some have called for the ban on the continued use of humane cable restraints under a licensing regime for the purpose of killing and taking an animal. I have carefully considered that and the welfare impacts of such a scheme on target and non-target species, alongside the need to provide for effective predator control.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Will the minister take an intervention?

Gillian Martin: Can I finish my points?

Rachael Hamilton: Yes—sorry. I thought that you had not heard me.

Gillian Martin: You never know; perhaps I will cover what it is you want to raise, so let me get to the end of my rationale for this.

Rachael Hamilton: My intervention was about a previous issue.

Gillian Martin: In my view, although humane cable restraints might be an incremental improvement on the traditional style of snare, they do not lead to a significant reduction in the adverse welfare outcomes experienced by animals caught by those devices, nor would their use eliminate the issues around the capture of non-target species, including protected species such as badgers, mountain hares and domestic animals such as cats. Continuing to permit their use under licence for the purpose of catching foxes, as is set out in the proposal that was put to me by land managers, would not suitably address those issues, which is why I have decided to introduce a ban on the use of all snares, including humane cable restraints.

I want to talk about Colin Smyth's amendments, but I am happy if Ms Hamilton wants to interject.

Rachael Hamilton: It is on a previous point, minister. Thank you for taking the intervention.

You talked about the ban on snares in Wales, but the fact is that Welsh ministers are currently facing a challenge to that. Do you think that the same might happen in Scotland? Secondly, in relation to the ban on humane cable restraints that you mentioned, what biodiversity impact assessment has been done?

Gillian Martin: Ms Hamilton mentioned a challenge, but there is always the risk of a challenge to any legislation that goes through a Parliament. People are free to challenge any aspect of legislation. I will not comment on the situation in Wales, as it is for the Welsh Government to answer questions on the rationale for its own decisions.

We have done a great deal of work on the matter. Indeed, a great deal of work has been done not just in this parliamentary session but over the past decade. The weight of evidence of the impact that snares are having on the welfare of wild animals has become something that we cannot ignore, which is why I have decided to take forward a full ban on snares. I point to evidence from the work that we have done not just on the bill but throughout the year. Indeed, we set up the Scottish Animal Welfare Commission to do that type of work on behalf of the Scottish public, and it has made a very strong recommendation on this matter. That recommendation comes from animal welfare experts across Scotland who are at the top of their profession, and I personally cannot ignore it.

Rachael Hamilton: Can I get clarification specifically on that?

Gillian Martin: Convener, I would like to go on and discuss the amendments in Colin Smyth's name, because I think that I have answered Rachael Hamilton's points.

The Convener: Yes. Rachael, you will have an opportunity to come in when I call for general views from members.

Rachael Hamilton: Thank you, convener.

Gillian Martin: I understand why Colin Smyth has lodged his amendments, but, again, I do not believe that they are necessary. A snare is defined in the dictionary simply as

"A device for capturing small wild animals or birds, usually consisting of a string with a running noose".

Cable restraints, therefore, already fall within the meaning of snare use in the bill. In addition, should my amendment 54 be agreed to, that aspect will be set out in the explanatory notes accompanying the bill. Given that, I ask Colin Smyth not to move amendments 54A, 54C, 54F, 54H and 54I.

I am interested in hearing why Colin Smyth has lodged amendments 54B, 54E and 54G. I will give my reasons for why the legislation has been drafted in the way that it has been. My amendment 54 has been drafted to update the main snaring provisions in section 11 of the 1981 act, which relates to wild animals. That exception does not mean, however, that anyone can use a snare on a wild bird. Section 5 of the 1981 act already covers snaring and wild birds, providing for the offences of setting

"in position"

a

"snare ... likely to cause bodily injury to any wild bird",

using a snare

"for the purpose of killing or taking any wild bird",

and "knowingly" causing or permitting those offences. Such offences carry a maximum penalty of five years' imprisonment, an unlimited fine or both.

My amendment has, therefore, been drafted to avoid its conflicting with the existing provisions in section 5 of the 1981 act relating to wild birds. My concern about Colin Smyth's amendments seeking to remove the references to wild birds in my amendment 54 is that that would result in a potential conflict with the 1981 act, which I am sure is not his intention.

Amendments 54D and 54J relate to an exception for snares that are "operated by hand". It is important, when legislation is brought forward, to ensure that there are no unintended consequences. There are a number of handheld devices, such as dog poles and graspers, that utilise a loop at the end. Although such devices are not snares in the traditional sense, they could fall within the wider meaning of snaring that is used in the bill.

I am sure that the committee is familiar with those devices, which are used by dog wardens, animal rescue charities such as the Scottish Society for the Prevention of Cruelty to Animals and wildlife rescue charities throughout Scotland to temporarily catch and restrain, for example, stray dogs and, on occasion, wild animals. I am sure that none of us here would immediately think of those types of devices in the traditional context of snaring, but I concluded, after very careful consideration, that, to avoid the risk of inadvertently restricting the use of those very necessary devices, it was necessary to carve out an exception for them in the text of the bill.

The bill makes it clear, however, that anyone who uses any type of snare, including a handheld one, for the purpose of killing an animal such as a fox, or who uses it in a way that is likely to give rise to injury of such an animal is guilty of an offence. A ban on the use of those devices would, it seems, severely hinder the ability of dog wardens and animal rescue charities to undertake their very important work.

I therefore ask Colin Smyth not to move amendments 54A, 54B, 54C, 54D, 54E, 54F, 54G, 54H, 54I and 54J. I would be happy to meet him ahead of stage 3 to discuss further the rationale behind my approach.

I move amendment 54.

Colin Smyth: I very much welcome amendment 54, the purpose of which the minister has clearly outlined. There has been a long wait for a ban on snaring—in fact, it was the subject of one of the first members' business debates that I held, seven years ago—and I am pleased that the Government has moved on the issue and, following moves by the Welsh Government, is now introducing a ban in Scotland. My amendments in this group, however, are aimed largely at probing some issues in relation to the wording of the Government's amendment 54. The minister has already covered some of them, but I would like to raise a few more questions and points.

Last year, as the minister said, we saw an attempt to rebrand some modified snares as humane cable restraints. The Scottish Animal Welfare Commission and animal welfare organisations have made it clear that no design alteration can be made to make snares humane, whatever names some people might wish to call them. It is important, then, that all snares be included in the ban. Given that some have recently been called cable restraints by some users, I have lodged amendments 54A, 54C, 54F and 54H to make it clear that so-called cable restraints would be banned, too.

A similar situation arose in Wales prior to its snaring ban, as a result of which the Welsh

Government included the words “or other cable restraint” in its ban for the avoidance of any doubt. I appreciate what the minister says about these things being covered in the definition of snares, but I hope that we will keep discussing whether there will be wording in the explanatory notes, as the minister has said, or later in the bill, to ensure that the precautionary approach taken by the Welsh Government is adopted in Scotland. However, I am grateful to the minister for placing on record that interpretation by the Government.

The ban on the use of snares is long overdue, and it is important that we get it right. Any exclusion has the potential to weaken it. The minister said that snares are not currently used for wild birds in Scotland, and she referred to a prohibition on the use of snares for birds under section 5 of the Wildlife and Countryside Act 1981. That raises the question of why the specific exclusion of wild birds from the scope of amendment 54 was felt to be necessary, and I am concerned that it contradicts what is contained in section 5 of the Wildlife and Countryside Act 1981. I know that the minister clarified the point in her earlier comments, and amendments 54B, 54E and 54G were lodged to try to gain an understanding of the minister's thinking on the issue.

As with my other amendments, I am, with amendments 54D and 54G, trying to ensure that the snaring ban is as watertight as possible. Currently, the ban does not include a snare that is operated by hand. As far as I know, such a thing does not exist, and I certainly do not want us to set off any attempt to invent one. The minister seems to be suggesting that she is trying to avoid inadvertently including something more benign, such as a grasper that is used by animal welfare officers to rescue a swan. I question whether it is necessary to cover that in legislation, as it seems implausible that a grasper would be mistaken for a snare. Such an exception is certainly not included in the Welsh legislation.

I would therefore welcome further discussions with the minister to ensure that we are not taking forward something that, in my view, is unnecessary. Clearly, though, the minister has a different view, and I would welcome further discussions on that point.

I move amendment 54A.

Rachael Hamilton: I am minded not to support amendment 54, in the name of the minister, on the basis that a very credible proposal on humane cable restraint use was brought to the committee at stage 1. It is important to recognise that such devices are vital for those living and working in rural Scotland to protect not only livestock but species that are under threat. Indeed, I know that the minister is aware of that.

I recognise that significant animal welfare charities have done good work, including work on the impact of the use of traditional snares, but, on the proposal for a humane cable restraint—which is an international standard restraint—I do not believe that the necessary work has been done to ensure that the committee has full knowledge of the matter. An impact assessment needs to be done to allow us to understand the impact on the species that are under threat, such as curlews and lapwings.

We, as a responsible committee, need to recognise that any legal challenge would come at great expense to the taxpayer. Moreover, if there were a legal challenge to banning snares, we would not be able to get into the nuts and bolts of it. I have to say that I am slightly surprised that the minister has not recognised the possibility of a legal challenge on the basis of the European convention on human rights.

09:15

Edward Mountain: I have listened to the evidence that the committee has taken, and I think that Karen Adam’s comments during our evidence taking were apposite in a lot of ways. However—let me be clear—the use of cable restraints and snaring is highly regulated in legislation, and it requires a great deal of formal training. That training has taken us away from where we were many years ago, when I was younger and there were no restrictions on where you could place snares. In those days, you could place them where animals could get hung up and where they could end up—inadvertently, in most cases—strangling themselves to death.

That is not where we are now. Now, snares are set in locations where that cannot happen; they hold the animal in place, and, because of the stops, the animal cannot be strangled. The stops also work if the animal is caught in the wrong place.

The snares that we have now also give you the ability to discriminate with regard to the animals that you kill. Once you have caught the animals, you can, before you dispatch those that you want to dispatch, release the non-target animals by cutting the snare to free them. The fact that snares are also required to be regularly checked and that every snare must be identified and subject to inspection means that the activity is highly regulated.

I understand why people take issue with this, but it is my opinion and my experience that properly set and managed snares hold the animal to allow its humane dispatch—or its release, if it is not a target animal. There is no reason why non-target animals should end up being killed. I believe

that most—in fact, nearly all—people who use snares know that they are taking on a huge responsibility, and they want to ensure that the animals that they catch are not subjected to suffering.

As the minister has rightly said, there are other ways of doing this. For example, those of us who have been out at night with lamps know that foxes become lamp shy, and you can clear a massive area just by turning on the lamp. Thermal sights work, but they are not always appropriate, because you cannot always see the backdrop. Shooting does not always solve everything. Let us be honest: when you fire a gun, you do not always kill what you want to kill. We know that, with snares, you can hold the animal and dispatch it very quickly.

As for the minister's comment that all of those things can be done at night, I am sure that Jim Fairlie knows that, if you are protecting a lambing field and looking after lambs all day and all night, you do not have the time to spend all night chasing foxes that are trying to work their way in. A snare or cable restraint gives you that ability.

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): Given that Edward Mountain has mentioned me, I should point out that I have never in my life set a snare during lambing time. I leave that to people who are trained to do it. It is therefore a bit disingenuous to make a comparison involving a sheep farmer setting snares at night.

Edward Mountain: I accept that you have never set a snare in your life—

Jim Fairlie: Certainly not at lambing time.

Edward Mountain: As a farmer, I have set snares, but I do not currently do so, because I have not done the course—

Jim Fairlie: Precisely.

Edward Mountain: —and because I am in this place. My point is that a lot of farmers do it.

Finally, please do not underestimate those people who take responsibility for managing wildlife in the countryside. They are not barbarians, and they do not want to cause suffering. They just want to get on with their job in the most efficient way possible and manage the environment, and I think that it is wrong to take this tool out of their box.

Ariane Burgess: The ban on snares illustrates the importance of this legislation. It will deliver real improvements in animal welfare, and I am convinced by the overwhelming evidence that we heard from the Scottish Animal Welfare Commission and others at stage 1—and, indeed, by the campaigning that has been carried out over many years by Scottish Greens and others—that the harm caused by snares cannot be mitigated.

An animal caught in a snare is injured and highly stressed, exposed to the elements and other predators, and denied food and water. Of course, snares are completely indiscriminate. They are as capable of trapping a protected species as they are of trapping a pet cat. A ban on snares would be a mark of the high regard that this country has for its iconic wildlife, so I will be pleased to support amendment 54.

I will turn briefly to Colin Smyth's amendments. Although I have sympathy with his intentions, I am concerned that amendments 54A to 54J could, in practice, make it more difficult to implement the ban by overcomplicating the definition of a snare. I hope that discussions on that can continue ahead of stage 3.

The Convener: I call the minister to wind up on amendment 54.

Gillian Martin: I will say a few words about humane cable restraints. I looked at those carefully, and I met people who were proponents of their use. However, I was not convinced that they were markedly different from traditional snares, for the following reason. The time for which an animal is left captured and restrained is traumatic for them mentally and it exhausts them physically. They do not have any shelter and could be left for quite a number of hours until the restraint is checked. They cannot drink or eat. If they have young, they will not be able to attend to them, because they are trapped. Up to 70 per cent of animals that are trapped in such restraints are non-target species. As Mr Mountain said, the dispatch might be done quickly, but the lead-up to it might be many hours long. That is my main issue with cable restraints. A so-called humane restraint might not cause physical damage to an animal's neck in the way that a traditional snare does, but a great deal of animal welfare concerns are most certainly associated with them.

I have listened carefully to the debate, and in particular to Colin Smyth setting out his reasoning. I assure the committee that I have paid close attention to the evidence, to what the consultations have told us, to the experiences and views that stakeholders have shared with us, and to what the Welsh Parliament did, as well as to international experience. It has been a long time coming, but I believe that the great weight of evidence shows that snaring must be banned.

Rachael Hamilton: Will the minister take an intervention?

Gillian Martin: No. I am summing up.

We are banning the use of snares in Scotland except in a very small number of ways, which are

designed to aid public safety, animal control and wider conservation and biodiversity objectives.

I listened carefully to what Colin Smyth said, but I cannot support his amendments, because I do not think that they are necessary.

I want to mention the exceptions that I have noted. One could be the use of devices for the ringing of birds for conservation or data collection reasons, as the British Trust for Ornithology might do, for example. I also mentioned the animal welfare and animal rescue charities that might use certain devices. I want to have a belt-and-braces approach. That aspect might not have been identified in the Welsh legislation, but it is important to have exceptions in the bill, in case the ban has any unintended consequences.

I encourage members to support my amendment 54 and to outlaw, once and for all, a practice that has no place in 21st century Scotland.

The Convener: I call Colin Smyth to wind up and to press or withdraw amendment 54A.

Colin Smyth: I listened carefully to what the minister said. There is clearly no difference in policy between us. The question was why she felt that it was not necessary to include other cable restraints in the legislation in the same way as the Welsh Government did in its act. I take on board her clear view that the definition of snaring in the bill very much covers other cable restraints. On that basis, I will not press my amendment 54A.

On the other amendments in my name, instead of going through them one at a time, it might make it easier for you, convener, if I say now that I do not intend to move them, if that is helpful.

