



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Meeting of the Parliament

Tuesday 26 November 2024

Session 6



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Scottish Parliament

Tuesday 26 November 2024

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

Time for Reflection

The Presiding Officer (Alison Johnstone): Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is the Rev Teri C Peterson, the minister at Gourrock, St John's Church of Scotland.

The Rev Teri C Peterson (Gourrock, St John's Church of Scotland): Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to address you today.

I have been thinking a lot lately, as many of us have, about change. On the one hand, change is constant. The pace of technology, for instance, often seems to outstrip our capacity to adapt. On the other hand, many of us hate change and long for simpler bygone days of stability. On a third hand, I suppose, is the feeling that nothing really changes, and that we are stuck with the way things are. Nothing changes for our beleaguered high streets. Nothing changes with embedded racist attitudes. Nothing changes with our sense, correct or not, of corruption in our institutions. Nothing changes—this is true—about the dreich west of Scotland weather. Nothing changes about human nature.

That feeling of stuckness leads us straight to despair. Nothing changes, so we just have to put up with the way things are, or as people say to me all the time, "You've just got to get on with it." Keep doing the same old things the same old way, but be prepared for outrage when symptoms of despair are all around. Loneliness, drug deaths, mental health crises, deeper entrenchment of bigotry and even litter are symptoms, because why take pride in caring for our place if there is no point?

In the Christian calendar, we are nearly at the season of Advent, which begins on Sunday. Advent is a season of expectation and a season of hope. That is what our world-view needs these days more than ever: hope. It does not need wishful thinking, empty promises made just to get or keep power, negativity or blame about how those people across the aisle or across the street or across the border or across the world are keeping us from utopia, but real hope that is grounded in facts and in imagination about what is possible. It needs hope that is grounded in the belief that things can change for the better. We are not stuck in the way things have aye been. It

needs hope that transcends the obstacles that we always think are in our way, such as party lines, accents, school backgrounds or whatever the barrier du jour is. It needs hope that leads us forward, not backward to some imagined perfect past.

This season, leaders of all types need to cast a vision of hope that inspires us to come together and inspires us to put our hearts, minds and hands to the task of creating the better future that we all say we want but in the next breath will lament is impossible. It is only impossible if we give up on it, so please, in this season and beyond, let us lead with hope.

Thank you.

Topical Question Time

14:04

Winter Preparation

1. **Sue Webber (Lothian) (Con):** To ask the Scottish Government how it is preparing for winter, in light of widespread weather-related disruption over the weekend due to storm Bert. (S6T-02209)

The Cabinet Secretary for Transport (Fiona Hyslop): The Scottish Government has well-established and tested processes for preparing for winter weather. Our central resilience operation can be activated in advance of severe weather, and it ensures that ministers are kept fully updated on any developing issues.

Officials work year round with key partners, including the blue-light services, councils, health boards, transport operators, the voluntary sector and others, to support shared understanding of risks, plans and processes. We stand ready to support our partners through the coming winter, and we will, through our Ready Scotland channels, continue to provide public advice on preparing for and responding to a wide range of emergencies.

With regard to roads preparation, on 6 November, I launched the Transport Scotland trunk road winter service 2024-25 at the Traffic Scotland national control centre in South Queensferry. I was able to confirm that we have more grit in stock than was used in the entirety of last winter, and we have more than 240 gritters to undertake enhanced patrols of the trunk road network, spreading salt and ploughing snow from more than 40 depots across Scotland. The winter fleet has now been refreshed, with new vehicles replacing older ones to improve performance and reliability.

Sue Webber: This weekend, storm Bert caused chaos across Scotland, with ScotRail and Caledonian MacBrayne both announcing cancellations, while motorists were stranded and the Queensferry crossing was closed. One of my constituents, who was stuck on the M8 for hours, said that it was only after two hours that he saw a police car, that people were cutting into the hard shoulder and that the situation was dangerous for emergency vehicles.

The impact of the storm was severe but not unexpected. As is now well established, people will still travel despite the issuing of weather warnings, and it seems that the authorities had no idea how they all got caught out. What actions is the cabinet secretary taking to future proof our transport network for extreme weather events?

Fiona Hyslop: With regard to the response, our railways responded with their emergency planning, which was set up in advance, and the multi-response unit brought everyone together in time.

On the weather forecast, I will make two points. First, there is a serious issue, as was clear with the 12 named storms last year, in how we help to convince people that when the police say, "Do not travel this weekend," they should respond to that appropriately.

There also needs to be a better understanding of what a yellow weather warning means. At that level, the weather can still cause disruption, and a yellow warning warns people that there will be disruption. That was the case for the Lothians. I was very close to the M8 and junction 3, where the issues were, and I saw that the snow came down extremely quickly at that point. Although the southern uplands were the subject later of an amber warning, as was the north, the Lothians were not. There are certainly lessons to be learned about aspects of the Met Office warning in that respect, which will be communicated more widely.

I emphasise that we were prepared, but when there are multiple weather warnings—we did not have just one; we had warnings for rain, wind, ice and snow—the combination will obviously cause disruption, and that is what happened. It was mitigated and responded to appropriately, which included making sure that our roads could be travelled on and that services on both the railways and the ferries were resumed. However, safety must always be the priority.

Sue Webber: I thank the cabinet secretary for that detailed answer. Fostering resilience is essential to ensuring that Scotland is protected for future extreme weather events.

When the snow hit on Saturday, Edinburgh city centre was gridlocked, with buses cancelled and drivers left stranded, and no gritters in sight. What makes it worse is that Transport Scotland has spent nothing on road grit for the past three financial years, despite the cabinet secretary saying that there is more grit in stock than was used in the entirety of last winter.

Roads must be properly protected against these icy conditions, which are all too familiar to those who travel on roads in Scotland. Transport Scotland says that there are adequate levels of grit, but there is no point in having stockpiles of grit if it is not going to be used. That is cold comfort for the people who were stranded as a result of the closures that affected our major trunk roads. Does the cabinet secretary accept that that looks like another example of where the Scottish National Party Government has failed to deliver value for

taxpayers, which left motorists stranded as the weather hit?

The Presiding Officer (Alison Johnstone): We have interest in this item, and I would be grateful if we kept questions and responses as concise as possible.

Fiona Hyslop: A total of 412 tonnes of grit was available. Transport Scotland procures trunk road maintenance—I remind the member that investment in that is up by 31 per cent this year—and it does that by working with operating companies. I politely point out to Ms Webber that Amey has a stall outside the chamber today. It is one of the operators whose staff worked diligently to help ensure that our roads remained open. Those companies are the ones that have and procure the majority of the salt that is required. I am sure that Amey will explain that to Ms Webber if she wants to spend time with its representatives this afternoon.

I am sure that Sue Webber, as a former councillor, knows that Transport Scotland is not responsible for local roads in the City of Edinburgh Council area and that the council is responsible for those roads.

Jackie Dunbar (Aberdeen Donside) (SNP): It is good to hear from the cabinet secretary that our grit stocks are high. The Tories seem to think that the Scottish Government should spend more money on grit, even when we do not need it, which is par for the course, given the Tories' track record on budgeting. Will the cabinet secretary assure us that we would be able to purchase more grit if it was needed and that mechanisms are in place to do so?

Fiona Hyslop: Serious misrepresentation of grit stocks is something that anyone with responsibility would question. A commonsense approach would be to look beyond the headlines to identify what stocks of grit are strategic and what stocks are used by the maintenance companies that look after our trunk roads.

National strategic salt stocks of 71,000 tonnes are stocked in various depots throughout Scotland, and procurement mechanisms are available to increase that provision if necessary. We keep stock levels under review and budget every year to ensure that there is funding to support winter resilience on our roads, should it be needed.

Claire Baker (Mid Scotland and Fife) (Lab): The Queensferry crossing was closed for more than 15 hours because of the risk of falling ice. That risk was very real for one driver, whose windscreen was cracked. That was the fourth closure since 2017. It is welcome that the Forth road bridge was open to all travellers within 25 minutes, but does the cabinet secretary expect

any solution to the ice issue, given that previous attempts to resolve it have failed?

Fiona Hyslop: Since the Queensferry crossing opened, in August 2017, there have been ice accretion incidents on three occasions. When there is a risk of falling ice, which is serious, a six-point plan is implemented by our operating company, BEAR Scotland. The plan includes enhanced patrols, heightened focus on prevailing weather conditions, increased data and intelligence gathering, pre-laying of traffic management, and enhanced stakeholder communications.

When ice accretion conditions are forecast to be high or severe, patrols are implemented to check the ice formation and inform decisions. The diversion over the Forth road bridge, which was subject to a trial earlier this month, was enacted in about 26 minutes to ensure that traffic could keep flowing.

The issue is serious for bridges across the world, not just for us. Indeed, the Øresund bridge and the Storebælt bridge are also subject to ice accretion, and they close when that happens.

The member raises an important point. We remain vigilant. Safety is always first.

Emma Roddick (Highlands and Islands) (SNP): We had a lot of snow and then a storm affecting the islands and the north of Scotland, with everyone in Scotland getting a share of the snow and wind over the weekend. It is important not to forget that every extreme weather event means that the people in public and voluntary services on whom we rely are putting themselves out there in hazardous and challenging conditions to keep us safe. Will the cabinet secretary join me in thanking everyone involved in national and local resilience efforts over the past 10 days?

Fiona Hyslop: Yes, I will. Resilience is about planning in advance and then delivering on those plans when incidents happen. This month, when we launched our winter service, I had the opportunity to thank those who were in attendance. That includes our trunk road operating companies, our Transport Scotland officials, our contract providers, Police Scotland, Traffic Scotland, the Met Office and media partners.

It is important that we all work together on that resilience. I thank all those who were involved over the weekend. Obviously, with the winter to come, we have yet more to do. I encourage people to talk to our Amey colleagues outside the chamber, who will probably be able to give a more in-depth analysis of the hazardous and challenging conditions that it, its operators and others deal with to keep our transport system and our transport network open and safe.

Energy Price Cap (Impact on Fuel Poverty)

2. Keith Brown (Clackmannanshire and Dunblane) (SNP): To ask the Scottish Government, regarding any impact on fuel poverty in Scotland, what its response is to the reported announcement that the energy price cap will increase by 1.2 per cent for the period covering January to March 2025. (S6T-02208)

The Acting Minister for Climate Action (Alasdair Allan): Our analysis suggests that, under the latest energy price cap, around 830,000 households, which is 33 per cent of all households, will be in fuel poverty. That represents a slight increase—it is fewer than 10,000 households—since the previous price cap period.

All that said, I know that many households will be feeling the financial strain as energy prices remain high. The Scottish Government is working with industry and others to design a social tariff mechanism, to ensure protection for energy consumers.

However, it is the United Kingdom Government that has the fundamental levers over energy pricing and obligations to fully address the cost pressures on households and, ultimately, the power to enact a social tariff.

Keith Brown: Does the minister share my concern that, despite Scotland being an energy-rich country, households here face higher energy costs than many European counterparts, a situation that is worsened by Labour's failure to deliver on its manifesto pledge to cut energy bills by £300 a year and, of course, its decision to cut the winter fuel payment?

Alasdair Allan: As the member rightly suggests, the decision to cut the winter fuel payment has meant a reduction of £147 million in 2024-25 in the block grant adjustment to deliver our intended universal pension age winter heating payment, which is more than 80 per cent of the forecasted cost. That now means that around 900,000 pensioners will not receive support this winter, including many who are eligible for pension credit but who have not yet applied.

We cannot continue to be expected to mitigate the results of UK Government cuts from our devolved budget. What is really needed is reform of the UK energy markets, to rectify the root causes of fuel poverty in Scotland, such as unfair standing charges and high fuel prices.

Keith Brown: Yesterday, we heard the Labour Party call for a vote on reinstating the winter fuel payment after previously voting against a Scottish National Party motion to do just that. It claimed, of course, to stand up for pensioners when it has already betrayed them and has proved that it

cannot be trusted. Does the minister agree that that is nauseating hypocrisy from the Labour Party, particularly when it promised to lower energy bills but instead has overseen a £150 increase so far, with further rises expected in January, leaving millions of households worse off, with Scotland once again being hardest hit? Has the minister had any more success than I had when I asked Anas Sarwar how many people in Scotland, according to Labour's own research, will die as a result of Labour's energy price hike?

The Presiding Officer: Minister, you may answer on matters for which the Government has responsibility.

Alasdair Allan: On those matters, it is welcome that it seems that Scottish Labour is joining the rest of the Parliament in our condemnation of the actions of the UK Labour Government in cutting the winter fuel payment. However, as the member alluded, it leaves us in the amazing position of seeing Labour in Scotland seeking protection from the actions of its own party. The question is what has changed for Labour in the weeks since it whipped its MSPs to vote to support the UK Government's actions in cutting the winter fuel payment.

As temperatures fell in Scotland this week, it became clear that Scottish Labour finally realised the damage that its policy of cutting winter fuel payments would do, but, even in its repentance, it seems to have fallen short of advocating for the return of a universal winter payment. We, in the Scottish Government, will continue to do what we can within the limited powers of the Parliament to argue for reform of the energy market and will continue to press the UK Government for the introduction of a social tariff mechanism.

Paul O'Kane (West Scotland) (Lab): The minister said that the Government will continue to do what it can, but the fact is that it is not doing what it can. We have £41 million of consequential from the UK household support fund but there is not a word from the Government about what it will do with that money. I have asked the Cabinet Secretary for Social Justice on several occasions to outline what the Scottish Government will do. We have offered a basket of measures that can be used to support people this winter. That money has also been extended for a further year, so we will also have that £41 million next year.

Other devolved Administrations have said what they are going to do with that money, so is it not about time that the cabinet secretary explained what that money will be used for—or has it fallen into the Government's black hole?

Alasdair Allan: I am not sure whether the member was listening, but the UK Government's approach reduces the block grant adjustment of

the UK's winter fuel payment by £147 million in 2024-25, which is more than 80 per cent of the cost of the intended universal benefit.

We will work with the UK Government on a range of fronts around fuel poverty and energy, and we have committed to keeping eligibility under review. Ministers and officials are working at pace on options for investing any consequential as a result of the household support fund. However, that does not take away from the fact that energy bills have gone up by £150 as a consequence of the actions of a UK Government that promised to bring them down by £300.

The Presiding Officer: That concludes topical questions. Before we move on to the next item of business, which is a committee of the whole Parliament, I suspend the meeting.

14:19

Meeting suspended.

Committee of the Whole Parliament

[The Convener opened the meeting at 14:20]

The Convener (Alison Johnstone): I open this meeting of the Committee of the Whole Parliament.

Prisoners (Early Release) (Scotland) Bill: Stage 2

14:20

The Convener (Alison Johnstone): We will consider stage 2 proceedings on the Prisoners (Early Release) (Scotland) Bill. For the duration of the proceedings, I am the convener of the committee.

In dealing with amendments, members should have the marshalled list and the groupings of amendments. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons or enter RTS in the chat as soon as possible after I call the group. The Parliament 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.

Members should now refer to the marshalled list of amendments.

Section 1—Extension of automatic early release for certain short-term prisoners

The Convener: The first group is on exclusions from the 40 per cent release point: governor's veto. Amendment 1, in the name of Katy Clark, is grouped with amendments 7 and 16. I call Pauline McNeill to move amendment 1 and speak to all the amendments in the group.

Pauline McNeill (Glasgow) (Lab): On behalf of Katy Clark, I will move amendments 1, 7 and 16.

Amendment 7 would include a governor's veto for short-term prisoner releases, and amendment 16 would introduce a governor's veto when ministers are in future modifying regulations for early release.

Victim Support Scotland has asked MSPs to ensure the inclusion of a governor's veto in the bill. Without a governor's veto, we believe that there is no safety valve to prevent the release of

individuals who are known to be a risk. The governor's veto is a crucial safeguarding element. During the emergency early release in the summer, the veto prevented the release of 171 prisoners who posed an immediate threat to individuals or the public.

We believe that, without the governor's veto, the Prisoners (Early Release) (Scotland) Bill will not contain the vital aspect of risk assessment, which will potentially create more victims and endanger the wider public. The veto formed part of the previous early release programme, and it is an essential safeguarding mechanism to prevent those who are deemed unsafe from being released early.

We appreciate that the Prison Governors Association does not support the measure, due to heavy workload issues, but we believe that it is a necessary safeguard given the substantial change in prison policy, which will reduce the amount of time that some prisoners spend in prison.

I move amendment 1.

Jamie Greene (West Scotland) (Con): I drafted and tried to lodge a similarly worded amendment that would have achieved a similar result to, or the same result as, Katy Clark's amendment 7. Unfortunately, we missed the deadline by, I think, four and a half minutes, which is testament to the rushed nature of the bill. Nonetheless, I am glad to see amendment 7 in the marshalled list, and I will be pleased to support it.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): I begin today's stage 2 proceedings by thanking all members for their consideration of the bill and for the amendments that have been lodged.

The bill is one of several measures that I am taking to help to reduce the high prison population. That will support the delivery of the important rehabilitation work in our prisons, which we know can, in turn, support a reduction in reoffending on release. As I have stated previously in the Parliament, we have a high prison population and, when we have a high prison population, it is almost impossible for the Scottish Prison Service and partners to undertake rehabilitation work. That does not support overall public or victim safety, which was a point that Teresa Medhurst, the chief executive of the SPS, made in meetings with some members of Parliament this week.

Turning to the amendments in the group, I understand why Katy Clark and Pauline McNeill seek to introduce a permanent governor's veto in the release process, but that would not be an appropriate or practical approach. The bill changes the point of release, but it does not change any other aspect of the release process, which will remain the same for those who will be

released after serving 50 per cent or 40 per cent of their sentence.

Martin Whitfield (South Scotland) (Lab): We had a similar discussion during stage 1. If there is no provision for a governor's veto, how does the cabinet secretary see things playing out, given that governors used such a veto on a number of occasions under the previous scheme, which probably prevented prisoners returning? What levels of protection are in place to address the fact that there will not be a veto for governors, who know individual prisoners very well?

Angela Constance: Mr Whitfield has asked an entirely legitimate question. The distinct difference between the emergency early release process and the standard release process relates to time and pace. When the emergency release regulations were laid in the summer, the first tranche of prisoners were released within a month or so. In the context of changing the standard arrangements, on-going release planning processes are able to continue. I will address that issue in a wee bit more detail as I proceed with my comments.

Introducing a permanent governor's veto would have a negative impact on the operation of the Scottish Prison Service, as well as on the operations of the police, justice social work services and other partners. It would prevent them from focusing on critical work to support safe transitions back to the community and other work that supports communities and reduces reoffending.

Last week, the Prison Governors Association wrote to me and the Criminal Justice Committee to welcome the bill, which is now also supported by the Prison Officers Association. In its letter, the Prison Governors Association says, as clearly as I could, why the bill is different from the emergency release process that we took forward in the summer, which was temporary in nature. It says:

"It is important to state that this Bill is significantly different in context to the Bail and Release from Custody (Scotland) Act 2023, where Part 2, section 11: Power to Release Early (Emergency Release) was utilised earlier this year, necessitating the use of a Governor's Veto. The context of the Early Release Bill is a decisive action to reduce remission to 40% for Short Term Prisoners, (with clear caveats) and is a change to sentencing rules, policy and guidance. We are clear on that basis, that a person should be liberated on their Earliest date of Liberation ... as per liberation processes and that a Governor's Veto should not be part of any such sentencing change."

Liam Kerr (North East Scotland) (Con): I hear everything that the cabinet secretary has said, but does she not concede that simply introducing a governor's veto would add an extra safeguard to a process that has not been sufficiently scrutinised for safety, given the emergency process that we are going through?

Angela Constance: Introducing a governor's veto in the bill would undermine the standard processes that support victim safety and, in particular, the crucial pre-release planning that must take place up to 12 weeks before release. In relation to the bill, the subsequent release arrangements provide time for releases to be planned and accommodated for; the arrangements are very different in the context of emergency early release.

The current release processes already enable appropriate release planning to take place, and they do so in line with identified needs. That includes relevant information being shared with victims regarding the individual linked to their case, if they wish to receive such information. Release processes are better when everyone has time and certainty to plan.

The introduction of a veto into the process would have a negative impact on release planning for both the person who is being released and, crucially, the victim. It would also have a negative impact on other organisations' ability to set up the support that is needed, as all cases must be reviewed, which would result in a significant delay in releasing final release dates and information to partners, including information that can be shared with victims.

I reaffirm today that public and victim safety remain central to decision making in the justice system. A governor's veto power would be unworkable in practice and would divert resources away from the business-as-usual work of justice organisations that support rehabilitation and reintegration.

I urge Parliament not to support the amendments.

The Convener: I call Pauline McNeill to wind up and press or withdraw amendment 1.

14:30

Pauline McNeill: The cabinet secretary said that rehabilitation work is almost impossible to undertake. I appreciate that point, but there is a wider debate to be had about the availability of rehabilitation in prisons in the first place, so I do not accept that as the basis of the argument.