I was not aware that I would have an opportunity to wind up, given that I had not lodged the lead amendment in this group, but I will certainly take the opportunity to do so.

The minister referred to the fact that the exceptions relating to wild birds are primarily about researchers using traps. However, I am still not sure why there is no clarity on snares for killing on that basis, because none of those researchers is killing birds.

I would welcome further discussions with the minister. I will not move the relevant amendments at this stage, but I want to ensure that, whether it is in explanatory notes or further statements, we absolutely make it clear that the exceptions are for researchers.

On that basis, I will not press or move my amendments at this stage. That might avoid the need for you to go through them all individually, convener, although there may be a procedural reason why you have to do that.

The Convener: Can you just confirm that you do not intend to press amendment 54A?

Colin Smyth: That is correct.

Amendment 54A, by agreement, withdrawn.

Amendments 54B to 54J not moved.

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

Members: No.

The Convener: There will be a division.

For

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

The Convener: The result of the division is: For 7, Against 2, Abstentions 0.

Amendment 54 agreed to.

The Convener: Amendment 53, in the name of Rachael Hamilton, is grouped with amendment 75.

Rachael Hamilton: Before I speak to my amendments, I thank the minister for setting aside time to speak about them with me—I appreciate that.

My amendments 53 and 75 would introduce and outline a clear set of principles on which licensing schemes could be based. A framework based on principles would help to provide clarity to all land managers, gamekeepers and other relevant bodies that are involved in the licensing scheme. I hope that we can agree that

"a licensing scheme should only be introduced where there is a legitimate need for one".

The amendments would ensure that we do not burden land managers and gamekeepers with unnecessary restrictions.

Another principle is that a licensing scheme should not put "excessive pressure" on NatureScot, which, as we know, is already stretched with other legislation that it is delivering on. Another important benefit that would be gained through the principles is that they would ensure that there was no "disproportionate cost" for licence applications.

Another benefit of introducing the principles in the bill is that they would ensure that the licensing process would be reviewed to ensure that the application process is as efficient as it can be—

and we all like efficiency. The issues with obtaining a hunting with dogs licence are a perfect example of the challenges that arise when an application process is neither practical nor workable, even though, to be frank, ministers promised that that process would be both of those things when the legislation on that licence was put in place.

I move amendment 53.

09:30

Alasdair Allan (Na h-Eileanan an Iar) (SNP): I do not think that anyone would disagree with Rachael Hamilton. We do not want to put in place measures that are unnecessary. However, I am keen to know how concepts such as "excessive pressure" and "efficient", which appear in the amendment, can be adequately defined in a way that works.

Rachael Hamilton: Those aspects are very difficult to measure. As we know, various members have received emails and information about how burdensome the licence scheme in the hunting with dogs process has been, and we know how long the process has taken, what information has to be provided to NatureScot and how many of those licences have been turned down, regardless of the individuals meeting the criteria.

The principles were based on other parts of legislation relating to licensing frameworks that have already gone through the Parliament. I can list the licensing frameworks that the principles are based on. Those include the Gambling Act 2005 and section 4 of the Licensing (Scotland) Act 2005. Currently, the principles and high-level objectives are already in those pieces of legislation.

I hope that that reassures Alasdair Allan.

Gillian Martin: Rachael Hamilton's amendments 53 and 75 seek to apply licensing principles to the wildlife trap, grouse and muirburn licences in the bill. Setting out those principles in legislation is simply not necessary, because the licensing authority will always be a public body—either the Scottish Government or, if that responsibility is delegated to it, as is anticipated, NatureScot. As public bodies, the Scottish Government and NatureScot must act reasonably and fairly in everything that they do, not just for the purposes of the three licensing schemes in the bill but in respect of general principles.

On ensuring that there is a legitimate need for the scheme, all the licences in the bill have been introduced to address a legitimate need, as is required for compliance with the European convention on human rights. The legitimate need for those licences is to help with the prevention of cruelty to animals, the prevention of wildlife crime and the protection of the natural environment. The legitimate need for the licensing scheme already exists and, in fact, is the reason for the bill. I am convinced that the bill strikes a fair balance in considering those whose possessions are particularly affected and the wider public interest.

I want to say a couple of things about what Ms Hamilton said about constant review of the application process. Legislation on the need for constantly reviewing the efficiency of the application process is not necessary. The application process is already kept under review, with a view to improving the process for those involved. The licences in the bill will be dealt with using the existing licensing team and process. However, NatureScot is exploring whether there might be a need to expand the size of the team to meet any potential increased demand. That is an operational matter for it. It is also exploring the development of a new online licensing system for all the wildlife management licences that it currently issues. NatureScot would be expected to review any such changes and what might be required to change in the future.

There must be a balance. A constant review of the application process would likely result in more frequent minor changes, which might mean that applicants would have to deal with a different form or process every time that they apply. That would be onerous for applicants, and I am sure that that is not what Ms Hamilton intends.

I do not support the amendments, for the reasons that I have stated. I simply do not think that they are necessary.

Rachael Hamilton: May I make some concluding remarks, convener?

The Convener: Absolutely.

Rachael Hamilton: Thank you.

The minister gave a very interesting answer regarding the existing licensing schemes that NatureScot operates. I absolutely have no doubt that they are operated in good faith and that they are reasonable and fair. However, coming on top of the licensing that it has to do under the Hunting with Dogs (Scotland) Act 2023, the licensing in the Wildlife Management and Muirburn (Scotland) Bill will mean that NatureScot will face a further drain on its resources.

The minister will completely understand why I lodged amendment 53—in fact, her answer explained why I did do. She specifically said that consideration is being given to an online licensing scheme and to streamlining the existing licensing scheme to make it more efficient and easier for people to apply for licences. The process has not been easy and straightforward. We were promised

that land managers would be given a workable and practical system.

As I said to Alasdair Allan, there is precedent for the inclusion of principles on which licensing schemes can be based. It is not a restrictive approach, and it would not slow down the application process. There are additional examples to the ones that I gave to Alasdair Allan. Principles are included in section 11 of the Good Food Nation (Scotland) Act 2022, section 1 of the Social Security (Scotland) Act 2018, section 1 of the Victims and Witnesses (Scotland) Act 2014 and section 3 of the Patient Safety Commissioner for Scotland Act 2023. Therefore, there is precedent for what I seek to do. It is not true to say that it has not been done before; I am not reinventing the wheel.

I am disappointed that the minister is not even willing to work with me.

I press amendment 53.

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 53 disagreed to.

Section 4—Regulation of certain wildlife traps

The Convener: Amendment 177, in the name of Edward Mountain, is grouped with amendments 178, 109, 55, 110, 57 and 58.

Edward Mountain: The purpose of amendment 177 is to rectify what I perceive to be an error. If the minister wants to contradict me, I would be grateful to her for doing so, but I am not sure that there are any legal traps for killing wild birds available in Scotland. I do not think that there is a trap that allows you to do that. It is against the law to kill a bird in a trap, and rightly so. Amendment 177 seeks to remove the word "killing" in relation to the use of traps for wild birds, and amendment 178 seeks to ensure that "killing" applies in the context of the use of traps for mammals.

With amendment 109, Colin Smyth seeks to include in the bill a provision that would allow the trapping of all live mammals as part of the licensing scheme. I am not sure that my wife, who, contrary to my better judgment, believes in trapping mice alive and releasing them outside the house after they have been caught, would welcome having to be part of a licensing scheme or to apply for a tag or an identification to go on her trap. I am not sure that Colin Smyth has thought through his amendment, because it would affect more than just people who use traps in the countryside. It would also mean that people who use traps to catch live animals such as mice, squirrels, rabbits and even rats—I do not fully understand the principle behind live rat traps—would have to go on a course and fit a tag to their traps.

Therefore, I am not entirely convinced that amendment 109 is sensible, but I look forward to hearing Colin Smyth's arguments and to my being able to go home and convince my wife.

Amendment 55 is highly important and entirely appropriate, and I am glad that the minister has lodged it.

Amendments 57 and 58, in the name of Rachael Hamilton, appear to be proportionate and sensible, and I look forward to hearing the arguments.

Amendment 78 appeals to me in that the Government needs to be open, honest and transparent about how it comes up with its decisions. I am sure that that will chime with the general public and that the amendment will therefore gain the support of the committee.

I move amendment 177.

Colin Smyth: The regulation of some traps, which the bill will introduce, marks a big improvement, and I very much welcome it. However, as we know, that concerns only live-capture bird traps and traps covered by the Spring Traps Approval (Scotland) Order 2011, as amended. A variety of other traps are commonly used in Scotland, some of which are completely unregulated—those used for moles, rats and mice, which can cause a great deal of suffering. I therefore believe that the Government's approach of not considering those traps is inconsistent from an animal welfare point of view.

Amendment 109, in my name, would add mammal cage traps, which are used to take and then kill mammals, to the list of traps for which users must have a licence. Animal welfare organisations have understandably been calling for a review of all traps, examining both the reasons for their use and their welfare impact. I

would support such a review, and I would be keen to hear from the minister whether the issue of live traps will be kept under review.

The policy memorandum for the bill says that the traps that I have referred to are not included because

"the activity does not pose a risk to raptors, and in the majority, such activities have no link to grouse moor management."

Although the traps that I have referred to do not pose a risk to raptors, they will have an impact on any animal trapped in them, and bringing them under the trap licence scheme would ensure that best practice is followed to minimise their impact. Something is not cruel just because it is linked to grouse moors. The Government recognises that with the comprehensive ban on snaring under the bill, which is not linked just to those moors.

I have worded my amendment 109 in such a way that it specifies that the traps concerned are for taking animals that are intended to be killed. Researchers and welfare groups would therefore not be affected, and the good news for Edward Mountain is that neither would his wife's actions.

The aim of specifying

"for the purpose of destruction"

in the amendment is to exclude any trapping for welfare reasons that subsequently leads to humane destruction. I hope that the minister will agree that that overcomes any objections on the basis of unintended consequences.

Amendment 110 would alter the wording of the requirement for trap users to try to avoid untargeted species getting caught in traps. The current wording in the bill is:

"the person took all reasonable steps to prevent the killing, taking or injury of any other animal (other than an invertebrate) not intended to be taken by the trap."

Amendment 110 would replace the word "reasonable" with "practicable", which sets a higher standard. One legal dictionary says:

"Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics".

It is a common word in legislation. It has been suggested that it would mean someone having to stand by a trap 24 hours per day, but that is simply not true. That does not meet the interpretation of "practicable" in law. Using the word would mean, however, that steps should be taken if it is possible to take them. "Reasonable" is a lesser test and, if we use that, we could easily end up with an individual's view of what is "reasonable" dominating. Given the high numbers of untargeted species that we know have been caught and have suffered in traps until now, I believe that we should aim to set a higher bar.

I am particularly interested to know why, given how common the phrase "reasonably practicable" is in Scots law, the Government has chosen not to use it but to use "reasonable" only.

Gillian Martin: I will speak first to my amendment 55. The issue of trap tampering was discussed at length during the committee's stage 1 evidence sessions. I listened to the evidence, particularly from the Scottish Gamekeepers Association. Indeed, I met representatives of the SGA and had a constructive conversation with them. I listened to other stakeholders involved in land management, too.

I note the extent to which trap tampering happens and the impact that it has on land managers' ability to do their job—to carry out their lawful activities. There might also be consequences for animal safety and welfare if a trap is tampered with. I understand the concerns of land managers about vexatious complaints and the fear of losing their licence or being prosecuted, but that is not what the trap licence seeks to do. I do not want responsible users to lose their licence unfairly or due to the unwarranted or irresponsible interference of others.

During the evidence sessions, Mike Flynn of the Scottish SPCA agreed that there should be a specific offence of interfering with a lawfully set trap. He stated:

"If it is lawfully set, any suffering should be minimised, but that is outwith the setter's control if the trap is tampered with."—[*Official Report*, *Rural Affairs and Islands Committee*, 14 June 2023; c 46.]

09:45

My amendment 55 would make it an offence to tamper with a trap to which the wildlife trap licence scheme applies so that it no longer complies with the licence requirements, or to disarm or destroy such a trap unless the person has a reasonable excuse for doing so. It also adds the offence of knowingly causing or permitting another person to tamper with, disarm or destroy such a trap. I encourage all members to vote for amendment 55.

It is fair to say that amendments 57 and 58 aim to achieve the same purpose as the offence provided for in amendment 55. Therefore, I ask Ms Hamilton not to move her amendments. If she does move them, I encourage committee members to vote against them, as amendment 55 does exactly the same thing.

Amendments 177 and 178 seek to change the wildlife trap licence scheme to apply to traps that are used for the purpose of taking a wild bird or killing or taking a wild animal. I appreciate that

Edward Mountain has lodged those amendments to reflect the fact that, currently, no traps can be legally used to kill wild birds. Leaving proposed new section 12A(1) of the 1981 act as it is would have no immediate effect, as there are no traps that can be used for the purpose of killing wild birds.

The Werritty review recommended that traps that are used to take wild birds be subject to greater regulation due to the strong links between the misuse of that activity and raptor persecution. I have also made it clear that the bill should be future proofed so that we have enabling powers to amend the types of traps to which the licence applies by secondary legislation. It would stand to reason that, if any traps were ever allowed to be used to kill wild birds, they, too, should be subject to the licence scheme. Again, it is future proofing.

Edward Mountain's amendments would mean that if, in future, a trap should be devised that could legally be used to kill wild birds, a licence would not be required to kill them, only to take them. That would have the result that there would be a higher level of oversight for using traps to take wild birds than for using traps to kill them, which would be problematic. For those reasons, I cannot support amendments 177 and 178 and I encourage committee members to vote against them.

Colin Smyth's amendment 109 would add traps that are used for the live capture of wild animals to the trap licence scheme if the animals are trapped with the intention of their later being killed. I understand why Colin Smyth has lodged the amendment, and it seems reasonable to include in the bill. As is set out in the policy memorandum, the measure was considered when the bill was developed and drafted. However, I came to the conclusion that there was not enough evidence to justify adding such traps to the licensing scheme at this time, and the Werritty review did not recommend their licensing.

The intention of a wildlife trap licence scheme is to reduce the use of traps that illegally capture raptors. There is no evidence that people using traps for the capture of live animals have used them with that intent, nor do I think that such traps would be capable of capturing a raptor. I have had discussions with NatureScot and stakeholders who are involved in wildlife management, and it has become clear to me that those traps are used by a number of different groups for a wide range of purposes that are often unconnected with grouse moor management, including conservation and research purposes.

Therefore, I am concerned that adding such traps to the licensing scheme at this stage could give rise to unintended consequences. However, I appreciate that circumstances can change and that new evidence can come to light. I assure Colin Smyth that that is why the bill contains powers to allow other types of traps, such as the ones used for the capture of live animals, to be added to the licensing scheme through regulations following consultation. It is also worth noting that the bill does not change the fact that anyone using such a trap to take a protected animal will still require a species licence from NatureScot and would have to comply with the Animal Health and Welfare (Scotland) Act 2006.

I hope that what I have said satisfies Colin Smyth that sufficient safeguards exist currently. We have powers in the bill to address any issue in the future. Therefore, his amendment 109 is unnecessary and could, in fact, have unintended consequences. I ask him not to move it. However, if he does move it, I encourage committee members to vote against it.