I listened carefully to what the cabinet secretary said about the difference between the bill and the 2023 act, but I did not fully understand the real difference.

We have to bear in mind that, because of the shortened stage 1 process, we do not have any insight into how the veto actually worked. I have to go with what I hear today, my own knowledge and what we have been furnished with in the past few days.

As Liam Kerr said, a safeguard is very important—it was in 177 cases in the previous release period. Later in our discussions on groups of amendments, we will discuss what concessions the Government is prepared to make to improving the notification scheme. If we are not to have a governor's veto, we need to rely on a good communication scheme for victims, or, indeed, a good release process, which we will also discuss in later groups of amendments. I do not know what the Government will say about those amendments, but in view of my concerns—*notwithstanding the points that I have acknowledged—I intend to press the amendments in Katy Clark's name.*

I press amendment 1.

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division. As this is the first division at stage 2, I will suspend the meeting for around five minutes to allow members to access the digital voting system.

14:32

Meeting suspended.

14:38

On resuming—

The Convener: We move to the division on amendment 1. Members should cast their votes now.

The vote is closed.

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

The Convener: Thank you. We will ensure that that is recorded.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)

Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

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

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

The Convener: The result of the division is: For 43, Against 70, Abstentions 0.

Amendment 1 disagreed to.

The Convener: The next group of amendments is on exclusions from 40 per cent release point: rehabilitation and targeting repeat offending.

Amendment 2, in the name of Sharon Dowey, is grouped with amendments 3, 8 and 9.

Sharon Dowey (South Scotland) (Con): Although I and other Scottish Conservative members have been very clear that we oppose the bill and are especially opposed to the timetable laid out by the Government, we know that we must think carefully about which prisoners will be released if the bill is passed.

My amendments 2 and 8 would exclude from the 40 per cent release point any prisoners who have refused to participate in a rehabilitation programme. During the stage 1 debate, Rona Mackay said:

“If no rehabilitation and preparation for liberty has been undertaken, the people who we release will eventually return to prison through the revolving door.”—[*Official Report*, 21 November 2024; c 94.]

I whole-heartedly agree with Ms Mackay that we should not reward offenders who have resisted efforts to rehabilitate them by releasing them early.

If we release a large number of individuals who are likely to reoffend, we will be facing the exact same problem in a few months’ time and the Government will have failed to protect victims of crime. I therefore hope that the Government will support my amendments, so that those who are likely to reoffend will remain behind bars.

My colleagues and I will also support Jamie Greene's amendments 3 and 9, which seek to add reoffenders to the list of prisoners to be excluded from the provisions of the bill, because it is clear that those individuals require further rehabilitation and support within the prison system.

Martin Whitfield: Will the member accept an intervention?

Sharon Dowey: I am sorry.

The Convener: Have you concluded, Ms Dowey?

Sharon Dowey: I have concluded. I am sorry.

The Presiding Officer: Please confirm that you are moving amendment 2.

Sharon Dowey: I move amendment 2.

Jamie Greene: I am acutely aware that a number of members probably do not want proceedings to roll on until 9 o'clock this evening. I made my case clear during stage 1 last week when I voiced my feelings about why we are rushing the bill through and doing two stages in one day. I hope that the Government and the whole Parliament have listened carefully to the points that we made about what I think is an unnecessary abuse of the emergency procedures of this Parliament. We will discover whether it is that over the course of the day.

I am a realist. I have sat in this chamber for long enough and have moved enough amendments to know that every one of my amendments will probably be voted down by the Government today. That is my expectation, and it is disappointing to start stage 2 in that way, but I am willing to have the cabinet secretary prove me wrong.

I have lodged a number of amendments in seeking to improve the bill in any way that I can. Members might ask why I have done that when this not my portfolio and I no longer sit on the Criminal Justice Committee. I have done so because it is the right thing to do. As members in this place, if we see a bill presented to us and we are not happy with it, we should change it. That is what we are here for, and my amendments will seek to do that. I will seek to explain the purpose behind my amendments as clearly and concisely as I can, and I am happy to debate any of them with any member of Parliament.

14:45

I say to the cabinet secretary that, given the fact that we are conducting business on the bill in a matter of hours, if we hear reasons—I suspect that we will hear a litany of them—why my amendments are technically not possible or feasible or, on some legal basis, why they should not be passed by the Parliament, I will sit down at

the back of the chamber, or anywhere else, over the next couple of hours with a member of the Government, a minister, the cabinet secretary, her special advisers, her legal advisers or Government lawyers and redraft any of my amendments ahead of stage 3, if that would help the amendments to meet the criteria that would make them legally sound, so that they could fit into the bill.

I do not want to hear the excuse that these are incompetent amendments. We had to produce them in a matter of hours. What I want to hear is rationale as to why members should vote against them or vote for them, and that is exactly what I am going to provide.

My amendments 3 and 9 seek, on a technical level, to add reoffenders to the list of prisoners who are excluded from the provisions of the bill. Amendment 3 is consequential to amendment 9. In layman's terms, I am talking about reoffending. We know about what happens when we release people early from prison, because it has happened before—for example, we used such powers during Covid, and we used them earlier this year when our prisons were full and on the brink of catastrophe—and history repeats itself, I would argue. We know about what happens, because victims organisations got in touch with us—all of us—and told us what happened to the victims of crime after people were released early.

It is simply my view that, if someone is released from prison and finds themselves sentenced again within 12 months of release, they should not be eligible for any further early release. It really is as simple as that.

Martin Whitfield: Will the member take an intervention?

Jamie Greene: I will, in a second.

It is a point of principle and a point of fairness, but it is also a practical proposal, as I am happy to explain.

The reason why my proposal is important is that the bill's financial memorandum says that the bill will directly affect 390 prisoners. That is an estimate, but it is probably a decent one.

We know that the last time the Parliament voted to release people early, around one in 10 of those people reoffended and found themselves back in prison—I have heard estimates of one in eight, but, for the sake of fairness, I will use the one-in-10 figure. That means that, if we pass the legislation, we will immediately create around 40 reoffenders. That is just a statistical assumption, but it is probably a fair one.

The longer-term purpose of the bill, however, is to reduce the prison population over time. The Government estimates that the bill will reduce it by 5 per cent over time. With a prison population that

currently sits at around 8,500, the bill will immediately produce 400-odd reoffenders as a result of our actions today. I want the cabinet secretary and members to think carefully about that.

Amendment 9 provides that anyone who is readmitted to prison within 12 months of being released from prison after having spent their conviction for another crime will not be eligible for release after serving two fifths of their sentence. In my view, it will be clear that rehabilitation of that individual failed during their time in custody; that will be evidenced by the fact that they have found themselves back in custody within only 12 months of being released. In what way will further early release assist with rehabilitation of the offender, reduce the risk of further reoffending or keep the public safe?

That is the argument that I want to press the most, and it is about the principle of fairness. I think that a number of people who will be released early under the bill will see their automatic early release simply as a gift. The sentences are reducing, and the elements of deterrence and—I dare to say and use the word—punishment are being eroded.

My amendments send a strong message to victims that we are on their side.

In a similar vein, I support Sharon Dowey's amendments 2 and 8.

I am happy to give way—does the member still want to make a point?

Martin Whitfield: No.

Jamie Greene: All the amendments in this group go some way to addressing people's concerns about the proposals or the concept of early release. Why do those concerns exist? Because there has not been the public or stakeholder engagement, or full Government consultation, that we would normally see before passing a bill.

The early release proposal cuts short rehabilitation, including alcohol and drug rehabilitation programmes, and it will abruptly place people back into society when they may not be ready. We know that that is the case; we have taken a lot of evidence on that.

We have an overarching responsibility, with bills such as this, to do what we can to keep the public safe. That has to sit at the heart of all the amendments that we debate today. My amendments 3 and 9 go some way to doing that, and I encourage members to vote for them.

Maggie Chapman (North East Scotland) (Green): Before I speak to the amendments in this group, I say a huge "Thank you" to all who have

supported us in getting to this point—specifically and especially those in the legislation team. I am also grateful to prison workers and third sector organisations, who have been so generous with their time in the weeks since the cabinet secretary announced that the bill would be introduced.

I turn to the amendments in the group. I have a lot of sympathy with Sharon Dowey's amendments 2 and 8, but I have significant concerns about how they are drafted. We know that rehabilitation programmes are vital and that they can transform people's lives. However, all the evidence suggests that, in order to work, they have to be undertaken voluntarily. Coercing or forcing people into rehab programmes makes those programmes very much less effective. Sharon Dowey's amendments fall short on that specific point.

There are two other areas of concern. First, exactly what kinds of programmes would be covered is unclear. In many prisons, there are informal gatherings and informal groupings that serve to offer support and, in the longer term, rehabilitation. Whether those would be covered by amendments 2 and 8 is not clear.

My final point on these amendments is about fairness across the prison sector. Some programmes might be offered in some prisons, and different or no programmes might be offered elsewhere. It is not fair to treat prisoners in different places differently, just by virtue of what is or is not offered to them.

We therefore cannot support Sharon Dowey's amendments 2 and 8.

On Jamie Greene's amendments 3 and 9, on repeat offenders, all the criminological evidence suggests that the risk of reoffending is much more likely to be affected by the condition in which people are released and the circumstances into which they are released. It is so important that we get that right. His amendments 3 and 9 do not address that vital point, so, again, we will not support them.

Angela Constance: Amendments 2 and 8, which were lodged by Sharon Dowey, would have the effect of coercing people to participate in programmes under the threat that, if they do not, they will have to spend longer in custody.

I have said repeatedly that one problem with the current high prison population is that it reduces the capacity of the Scottish Prison Service to facilitate purposeful activity and support rehabilitation, which is essential in preparing individuals for reintegration into the community. I support the availability of rehabilitation programmes, recovery programmes and the range of other support that is provided by the Scottish Prison Service, which help to address the needs of those in custody so

that, post release, they are better equipped to reintegrate into the community.

However, participation cannot be compulsory, for the simple reason that, often, mandatory participation does not work—it can even be dangerous in cases of substance misuse, as forcing people to engage when they are not ready to do so can exacerbate related health and wellbeing issues and prolong the challenges of substance use.

The Scottish Government remains fully behind the importance of the undertaking of rehabilitation work in our prisons and communities. However, that work cannot and should not be forced on people as a means of securing their release from prison custody. Although I appreciate the desire to promote rehabilitation, amendments 2 and 8 are not the right way of doing it, and I therefore urge the Parliament not to support those amendments.

I turn to amendments 3 and 9, in the name of Jamie Greene. I inform Mr Greene that I made myself available to every Opposition spokesperson who has an amendment in this group, and I was pleased that they all took that opportunity, despite our different views.