I turn to amendment 110. The bill offers the safeguard of a defence to the offence of catching an unintended animal if the trap user has taken "all reasonable steps" to prevent the catching of any unintended animals. Amendment 110 would change the wording in that defence from "all reasonable steps" to "all practicable steps".

The defence was included to account for a situation in which a person has complied with the requirements of the trap licence but catches an animal unintentionally, when doing so could not have been foreseen—for example, if they had lawfully set a trap to catch a weasel but unintentionally caught a badger.

In the majority of cases, what is reasonable will also be what is practicable. It would not be reasonable to ask someone to do something impracticable. I appreciate that that sounds a little convoluted, but there is a substantive amount of case law on the reasonableness test. That is why I have used the wording that I have used.

Further, the word "reasonable" was used in the bill to maintain consistency with provisions in the Wildlife and Countryside Act 1981. It is important to do what we can to avoid unnecessary confusion. For that reason, I ask Colin Smyth not to move amendment 110. If he does so, I encourage committee members to vote against it.

Rachael Hamilton: I was heartened that the minister lodged amendment 55. That clearly means that we have both been listening carefully to some of the evidence on the issue. I support her amendment 100 per cent, as it serves the same purpose as my amendment 57—to make trap vandalism an offence.

I listened carefully to the minister when she spoke about Mike Flynn from the Scottish SPCA, who also supports a specific offence should the animal welfare implications of trap vandalism be in

play. Scottish Land & Estates also supports a specific offence whereby the penalties for trap vandalism should equal those for mis-setting a trap. I, too, met the Scottish Gamekeepers Association, which strongly supports that amendment. I accept the minister's point that my amendment is very similar, so I will reluctantly not move it, albeit that we have not yet got to that point.

The Convener: I fully support amendment 55, which rightly introduces a level playing field.

Colin Smyth's amendment 109 would bring all live-capture traps for mammals within the scope of the licensing scheme. I have concerns that, often, those traps are integral to the control of invasive non-native species. I note, in particular, the operation of squirrel traps and mink traps. The work that gamekeepers carry out to manage the impact of those species on native wildlife might be significantly impacted as an unintended consequence of bringing those traps into scope.

Stephen Kerr (Central Scotland) (Con): I support the convener's remarks on Colin Smyth's amendment 109, which appears to be more of a probing amendment than a realistic attempt to amend the bill. Live-capture traps for mammals are not generally used in moorland management contexts, and the consequences that have been described by the minister, Edward Mountain and others make the amendment somewhat unworkable. I also think that the amendment is out of scope and inconsistent with the purpose of the bill.

Amendment 110 would render the trap licensing scheme fundamentally unworkable in practice. Again, the minister has covered this well, but it bears repetition: trap licences are personal to individual operators, whose circumstances will vary vastly. Some will be lone operators on small landholdings and others will be on large landholdings, supporting large businesses. Likewise, the nature, extent, need and purpose of trapping varies vastly, depending on the land management activity that is being carried out, the scale of the land, its topography and so on.

The effect of replacing "reasonable" with "practicable" would be to provide that trap licence holders would have to take all steps that were theoretically possible to prevent bycatch, such as standing beside the trap for 24 hours a day—I know that Colin Smyth dismissed that, but it would certainly come within the scope of the definition—as opposed to the steps that are reasonable, such as having regard to the land, its resources and risk. It is therefore essential that the reasonable steps test be retained, as it allows NatureScot to assess conduct in context and takes the flexible and risk-based approach to regulation that is envisaged by the principles of better regulation.

Edward Mountain: I have found the debate interesting. I am slightly concerned that the minister has suggested that amendment 177 should not be agreed to on the basis that it talks about something that is already illegal and that she is talking about the need for what is in the bill to remain there because of future proofing. That seems to suggest that the minister will consider at some stage allowing traps to kill birds. If that is the intention, I am desperately against it. Therefore, I am sure that, on reflection, the minister will think that amendment 177 is sensible, because it does not even mention the killing of birds with a trap, so no future proofing is required.

Gillian Martin: I confirm that including traps for birds is not my intention. It is about future proofing the bill should any modifications come about for future traps that might exist. I noticed that Edward Mountain had a little bit of a smile on his face when he suggested that. That is not my intention at all.

Edward Mountain: In fairness, anyone who develops a trap for deployment in Scotland that can kill or that aims to kill birds is breaking the law anyway. There is no point—

Gillian Martin: That is exactly my point.

Edward Mountain: Convener, I am sure that you would like me to go through the chair.

The Convener: Thank you.

Edward Mountain: My point is entirely that it is not required in the bill, so we should remove it.

I am somewhat less convinced by Colin Smyth's amendment 109. My wife might be delighted that she will continue to be able to release mice, rats and moles, but, if I get my hands on the trap, I will not be releasing them. The intention would be that they would be killed, so I would have to apply for a licence, as would everyone else, should they wish to use a live trap to hold an animal until it can be effectively dispatched. I do not think that amendments 109 or 110, in the name of Colin Smyth, are helpful.

I reiterate that amendment 55, in the name of the minister, is a useful addition to the bill. I am pleased that she has taken the time and trouble to listen to practitioners who face such vandalism on a daily basis. Be under no illusion: it happens on a daily basis. The cost can be phenomenal if somebody goes down a trap line and smashes each of the legal traps, which can cost £40 plus each, and Larsen traps, which are built, can cost considerably more. I am very pleased that the minister has done that. I hear Rachael Hamilton's argument that amendment 55 might cover what her amendment 57 intended to do.

I confirm that I will press amendment 177, because I do not think that that part of the bill is required.

The Convener: The question is, that amendment 177 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 177 disagreed to.

Amendment 178 moved—[Edward Mountain].

The Convener: The question is, that amendment 178 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 178 disagreed to.

10:00

The Convener: Amendment 109, in the name of Colin Smyth, has already been debated with amendment 177.

Colin Smyth: I note the minister's comments on why wider types of traps have not been included, but I reiterate that, as with snaring, the cruelty that is associated with some traps happens not only on grouse moors or in relation to raptors. However, I note the comments about insertion of new section 12A(8) into the Wildlife and Countryside Act 1981, which gives ministers powers to amend the list of traps, and I hope that the issue of other traps remains under review. Indeed, I would be keen to discuss that with the minister ahead of stage 3. At this point, though, I will not move amendment 109.

Amendment 109 not moved.

Amendment 55 moved—[Gillian Martin]—and agreed to.

The Convener: Amendment 110, in the name of Colin Smyth, has already been debated with amendment 177.

Colin Smyth: I will certainly move amendment 110, convener. Although I am grateful to Stephen Kerr for reading out almost word for word the briefing from the British Association for Shooting and Conservation, the reality is that standing next to a trap is not a reasonable interpretation of the word "practicable". According to a legal dictionary, "practicable" is defined as

"available and capable of being done after taking into consideration cost, existing technology, and logistics".

It would not be logistically possible to stand next to a trap 24/7, and it is not something that would be expected. What is meant by "practicable" is that steps should be taken, if it is possible to do so. As I have said before, the term "reasonable" represents a far lesser test.

I move amendment 110.

The Convener: The question is, that amendment 110 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 110 disagreed to.

The Convener: Amendment 78, in the name of Finlay Carson, is grouped with amendments, 80, 19, 84, 93, 100, 41, 103 and 105.

Amendment 78 seeks to require Scottish ministers to publish the results of the consultation to be carried out under section 12(9) and to give reasons for any decision that is reached. That

applies not only to amendment 78 but to amendments 80, 84, 93, 100, 103 and 105.

I have lodged the amendments because, although the obligation on "the Scottish Ministers" to

"consult Scottish Natural Heritage and such persons as they consider likely to be interested in or affected"

is welcome, there is an obligation on Scottish ministers to report the outcome of the consultation along with their reasons for their decisions. The Scottish Government should make public the consultation's outcome in the interests of transparency.

I move amendment 78.

Edward Mountain: Convener, I think that I inadvertently—I apologise for this—praised your amendments in the debate on the previous group, but my comments stand. I think it is really important that all discussions relating to the consultation—and, if necessary, the minutes of meetings—be made available so that people can see how decisions have come about.

Amendments 19 and 41 are simple. The bill says:

"Before ... revising a code of practice the Scottish Ministers must consult ... Scottish Natural Heritage".

I have to say, minister, that I get confused about this. Is the organisation Scottish Natural Heritage one day and NatureScot the next? You might wish to reflect on the need for continuity with previous legislation, as a result of which the organisation is now referred to as NatureScot—I am sure that your officials will do so.

I also note that Scottish ministers also have to consult

"any other person they consider appropriate."

I would like to amend that simply by adding the phrase "land managers", which would make the consultation sufficiently widespread to include anyone who works on and manages land. RSPB Scotland, for example, is a land manager. The phrase would also cover private owners, charities and trusts. Indeed, it could also include people on the front line, who are making all of this work. That would give you a better idea of whether the principle itself works.

I am sure that the minister is going to fire back at me on the Scottish Natural Heritage and NatureScot point. I look forward to that, and I thank the convener for allowing me to speak to the amendments.

Gillian Martin: Before I speak to your amendments, convener, I clarify that "Scottish Natural Heritage" is the term that is used in legislation, whereas "NatureScot" is the organisation's public-facing brand name. They are names for the same organisation. I understand that that can become a little confusing, but I consistently refer to it as NatureScot.

With the greatest respect, I believe that Finlay Carson's amendments 78, 80, 19, 93, 41, 103 and 105 are unnecessary. The bill contains a set of enabling powers to allow Scottish ministers to modify, by Scottish statutory instrument, provisions relating to wildlife traps, section 16AA licences and muirburn. Such modifications are subject to the conditions that are set out in the bill, including the requirement to consult. Any changes that are made under those provisions are already subject to the affirmative procedure.

The policy note for SSIs that are laid in the Scottish Parliament contains a consultation section that outlines the form of consultation that has been conducted. The policy note also contains the reasons for introducing the SSI, which will normally include the views of stakeholders. I therefore do not see any need to set out in the bill a requirement to publish consultations that are undertaken in relation to use of the enabling powers. I encourage members to vote against the amendments.

Likewise, I will not support amendments 84 and 100. They would add the requirement to publish the results of consultation undertaken while preparing, reviewing or revising the muirburn code, or the code for section 16AA licences, and to give reasons for the decisions that had been taken.

It is standard practice for Scottish ministers to consult interested parties on such matters, and we regularly share and publish consultation responses. As I set out in my letter to the committee last week, when I provided an update on the development of muirburn and grouse moor management codes, interested parties have been consulted continually and have been included in the process of developing the codes. I therefore see no reason to set such matters out in primary legislation. I encourage members to vote against the amendments.

I turn to Edward Mountain's amendments 19 and 41. On amendment 19, the provisions in the bill set out that when preparing, reviewing or revising the code of practice for grouse licences, Scottish ministers must consult

"any other person they consider appropriate".

It is fair to say that land managers would fall into that category, so, in my view, we do not need to provide for that specifically in the bill.

Similarly, on amendment 41, it is clear to me that land managers are likely to be interested in or affected by muirburn, so Scottish ministers would

already be required to consult them when considering amending the dates for the muirburn season. However, I have listened to what Mr Mountain has said—

Edward Mountain: Will the minister give way?

Gillian Martin: I might be about to give you some comfort in my next paragraph. Perhaps I could get to the end of that, and then I will—

Edward Mountain: I am sorry. Yes.

Gillian Martin: I have listened to what Mr Mountain has said. I understand why he lodged the amendments and why he thinks that it would be helpful to have a requirement to consult land managers set out more explicitly in the bill. I am therefore happy to support his amendments in principle. However, I would like to ensure that both are framed in a way that is consistent with the existing language in the bill. I therefore request that Mr Mountain not press amendments 19 and 41 but allow us to work together on redrafted versions to be brought back at stage 3.

Rhoda Grant (Highlands and Islands) (Lab): I would like clarification. You talked about consultation that takes place regularly and said that the Scottish Government would normally publish the results of such consultation. Are you committing to doing that in the future, regardless of those amendments?

Gillian Martin: I genuinely cannot think of any consultation that I have been involved in, in the time since I have been a minister, whose results have not been published. Such publication is standard practice in the Scottish Government.

The Convener: I will wind up. I believe that such a decision is one for the incumbent minister, whoever that might be. We might have a commitment from the current minister, but it will be within the minister of the time's discretion whether consultation is carried out. I recognise that the minister who is here today has written to the committee about the process and development of the statutory code of practice in other areas.

However, I do not think that the Government should have any fear of the provision being included in the bill. A verbal commitment from one minister might not be something that we would get from another in the future, so there should be no concerns about putting that requirement in the bill.

I intend to press amendment 78.

The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 78 disagreed to.

The Convener: It is my intention that members will now have a short comfort break. I suspend the meeting until 10:20.

10:11

Meeting suspended.

10:21

On resuming—

The Convener: We return to stage 2 consideration of amendments. Amendment 111, in the name of Rachael Hamilton, is grouped with amendments 1, 112, 126, 2, 127, 147, 3 and 148.

Rachael Hamilton: Amendment 111 and the other amendments in the group centre on the premise of cost recovery for the various licensing schemes in the bill. For hundreds of years, landowners and land managers have been the champions of conservation in rural Scotland. Whether it is a sporting estate or a family-run farm, which my colleague Edward Mountain spoke of earlier, those conservation efforts have been conducted with the experience and understanding that is handed down from generation to generation.

The legal control of pest and predatorial species has been undertaken at the expense of landowners or tenants and has served to preserve, recover and promote endangered and red-listed species. To date, those conservationists have never been paid for providing that service, nor do they ask for money for providing it. It is a service that they are willing to undertake, as they have an appreciation of how important certain vulnerable species are to their local and national habitats. Members should think about the benefits of the work that land managers already undertake. Without them, we are likely to lose our iconic capercaillie. Work has also been done to recover the numbers of lapwings and curlews, and that work will come to nothing if those practices stop.

We have an opportunity to support those who are out before light and who get back home to their families well after dark; instead, we seek to punish them by twisting the financial thumbscrews at a time when they are being asked to contribute positively towards addressing the nature and climate emergencies. The expertise of some of the operators is frequently drawn on by the likes of the Scottish Fire and Rescue Service, as well as by organisations that are dedicated to promoting and protecting certain species. We simply cannot afford to lose the skill of those people and the equipment that they invest in.

Finally, NatureScot recognises that the control of certain species is a public service and it does not charge for wildlife management licences that directly benefit the public. To push for cost recovery now would likely ensure that individual conservationists, smaller farmers, tenant farmers and projects that work on a shoestring are hardest hit. As a result, they will be unable to afford to carry on that vital work. I hope that the minister will understand my argument that they are currently undertaking that work for free. Success in conservation needs national involvement, and the combined efforts of small projects and landholdings are key to that success. Amendment 111 would ensure that that key work continues unhindered.

I move amendment 111.

John Mason (Glasgow Shettleston) (SNP): This group is quite straightforward, with Rachael Hamilton going in one direction and me going in another.

I and many others support the proposals that the Scottish Government has set out in the bill. However, it is important that NatureScot's wider conservation functions are not diminished in any way and that the administration costs of trapping, grouse shooting and muirburn licences are covered in full by applicants. NatureScot is taking on significant additional licensing functions as part of the bill, and I think that I heard the minister say that NatureScot might need new staff as a result. We do not want NatureScot's resources for other work to be reduced because of that. Public finances are tight, and if the public purse has to subsidise those licences, it means less money for other important needs. Rachael Hamilton slightly overstates the case when she uses words such as "punish" and "thumbscrews", but the reality is that money is tight, and £1 extra for subsidising landowners means £1 less for the national health service.

In the context of the climate and nature emergency, we need a strong NatureScot. I understand that NatureScot does not charge for the licensing functions that it administers. However, other organisations, such as the Scottish Environment Protection Agency, already charge for most of their licensing functions. With regard to firearms licence administration, via Police Scotland, the public already bears the cost, to a large extent, of what is largely a private benefit.

In this case, the aim of the Wildlife Management and Muirburn (Scotland) Bill is explicitly about addressing the illegal persecution of raptors that is associated with grouse shooting and to improve trapping and muirburn practice to prevent damage to public interests. Grouse shooting is largely a private benefit linked to land ownership, so it feels inequitable to many that the public should have to cover the costs of such licences, especially when, in the context of grouse shooting, the legislation is designed to address the long-standing illegal behaviours of some practitioners. The legislation is intended to act as a meaningful deterrent to illegal behaviours and bad practice in land management. If the licence applicant has to pay the administration costs of the licensing service, it could also be argued that they will have greater investment in the process and will focus more on what they are asked to deliver—namely, the licence conditions set by NatureScot for the receipt of a licence to operate trapping, grouse shooting and muirburn.

I gather that there is due to be a licensing review at some point. The minister referred to that when I asked her a question in the chamber in December. It would be good to hear from the minister what her current thinking is on the subject of full cost recovery, the timescale of any review and whether she is minded to support charging for the specific licensing functions that are related to the bill.

The Convener: I have a question that the minister can perhaps cover in her response. How wedded is she to the costs in the financial memorandum? For example, it is £50 for a trap licence, £100 for a grouse shoot licence and £250 for a muirburn licence.

Ariane Burgess: I want to speak to John Mason's amendments, and I thank him for raising an important issue. The committee heard evidence about it at stage 1, but I recognise that a species licensing review is already committed to as part of the Bute house agreement, and I agree with not pre-empting the findings of that review.

Gillian Martin: Rachael Hamilton's amendments 111, 112, 126, 127, 147 and 148 would remove the relevant authority's ability to charge reasonable licence fees for any of the licences in the bill. As a couple of members—particularly Ariane Burgess—have said, we have a Bute house agreement commitment to review species licensing throughout wildlife licensing. That will include assessing the potential for cost

recovery. Rachael Hamilton's amendments prohibit that, so I cannot support them and I encourage the committee not to support them.

With regard to the financial memorandum, those were the initial estimates from NatureScot. They will be refined as the licensing is developed in the online system, and they will also be taken into account as part of the review. I understand and appreciate the intent behind John Mason's amendments 1, 2 and 3. As I have said, we have committed to considering cost recovery as part of the review, and we are actively—

10:30

John Mason: Can you give us the timescale for the review?

Gillian Martin: I was just about to refer the committee to Ms Slater's letter to NatureScot in which she asked it to take forward the commitment to do the species licensing review. I am sure that the committee has a copy of that letter—if not, we can make sure that it does. At the end of her letter, which was sent in January, she said that she would like the report to be completed and ready for external review within six months. It is going to be done at speed. I imagine that that will be by June this year, for external review, and that the committee will take an interest in that.

We want to consider cost recovery across the whole range of species licensing. It is important that Ms Slater's letter also says that it is about review of the wider species licensing system with a view to ensuring that the law is being applied correctly. Therefore, it is not just about cost recovery; it is also about how the licence system is working more generally.

Rachael Hamilton: Will the minister take an intervention?

Gillian Martin: I will be happy to give way when I finish my points.

We have taken the approach of including provisions in the bill to allow the relevant authority to charge a reasonable fee in the future following the outcome of the review. That approach would allow for a holistic and coherent introduction of fees and charges across all relevant bill activities and, indeed, the wider relevant licensing activities undertaken by NatureScot.

Amendments 1, 2, and 3 could pre-empt and undermine the outcome of the review, so I ask Mr Mason not to move them. I am sure that the minister who commissioned the NatureScot review will be content to keep Mr Mason and other members of the committee updated on its progress.

I am happy to try to answer Ms Hamilton's question.

Rachael Hamilton: My question is quite straightforward. Are you keen on the Scottish Government aligning with the licence cost proposals that are set out in the financial memorandum?

Gillian Martin: The review might supersede that. We have to allow NatureScot to undertake a full analysis of the cost recovery associated with all licences and see where that lands. Obviously, it has sight of what we proposed in the financial memorandum, which it will take into account. Ms Slater is leading on that. However, I think that we all agree that the licences should be proportionate and should depend on the people who are applying for them. All of that will be taken into account. The committee will, of course, be able to see the results of the review within about six months.

Stephen Kerr: Do you accept that £250 for an annual muirburn licence, which would be required by small crofts and tenant farms, is probably disproportionate, especially when there might be a requirement for more than one licence for peatland and non-peatland?

What is the point of the numbers in the financial memorandum if you do not have a commitment to them? Perhaps you might address that issue.

Gillian Martin: A financial memorandum is essential for any bill that has been introduced. The estimates were based on the stage that we were at. However, we need to allow the wider review to conclude.

On the questions about the cost of a particular licence, I have just said that all the licensing fees, the cost recovery and how the licences work will be reviewed by NatureScot. If I were to say anything about a particular licence today, that would pre-empt the analysis that NatureScot will do. We have to allow it to get on with that work, as instructed by the minister responsible.

John Mason: Does the minister agree that the figures in the financial memorandum are estimates? In some cases, they appear to be quite clear estimates in relation to the bill that we are discussing, but the estimates relating to many other bills are incredibly rough. Does she accept that a guideline in the financial memorandum is certainly not fixed in stone?

Gillian Martin: Exactly. As I said, the financial memorandum is an essential part of any bill and it is always an estimate. I hope that the fact that we have provided those estimates in the financial memorandum will give NatureScot the ability to interrogate what we have proposed in the bill as

part of its wider review of all the licences that it issues.

Stephen Kerr: The idea that John Mason puts forward—that what appears in the financial memorandum is somehow a ballpark figure or a rough estimate—is the root of many of the issues around cost that we seem to have had in Parliament in this parliamentary session. Surely, as a Government minister, you do not accept that those numbers are just thrown together. What is the rationale for the numbers in the financial memorandum? I do not believe that it is appropriate for you, a minister, to disassociate yourself from the numbers that you have published.

Gillian Martin: Mr Kerr might not think that it is appropriate. We have arrived at an estimate of the costs associated with the licences but, as I have said a few times now, we have to allow NatureScot to undertake the work that Ms Slater has asked it to do, which is a review of the licences. I hope that the estimates that we have provided in our financial memorandum will be helpful in that respect.

The Convener: I call Rachael Hamilton to wind up and press or withdraw amendment 111.

Rachael Hamilton: Various colleagues have just shared a lot of information around this grouping of amendments, and I want to pick up on a few points.

First, it appears that John Mason is saying that rural stakeholders should foot the bill for a public service, although it is clear that there is a public benefit. He says that there is not a public benefit but, with regard to the biodiversity gain, it is about a national conversation and national involvement and intervention to meet climate crisis targets.

Secondly, with respect, he should not cast aspersions that illegal behaviours have been related to rural stakeholders and imply that he believes that not all operators operate legally. I would like him to either apologise or make sure that those comments are extended.

John Mason: Would Ms Hamilton accept that I did not say that there was no public benefit?

Rachael Hamilton: In bringing forward the amendment, you did not once say that rural stakeholders are bringing a clear public benefit in relation to biodiversity gain. That is how I interpreted what you said, but, obviously, I do not know whether you are trying to say that they do or do not bring a public benefit. Beyond that, it is important that we reflect that those who are operating legally and within the law are providing a public service.

I also want to pick up on certain points that the minister made. The Bute house agreement is a political agreement that exists because the Scottish National Party did not get a majority in the most recent election and therefore had to bring on board another party to ensure that it had a majority, particularly for independence votes. Forgive me for making that point, but it is essential that I make it, because the SNP is now kowtowing to another party.

Jim Fairlie: Will the member give way?

Rachael Hamilton: Not until I finish my point, if you do not mind, Mr Fairlie.

The financial memorandum sets out an estimate. Could we say that an annual muirburn licence at £250 is fair and proportionate, or could we say that, with a review in six months, land managers have no idea what their likely costs will be? There is no certainty about that in the future.

I think that you—well, not you, minister, but the Bute house agreement—are almost using rural stakeholders to force the issue and to bring forward a review and leapfrog the financial memorandum, although I do understand that the figure is an estimate.

I also highlight the NatureScot cuts. Should we make the point that NatureScot has had funding cuts? Is the Scottish Government expecting the gaps to be plugged by making those cuts? This raises so many uncomfortable questions for me, and I hope that you appreciate—

Jim Fairlie: Will the member give way?

Rachael Hamilton: Yes.

Jim Fairlie: Stakeholders themselves have accepted that the bill was introduced as a result of the raptor persecution that has been going on for decades. The fact that the bill will have consequential wildlife benefits does not necessitate its being paid for from the public purse.

I am not saying how I am going to vote on this at this moment in time, but the member is almost trying to say that the bill was introduced as a result of the Bute house agreement, with the Greens driving it. It was not; it was introduced because raptor persecution has been happening in this country for decades, and the landowners who were responsible—or, at least, their employees—did not shut it down. I support landowners and rural workers more than most, but I am afraid to say that, on this point, I fundamentally disagree with you.

Rachael Hamilton: I thank Jim Fairlie for that intervention. Of course, the whole objective is to get those people who are operating illegally—that is the most important part of the bill—but there is no connection between raptor persecution and grouse moors.

Jim Fairlie: Well, I would disagree, as would the evidence.

Rachael Hamilton: There are other reasons for persecution—intraguild predation, the habitat, et cetera. We can agree to disagree on that, but what we are talking about here is cost recovery. To my mind, it is almost as if those who are operating legally are being persecuted, if I can use that word.

I am also uncomfortable about the idea that there has been no demonstration of the benefit to the public purse. The biodiversity gain is in sight—you only need to go on to a grouse moor to see the species that have recovered. Indeed, I was on a farm that was connected to a grouse moor, and there were 15 bird species just because of the management.

I have made my point, so I will finish up. That is all that I have to say.

The Convener: Can I confirm, Ms Hamilton, that you intend to press amendment 111?

Rachael Hamilton: Yes.

The Convener: The question is, that amendment 111 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 111 disagreed to.

The Convener: Amendment 56, in the name of the minister, is grouped with amendments 10, 10B, 10A, 113 to 116, 11, 117 and 118. I point out that, if amendment 10 is agreed to, I cannot call amendments 113 and 114, on the ground of pre-emption.

Gillian Martin: Amendment 56 inserts a requirement for any application for a wildlife trap licence to include evidence that the applicant has completed an approved training course.

The bill currently provides that the licensing authority, which I expect to be NatureScot, has the ability to determine what information is to be supplied alongside a wildlife trap licence application, which could include evidence of training. However, having reflected on the issue, I think that it would be more transparent to have the requirement for evidence of training stated in the bill, as that would make it clear to all applicants that they are required to complete an approved training course and to provide proof of that when applying for a licence. Requiring the applicant to provide proof of relevant training when they submit their application will aid the relevant authority in determining whether a licence should be granted. I encourage members to vote for my amendment 56.

10:45

Edwards Mountain's amendments 10, 10B and 11 would have the effect of requiring NatureScot to grant a licence if the applicant had completed the training or was born after 31 December 1983 and had used the type of trap in question professionally for at least a decade. If an applicant met the age and professional experience criteria, they would be exempt from any requirement to undergo training. I encourage the committee to reject those amendments. The wildlife trap training requirement is not about telling people how to do their job; it is about recognising that the use of wildlife traps requires an appropriate level of skill and training if we want to avoid any adverse welfare outcomes in the future.

The requirement in the bill that wildlife trap users should undergo appropriate training has been largely supported by stakeholders. Land managers have told me that they already undertake a lot of training, and I am conscious that there are many people involved in grouse moor and wildlife management who have significant knowledge and expertise—and they seem to be pleased to evidence it. The purpose of the training requirement is to incorporate all that experience and learning, ensuring that everyone using wildlife traps has high standards across the board, which they can evidence.

I will quote from the committee's stage 1 evidence. Alex Hogg, chairman of the Scottish Gamekeepers Association, said that the SGA was

"up for doing the trap training and getting it right. Whatever you decide on, we will comply with it".—[*Official Report, Rural Affairs and Islands Committee*, 14 June 2023; c 43.]

Regarding the exemption based on age, I do not think that we can assume that someone, just because they are over 40, will automatically have all the right skills. They may have been using the trap incorrectly for a number of years, or they might not be aware that there are new legal requirements, such as a change in the baffle size. The purpose of the training requirement is to ensure that high standards are maintained and are consistent through continuous professional

development. The bill requires a person to use a trap in accordance with the approved training course. If they do not, they will have committed an offence.

By not requiring certain people to undergo training and refresher training, there is the potential that they may not have the knowledge to comply with the requirement to operate the trap in question in accordance with the approved training course. That would be setting them up to fail.

For those reasons, I cannot support amendments 10 and 11, and I encourage committee members to vote against them.

Rachael Hamilton's amendment 10A would remove the requirement in amendment 10 that a trap user must be born on or before 31 December 1983. That would address concerns that I have about amendment 10 in relation to the age of an applicant. For that reason, I fully support amendment 10A, as it would mitigate some of the issues that I have with amendment 10. On that basis, I would encourage committee members to support amendment 10A.

I will be clear, however: even with the changes contained in amendment 10A, amendment 10 would still allow a wildlife trap licence to be issued to any applicant who has completed the training course and has used the type of trap in question in a professional capacity for a period of at least 10 years consecutively, regardless of their suitability. I therefore cannot support amendment 10. Even if members are minded to vote for amendment 10A, I would still hope that they will vote against amendment 10 as amended.

Colin Smyth's amendment 113 would impose a condition that a trap licence could not be issued if it was for the primary purpose of managing the number of wild birds that are available for sport shooting. Grouse shooting makes an important contribution to the rural economy and provides jobs in rural and island communities. The bill is not about stopping or outlawing that activity. Predator control is carried out in Scotland for a variety of purposes, including on grouse moors. I have concerns that limiting the use of traps on grouse moors could have a detrimental effect on the ability of important rural businesses to undertake legitimate activities. I have made it very clear that the bill is about the management of grouse moors and ensuring that related activities are undertaken in an environmentally sustainable manner; it is not about banning sports shooting.

However, I am clear that anyone who uses traps, whether on a grouse moor or elsewhere, must comply with the law and adhere to all the conditions of their licence. If they do not, NatureScot has the power to take appropriate action. For those reasons, I cannot support amendment 113, and I encourage the committee to vote against it.