As Mr Greene articulated, his amendments seek to exclude people who have previously reoffended from release at 40 per cent of time served. There are bigger, broader issues that we need to consider, such as the balance between prison sentences and community justice and community-based interventions. Those options might not be attractive to some, but evidence tells us that they can be more effective at reducing reoffending than short custodial sentences. That is why we are investing £148 million in community justice this year, which is £14 million more than we invested last year.

I consider that the proposed exclusions from release at 40 per cent of time served for those who are serving sentences for domestic abuse and sexual offences strike the right balance. It is important to carefully consider the justification for excluding additional groups of people from the changes that are proposed by the bill, and how that would work in practice. The current exclusions have been considered carefully and in depth.

At stage 3, I will lodge an amendment on a technical point to ensure that the bill captures every case in which the exclusions should apply to a short-term prisoner. However, it is not appropriate to include new offences where the same justification may not apply. The amendment that I will lodge at stage 3 will, in particular, ensure that in the event that a prisoner who has been sentenced to less than four years is currently serving that sentence outwith the UK but is transitioned into a Scottish prison, and that

sentence is for the equivalent of a sexual or domestic abuse offence, they will definitely be excluded from the change in release point and will instead continue to be released at the halfway point.

Martin Whitfield: I gently inquire why that amendment is not available at stage 2 for us to debate with the other amendments that have been lodged?

Angela Constance: The reality is that, given the crisis and the severity of the situation in our prisons, we are all working at pace. That is why I have lodged emergency legislation. I will make information available to the member at the earliest possible point, and at this earliest point I highlight that very important, albeit technical, matter.

I raised those matters to emphasise the complexities that are involved in considering potential exclusions from the change to the release point. Those complexities need to be considered carefully and, on this occasion, I do not think that Jamie Greene has done so. He has not made a justification in the same way that a justification has been made to exclude those who are serving sentences for domestic abuse or sexual offences. Differential treatment requires evidence and justification.

The other point that I will raise is that, when it passes a sentence, the court has every opportunity to take into account someone's offending history and any matters around repeat offending. If Mr Greene believes that his amendment would reduce reoffending, that is not supported by the available evidence. In its response to the Criminal Justice Committee's call for views on my parliamentary statement on 10 October, the Scottish Centre for Crime and Justice Research stated:

"We are not aware of empirical evidence (in Scotland or internationally) that this small change in the timing of release will have a significant adverse effect in terms of reoffending. Rather, the weight of criminological evidence suggests that risk of reoffending is much more likely to be affected by the condition in which people are released and the circumstances to which they are released."

Maggie Chapman made that point very well.

I do not support amendments 3 and 9, in the name of Jamie Greene, and I ask members not to support them.

The Convener: I ask Sharon Dowe to wind up and to press or seek to withdraw amendment 2.

15:00

Sharon Dowe: I am obviously disappointed that the other Opposition parties are not going to support my amendments. I have concerns for the

victims of crime, because people are getting released early without full rehabilitation.

Maggie Chapman made the point that we may have been able to do further drafting if we had had more time. That is why I am concerned that the bill is going through so quickly. If we had had more time, we might have been able to do further drafting to make the amendments more acceptable.

Amendment 8 refers to a prisoner

“having been offered the opportunity to participate in a rehabilitation programme”.

It does not refer to them being coerced into or forced to do it. It seeks to cover the situation where someone has been offered the opportunity during their imprisonment and has refused to participate. The question that arises from what the cabinet secretary said is whether someone can go into prison, refuse any rehabilitation and be given the reward of leaving early.

Had we been given more time, we could possibly have done further drafting, but I press my amendment 2.

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 White, Tess (North East Scotland) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)

Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O'Kane, Paul (West Scotland) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 Whitfield, Martin (South Scotland) (Lab)

The Convener: The result of the division is: For 26, Against 71, Abstentions 20.

Amendment 2 disagreed to.

Amendment 3 moved—[Jamie Greene].

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

Members: No.

The Convener: There will be a division.

For

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

Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

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

Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
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 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Convener: The result of the division is: For 48, Against 71, Abstentions 0.

Amendment 3 disagreed to.

The Convener: The next group is on release at 40 per cent point subject to community payback order. Amendment 4, in the name of Jamie Greene, is grouped with amendments 5 and 11.

Jamie Greene: The Government has stated that we are pushing through the bill today as an emergency bill because there is an emergency. The emergency that is stated is that our prisons are full. Just a few minutes ago, the cabinet secretary used the word “crisis”.

So, we need to cut sentence lengths to achieve the prisoner and prison staff safety that was talked about at stage 1. Whether members agree with that or not is another debate; my feelings on that are well known. Even if we think that that is the case and that the bill is the way to achieve it—that the bill is the tool that we should be using to keep our prisons safer places by reducing numbers—it does not necessarily make it fair or right. It is simply the mechanism by which we are being asked to reduce prison numbers. The bill is a blunt instrument. It will achieve a different goal from determining whether the sentencing itself is fair—fair on victims, fair on the public and, in some cases, fair on the offenders themselves.

I simply want to restore some balance in the debate. My amendments 4, 5 and 11 offer some balance, and they offer the public some compromise. Yes, the Parliament may vote to release prisoners early to free up space in prisons. In doing so, we should also ensure that the public have faith in the justice system and faith that sentencing is still fair and proportionate and delivers justice for all.

Amendment 5 requires that a prisoner serve the remainder of the time—that is, the difference

between the 40 per cent and 50 per cent of their sentence—by completing a community payback order for that proportion of the sentence. Amendment 11 defines what a community payback order is, and it is defined along the same lines as in the Criminal Procedure (Scotland) Act 1995. Amendment 4 is consequential to the above.

Essentially, that means that, if someone is released early from prison in order to keep the prison population down, they are still able to give something back to the communities that they have harmed and to continue on their path of rehabilitation back into society, outside the doors of prison. For me, that is simply a matter of fairness and of the public’s perception of what we are doing today. It is difficult to see how people could argue against that. The Government itself believes that community sentences are, in its own parlance, meaningful and useful alternatives to custody. In that respect, I see no problem with including that element in the reduced sentences that we are being asked to pass today.

I look forward to hearing from other members and, indeed, from the cabinet secretary.

I move amendment 4.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have real concerns about amendment 5, which I think poses more questions than it answers. Who would be imposing the community payback order? Presumably it would be a court. At what time would it be imposed? Does the person need to reappear at court? What are the impacts on the courts, if that is the case? That is the only way that I can see things happening.

We must remember that a community payback order is, in itself, a sentence, and a very serious one. I am sure that Jamie Greene has not meant it in this way, because this is emergency legislation, and he has had only a short time to pull amendments together, but amendment 5 feels like it is in the mould of the Tories’ general attitude to community sentences: that is to say that custody is best but, if we cannot get custody, let us just put people on community payback orders.

As I say, I am sure that that is not what the member intended, but, to me, the approach that he is proposing is disrespectful to the court processes, it minimises the purpose of community payback orders and what they are meant to do, and it seriously downplays the role of those who carry out the orders with offenders, making the role more of a mere add-on or addendum to the justice system—an afterthought.

I therefore cannot support the amendments in this group, and I would be surprised if any other party in the chamber supports them.

Angela Constance: I am pleased that Jamie Greene recognises the value of community payback orders, which offer a robust and effective alternative to custody. Encouraging more widespread use of community payback orders, where appropriate, particularly as an alternative to short prison sentences, is a key part of our ambition to shift the balance between the use of custody and justice in the community. However, these amendments are not the way to achieve that balance, nor are they an appropriate way to manage the release process.

There are also fundamental issues with what is proposed through the amendments. Community payback orders are a sentence in their own right, imposed by the independent courts as a direct alternative to custody after having taken into account all the facts and circumstances of each individual case. They are not intended to be used as these amendments propose. That is clear from the existing legislation that governs their use—legislation that the Parliament agreed.

It is entirely unclear who would impose the community payback order—a point that Fulton MacGregor just made—how many hours of unpaid work would be undertaken or how existing statutory requirements would be met, including ensuring that unpaid work is suitable, having had regard to justice social work reports, and that the individual in question understands and agrees to comply with the order. Critically, existing legislation explicitly specifies that community payback orders are not to be imposed alongside custody for the same offence.

Pauline McNeill: I think that Fulton MacGregor's point, which the cabinet secretary also makes, is extremely valid. It goes to show the importance of a stage 1 report, because we might have had time to examine the important differences in structure of how we treat prisoners and offenders. Does the cabinet secretary appreciate where Jamie Greene is coming from? I have some sympathy with his position. We are letting prisoners out 10 per cent of their time early and 40 per cent through their sentence, with no supervision unless the court had previously applied that. Is there not another way in which those offenders who will be released early can be supervised, given the legitimate concern that the public would have about that?

Angela Constance: I very much understand Ms McNeill's and Mr Greene's point. The crux of the issue, as Ms McNeill articulates, is that all short-term prisoners who are released at the 50 per cent point of their sentence are released unconditionally unless, at the time of sentencing, the court has imposed an extended sentence or a supervised release order, or someone is subject to sex offender notification. Everybody else is

released unconditionally and automatically, and that would be the same for those who are released at the 40 per cent point.

Although those issues are not insignificant, there is an important point of principle to raise in relation to the amendments. We cannot get away from the fact that we should not be requiring the blanket imposition on those leaving custody of a second sentence that takes no account of individual circumstances and may not even involve the courts.

Ms McNeill and Mr Greene touched on the importance of employability and getting people into purposeful activity, whether that is work or some other type of activity that helps to improve their skills, connectivity and location in the community. The bill helps with that in a broad sense, because, if we reduce the prison population, we can increase the focus and the work on meaningful activity in our prisons, whether that is education, skills or employment.

I take the opportunity to remind members of the Scottish Prison Service's various partnerships with the private sector to support people into work on their release. Both I and the Deputy First Minister have taken a keen interest in that and are planning some new work in that regard.

15:15

I think that we all agree on the point about the importance of work and improving people's journeys into work. Unfortunately, however, both in principle and for practical reasons, I cannot support the amendments in this group, and I urge Parliament to vote against them.

The Deputy Convener (Liam McArthur): I call Jamie Greene to wind up and say whether he wishes to press or withdraw amendment 4.

Jamie Greene: I thank members for their contributions. It is good to air these matters in the limited time that we have, and I will respond to some of the points that have been made.

Members are right to highlight that my amendment 4 probably raises more questions than it answers, given the practicalities, if it were to pass, around CPOs. Those include questions around how many hours people would serve, and who would oversee that—for example, whether it would be local authorities or social justice partners.