Colin Smyth's amendment 114 proposes to introduce a condition that the licensing authority can grant a wildlife trap licence only if the proposed use of a wildlife trap is justified by evidence of harm caused by the species intended to be killed or taken, and if no other method that is non-lethal or has a lower animal welfare impact would be effective in reducing that harm. With all respect, amendment 114 misunderstands the purpose of the wildlife trap licence, which is to apply it to the individual, not to the land or the purpose for which trapping is carried out. Individuals may trap a range of species for a variety of purposes, and they may do so professionally or not. The requirement to evidence harm and to show that other non-lethal methods are not effective would be onerous to administer, and it is likely to have wider unintended consequences, as many farmers and crofters utilise traps for reasons that we have discussed many times, including today.

As part of the Bute house agreement, we have committed to reviewing the wider species licensing system, not just for cost recovery reasons but with a view to ensuring that lethal control is licensed only where the relevant conditions are demonstrably being met. As well as considering issues such as cost recovery, the review will provide an opportunity to examine the whole system and how it operates. It will also ensure that welfare principles are part of the system. That review is the appropriate place to consider all issues relating to wildlife licensing. For those reasons, I cannot support amendment 114 and I encourage committee members to vote against it.

Amendment 115 requires that trap licences specify the maximum number of traps for which the licence holder may be responsible at any one time and the location where the traps may be used. As I have already said, the wildlife trap licence applies to the person rather than the land on which it is to be used. Limiting the maximum number of traps and the locations where a person can use their traps could result in issues for licence holders, as many of them trap animals professionally and could require to use traps in numerous locations, even nationwide. As some trap users work on behalf of estates in multiple places, the effect of amendment 115 would be to create an additional administrative burden should they change job, as well as limiting their ability to earn a living.

Limiting the locations would impede the use of the traps under the licence, as target animals may move out of the licensed area, so a licence holder would be unable to trap the target animal unless they applied to the relevant authority to have the

licence updated—by which time the animal could have moved again. That requirement for regular updating of the licence would add an unnecessary administrative burden for the relevant authority, which would need to process the updated licence every time that a trap was moved.

In short, the requirements of amendment 115 would be unworkable in practice. They are neither appropriate nor proportionate. For those reasons, I cannot support amendment 115 and I encourage the committee to vote against it.

Under amendment 116, the wildlife trap training and licence would have to be renewed every five years. In his review of grouse moors, Professor Werritty recommended

"That any operator dealing with the relevant category of trap (cage and/or spring) should undergo refresher training at least once every ten years."

The Scottish Government has accepted Professor Werritty's recommendation and has heard no representations from stakeholders that that time interval should be reduced.

Edward Mountain has raised concerns about the proportionality of the wildlife trap training requirement. There are concerns that it places an undue burden on people who are already well trained. I do not necessarily agree with those concerns. However, increasing the frequency of refresher training to every five years goes too far, in my view. The period of 10 years that is set out in the bill is a maximum, so NatureScot can already choose to grant a licence for less than 10 years if it thinks it appropriate in the circumstances of an individual licence application. I believe that that approach strikes the right balance between the licensing authority having proper oversight of the scheme and maintaining animal welfare standards and not placing an unnecessary burden on rural workers. For those reasons, I cannot support amendment 116 and I encourage committee members to vote against it.

Amendment 117 would require trap licence holders to maintain records and report annually on the number and species of all animals killed or taken in traps. I do not believe the amendment to be necessary, as the bill already allows NatureScot to add any conditions to a licence that it considers appropriate, which would include reporting requirements. Amendment 117 would tie NatureScot's hands if, for example, it wanted to receive reports more or less frequently. For those reasons, I cannot support amendment 117 and I encourage the committee to vote against it.

Amendment 118 would add the requirement that every wildlife trap licence be subject to the condition that the use of traps under the licence must be undertaken in accordance with the highest possible standards of animal welfare. I believe that the amendment is also unnecessary, because those animal welfare standards will be embedded in the scheme as part of the trap training, and traps must be used in accordance with that training. For those reasons I cannot support amendment 118 and I encourage committee members to vote against it.

I move amendment 56.

Edward Mountain: I am pleased to speak to the amendments in my name. I will be careful when I speak to the issues and will not add too many old stories in respect of them. I remember that, when I was much younger, I told my grandmother how to do something. She replied, "Don't teach your grandmother to suck eggs." That is the point of amendment 10.

Amendment 10 is in two parts. The first says that, if someone has completed a training course, the authority must give them a licence. The second part seems to have caused a huge amount of consternation. It is based on an amendment that came about in spraying legislation many years ago. I am not sure that members here will remember it. It conferred what were known as grandfather rights in that people who had been practitioners of spraying were allowed to continue without a requirement that they sit a training course on it. That seems entirely reasonable. For members' information, I set the figures in the way that I did because I thought that a 40-year-old would probably be around halfway through their career, and if they had done 10 years of practice they would probably know what they were talking about.

I am afraid that the minister misrepresented my point. It is about having a combination of the two factors. The requirement is that people must have been born before 31 December 1983 and have been practising the use of traps for 10 years.

It is a difficult situation, because everyone wants to send people on a course. I certainly remember that, when I left the Army, I was sent on a deer stalking certificate course, for the purpose of deer control. It was a full-day course. It was pretty expensive but pretty informative, and I was given a shooting test at the end. I know that the person who ran the course had less experience in deer management than I had, because they had been on the planet for fewer years than I had been practising that skill. That made it difficult for me to understand the reasons for my having to do the course. The shooting test, which involved spending an interesting day on the range, was more complicated for me to pass, and so to qualify to shoot four-legged animals, than my annual weapons test in the Army, which had allowed me to shoot two-legged animals.

This is my point: we are taking people to one side for training but we are really teaching them to suck eggs. We are impinging on their knowledge and being rude to them. If I were to introduce a bill that required every single member of the Parliament to complete a course in order to be a politician here, someone who had been here for a considerable time—perhaps even the First Minister, or the minister sitting at the table—would have to be taught the basics of being a politician. That would not be right.

That is why I lodged amendment 10, which is a simple amendment. I think that it is wrong for the minister to have said that, under my amendment, someone who was born before 31 December 1983 would obtain a licence. No, they would not. They would also have to have 10 years' hands-on experience, with dirt under their fingernails from actual work—not dirt on their fingers from reading books. It is dangerous for the Parliament to get to the stage of teaching people to suck eggs.

Amendment 11, in my name, would allow the minister to vary the provision on evidence if it proved to be unsatisfactory. It would be a stopgap for the minister.

As for the other amendments in the group, I will listen with interest to Rachael Hamilton's comments on amendment 10 and why she thinks it appropriate to remove the age requirement.

11:00

I also think that it would be dangerous to put amendment 113 through. We accept that wild birds are used for sporting purposes. I understand that Colin Smyth is against that, and I respect his views on the matter, but it is a fact of life that such activity is allowed, and while that is the case, we must give people the legal tools to carry out their job.

You cannot stipulate the number of traps that will be needed, as that would just be overbearing. That is why I think that amendment 115 does not work. As for amendment 116, I agree with the minister that 10 years is sufficient for refresher courses. All you will do if you make the period five years is spawn a whole industry to run tests and examinations.

I would have some sympathy with amendment 117 if Mr Smyth could tell me what the number in question would be used for. If he can tell me why he needs to know, say, the number of rats that have been killed in a specific trap in a specific place and how that information would be used to benefit the natural environment, I might be able to consider the amendment. Until he does so, though, I do not see the reason for it, because it would just result in another list of figures that would disappear into the archives of NatureScot, never to see the light of day again.

Finally, I turn to amendment 118. I have already made it clear that I do not believe in teaching people how to suck eggs. Does the member honestly believe that people who use traps do not take their responsibility seriously? Does he honestly believe that that sort of thing is not done to the highest welfare standards? As I have said to the committee before, I have never met people who go out there just to be cruel and barbaric in how they do these things. Frankly, if I ever do meet them, I hope that they feel the full force of the law, and I will make sure that I take part in their conviction. However, it does not sum up the people who use traps—gamekeepers and so on.

Rachael Hamilton: I agree with Edward Mountain. I should declare an interest as someone who used to be an agronomist. I completely understand why sprayer operators born before the end of December 1964 were given grandfather rights. It was important that they were able to do that work without a certificate of competence.

However, I slightly disagree with the full extent of Edward Mountain's amendment 10, which is why I seek to amend it with amendment 10A. Having engaged with young gamekeepers and land managers, I think that, in some circumstances, they are possibly more experienced or competent. That does not mean that I am ageist. Mr Mountain has demonstrated his significant experience over his years as an MSP, and it is sometimes the case that experience comes with age with regard to land management. I therefore do not want to take away from the point that he is trying to make in amendment 10.

I welcome the minister's reflections on amendment 10A and her support for what I am trying to achieve. We do not want to discourage active management by young people, particularly those who are incredibly engaged in the profession. We need to bring such people into the system, and that is what I am trying to achieve through the amendment.

Colin Smyth: Amendment 113 seeks to draw attention to an inconvenient truth and the elephant in the room in this debate. According to the explanatory notes to the bill, the Government wants to

"ensure that the management of grouse moors and related activities are undertaken in an environmentally sustainable and welfare conscious manner."

However, the reality is that the bill allows for the continued killing of hundreds of thousands of foxes, stoats, weasels and crows and a huge number of non-target species, such as hedgehogs and people's pets, each year for one purpose and

one purpose alone: so that there is an unnaturally high number of grouse to kill for sport.

Edward Mountain: Will Colin Smyth give way on that point?

Colin Smyth: I will finish my point, as Edward Mountain has spoken to the amendment quite a bit. As the author of the amendment, I would like to do the same.

The reality is that amendment 113 would not ban grouse shooting. It would not stop grouse shooting at all; it would allow it to continue. However, in relation to intensely driven grouse moors, by not allowing trapping for the sole purpose of killing one animal to protect another so that that animal can be shot for sport, the amendment would reduce the industrial, wholesale killing of hundreds of thousands of animals.

Some will oppose the amendment because they support that level of killing—that "circle of destruction", as it is known—including, as we have heard from the minister, the SNP and Green Government, it seems. Edward Mountain has also said that he supports it. However, let us be in no doubt that the public do not agree with those who support it. Polling shows that three quarters are opposed to killing for the sole purpose of maximising the number of animals to kill for sport. With a bill on grouse moor management, the question of where MSPs stand on that issue should be asked, and people deserve to know their views.

On amendment 114, I have spoken many times in Parliament about the international consensus principles for ethical wildlife control. Those principles inform amendment 114, which would require NatureScot to be satisfied that trap users had a legitimate and justifiable reason to use the trap and that they had considered alternatives. Such evidence should be routinely required in wildlife management decisions. Any killing or taking of wild animals should be justified by evidence that serious harm is being caused, and the method with the lowest animal welfare impact that would be effective should be chosen. I believe that that principle should apply in all our policies on wildlife management.

The requirements are drawn from those ethical principles. Currently, thousands of animals are routinely killed on grouse moors and elsewhere without any such checks and balances. Including that provision would be a step towards reaching that balance and ensuring that animals are trapped and killed on an ethical basis. The amendment would not ban the use of traps or make it impossible to use them, as some have falsely suggested; it would simply require NatureScot to be satisfied with the specification and the reason for the use.

Like amendment 114, amendment 115 would require the use of traps to be planned and to be for a specific purpose, to avoid indiscriminate killing. There should be a cap on the maximum number of traps that any individual can use in order to ensure regular inspection and maintenance and to focus the trapping on when and where it is needed. NatureScot should also know where the trap user plans to operate. I appreciate that a licence will be granted to an individual who may move around during the duration of the licence, but that is not insurmountable. The information on location could be updated as necessary.

Amendment 116 would make the maximum duration of a trap licence five years instead of 10 years. As we will hear later, there have been understandable calls for the licence for grouse moors to be longer than the proposed one year. I think that that is a reasonable call. There seems to be a growing consensus on five years. I think that that makes sense when it comes to the length of time for a trap licence. A trap licence should not be granted for as long as 10 years. A great deal can change over such a long period of time, including the development of new trap technology. Trap users should be required to attend refresher training at least every five years to keep up to date with advances in trap design and animal welfare science as well as modern protocols for ethical wildlife management. The minister says that she has not seen any stakeholder supporting that. However, I am sure that she is aware that OneKind, RSPB and others have made it clear for some time ahead of stage 2 that they very much support the amendment.

Amendment 117 would introduce a reporting requirement for trap users. That would provide a degree of accountability and transparency that is currently lacking. Currently, the numbers of birds and animals that are killed by trapping are completely unknown, as there is no such reporting requirement. It is surely ethically questionable to have a system that allows the killing of thousands of animals every year in order, as I said earlier, to provide more birds to be shot without even accounting for the numbers and species that die for that purpose. This amendment would allow authorities to gauge the numbers of target and non-target animals being trapped and killed, which is surely important to allow a full understanding of species biodiversity.

Edward Mountain: I think that we are confusing several items here. As a farmer, I used cage traps to catch crows that were trying to get into the grain store to eat the grain or that were getting in among the cattle feed. It is not about increasing the number of birds that are shot but about preventing damage to the grain that would make it unfit for human consumption, as well as preventing the

transmission of disease to cattle. How would the information that I would submit on the number of birds being killed be helpful to anyone with regard to the biodiversity of those species?

Colin Smyth: I will be giving you a lot more detail on this, but my first answer to your question is that it would give us the numbers that are being killed by particular traps. It would give us information on, for example, non-target animals that are being trapped and killed, which is an important consideration and something that we should be looking at. It would also, in my view, be beneficial to include the manner of death, in order to shed light on how well traps are operating in the field. I hope that that will become part of the licence conditions in due course.

Apparently, newer designs of spring traps are better at killing instead of injuring, and they are less likely to catch non-target species, but we will not know that for sure unless records on those traps are kept and reported on. That seems perfectly reasonable to me. I think it legitimate to ask those who do not support the amendment why they do not believe that that information, which would already be collected, should be reported. What do people have to hide who do not want this information made public?

Coming back to my earlier point, I note that, at committee, Jim Fairlie asked:

"What is your view on the suggestion that licensing should be supported by statutory reporting? In other words, if you set 100 traps, you have to say where those 100 traps are, what you have caught in them and how many animals are killed each year."

In response, Alex Hogg of the Scottish Gamekeepers Association said:

"We would agree with that and, again, it is about training. We do it with snaring at the moment, so it could easily be done with trapping. It would provide feedback to the Government and NatureScot about what animals were being trapped and dispatched or whatever."—[*Official Report, Rural Affairs and Islands Committee,* 14 June 2023; c 58.]

The minister says that NatureScot can make this a condition of a licence, so clearly it is possible to do this. However, it should be more than that; it should, and clearly can, be a requirement.

Finally, on amendment 118, Hugh Dignon, the head of the Scottish Government's wildlife and biodiversity unit, said in evidence to the committee that one of the Scottish Government's intentions with the bill was

"to improve animal welfare outcomes even when those traps are used lawfully ... ensuring that the highest standards apply and that people are operating to those high standards".—[*Official Report*, *Rural Affairs and Islands Committee*, 31 May 2023; c 62.]

I agree that that should be the basic principle, but it should be reflected within the bill.

Jim Fairlie: Will the member give way?

Colin Smyth: I have concluded my remarks, but I am happy to take an intervention.