However, Pauline McNeill has answered those questions by noting—quite rightly—that, under normal circumstances, all those issues would have been aired properly through consultation and taking evidence, and through what I suspect would have been a robust stage 1 report—I have a lot of faith in the members of the Criminal Justice

Committee, who would have written it. All those points could have been answered properly if we had had the time in which to do so.

There is a fundamental issue here, and I say this in response to Fulton MacGregor. I believe that community sentencing has its place—I value it, as other members do. However, that is not the point of argument here. I will highlight the actual problem. Fulton MacGregor stated that the amendments in this group are “disrespectful to the” courts. What is disrespectful to the courts is when a judge has passed a sentence but the Parliament decides—months, or years, later—to alter the length of that sentence, after a decision has been made by the so-called independent judge in court. That is disrespectful; my amendments are not.

Angela Constance *rose*—

Jamie Greene: I will give way to the cabinet secretary in a second.

Community sentencing has a place in that it assists the interaction of offenders within wider society. They are not in custody and a different way of monitoring them is therefore needed—Pauline McNeill rightly made that point. However, what is lacking in the bill—these are the reservations that we, in the Scottish Conservatives and the public and victims organisations, have—is anything that would offer any further comfort that those offenders who are released early will be managed or supervised, or assisted in any way, once they are released.

I am happy to give way to the cabinet secretary.

Angela Constance: I put to Mr Greene an important factual point, for clarification. Action of this type is entirely within the gift of ministers and in no way interrupts or interferes with the independence of our courts and judiciary—that has been the case since at least 1993. Indeed, previous UK Governments and the current UK Government have done likewise.

Jamie Greene: I hear the cabinet secretary, but in my view, that does not make it right. I am deeply uncomfortable with ministers rushing through a bill to release people early. At the end of the day, the judge has given somebody a sentence—perhaps a 10-year sentence, expecting them to serve five—but that is being eroded.

That is a matter of fact—the sentence is being altered through the actions of ministers, and ergo of this Parliament. We are interfering and meddling, whether we like it or not. We can change the language around it, but that is what is happening, and it makes me uncomfortable.

If we are going to do that, given that there are wider societal debates around sentencing, and the role and fairness of sentences, let us have those

debates, but let us do so properly. We have not done that.

I press amendment 4.

The Deputy Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
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 Kerr, Stephen (Central Scotland) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)

Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 48, Against 71, Abstentions 0.

Amendment 4 disagreed to.

Amendment 5 not moved.

The Deputy Convener: The next group is on exclusions from 40 per cent release point: offence against emergency workers. Amendment 6, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene: The cabinet secretary will be relieved that this is probably the last time that she will hear from me until the final group of amendments.

My amendment 6 has been put in a group of its own, and rightly so. I want to cast our minds back—I know that some members are going for a cup of tea; I will not speak for long on this amendment—to stage 3 of the Fireworks and Pyrotechnic Articles (Scotland) Bill. One thing that I was really pleased about was that we, as a Parliament, were united in our commitment to the safety of emergency workers as they go about their business and keep us safe. We are not long out of the season when a number of our blue-light services were again horrifically attacked during fireworks and bonfire night. Year after year, we hear of that happening. It goes without saying that we all condemn such attacks.

The thing that I was most pleased about with that bill was that we were unanimous in supporting one of my stage 3 amendments to the bill, which was to add an aggravator in relation to offences that are committed against emergency workers. Effectively, that requires courts to impose a harsher punishment on those who use fireworks as a weapon against emergency workers than on those who carry out normal attacks.

We sent that strong message two years ago, and we stand steadfast in our support for those emergency workers, who put their lives on the line every day of the year. I ask that Parliament take the same approach to the Prisoners (Early Release) (Scotland) Bill.

Amendment 6 is a short and simple amendment. It would exclude those who have been convicted of an offence under the Emergency Workers (Scotland) Act 2005 from automatic early release at 40 per cent of the way through their sentence. Instead, they must complete the current requirement, which, in their case, is 50 per cent of their sentence. I would prefer individuals who have been convicted under that legislation to serve their sentence alongside those whom the Government has chosen to exclude from the bill, such as those who have been convicted of domestic abuse. I put the gravity of the sentence on the same level, and it is for that reason that they should not be eligible for earlier release. It is arguable that they should

serve longer sentences, but that is an argument for another day.

I hope that Parliament will join me in sending a crystal clear message to all our emergency service workers that attacks on them will not be tolerated, that they will not be taken lightly and that those who are convicted of such attacks will not benefit from early release—end of.

I move amendment 6.

Angela Constance: I agree with absolutely everything that has been said about our hard-working and dedicated emergency workers. I know the commitment that thousands of people on the front line of our emergency services provide day in, day out to keep us all safe and to respond to our needs. We all appreciate everything that they do.

I am sorry to say to Mr Greene that I cannot support amendment 6 today. The change that is being made by the bill is to the standard release point, going forward. For the reasons that I outlined when I spoke to amendments in an earlier group, it is therefore important to consider carefully the justification for excluding people who are not currently excluded from the existing process. The proposed exclusions for those who are serving sentences for domestic abuse and sexual offences strike the right balance by providing a proportionate way of addressing some of the historical barriers to reporting that can arise in relation to those offences. For those reasons, I cannot support amendment 6.

Jamie Greene: I agree with the exclusions that the Government has proposed. I would like to see more, but people who are sentenced for domestic abuse or serious sexual crimes should be excluded from early release. It can be done. It proves that we can exclude certain categories of offender from the bill, and I am pleased to see some of them in there.

However, my proposed inclusion of emergency service workers is out of fairness to them. The cabinet secretary goes about her business as justice secretary and has to meet many of those stakeholders in the fire service, the police and the Scottish Ambulance Service, and look them in the eye. She will need to explain to them why she voted down the amendment. I do not have to do that.

The Deputy Convener: Are you pressing amendment 6?

Jamie Greene: Yes.

The Deputy Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
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 Lumsden, Douglas (North East Scotland) (Con)
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 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
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 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)

Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
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 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
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 Harvie, Patrick (Glasgow) (Green)
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 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 51, Against 67, Abstentions 0.

Amendment 6 disagreed to.

Amendment 7 not moved.

Amendment 8 moved—[Sharon Dowey].

The Deputy Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Dowey, Sharon (South Scotland) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Lumsden, Douglas (North East Scotland) (Con)
 McCall, Roz (Mid Scotland and Fife) (Con)
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 Mundell, Oliver (Dumfriesshire) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 White, Tess (North East Scotland) (Con)
 Whittle, Brian (South Scotland) (Con)

Against

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

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Choudhury, Foyso (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Marra, Michael (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 O’Kane, Paul (West Scotland) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 Whitfield, Martin (South Scotland) (Lab)

The Deputy Convener: The result of the division is: For 29, Against 71, Abstentions 20.

Amendment 8 disagreed to.

Amendment 9 not moved.

15:30

The Deputy Convener: The next group is on victim notification of automatic early release.

Amendment 10, in the name of Pauline McNeill, is grouped with amendments 17, 20 and 26.

Pauline McNeill: Amendment 10 would have the effect that the Scottish ministers

“must notify any person who is or appears to be a victim in relation to the offence of the date of the prisoner’s release”,

for those short-term prisoners who are affected by the bill. The effect of amendment 17 would be that future regulations

“must provide for the Scottish Ministers to notify any person who is or appears to be a victim in relation to the offence of the date of the prisoner’s release.”

Under amendment 20, the Scottish ministers would have to

“make a statement to the Parliament setting out improvements that have been made to the victim notification scheme in respect of prisoners to be released by virtue of the regulations.”

The bill proposes to use the same mechanism to contact victims as was used with the previous emergency early release measures, under which only 2 per cent of victims were contacted—of course, the remaining 98 per cent were not. Victim Support Scotland is calling for legislation to allow victim support organisations to proactively notify people who are impacted by crime, thereby removing the onus for victims to identify themselves and come forward for support.

This is an important group of amendments. If the Parliament passes the legislation to allow offenders to be released early, it is important that there is provision for victims to be properly notified, as the previous arrangements were not good enough.

Amendment 26, in the name of Sharon Dowe, is also important. We will support that amendment to ensure that there is proper scrutiny of the arrangements.

I move amendment 10.

Sharon Dowe: I support Pauline McNeill’s amendments 10, 17 and 20. My amendment 26 is more specific. It would ensure that young offenders are definitively included. Youth crime continues to be an issue in Scotland. We have recently seen a concerning trend of antisocial behaviour, particularly by youths who have taken advantage of free bus transport. Cases such as that of Keith Rollinson, who was killed by a 15-year-old boy, exemplify why we cannot take the issue lightly. Of course, my amendment also covers adult offenders.

After the Scottish National Party’s wave of prisoner releases in the summer, it was reported in September that fewer than 20 victims were notified, whereas 477 prisoners were released. That cannot happen again. Therefore, my

amendment would require the Scottish Government to notify victims of any early releases resulting from the bill, whether they be of adult offenders or of children.

Martin Whitfield: I intend to speak to the amendments in the group in relation to the child rights and wellbeing impact assessment for the Prisoners (Early Release) (Scotland) Bill, which was issued in November 2024. I will speak about that in this group and in other groups and will refer to three areas in which young people are affected. In this case, we are talking about young people who are victims of an offence. With other amendments, the young people in question may well be offenders. The third area is young children who are related to offenders who will be released.

I say this with no joy, but I am disappointed in the child rights and wellbeing impact assessment that has been conducted on the matter. I realise that there will be an explanation to do with the urgency of the issue and the lack of time. However, in respect of the amendments in this group, which deal with how victims are to be handled, their voyage and knowledge and the support that they will get, I am particularly disappointed.

As the cabinet secretary and others in the chamber will be aware, article 3.1 of the United Nations Convention on the Rights of the Child says that we must always consider what is in

“the best interests of the child”.

In this case, the children are those who have been victims of an offence.

The impact assessment talks about the

“wide range of published material on children”

that the Government used to come to its conclusions. It also references the shortened consultation that took place, and it points out that there was very little input from children, because very few of the people who contributed to the consultation or were approached to do so dealt with child victims. Children First and Families Outside contributed to the consultation, with Children First highlighting

“the risk of changing the point of release for prisoners in damaging trust for victims.”

That relates to children and young people who are in the process of developing their trust in their society and community and in the structures that some of us perhaps take for granted. Yet again, they will feel let down because, without learning to trust those systems, it is very hard to rely on them in later life.

I am particularly concerned about the Government’s response to the question of whether there will be any impact on those children.

Specifically in relation to children who are victims of crime, the Government concluded:

“This may have a negative impact on children’s rights as set out in UNCRC article 3, best wishes”—

although it should say “best interests”—

“of the child.”

The Government is required to say what it will do in response to that, and the suggestions that have been made in relation to children who are the victims of crime are very weak. The Government has identified that the bill could have negative impacts, but the support that is set out in the impact assessment is, quite frankly, non-existent. It notes that a

“potential negative impact has been identified”

in relation to non-discrimination with regard to exclusions to the change of release point. The strongest point is when the Government says:

“There are therefore already legal avenues for children to be released at any point in their sentence regardless of the type of offence”

and for support to be given.

At the end of the impact assessment, there is a request to know what post-assessment review and sign-off will take place. The Government offers a strong suggestion that it will simply “continue to engage”.

In relation to the amendments in the group, it is disappointing that the Government cannot set out, in the impact assessment, specifically what proper additional support will be given to children and young people who are victims of crime, as the Government has identified that the consequences of the bill will be negative for them.

In those circumstances, I support the amendments in the group.

Angela Constance: I have said throughout this process that I am well aware and entirely understand the concerns that victims and their families have about the bill. That is why we are already working with victim support organisations and providing them with clear information about the bill. I reiterate that the bill makes no changes to how victims who have signed up to the victim notification scheme or the victim information and advice scheme will continue to receive information about the prisoner in their case.

Pauline McNeill’s amendments 10 and 17 and Sharon Dowe’s amendment 26 would place a duty on the Scottish ministers to provide information relating to released prisoners to victims even when that was not wanted. Sharon Dowe’s amendment would apply to the initial tranches of released prisoners, and Pauline McNeill’s amendments would apply in an on-going manner. The amendments would compel the

Scottish ministers to provide information relating to the liberation of prisoners to victims, regardless of whether they were signed up to the victim notification scheme. That means that victims would be notified even when they had not consented to being contacted. The amendments would also significantly increase complexity by introducing new schemes in relation to those cases, which would operate completely differently from the existing scheme.

The victim notification scheme, or VNS, is an opt-in system that provides victims of crime with information about the release of offenders who are currently detained in prison. The scheme is designed to ensure that victims retain control of the information that they wish—or do not wish—to receive. I encourage all victims to sign up to the VNS, so that they can receive information about the release of the prisoner in their case. We are working with victim support organisations to ensure that victims are supported in understanding how the scheme operates and how they can sign up to it.

A recent, considered and significant review of the VNS looked at the current registration process for the scheme and weighed the benefits and risks of an opt-in system versus an opt-out system. The report concluded that automatic enrolment in the scheme would not

“make the experience ... trauma-informed”

and emphasised that

“the system should be based on choice and consent on registration”.

It recommended

“the adoption of a system of automatic referral of all eligible victims”

to a new specific victim contact team that would ensure that a supported discussion took place of how the scheme operates, in order to allow victims to take an informed decision as to whether to join the scheme.

That approach fits with what victims tell us about the crucial importance of informed choice, where possible, through the criminal justice system, as well as enabling victims to maintain control and agency when it comes to how and when they receive information, and respecting their rights to data protection.

The Scottish Government has committed to that reform and the vast majority of the other recommendations, and, as members know, we plan to use the Victims, Witnesses, and Justice Reform (Scotland) Bill to make the legislative changes that are needed.

Maggie Chapman: Can the cabinet secretary say a little more about the distinction between an

opt-in system, which is what we currently have, and an opt-out system, which is what the amendments in this group would achieve? The Scottish Greens are not minded to support those amendments, but we would be grateful if the cabinet secretary could say a little more about the work that is under way to improve the victim notification scheme. There are people who have slipped through the cracks even though they have opted into the scheme.

Angela Constance: I will not repeat what I said about the independent victim notification scheme review and how my minister and I will take forward amendments in that regard at stage 2 of the Victims, Witnesses, and Justice Reform (Scotland) Bill. That will be an early opportunity to make progress on those recommendations.

Martin Whitfield: Will the cabinet secretary take an intervention?

Angela Constance: I will do so in a moment.

Another important strand of work is in relation to the victims task force, which I co-chair with the Lord Advocate. Although we sometimes get into a debate that presents opt-in or opt-out in a binary way, the reality is different.

The work that the victims task force is taking forward might be labelled as a move towards an opt-out system, but, at its core, there is still choice and personal agency. There will be further improvements not only to our legislative response to the independent review of the victim notification scheme, but to the work of the victims task force, which has now moved to its next stage. I am very supportive of the work that the victims task force is doing.

I am happy to give way to Mr Whitfield.

Martin Whitfield: At the moment, a child under 12 will not receive information in their own right under either of the two statutory schemes for the provision of information to victims; instead, a parent or carer will receive it. In the light of the work that is on-going, can the cabinet secretary confirm that that situation might be looked at both in forthcoming legislation and, more importantly, in the work of the task force?

Angela Constance: Of course, right now, we are operating within the confines of the current victim notification scheme and the current victim information and advice service, but I give Mr Whitfield an undertaking that I will personally engage with the relevant children’s organisations prior to stage 2 of the Victims, Witnesses, and Justice Reform (Scotland) Bill, bearing in mind, in particular, the valuable work that the victims task force is doing.

15:45

I recognise the critical role of safety planning for victims. That is why we will work closely with the Scottish Prison Service and victim support organisations to develop a multi-agency working group to raise awareness of existing rights to notification on release and to ensure that we adopt an appropriately targeted approach to identifying victims who are likely to be impacted by the bill and to understanding what support they are likely to require.

We will work with victim support organisations and the Prison Service to maintain the information-sharing processes that were established earlier this year under the Bail and Release from Custody (Scotland) Act 2023, which enable victim support organisations to request information on behalf of victims, where the victim has nominated them to do so. We believe that that is a more person-centred and trauma-informed approach to communicating with victims, which upholds their right to information and minimises the risk of retraumatisation.

We fully understand victims' right to information and the importance of that, but it should not come at the expense of being able to exercise agency and choice or at the expense of rights to data protection. Although I appreciate that there might be good intentions behind the amendments, I urge the Parliament not to support them.

Amendment 20, which was lodged by Pauline McNeill, would require that a statement be made to Parliament

“setting out improvements that have been made to the victim notification scheme”

every time the regulations under section 3 were used to change the release point of a specific group of prisoners.

As I mentioned, the Scottish Government has started work on reforms to the VNS. I welcome the opportunity to provide the Parliament with updates on the wide range of work that we are undertaking to improve the VNS and victims' rights more widely, and I have committed to providing the Parliament with an annual report on the progress of those reforms.

However, amendment 20 would require a statement to be made every time the power was used, which could include instances when even small changes were made using the power. Further, because it would be in primary legislation, it would remain in place long after the improvements to the VNS are made.

I understand that it will be important to consider how any changes that are made under the regulations might impact victims, and plans should be put in place to ensure that victims can access

information and for the Parliament to hear directly from the Cabinet Secretary for Justice and Home Affairs. Therefore, I offer to work with Pauline McNeill on an amendment at stage 3 that reflects that shared desire, which comes alongside a similar suggestion from Sharon Dowey in amendment 22, which is in group 8. I therefore ask members not to support the amendment.

The Deputy Convener: I call Pauline McNeill to wind up and to press or withdraw amendment 10.

Pauline McNeill: As I said in my opening remarks, only 2 per cent of victims were contacted. That figure seems extremely low, which is why I lodged amendment 10 to explore what more can be done.

I welcome and acknowledge the cabinet secretary's detailed answer about how we can promote the scheme to ensure that more people enrol in the first place. However, with our amendments in this group, Sharon Dowey and I are keen that the Parliament should get full sight of the changes as they progress. As has been expressed during debates on previous groupings, the major concern about the bill is that we are going to be releasing prisoners earlier. If the Government gets that power for long-term prisoners, there is all the more reason for us to improve the victim notification scheme in relation to their release. We need to get that right.

In view of that, I would be content to work with Sharon Dowey and the cabinet secretary in the short time that is available to see whether we can lodge an amendment at stage 3 that reflects everyone's concerns. I therefore seek to withdraw amendment 10.

Amendment 10, by agreement, withdrawn.

Amendment 11 not moved.

The Deputy Convener: We move to amendments on no changes to the current automatic early release point. Amendment 12, in the name of Liam Kerr, is grouped with amendments 15, 25 and 27 to 30.

Liam Kerr: My amendments in the group are simple. The operative ones, around which the others hang, are amendments 12 and 15, which would remove the provisions automatically releasing short-sentence prisoners once they have served only 40 per cent of their sentence.

We all appreciate the size of the prison population, but, as previous knee-jerk releases have shown, freeing hundreds of criminals without a wider plan and without any of the accompanying considerations, which are wholly absent from the bill, does nothing to address capacity issues in the medium and longer term. What it does, as many authorities have told us, is potentially jeopardise

public safety, create and retraumatise victims and load pressure on to other agencies.

If the Government's real intent was to have a short, sharp release of pressure, it would have put some sort of sunset clause into the bill or done it as a one-off, but the bill seeks a permanent, irreversible and wholesale change to sentencing, without proper scrutiny, without proper evidence of the consequences and without proper consideration of the alternatives. All of that comes only five working days since we first got sight of the bill, with two days for formal consideration and, as many members have already pointed out, absent a proper committee report.

By including such powers in sections 1 and 2, the Government risks compromising our justice system, victim security and public safety. My amendments in the group seek to prevent that.

I move amendment 12.

Martin Whitfield: I will not take as much time as I did when I last spoke, but I will go back to the document I previously referred to, which is the Government's assessment of the effects of the bill.

We are now looking at children and young people who will be released early. I seek confirmation from the cabinet secretary that the issue is not whether children should be imprisoned but that, if children and young people were excluded from early release, there would be an unfair burden on them, because they would be in prison, whereas, if they had been older, they would have been released earlier.

When we look at the document submitted regarding the effect on the UNCRC, we see the Government accepting that secure accommodation for children and young people is not experiencing the stress that is found in adult accommodation. Indeed, the Government specifically says that secure accommodation does not face those pressures and that it is only because of the matter that I articulated earlier that children are being included in the bill.

The current legislation means that a court is permitted to impose periods of detention on children only if it considers that no other method would be appropriate in dealing with that individual. I invite the cabinet secretary to articulate how the idea that the only avenue open to a court is the detention of a young person sits with the argument that, because older people may be released under an automatic release scheme, it would be unfair not to release a child or young person early. If it is the case that they should not have been detained in the first place, they should not have been in any detention.

Some of the arguments that were articulated earlier regarding the decisions made by judges

and others who impose detention bring us back to that idea, but not in the same way. The bill seeks to say that, even though very few young people are remanded or detained, and even though they are detained because that is the only option in that case, the Government is proposing that, because older people are being released, it would be fair to release younger people according to the same calculation.