Jim Fairlie: Does the member not agree that Edward Mountain is trying to get grandfather rights through his amendment, even if it does not actually say that? The amendment refers to someone who

"has used the type of trap in question in a professional capacity".

The fact that someone has used a trap "in a professional capacity" does not mean that they have used it correctly. They might not have been on a course. The fact that the minister is requiring people to go on this course should satisfy you that these traps will be set by properly trained people and, therefore, that the activity will be carried out to the highest animal welfare standards.

Colin Smyth: I do not know what that course is—

Jim Fairlie: Are you a practitioner?

Colin Smyth: Courses are important and should be a requirement, but we should put it in law that, as part of that, people should be trained to ensure that the outcomes maximise animal welfare. As I have said, that should be a requirement. I see no contradiction between training people and having it as a basic principle in the legislation.

Rachael Hamilton: Can I intervene?

Colin Smyth: I have finished, but you can.

Rachael Hamilton: I just wanted to hear what you had to say. On amendment 113, what is your party's position on support for country sports? It sounds as though you do not support that sort of activity. This is about raptor persecution on grouse moors. What, then, is the purpose behind amendment 113? Is it to unintentionally bring in a ban by the back door?

11:15

Colin Smyth: That displays an utterly astonishing misunderstanding of amendment 113. There is no proposal whatsoever in the amendment to ban grouse shooting. The amendment would put on public record the view that someone should not have a licence to trap and kill animals solely for the purpose of protecting another animal in order to then kill that animal for sport. Many thousands of animals die as a result of that. That does not stop grouse shooting; it simply restricts trapping for the sole purpose of breeding more grouse in order to then kill them, too. It is really misleading to imply that that means a ban on grouse shooting. The bill does not deliver a ban on grouse shooting and neither does the

amendment. The amendment simply places on record that, if people want to support that circle of destruction, they should say so. That should be something that we debate when it comes to the bill.

Rachael Hamilton: With respect, this is an opportunity for debate.

The Convener: You will have the opportunity to contribute in a second.

Ariane Burgess: I would like to put on record some brief comments about the amendments in this group.

First, I support the minister's amendment 56. It is appropriate that applicants for a trap licence have evidence that they have completed appropriate training. In that respect, I listened closely to the minister's arguments in relation to amendments 10B and 10A.

On Colin Smyth's amendments, I want to stress the importance of ensuring that the bill is passed before the end of the parliamentary year. I am concerned that amendment 113 jeopardises that by undermining what the bill is designed to do, which is to implement the recommendations of the Werritty review. I take on board the Government's comments that amendments 114 and 115 tie into wider on-going work on ethical standards of wildlife management, and I hope that progress can be made on that route.

I appreciate the intention behind amendment 116, which is to shorten the time before trap operators require refresher training. I seek the minister's assurance that the 10 years proposed in the draft legislation is appropriate in maintaining high animal welfare standards.

Likewise, I support the intention behind amendment 117. I think that data on the types of wildlife that are caught in traps would be valuable in other land management work, but I agree that this sort of thing does not need to be done in primary legislation.

Amendment 118 underlines the vital importance of trap training programmes being of a high standard and of placing animal welfare at their heart. I hope that the minister will be able to provide assurance that NatureScot will have the resources to assess training courses and approve only those of the highest standard.

Rachael Hamilton: I want to put on record how important it is that we are all able to debate. It is not foolish or wrong to question another member or to intervene on them, particularly to get clarification on an amendment, which was my intention. I apologise to Colin Smyth if he believed that I was asking whether his Labour Party was going to ban country sports—it just seemed that that was the intention. I thank him for clarifying.

Stephen Kerr: I, too, apologise to Colin Smyth. After my previous contribution, he asserted that I was echoing views that had been presented on behalf of the sector—and that is absolutely the case. I am unashamedly here to speak up for the people who work in the sector, which makes a fantastic economic contribution to rural Scotland. In fact, the sector is a sustaining power behind the existence of many of the people who live in rural Scotland, and I am unapologetic about that.

I completely respect Colin Smyth's conscientious objection to all of the matters that we are discussing in relation to grouse shooting. As I think is well known, Colin Smyth is a member of the League Against Cruel Sports. I am not sure whether he mentioned that in his earlier contributions, but that must flavour the way in which he views all aspects of the bill. Moreover, it is absolutely in order for Rachael Hamilton to ask the question that many people in rural Scotland will seek an answer to, which is whether the amendments in question and the way in which they have been presented are, in fact, the position of Scottish Labour on rural Scotland and the lifestyle of the people of rural Scotland.

Having listened to what has been said about Colin Smyth's amendments, I think that, despite his protestations, it is not stretching the point to suggest that they are all, in effect, designed to end grouse shooting by the back door. I say that because the amendments make it practically impossible to conduct any form of grouse moor management.

Let us look at amendment 113, for example, by which Colin Smyth is seeking to undermine the whole sector. The amendment seeks to amend provisions on the granting and content of licences by requiring that licences not be issued in circumstances where they would be used

"to maintain or increase the number of wild birds available to be shot for sport".

That sport exists and is legal in Scotland, so the amendment is wholly designed to end grouse shooting. Therefore, amendment 113 is absolutely an attempt to wreck a whole sector.

On amendment 114, the question has to be asked whether Colin Smyth thinks that any action should be taken against predators in a rural setting. Trapping is an essential conservation tool that is used in a number of land management contexts right across Scotland, including by the RSPB. I am sure that Colin Smyth has had a briefing from the RSPB—it uses traps in places such as Orkney.

Amendment 114 would make it impossible in practice to attain a trap licence. Not only would that make countless Scottish businesses unviable, but it would have a devastating effect on

Scotland's wildlife at a time when we are tackling what can only be described as an urgent biodiversity crisis that has got worse over the past decade.

Amendment 115 is fundamentally unworkable. The number and location of traps vary regularly, which would make it impossible for NatureScot to administer the licensing scheme. It is hard not to see that either as a misunderstanding of the whole sector and how it operates or as a wrecking measure. It would have a devastating impact on Scotland's environment and fragile rural economy.

On amendment 116, there is no discernible public benefit to be gained by reducing the licence duration to five years. That would be a strike against the interests of practitioners and, frankly, the regulator, the capacity of which is already subject to scrutiny.

On amendment 117, I do not believe that Colin Smyth answered the questions that were raised by Edward Mountain about exactly what the records in question would be used for. Everyone who spoke in favour of the amendment said that it would be a good thing to do, but to what end? They have not been able to properly address that question. I am more than happy to be intervened on so that I and the rest of the committee members who have to vote on the amendments can properly understand exactly what would be gained by what would become a massive bureaucracy. We already have vast swathes of bureaucracy in Scotland, with records kept but never referred to or utilised.

On amendment 118, Edward Mountain summarised the issue well when he talked about his experience of the sector. It is more than mildly insulting to the people who work in the sector to ascribe to them an interest other than that of maintaining the highest standards of animal welfare. Nobody goes to work in the morning to inflict cruelty on wildlife. In fact, they spend their entire careers doing everything that they can to support Scotland's biodiversity.

Gillian Martin: I will keep it brief. I want to reassure the committee that we are taking a balanced approach to the wildlife trap licence. The Werritty review made very clear recommendations in that respect, taking into account the complexities of the need for wildlife management to address environmental impact and to ensure that we are safeguarding animal welfare.

I say to Mr Mountain, in particular, that continuous professional development is a cornerstone of many sectors. For example, nurses, teachers, social workers and offshore workers have to undergo refresher courses in many disciplines, as do civil servants.

Edward Mountain: Will the minister give way?

Gillian Martin: I want to make my point first. I refer Mr Mountain to the Scottish Gamekeepers Association's stated view that its members are happy to undertake such courses and to evidence their considerable expertise and skills. The Scottish Government has accepted the Werritty recommendations in that respect.

On Ariane Burgess's point about the gap between training requirements, I would say that 10 years would be a maximum. NatureScot has the ability to state in the licence conditions that training needs to be undertaken before that.

Consultation responses to the bill showed strong public support for our approach, with more than 77 per cent of respondents supporting it. I do not consider Edward Mountain's or Colin Smyth's amendments necessary or appropriate. I have listened to what they have said, but I cannot support them.

Edward Mountain: I hear your arguments, and we can agree to disagree, but I am looking for clarity, because I am trying to rally behind your amendment 56 for future debates. There is a line in it that is cause for slight concern. It talks about

"the applicant"

completing

"a training course approved under section 12E in respect of the type of trap in question".

Does that mean a quail or a DOC trap, a Fenn trap, a self-set spring trap, a Larsen trap, a funnel trap or a cage trap, or will the trap licence cover all of them? If a gamekeeper or a moorland manager has to do a course for every single trap, they will never be able to use them, because they will still be doing the courses. Once they have completed them, they will have to start again on the next one.

Gillian Martin: My expectation is that the person who wants a licence to operate traps will be trained as part of the licensing of the traps that they want to operate and that the training will be comprehensive. I imagine that, off the back of this, a range of courses will be accredited by the licence developer, NatureScot, which will be looking at what those courses offer. You have listed a great number of traps, and it is my expectation that, if a person wants to operate all those traps, they should have a working understanding of and training in how to work them safely.

Amendment 56 agreed to.

Amendment 1 not moved.

Amendment 112 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 112 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 112 disagreed to.

The Convener: I call amendment 10, in the name of Edward Mountain. I remind members that, if amendment 10 is agreed to, I cannot call amendments 113 and 114 due to pre-emption.

Amendment 10 moved—[Edward Mountain].

11:30

Amendment 10B moved—[Edward Mountain]—and agreed to.

Amendment 10A moved—[Rachael Hamilton]—and agreed to.

Amendment 10, as amended, by agreement, withdrawn.

The Convener: Amendment 113, in the name of Colin Smyth, has already been debated with amendment 56.

Colin Smyth: Today, we have seen the SNP-Green Government place on record its support for a circle of destruction. That will be very much noted by many people, including the vast majority of the public, who do not agree with them. It is particularly disappointing that the Greens do not support the amendment and make the rather bizarre argument that it would delay the bill—it would not. The amendment is here to be voted on today and would not result in any delay whatsoever.

What is really disappointing is the false claim that the amendment would in any way ban grouse shooting. I am very clear that such sports should continue, so there is no need to claim that the amendment would result in their being banned; it would simply reduce the number of animals being killed for the sole purpose of protecting another animal that will then itself be killed for sport. If we are going to debate issues, we should debate the facts instead of making claims that simply are not true, which might reflect the weakness of the argument.

I will not move amendment 113, but I will certainly continue to press the issue as the bill goes through Parliament.

Amendment 113 not moved.

The Convener: Amendment 114, in the name of Colin Smyth, has already been debated with amendment 56.

Colin Smyth: I have one point to make. Stephen Kerr is entirely entitled to quote, word for word, from briefings that he has been given, but those claims should be challenged when they are wrong. For example, when discussing amendment 114, he gave the example of the RSPB project in Orkney. The amendment would allow that project to continue, because the test that the amendment would set would in no way affect it. It is false to make that claim, and the weakness of the argument is shown by the way in which he has effectively misquoted the impact of amendment 114.

I will not press amendment 114 at this stage, but again I reserve the right to keep raising this particular issue as the debate continues, because it is important.

Amendment 114 not moved.

Amendment 115 not moved.

Amendment 116 moved—[Colin Smyth].

The Convener: The question is, that amendment 116 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 116 disagreed to.

Amendment 11 moved—[Edward Mountain].

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 11 disagreed to.

Amendment 117 moved—[Colin Smyth].

The Convener: The question is, that amendment 117 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 117 disagreed to.

Amendment 118 moved—[Colin Smyth].

The Convener: The question is, that amendment 118 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 118 disagreed to.

The Convener: Before we move on to the next group, which is quite lengthy, we will pause for a five-minute comfort break.

11:35

Meeting suspended.

11:41

On resuming—

The Convener: We will resume consideration of stage 2 amendments. Amendment 179, in the name of Edward Mountain, is grouped with amendments 48, 119, 119A, 79, 49, 64, 134, 65 to 67, 135, 135A, 50, 68, 82, 136, 18, 137, 173, 140, 51, 72, 73, 155 to 157, 157A, 74, 158, 159, 52, 161, 162. I point out that, if amendment 51 is agreed to, I cannot call amendment 72 and that, if amendment 158 is agreed to, I cannot call amendment 159, for pre-emption reasons.

Edward Mountain: When I saw the grouping, I got quite excited, because I thought that I could speak for as long as I wanted, because the grouping was so big. However, in fairness to the committee, I got some looks of shock and horror, even from the clerks, at that comment, so maybe I will not do that. I will speak to my amendments and, as I get to close, I will comment on all of the amendments in the group.

Amendment 179 is about adding a qualification to the legislation to ensure that the relevant authority should be satisfied beyond reasonable doubt that a licence should not be granted. That is just a nice form of wording to make sure that it is not decided on a whim. We are all concerned that, sometimes, the people who are responsible for issuing the licences are the judge, jury and executioner when it comes to those licences, and I do not think that that is a happy place to be.

Amendment 18 would allow the person, should they be refused a licence, to appeal it through the sheriff's court, so that costs could be awarded to them. That seems eminently fair if it is proved that the system has let the person down and that they should get their costs back.

Convener, as I said, I could talk to all the amendments in the group. You will be pleased that I am not going to. I will sit back and take my opportunity at the end.

The Convener: Could you move the amendment, please?

Edward Mountain: I am sorry. I thought that I had moved it in closing.

I move amendment 179.

Gillian Martin: I will speak to amendments 48 to 52 before turning to the others in group 8.

Amendments 48, 49 and 51 remove the provisions for the licensing authorities to suspend wildlife trap, grouse and muirburn licences despite not being satisfied that a relevant offence has taken place. Amendments 50 and 52 remove the definition of an official investigation, because that is not needed any more.

11:45

I lodged those amendments because I had listened very carefully to the arguments that were made by those who expressed—in particular, at stage 1—very strongly held concerns about the potential misuse of those provisions. I was never in any doubt that the licensing authority, most likely NatureScot, would have operated those provisions carefully and responsibly in the circumstances that I previously described—namely, when there had been an incident of such a heinous nature that it would be inconceivable to allow business as usual while a police investigation ran its course. However, I am now happy to provide comfort to those who were worried about how the provisions might be applied, by removing them completely from the bill.

I have been reassured that, in many cases, the police would be able to provide sufficient evidence at an early stage of the investigation in serious cases—for example, in relation to a licence under the proposed new section 16AA of the Wildlife and Countryside Act 1981—on whether the act in question was criminal in nature and whether it had occurred at a location that connected it to the management of the grouse moor in question. That would allow NatureScot to satisfy itself that a relevant offence had been committed.

I hope that the committee will support my amendments, not least because, in its stage 1 report, it called for the changes proposed in amendments 48 to 52.

Section 4 of the bill provides that the licensing authority can suspend or revoke a wildlife trap licence if it is satisfied to the civil burden of proof—the balance of probabilities—that a relevant offence has been committed. Edward Mountain's amendment 179 would raise the test that was applied by the licensing authority to "beyond reasonable doubt", which is the criminal burden of proof. Historically, it has been very hard to demonstrate to the criminal burden of proof that a wildlife crime has taken place, and the number of successful prosecutions remains low.