Angela Constance: I will start by answering Mr Whitfield's point directly. It is my strong view that we cannot have our children disadvantaged in comparison with adults. We are all under a UNCRC obligation. I repeat the commitment that I made to him earlier to engage with children's organisations, whether they support children's welfare and advocate for their rights, or whether they represent child victims—of course, some organisations work across all those issues.

I also say to Mr Kerr that, at every opportunity when I have made a parliamentary statement on the issue of the prison population—there have been a number of such occasions over the past year or so—I have always spoken of the need for a wider plan, whether in terms of prevention, how we support families and children, how we keep young people in particular out of the criminal justice system, or how we eradicate poverty in this country. I have spoken of the need for a system-wide approach in the justice system. For brevity's sake, I will not go over every action in the preventative field, or the actions that we will need to take in the future, to address both the medium and the longer term.

I am focused on what we have to do right now. That does not preclude further action in the medium-to-longer term. Indeed, there are further steps that it is necessary for us to take.

The correspondence that I received from the Prison Officers Association Scotland says:

"we are supportive of the aims of the Bill. Our support for the Bill is caveated by the fact that we recognise that it is a step in the right direction".

It is a necessary step to take now, but I say to Parliament that it is only one step.

The collective effect of Mr Kerr's amendments 12, 15, 25, and 27 to 30 would be to prevent the bill from having any immediate effect. Although no amendment is individually a wrecking amendment in terms of the standing orders, it is my view that, collectively, the amendments are intended to wreck the purpose of the bill.

I have always said that doing nothing right now is not an option. If I had to characterise the nature of the amendments collectively in group 6, I would say that they are about the do-nothing-right-now option. We do not have that option right now.

The bill forms part of a range of actions that we are taking to sustainably reduce the prison population. I have set out why changes are needed now to relieve pressures on the prison estate. Opposition spokespersons also heard directly last week from the Scottish Prison Service chief executive, Teresa Medhurst, on the pressures that prison staff are facing. That has also been stated by the Prison Governors Association in its correspondence to the Criminal Justice Committee. I therefore urge members to support the Scottish Prison Service and not to support the amendments in the name of Mr Kerr.

The Deputy Convener: I call Liam Kerr to wind up and to press or withdraw amendment 12.

Liam Kerr: I am grateful for the very reasoned comments of Martin Whitfield and for the cabinet secretary's willingness to engage in the debate.

I know that the cabinet secretary recognises the need for wider strategies with respect to the drivers of the prison population, but to my mind that is what makes the tactic of this bill even more inexplicable in its terms.

I am afraid that I do not accept the argument from the cabinet secretary that the bill has been made out of necessity—a point made by many of my colleagues, and by Jamie Greene in particular in the stage 1 debate the other day. Of course, the bill has its supporters among the services, but that is about relieving the huge pressure that they are under, and we all accept the extremely hard work that they put in. However, they need wider solutions that will work in the medium and the longer term.

I would never seek to simply wreck legislation. I think that the cabinet secretary knows me better than that. My worry is about what might be wrecked by the legislation. For that reason, I press amendment 12.

16:00

The Deputy Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)

Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
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 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
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 Hyslop, Fiona (Linlithgow) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
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 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 48, Against 70, Abstentions 0.

Amendment 12 disagreed to.

Section 1 agreed to.

After section 1

The Deputy Convener: The next group is on the publication of information on support plans. Amendment 13, in the name of Pauline McNeill, is grouped with amendments 14, 18 and 19.

Pauline McNeill: I regard this set of amendments as a vital part of not just the discussion on the bill but the wider discussion on how we support prisoners on release.

Amendment 13 deals with the management of the integration of short-term prisoners by local authorities. Amendment 14 is about access to housing for certain short-term prisoners to whom automatic early release has been extended.

Amendment 18 is about the reintegration of prisoners. It provides that Scottish ministers would have to

“publish their plans to support local authorities in managing the re-integration of prisoners released by virtue of the regulations.”

Under amendment 19, before making regulations, Scottish ministers would have to

“publish their plans to support prisoners released by virtue of the regulations with access to housing, health and rehabilitative support.”

As the Parliament has previously debated, one essential issue, particularly in relation to short-term prisoners, is the revolving door and the tendency for such offenders to reoffend. That is pertinent in the wider debate, of course, but the emergency legislation is a perfect opportunity to ensure that we make provision for offenders who are released into the community, many of whom would not be back in prison if they had the right support, particularly in relation to their housing and medical needs.

I therefore hope that Scottish ministers will give a positive welcome to at least the content of the amendments—if not, I am sure that they could be redrafted, to make sure that they are competent for stage 3. They are an important aspect of the debate.

I move amendment 13.

Angela Constance: I thank Pauline McNeill for her comments and for her continuing support and interest in the public and third sector services that are essential to meeting the needs of individuals as they are released from custody.

We all recognise the need for our public and third sector services to be able to engage with individuals in custody, working in co-ordination with prisons to identify and plan for the support that those individuals will need after release. That is achieved through the co-operation and co-ordination of justice services and the mainstream public services that will meet each individual's needs in relation to assistance with housing, healthcare, benefits and other areas.

That co-ordinated approach inspired the proposals that were agreed in the Bail and Release from Custody (Scotland) Act 2023. The act sets out a wide aim of helping to align the broad range of justice, public and third sector services through the duty to engage in pre-release planning and the development of national throughcare standards via stakeholder and public consultation, in order to improve consistency in the delivery of throughcare support. That cross-cutting approach will recognise the range of services that are involved in securing good outcomes for prison leavers and will encourage those services to work together.

The provisions will be commenced next year, starting with, from April, a new national third sector

throughcare service, which will provide person-led and needs-centred support for people leaving prison. For the first time, it will also provide support for men leaving a period of remand.

I understand and support the need for robust plans to be in place. However, although the amendments seem simple, they do not recognise the complexity of the services that are involved in providing essential support to individuals on release from prison, all of which have a wide range of duties and responsibilities; nor do they recognise the significant work that would be involved in their implementation. It would be complex, overly onerous and time consuming for many different services to prepare one overarching plan that would direct all the required services. The Scottish Government would have to seek detailed information from a wide range of delivery organisations across the country, many of which will be making arrangements in ways that best reflect their specific local needs and circumstances.

Pauline McNeill: Will the member take an intervention?

Angela Constance: Yes, of course.

Pauline McNeill: I acknowledge the work that was done in the 2023 act. What is the Scottish Government's thinking on the many prisoners who will be released a lot earlier than previously planned, and does she accept that it is vitally important that those prisoners have appropriate support on their release? Otherwise, there will be another revolving door.

It may sound like duplication of the work that you are doing in relation to the 2023 act, but surely there must be some way of giving public confidence in relation to those who are being released quite a bit earlier than their sentence.

The Deputy Convener (Annabelle Ewing): Always speak through the chair.

Angela Constance: I understand the points that Pauline McNeill makes. If Parliament passes the bill, that will give certainty to the Scottish Prison Service and our community justice and wider third sector and public sector partners, because we will be able to quickly identify the release dates for particular prisoners. There is time between now and the first release of those prisoners for the appropriate planning duties to be carried out—and they must be carried out.

The nub of my concern is that we create a system that becomes more focused on the creation of more plans, as opposed to getting on and doing the work of providing front-line support to folk as they are returned to their community, bearing in mind that everyone impacted by the bill will return to their community sooner or later.

I am concerned that the amendments would leave organisations with less resource to provide individuals with the required support because they would be responding to Government requests to recreate a large report. Given the crucial nature of the bill in relieving pressure on our prison system now, we cannot afford to delay commencement while reports are being prepared on a vast range of services.

I provide my reassurance that funding will be available to support the effective implementation of the bill, particularly with regard to additional costs on the SPS and local authority housing services.

I urge Parliament not to support the amendments.

The Deputy Convener: I call Pauline McNeill to wind up and to press or withdraw amendment 13.

Pauline McNeill: I press amendment 13.

The Deputy Convener: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

The vote is closed.

Keith Brown (Clackmannanshire and Dunblane) (SNP): On a point of order, deputy convener. I was unable to connect. I would have voted no.

The Deputy Convener: Thank you, Mr Brown. Your vote will be recorded.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)

Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

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

Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Cole-Hamilton, Alex (Edinburgh Western) (LD)
 McArthur, Liam (Orkney Islands) (LD)
 Rennie, Willie (North East Fife) (LD)
 Wishart, Beatrice (Shetland Islands) (LD)

The Deputy Convener: The result of the division is: For 48, Against 66, Abstentions 0.

Amendment 13 disagreed to.

Amendment 14 not moved.

Section 2—Extension of automatic early release for certain detained children

Amendment 15 moved—[Liam Kerr].

The Deputy Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Doney, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)

Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

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

Jamie Hepburn]
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 48, Against 70, Abstentions 0.

Amendment 15 disagreed to.

Section 2 agreed to.

Section 3—Power to modify timing of automatic early release

Amendments 16 to 20 not moved.

The Deputy Convener: I say to members that, certainly for the purposes of the front-bench teams, a short comfort break would probably be much appreciated. I will suspend the meeting for 10 minutes.

16:14

Meeting suspended.

16:24

On resuming—

The Deputy Convener: For the record, I advise members that the vote on amendment 13 was misrecorded. In fact, it should have been: For 48, Against 66, Abstentions 4.

The amendment, therefore, is still disagreed to.

With that, we move to the next group, on consultation in connection with power to change release point.

Amendment 21, in the name of Maggie Chapman, is grouped with amendment 22.

Maggie Chapman: In last week's stage 1 debate, and indeed prior to that, we heard much about the lack of scrutiny and consultation that will apply to section 3 of the bill, or at least to the regulations that it will enable, because of the emergency nature of the legislation.

Amendment 21 seeks to provide some reassurance that, before any regulations for the release of long-term prisoners can be laid, there will have to be consultation with key agencies and organisations, from local authorities and health boards to victim support organisations and risk management professionals. The list of organisations specified in the amendment is not exhaustive—it is open to ministers to engage with others, too—but it specifies the minimum that is required.

I accept that this is not the full committee scrutiny that I know some of my colleagues in the chamber would like. However, if the bill passes this week, we will have a responsibility to ensure that we also engage with those agencies and organisations, and with the cabinet secretary, as regulations are drafted. It is not beyond our ability, I think, to try to collaborate as much as possible to ensure that subordinate legislation is as robust as it can be before it is presented for decision.

I thank the cabinet secretary and her office for engaging with me on the amendment in the past week.

I move amendment 21.

Sharon Dowey: Scottish Conservatives will be supporting amendment 21, in the name of Maggie Chapman.