The purpose of the licensing scheme is to ensure that wildlife trapping is undertaken in accordance with the law and best practice, and with due consideration of all the possible consequences. If passed, Edward Mountain's amendment 179 would weaken the licensing scheme and reduce the ability of the licensing authority to take the necessary and appropriate action in cases in which there was strong evidence to suggest that the person operating under the trap licence had committed an offence. For those reasons, I cannot support amendment 179, and I encourage committee members to vote against it.

Amendments 119, 119A, 135, 135A, 156, 157 and 157A seek to require the licensing authority to set an estimated time period for any suspension of licences for wildlife traps, the taking of grouse, or muirburn. They also stipulate that any suspension period must be "reasonable". I understand the motivation behind the amendments, and I am sure that, in practice, NatureScot, as the licensing authority, would set a time period for suspension in most cases. However, that may not be possible if the restoration of a suspended licence depends on some action by the licence holder. For example, if a person is asked to do something to comply with a licensing requirement, the code of practice states that the licence can be reinstated only after the licence holder has complied with that requirement. A time limit is not at all workable in such circumstances.

It is also conceivable that NatureScot may wish to suspend a licence pending further information from the police. Such further information could be germane to the length of the suspension period or to the decision whether to revoke a licence rather than suspend it.

In all those cases, it is incumbent on NatureScot to act reasonably, and it is not necessary to require that in statute. For those reasons, I do not support Rachael Hamilton's amendments 119A, 135A and 157A, which would have the effect that the licensing authority must give notice of the exact duration of the suspension of a licence. I do not think that that is possible.

I ask Beatrice Wishart not to move amendments 119, 135, 156 and 157. If she does so, I encourage members to vote against them, as well as against Rachael Hamilton's amendments 119A, 135A and 157A.

Amendments 79 and 82 would cause offences under section 19 of the Animal Health and Welfare Act 2006 to be included as relevant to the consideration of the suspension or revocation of licences for wildlife trapping or the taking of grouse. The committee's stage 1 report recommended that we give consideration to the inclusion of those offences as relevant offences. The offences in section 19 of the 2006 act concern the causing of unnecessary suffering to an animal. They could apply to the mistreatment of a trapped animal, for example, or the treatment of a call bird used in a crow cage or Larsen trap. I therefore agree with Karen Adam that those should be

relevant offences, and I am happy to support her amendments 79 and 82.

Amendments 64 and 74, in the name of Rachael Hamilton, seek to set a time limit of 18 weeks for the suspension of a grouse licence and eight weeks for the suspension of a muirburn licence. I believe that those amendments would set an arbitrary limit on the suspension of licences. As was mentioned earlier, it is conceivable that licences could be suspended pending completion of some action required by the licence holder, such as the fulfilment of a licensing condition or compliance with the code of practice. An arbitrary limit of that sort could result in the licence holder simply waiting out the time rather than complying with the conditions. That would threaten to bring the whole licensing scheme into disrepute. It could also interfere with any police investigation or criminal proceedings, which would be undesirable. I therefore cannot support amendments 64 and 74, and I encourage committee members to vote against them.

Amendments 134 and 155, in the name of Stephen Kerr, would require that, when the licensing authority is considering modifying, suspending or revoking a person's grouse or muirburn licence, it must give written notice to that person and provide the person a period of 14 days within which they can submit representations regarding the proposed modification, suspension or revocation. That would be in addition to the provision already contained in the bill for the relevant authority to give notice of 14 days or "such other period" as may be specified in the notice before a modification, suspension or revocation of a licence could take effect. Cumulatively, that would mean that there would be a 28-day period between the licensing authority considering a licence suspension or revocation and that action coming into effect. I think that that level of delay is unacceptable and unnecessary, so I do not support amendments 134 and 155, and I encourage committee members to vote against them.

Amendment 65, in the name of Rachael Hamilton, requires the licensing authority, when it has decided to modify, suspend or revoke a person's grouse licence, to give the reasons for doing so. I think that that is reasonable and sensible, and I am happy to support the principle here, although I would like more time to consider the framing of the provision. I have had conversations with Rachael Hamilton on the matter, and I hope that it is acceptable to her to work with me and not press amendment 65 today, allowing us to come back with an amendment with revised wording at stage 3.

Amendment 66, also in the name of Rachael Hamilton, would replace the 14-day notice period before the modification, suspension or revocation of a section 16AA licence could take effect with the period in which an appeal could be made. The effect of the amendment would be that it would increase the period before a modification, suspension or revocation could take effect from 14 days to 21 days. I do not see any justification for further increasing the period before suspension can take effect. In fact, I think that that would encourage appeals to be lodged even when they had little chance of success, simply to secure a delay in the suspension or revocation. I cannot support that, and I encourage committee members to vote against amendment 66.

Amendment 67, in my name, is a technical amendment. It clarifies that a licence holder whose section 16AA licence is suspended is to be treated as not having a section 16AA licence for the duration of the suspension. The effect of that is to make it clear that, if the licence holder continues to kill or take any type of bird included in part IB of schedule 2 to the 1981 act during the suspension, they will have committed an offence. I hope that members see the sense in that measure and will support amendment 67.

Amendment 68, in the name of Rachael Hamilton, would remove all of the offences except those under part I of the 1981 act from the list of relevant offences for which a section 16AA grouse licence can be suspended or revoked. I believe that the amendment is based on the mistaken assumption that the bill is solely about preventing raptor persecution on grouse moors. While it is true that preventing and dealing with raptor persecution was the main driver for the Werritty review and, subsequently, the bill, that is not the sole concern. The Werritty review considered a range of issues around grouse moor management, such as trapping and muirburn, and there are provisions on those matters in the bill.

It is also important to ensure that, by dealing with one issue, we do not inadvertently create other issues that are caused by the minority who have no respect for wildlife. The Wildlife Management and Muirburn (Scotland) Bill gives effect, in large part, to the recommendations of the Werritty review, which considered the whole environmental impact of grouse moor management. The bill enables us to protect against unwanted environmental impacts and harm to other birds and animals, in case anyone is tempted to cause such things for any reason or to better enable grouse shooting. It is important that the bill makes it clear that licences can be suspended and revoked for offences relating to other statutory protections for wildlife. Removing such provisions from the bill would send the wrong message, so I cannot support amendment 68 and I encourage members to vote against it.

Amendment 136, in the name of Rachael Hamilton, would insert a condition to provide that, when an appeal is made to the sheriff, the sheriff may, on the application of the appellant and if they are satisfied on the balance of convenience that it is appropriate to do so, recall the decision of the relevant authority pending determination of the appeal. I believe that amendment 136 is unnecessary and would not add anything to what is already in statute. Section 88(1)(a) of the Courts Reform (Scotland) Act 2014 provides that

"A sheriff may, on the application of a party to any civil proceedings"—

which would include a summary application to appeal a decision as regards the licensing of grouse shooting—

"make—

(a) such interim order as the sheriff thinks fit in relation to ... the subject matter of the proceedings".

That would include recalling the decision of the licensing authority if the sheriff thought that that was appropriate. I think that that is as it should be, given that sheriffs should be able to act with discretion, unfettered by statutory limitations on the use of many powers at their disposal. The sheriff already has the ability to recall a grouse licence decision, so amendment 136 is not required. For that reason, I do not support the amendment and encourage committee members to vote against it.

Amendment 18, in the name of Edward Mountain, provides that, when an appeal of the granting of a licence is made to the sheriff and they subsequently direct it to the licensing authority to grant a licence, the sheriff must make an award of expenses to be paid by the relevant authority to the applicant. The amendment fetters the sheriff's discretion in that regard and would be inappropriate, especially when courts already have the power to award expenses should they deem that appropriate. However, amendment 18 would require that the courts must award expenses even if they did not deem it to be appropriate in the circumstances—for example, when the appellant, although successful, might have acted in bad faith, such as by delaying proceedings. I do not want to take any powers away from the sheriff in that regard. Those might be rare circumstances, but we all know that legislation has to anticipate even the most rare of circumstances. The normal practice of expenses following success should be the case for those appeals, but I believe that that must remain a matter for the court's discretion. I do not support amendment 18 and encourage committee members to vote against it.

Rachael Hamilton's amendments 137, 173, 140 and 162 would require the Scottish ministers to create a scheme whereby compensation would be paid to section 16AA licence holders and muirburn licence holders for any losses or costs arising from suspension of those licences irrespective of the circumstances of the suspension. NatureScot is a public body and must act reasonably. It cannot suspend a licence for spurious reasons. It can suspend a licence only if the licence holder has not complied with the conditions of the licence or if NatureScot is satisfied, on the balance of probabilities, that the person managing the land that has been licensed has committed a relevant offence. I do not consider that it would be appropriate to pay compensation in those circumstances. Ultimately, it is right and proper that, as I have said, the power to determine any award of expenses sits with the courts. For that reason, I cannot support amendments 137, 173, 140 and 162, and I encourage committee members not to support them.

12:00

Ms Hamilton's amendments 72 and 73 would insert a condition into the "suspend despite not being satisfied" provisions in the bill so that NatureScot could not modify, suspend or revoke a muirburn licence in those circumstances if the basis for doing so was an offence that related to whether the land was peatland. As I have indicated, my amendments propose that the "suspend despite not being satisfied" provisions be removed from the bill. If those amendments were agreed to, amendments 72 and 73 would not be relevant. In the event that my amendments were not supported by the committee, I would not support amendments 72 and 73, because they would enable anyone who carried out unlawful muirburn on peatland to claim ignorance of the fact that it was peatland and thus avoid a potential licence suspension. I hope that members agree and that they will vote against amendments 72 and 73.

Amendment 161 provides for a person to appeal to a sheriff against a decision of the licensing authority to refuse to grant a muirburn licence, to attach a condition to such a licence or to modify, suspend or revoke such a licence. It also provides that, when an appeal is made to the sheriff, they may recall the decision of the relevant authority, pending determination of the appeal. As I have noted, we believe that the courts already have such a power.

Amendment 158 would mean that any modification, suspension or revocation of a muirburn licence could not take effect until after the period for which an appeal can be made had elapsed. That would increase the period before a modification, suspension or revocation can take effect from 14 days to 21 days after notification of the modification, suspension or revocation has

been given. During that time, the muirburn licence could continue to be used.

It is anticipated that the muirburn licence scheme will be delegated to NatureScot. It is not standard across wildlife licensing to include a provision to appeal to a sheriff against any decisions by NatureScot. NatureScot has an internal appeals process, after which any appeal would be by way of judicial review or an appeal to the Scottish Public Services Ombudsman.

We have included an appeals process involving the sheriff court in relation to grouse licences, as the revocation of a grouse licence may have a wider impact on grouse moor businesses, their employees and the surrounding community. In short, there would be clear economic consequences in such circumstances, which would affect livelihoods, why is why inclusion of a right of appeal to the sheriff court is warranted.

However, muirburn is a very different proposition. First, there are alternative vegetation control measures available. Secondly, NatureScot already operates a licensing regime for muirburn out of season, so an all-year-round licensing system represents an extension of an existing system rather than the creation of an entirely new one.

Under the existing framework, there is no provision for appeal to a sheriff in relation to muirburn licences. If a person wished to dispute a decision, they would do so initially by using NatureScot's aforementioned internal appeals process to seek a review of the decision. At that point, the issue would, we hope, be resolved to everyone's satisfaction. However, if the person was still not satisfied with the outcome of that process, they would have the option of seeking a judicial review or making an appeal to the Scottish Public Services Ombudsman.

For those reasons, I do not support amendments 158 and 161 and I encourage committee members to vote against them.

Ms Hamilton's amendment 159 seeks to increase the notice period that the relevant authority must give for any modification, suspension or revocation of a muirburn licence from 14 days to 21 days. As with amendment 158, I see no justification for increasing the time period before a licence suspension, revocation or modification can come into effect. Therefore, I do not support amendment 159, and I encourage committee members to agree with me and vote against it.

Beatrice Wishart (Shetland Islands) (LD): I will speak only to the amendments in my name. I thank the minister for giving her time to meet me recently.

My amendments 119, 135 and 157 relate to the suspension of licences for wildlife traps, grouse shooting and muirburn, respectively. Amendment 156 is a paving amendment that would enable amendment 157 to be inserted in the right place.

For each licence, my amendments would insert provision that, when a licence is suspended and notice is given of the said suspension, the notice must specify the estimated duration of the suspension. That estimated duration must be reasonable, having regard to all the circumstances of the case. The purpose of amendment 157 is to give licence holders confidence that, should their licence be suspended, they will be provided with information as to how long the relevant authority estimates that that suspension will last. Providing that information could reduce the administrative burden on the licensing authority.

Alasdair Allan: On that point, you are talking about estimates of the time necessary to complete the process. Given the variability of time associated with police and court investigations, is it possible to give those estimates?

Beatrice Wishart: I will come on to that. I do not think that it is possible, which is why I am using the word "estimated".

Alasdair Allan: Okay.

Beatrice Wishart: Providing that information can reduce the administrative burden on the licensing authority, as a licence holder with a suspended licence will have an idea of the expected timescale. I recognise that investigations take time, that each is different and that it can be difficult to know exactly how long they will take. I agree that stating a definitive timescale would be problematic. That is why I have deliberately chosen the word "estimated", to ensure that the licensing authority would be required to provide only an estimate, as that would enable flexibility should circumstances change.

Amendment 81, in the name of Jim Fairlie, would extend the length of a section 16AA licence from one to five years. The minister previously stated that there was no need to provide information about the length of suspension for those licences, as the maximum length would be a year. If amendment 81 was agreed to, that length would be increased. Therefore, I think that it is now relevant to include a provision that requires the licensing authority to give information to licence holders about the estimated duration of a suspension.

I note Rachael Hamilton's amendments to my amendments, which would remove the word "estimated" and therefore require the licensing authority to state the duration of a suspension. I consider that removing the word "estimated" would

change the function of the amendments by removing any flexibility.

I heard what the minister had to say on my amendments, but I am inclined to move amendment 119.

Rachael Hamilton: Beatrice Wishart's amendment 119 would have the effect of compelling NatureScot to estimate the likely duration of licence suspension. Although we believe that that would be a welcome step, the amendment could be improved by removing the word "estimated". I recognise that Beatrice has, with caution, noted my amendment subtracting or removing the word "estimated" but might not support it. The minister does not support the amendment, but I think that it would compel NatureScot to be explicit about the duration of the licence suspension—you could not lock rural practitioners indefinitely out of a system, because that would just be unfair.

The amendment would provide both parties, the regulator and the licence holder, with legal certainty. There is no reason why NatureScot should not be explicit or specific, as Beatrice Wishart said, as the threshold for imposing licence suspension and revocation is the same and official investigations no longer have any role in shaping decision making around licence suspension. On that basis, I ask that the member consider supporting my amendment 119A.

On amendment 64, I disagree with the minister. We heard evidence that the Scottish Government's intention is for licence suspension to be a short-term penalty. However, there is no upper time limit on the period for which a licence suspension can be imposed. When the committee raised that issue with the minister in its stage 1 report, the minister responded, in a letter on 29 November, stating:

> "The Bill, as currently drafted, does not provide a maximum time limit for suspending a licence because there is no need to provide this. This is because the maximum duration for a section 16AA licence for the taking of birds is one year. Therefore, it follows that the maximum suspension period for such a licence could not be greater than one year."

Given that the Scottish Government has committed to significantly extending the duration of the licence, it is necessary to impose an upper limit on the period of licence suspension in the bill. That will ensure that suspension is used as a short-term penalty to meet the Government's intention.

Given that grouse shooting is a seasonal activity that takes place over 17 weeks in the year, I propose that 18 weeks would be a proportionate punishment to ensure that the maximum period of suspension does not exceed one grouse shooting season. I hope that, with that explanation, the minister can understand the wording of, and the intention behind, my amendment.

To further explain amendment 64, when I met the minister, she was minded to oppose it on the basis that she would not want to tie the hands of Police Scotland or NatureScot in respect of the timescales involved in the official investigation. However, on reflection and considering what the minister said, that point is now redundant, as she intends to remove the initiation of an official investigation as a trigger for licence suspension via her amendments 48 and 52. The trigger for licence suspension or revocation is now NatureScot being satisfied, to the civil standard of proof, that a relevant offence has been committed by a relevant person on the land, not the establishment of an official investigation. It would be useful to get an understanding of that gap from the minister's closing comments.

It is for the police to determine when and how information and evidence are shared with NatureScot so that it can make a determination about licence suspension or revocation. However, the minister's amendment removes the connection that I am describing between the length of time that it takes to conduct the investigation and the length of time for which a licence should be suspended. It is therefore appropriate to introduce a maximum period of suspension, which reflects the short-term nature of the penalty, as was expressed to the committee at stage 1.

I thank the minister for considering the framing of amendment 65. I will consider her points. Again, we discussed that amendment when we met. I am happy to bring back a revised amendment. I welcome the fact that the minister agrees that the amendment is sensible and reasonable. I am sure that we can work together on it. I do not need to continue to describe my reason for lodging amendment 65, because I will not move it.

On amendment 66, the bill as drafted provides for penalties to be imposed on licence holders before their right to appeal against a decision to an independent court of law has elapsed. The amendment provides that the penalty will not take effect until the period for making an appeal—21 days from the decision—has elapsed. That would ensure that the licence holder had the opportunity to take legal advice and, if necessary, appeal the decision. It should be for the sheriff to decide, with their discretion, as a truly independent decision maker, whether the penalty should take effect, pending determination of the appeal. If the licence holder decided not to appeal, the decision would take effect 21 days from the date of the decision.

I am sorry, convener, but I am having to be quite descriptive about the amendments in this group, so bear with me.

I am disappointed that the minister said that she will not support amendment 68, but the motivation behind the licensing of grouse shooting is the historical illegal persecution of raptors on grouse moors in Scotland—that is what the bill is all about. The minister said that the bill has become wider in scope, but it follows that the illegal persecution of any raptor is the trigger for removing or suspending a licence to shoot grouse. Unfortunately, the scope of the relevant offences in the bill, as introduced, extends far beyond the defined issue of raptor persecution.

The issue of a relevant offence meaning an offence under the Protection of Badgers Act 1992, the Hunting with Dogs (Scotland) Act 2023, section 1 of the Wild Mammals (Protection) Act 1996 and part 3 of the Conservation (Natural Habitats, &c) Regulations 1994 is, I believe, disproportionate and inconsistent with the defined policy aim of deterring illegal persecution of raptors on Scotland's grouse moors. Amendment 68 would remove offences that do not relate to raptor persecution, in a bid to make the legislation more targeted, proportionate and rationally connected to the policy aims that were defined by ministers when the bill was introduced.

Amendment 135, in the name of Beatrice Wishart, would have the effect of compelling NatureScot to estimate the likely duration of a licence suspension. Although that is a welcome step, it could be improved by removing the word "estimated". As I described before, there is no reason why NatureScot cannot be explicit, which would provide further clarity.

12:15

Amendment 136 is designed to deliver greater legal certainty in respect of the appeal provisions in proposed section 16AB of the 1981 act. In the evidence session on 28 June 2023, the minister indicated that a sheriff determining an appeal against a licensing decision would have the power to recall, on an interim basis, decisions by NatureScot pending determination of appeals. As things stand, the bill does not expressly empower a sheriff to do so. Although the minister assures me that the sheriff's general power to make interim orders in civil proceedings, as set out in section 88 of the Courts Reform (Scotland) Act 2014, includes the power to recall decisions by NatureScot, I believe that it would be better to include an express power to that effect in the bill to ensure that the said power is put beyond any doubt, to deliver legal certainty for licence holders.

I would be content for amendment 136 to be revised and to work on that together with the minister to bring it back at stage 3, to ensure that there is no inconsistency or conflict between the express power proposed and the general powers in section 88 of the 2014 act. That could be done, for example, by providing that the express power to recall NatureScot's decision is without prejudice to the sheriff's general power to make interim orders under section 88, and that the test for using the express powers mirrors the test in section 88. I have been working and getting advice on that, minister, so I hope that you understand that I feel strongly about that particular amendment and I hope that we can work on it together.

On amendment 73, the requirement of practitioners to determine whether the land is peatland or non-peatland before making muirburn poses a significant challenge. The only way to determine the depth of peat accurately in a given area is by using a peat probe and, even then, it is not practical to probe every square inch of a proposed burn site, as we heard in evidence in this committee. There is always a possibility that some pockets of a burn site might constitute peatland and others non-peatland. The risk is exacerbated by the fact that the bedrock in Scotland undulates significantly, and it follows that practitioners should not be criminalised when it comes to determining whether the land is peat or non-peatland. There is no methodology, as we heard in evidence, so we cannot provide the means to be definitive in that regard.

Amendment 157, in the name of Beatrice Wishart, would have the effect of compelling NatureScot to estimate the likely duration of a licence suspension. Although that is a welcome step, it could be improved by the removal of the word "estimated". Again, that would provide clarity for the regulator and the licence holder.

Amendment 74, which has been discussed in the context of proposed section 16AA licensing, would address the lack of time limit on the period for which a muirburn licence suspension can be imposed. Given that muirburn is an important land management tool for managing wildfire risks and conservation, it is really important that there is a proportionate time limit on those suspensions, and I propose that that be eight weeks.

I am getting towards the end, colleagues—thank you for your patience.

On amendment 158, the bill as drafted provides that NatureScot will act as prosecutor and judge in relation to its own muirburn licensing decisions, such that they can be challenged only by way of judicial review in the Court of Session, which, as members know, provides a limited remedy and is very expensive. Judicial review does not allow the court to correct bad decisions based on the facts, which is wholly unsatisfactory. The requirement for decisions to deprive a person of their rights to be made on the basis of evidence that proves that they are linked to an unlawful act, and the ability to appeal the decision to an independent judge, go to

the heart of the rule of law. Land managers should have the right to appeal against licence refusal, modification, suspension or revocation to an independent court of law on the facts, and this amendment would go to the heart of that.

The internal procedure used by NatureScot under its frameworks for implementing restrictions in the context of general licences, which the minister has described, has led to an erosion of trust in the regulator. That is in no way to play down what it does, but an unintended consequence could be that it is perceived to be effectively marking its own homework. We heard evidence that suggested that that could be the case when it comes to reviewing its own licensing decisions, which cannot be appealed to a sheriff court on their merits. As I have said, the right to be able to appeal a decision to an independent judge goes to the heart of the rule of law.

Thank you for your patience, convener.

Karen Adam (Banffshire and Buchan Coast) (SNP): I welcome the opportunity to speak to my amendments 79 and 82.

At stage 1, we received evidence from the RSPB that offences committed under the Animal Health and Welfare (Scotland) Act 2006 should be included as relevant offences with regard to the wildlife traps and grouse licensing schemes that are set up. The RSPB set out its rationale for that, and the committee encouraged the Scottish Government to look at that ahead of stage 2. I am grateful to the minister for offering her support for the amendments.

Amendments 79 and 82 seek to achieve exactly that. The provisions are already complex, but my amendments simply seek to add to the list of legislation so that an offence that is committed under section 19 of the 2006 act is added to the list of offences to be considered in respect of revoking or suspending a licence. Section 19 of the 2006 act sets out that a person will have committed an offence if they are found to have caused a "protected animal unnecessary suffering" by an act that they knew would have caused, or would have been likely to cause, that animal to suffer. Amendment 79 would add to the bill an offence under section 19 of the 2006 act as a ground for revoking or suspending a wildlife trap licence, and amendment 82 would do the same for a grouse licence.

My amendments would make important additions to the bill to provide greater protection for animals and wildlife, and I hope that members will support them.

Stephen Kerr: I will limit my remarks to my amendments 134 and 155.

The minister addressed my amendments by referring to the elements of the bill that deal with the 14-day notice that is given once a decision has been reached. I am proposing that the applicant should get 14 days' prior notice in advance of a proposed decision to refuse, modify, suspend or revoke a licence. That would give them the opportunity to submit representations on the proposed decision. The amendments say similar things. They are basically an appeal to the idea of reasonableness, which is quite common in other licensing schemes. If there is a proposed change in status, the applicant should be notified ahead of the decision. The minister referred to the 14 days that follow a decision. The basis of my amendments is to allow the applicant the opportunity to make representations on a proposed decision.

Colin Smyth: My name is next to amendment 79 as a supporter. That amendment would add offences under section 19 of the Animal Health and Welfare (Scotland) Act 2006 to the list of offences for which a trap licence can be suspended or revoked. Amendment 82, which also has my name beside it, would do the same for section 16AA licences. I express my full support for those amendments and the necessary protection, as the use of traps and other management measures can, and often does, result in unnecessary suffering.

There are provisions in the bill that will improve the training and regulation of trap operators, but it is vital that those are combined with a deterrent to the widespread non-adherence to the terms and conditions of general licences, with regard to allowing the live capture of wild birds and the impact on their welfare. The amendments would do that, and I am pleased that the Government fully supports them.

The Convener: Minister, I do not think that you will wish to come back in, but I want to clarify whether you agree that there is no longer any connection between the period of investigation and the period of suspension, given that you have amended the investigation provisions.

Gillian Martin: I am not quite sure that I understand your question, convener.

The Convener: The investigation provisions that you have amended now suggest that there is no connection between the period of investigation and the period of suspension—there is no link between the two. Is that correct?

Gillian Martin: I am resisting some of the amendments that have been lodged because I do not want to tie the hands of any investigating authority by putting into statute a limit to the time of suspension, if that is what you mean. Basically, the length of the investigation is the length of the

investigation. Various parties could be involved in it, and I do not want to limit its scope unnecessarily.

The Convener: We might return to that at the next stage. As there are no other comments, Edward Mountain will wind up and indicate whether he wishes to press or withdraw amendment 179.

Edward Mountain: In line with the approach of other members, I will keep my comments short and speak only to my amendments and to those that I think are truly important.

As far as amendment 179 is concerned, I am not sure that I understand the reticence about making sure that the process is beyond criticism. By adding "beyond reasonable doubt", we make sure that the process is beyond reasonable doubt rather than just dependent on the opinion of one person.

I have been taken by Beatrice Wishart's argument on amendment 119. I understand why she wants to add the word "estimated", and I also understand why Ms Hamilton might not want it to be included. However, I suspect that, on balance, the best that can be achieved is an estimate. I do not think that anyone should be frightened of supporting amendment 119.

There is a clear argument for amendment 64, in the name of Rachael Hamilton, on limiting the amount of time for which a licence can be suspended. I support Stephen Kerr's amendments on the basis that they would add a baseline to that, so that people could understand. Rachael Hamilton's amendment 66, which would mean that no penalties would be enforced before the appeal process was heard, is also important.

I have heard the minister's comments that amendment 18 would put a statutory obligation on the sheriff to award costs. I will not move that amendment but I will rewrite it so that you can prepare your arguments for when it comes back at stage 3, minister—I do not doubt that you will have anticipated that coming.

On Rachael Hamilton's amendments 161 and 162, I am deeply concerned that the minister is suggesting that the only outcome after an appeal is judicial review. Judicial review is hugely expensive.

Gillian Martin: Can I just clarify something?

Edward Mountain: Can I just finish, minister?

Once the appeals process had been exhausted with the person or the organisation that had refused the licence, I would be concerned if the only outcome was judicial review.

I am happy to give way to the minister.

Gillian Martin: I am fairly certain that I did not say that that is the only route for an appeal. There is an appeals process within NatureScot, but you can also ask the SPSO to investigate what has happened, as you can do for any public body, before you go to judicial review.

Edward Mountain: I thank the minister for clarifying that. I have been involved in appeal processes against NatureScot or Scottish Natural Heritage, not only as an individual but through representing constituents in the Parliament. The system and the reasons around it are fairly opaque, so if that is the way that the minister goes—

Rachael Hamilton: Will you take an intervention?

Edward Mountain: Yes, I will.

12:30

Rachael Hamilton: I want to develop the discussion following what the minister has said. You heard me describe why I lodged amendment 161 and similar amendments: I feel that NatureScot would be marking its own homework. The minister seems to be content with the internal process for reviewing a licensing decision, but such decisions could not be appealed at the sheriff court on their own merits. That is what specifically concerns me.

Edward Mountain: I thank Ms Hamilton for clarifying that. It is what concerns me, too. I will not go too much into the details of a specific case, but I know of an appeal that was lodged that was heard by the same person who had made a judgment on it, which is inherently wrong.

I would like to work with the minister on one suggestion. Perhaps she could indicate whether it would be possible to work on a system that includes a level of independent arbitration when it comes to making a decision on the process. Certainly, in the past, when SNH challenged me on something, it refused my appeal, but, in arbitration, its position was overturned. Arbitration gives individuals the ability to do that at minimal cost, without having to go to judicial review or the sheriff court. I do not know whether the minister is in a position to say whether she would entertain discussions on that.

Gillian Martin: I will always entertain sensible discussions, and I am interested in what you say about a process of independent arbitration. It is possible that we could ask for that to be looked at for the review process to see whether that might be welcome. I imagine that no public body wants to go to judicial review or be referred to the Scottish Public Services Ombudsman. That might be an additional step, and I am interested in

pursuing the matter further. I will ask my officials to look at it and speak to people who might be involved. We could also have a meeting ahead of stage 3 to see whether it could be workable.

Edward Mountain: I am grateful to the minister for clarifying the position, because that might get around the concerns that members of the committee have raised.

Just to clarify, without talking any more, I will press amendment 179, but I will not move amendment 18 at this stage. I will bring it back at stage 3, once it has been amended to address the minister's concerns.

The Convener: The question is, that amendment 179 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 179 disagreed to.

Amendment 48 moved—[Gillian Martin]—and agreed to.

Amendment 119 moved—[Beatrice Wishart].

Amendment 119A not moved.

The Convener: The question is, that amendment 119 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 119 disagreed to.

Amendment 79 moved—[Karen Adam].

The Convener: The question is, that amendment 79 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Adam, Karen (Banffshire and Buchan Coast) (SNP)
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

The Convener: The result of the division is: For 7, Against 2, Abstentions 0.

Amendment 79 agreed to.

The Convener: At this point in the proceedings, I intend to close the meeting, given the time that it might take to get through the next group of amendments. We have not got as far as I would have liked, but it is not a good idea to start talking to amendments without being able to fully debate them.

Meeting closed at 12:35.

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