My amendment 22 would require that any change to the automatic release period through regulations would be subject to further parliamentary scrutiny. Specifically, the amendment would require that

“a draft of the regulations”

be laid

“before the Scottish Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess”,

and that the views of the relevant committee are considered.

The bill has already been rushed through, which has considerably impacted the Parliament's ability to scrutinise it. It would, therefore, be ill advised to simply hand the Scottish Government the ability to change the automatic release point through regulations. Amendment 22 would ensure that Parliament has a say on any future changes to automatic early release.

Angela Constance: The bill provides for a subordinate legislation-making power to enable

the Scottish ministers to make changes to the automatic release point for short-term and long-term prisoners. That will allow the changes that are made to the release point for short-term prisoners to be kept under active review, taking into account how the changes that the bill has made have operated in practice, any new evidence that is available and any new offences that have been created or commenced.

The bill also reinstates a power that existed prior to 2015, which will enable the release point for long-term prisoners—those who are serving four years or more—to be amended by subordinate legislation.

I have listened to the concerns that some members have raised about the power, in particular in relation to long-term prisoners, and I know that the amendment in the next group seeks to remove it altogether.

Although the change will not have an immediate impact—for the reasons that I outlined at stage 1, which are on the record—I consider it a matter of importance, in the context of the high prison population and the need to ensure that a wide range of options is available to address that if need be, that that power is now restored.

It was clear from our recent consultation that there are a number of issues to consider if we are making changes to the release process for long-term prisoners. That is why I welcome the opportunity to discuss how we may enhance the process around making regulations under these powers to ensure that full consideration is given to an issue that can be complex. I want to ensure that Parliament always has sufficient information to enable it to scrutinise proposals in detail.

Therefore, I support amendment 21, in the name of Maggie Chapman, which would require the Scottish ministers to consult organisations that provide support to victims and key delivery partners before regulations can be made. We would always have intended to consult, as appropriate, ahead of laying regulations for parliamentary scrutiny, so it is helpful for the legislation to make that clear.

16:30

I do not support amendment 22, in the name of Sharon Dowey, which would require draft regulations to be laid for a period of 120 days, 60 of which must be sitting days, with views to be sought from the relevant committee on the draft regulations and a statement made to Parliament that sets out the views of the committee and on any changes that were made as a result of those views. After that, draft regulations would be laid under the affirmative procedure, as usual.

Committees already have an opportunity to scrutinise any regulations and to take any evidence as they see fit. In addition, if Maggie Chapman's amendment 21 is agreed, we are already building in time for guaranteed stakeholder engagement. I do not think that the long, drawn-out process that amendment 22 would lead to would be proportionate or a valuable use of parliamentary time, particularly as it would be applicable in every possible instance of that power being used, bearing in mind that that might include some quite minor changes, such as reflecting any new offence that has been created or commenced.

As I said in relation to Pauline McNeill's amendment 20, in group 5, I would be willing to work with Sharon Dowe to develop a more proportionate amendment for stage 3 that would ensure that Parliament was updated with key information regarding any proposed regulation under that power.

On that basis, I urge members to support amendment 21 and to reject amendment 22.

The Deputy Convener: I call Maggie Chapman to wind up and to press or withdraw amendment 21.

Maggie Chapman: I do not have anything further to add, convener. I press the amendment in my name.

Amendment 21 agreed to.

The Deputy Convener: I call Sharon Dowe to move or not move amendment 22.

Sharon Dowe: I am happy to work with the cabinet secretary on a stage 3 amendment, so I will not move amendment 22.

Amendment 22 not moved.

The Deputy Convener: The next group is on removal of new power to change release point. Amendment 23, in the name of Liam Kerr, is the only amendment in the group.

Liam Kerr: Amendment 23 seeks to remove section 3. Passing the bill with that section in it would allow the Government to change the release point for long-term prisoners under the regulations procedure—that is, through subordinate legislation.

So far, the Government has justified the bill by saying that it is about relieving pressure on a full prison system by releasing 400 prisoners in February and about giving it the ability to do that on an on-going basis thereafter. The Government justifies the use of the emergency procedure to achieve that end by saying that the legislation must be put through now to give everyone, including the justice agencies, the chance to prepare for that release in February.

However, section 3 does not go towards either of those ends. It is an anomaly at best and, some might say, a devious insertion at worst, because it does not do anything to relieve the pressure. It does not do anything that would even marginally address the prison population at this stage. Section 3 simply reduces the scrutiny that is required should the Government wish to change the long-term prisoners release point. That would mean a change from the standard process in which there is consultation, expert evidence, committee scrutiny, debate, considered amendments over several weeks and final debates, which is supplemented throughout with evidence from those with lived experience, from experts in the field and from those who can speak to consequences. Instead, it would move to the regulations process, which, basically, lacks all those stages.

The last time that this Parliament amended the release of long-term prisoners in 2015, it took about a year from the laying of the bill to passing it. To put that change in the Prisoners (Early Release) (Scotland) Bill, let alone in a bill that has been introduced under the emergency procedure, is simply extraordinary, unnecessary, unwarranted and inexplicable.

Changing the early release point for long-term prisoners, some of whom are in prison for the most egregious of offences, upon the stroke of a ministerial pen—in a bill that has, as its stated aim, the immediate release of pressure, and that was introduced under the emergency procedure—is simply wrong. My amendment gives this Parliament the chance to prevent that wrong.

I move amendment 23.

Martin Whitfield: I turn to one of the challenges with the bill, which is that it is, in essence, two bills that have been put together. We have the crisis in our prison population, which is acknowledged by everyone who understands the system not just in the Parliament but across Scotland, and the short-term release of that pressure through the proposed changes to the release criteria for short-term prisoners.

We then have the second element, which relates to long-term prisoners. In the stage 1 debate, I indicated that that issue would probably be better in a separate bill that could have been properly investigated by a committee and a stage 1 report. We have heard in the previous contribution about what has happened in the past. Long-term prisoners are a different category from short-term prisoners. When we look at the policy documents that have been issued for the bill, we see that the arguments about long-term prisoners are nowhere near as consistent or as solid as those about short-term prisoners.

Reference is made to the consultation that was held between July and August 2024—a shortened consultation that had a restricted number of responses. In the main, those responses indicated that the release of long-term prisoners back into the community, back into society and back to their families is a complex problem. I look forward to hearing the cabinet secretary's view on that and to pressing her on why there is urgency around long-term prisoners when a significant amount of the documentation that supports the bill indicates that the issue is complex and it needs to be looked at, but without the urgency of some of the other elements of the bill.

In the short time that I have, I will refer again to young people, who I have spoken about a lot this afternoon, and, in particular, to a group that I have not spoken about, which is the children and young people of prisoners who are released. On the back of strong academic research, we, as a society, recognise that, when a parent loses their right to liberty, it means an adverse childhood experience, which means that those young people need to be handled in a different, more sensitive way. A large part of their reasoning and their actions, and what happens to them as a result, is driven by the fact that they are experiencing something that very few of their friends and relations are experiencing.

The importance of ACEs has been raised in a number of debates during the past few years and they form a large part of the discussion of the support that children need. However, when we look at the effect of that issue in the impact assessment, the Government's documentation is very thin on it, other than recognising that imprisonment of a parent is an ACE. The reason for this is that the Government is saying that an early release or a later period of release does not affect the fact that an ACE has occurred. I suggest strongly to the cabinet secretary that there is a group of young people for whom it has huge relevance. That is those young people, or indeed the family of those young people, who have experienced violence and abuse that is not part of the crime for which the person has lost their liberty for a period of time. Those individuals could still be given an early release to a family who fear that.

As I referenced in my contributions on earlier amendments, the Government has said little about how that will be articulated. I accept and welcome the cabinet secretary's assertions in response to my other contributions about on-going outreach to those organisations that represent young people, and about carrying on with that. I seek the same assurance in respect of this matter. We have an urgent bill in front of us. I am genuinely of the view that this part of it is not urgent, but that being so, I seek an assurance from the cabinet secretary that, with other legislation on the way, this is an opportunity to look at a very specific problem for a

small group of people, but one that is unprotected under the proposals that have been made.

Angela Constance: Under section 27(2)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, we already have the power to change the release point for short-term prisoners, but there is no nuance to that power, so it cannot be used to apply different release points to different categories of prisoners. An inadvertent consequence of the Prisoners (Control of Release) (Scotland) Act 2015 has been that the power that existed for long-term prisoners is no longer usable. Although the proposed new section 27A in the 1993 act is framed as a new power, it is, in practical terms, an adaption of existing powers.

As set out during stage 1 and in the debate on the previous group of amendments, I consider it necessary to update the current powers that the Scottish ministers have to amend the point of release using subordinate legislation. That is in the context of the high prison population and the need to ensure that a wide range of options is available to address that, if that is appropriate and if circumstances require it. A change cannot be made under the power without the scrutiny and approval of the Parliament.

As members will be aware and as I have said, the proposals will reinstate a power to change the release point for long-term prisoners on non-parole licence, which previously existed before the inadvertent change that was made by the 2015 act. The measure will also allow changes to be made to the release point for short-term prisoners, so that the matter can be kept under review, taking into account how the changes that are made by the bill have operated in practice, any new evidence that is available or any new offences that have been created or commenced.

It is worth noting that, following recent changes that were made by the United Kingdom Government, some long-term prisoners may be released after serving 40 per cent of their sentence. I say that only to make a point that it is not novel for Governments to have such powers. I put on the record now that it would not be our intention to ever allow the release of long-term prisoners as early as that. However, it is clear from a recent consultation that, although there are a number of complex issues that require further consideration, there is support for the principles of moving the release point for long-term prisoners. I concede that we need to consider the matter carefully, but the measure is about ensuring that we have the tools available, should the Parliament as a whole wish to use them.

My final point is that I have listened to Parliament's concern and agree that additional scrutiny should be provided for should the provisions be used in future. That is why I have

supported Maggie Chapman's amendment 21 and would be willing to work with members to develop an amendment at stage 3 that would ensure that Parliament is updated with key information regarding any proposed regulations under the power.

I therefore urge members not to support amendment 23, in the name of Liam Kerr.

Liam Kerr: Once again, I thank Martin Whitfield and the cabinet secretary for their considered submissions. Martin Whitfield's opening point about the smashing together of two bills is well made. I just do not understand the rush to depart from past practice. I do not understand why the cabinet secretary does not appear to recognise that long-term prisoners are different and has not made the case for introducing the measures in the bill and doing it now. Martin Whitfield rightly asked where the urgency is in relation to long-term prisoners, particularly as they are often more complex cases, as has been acknowledged.

The cabinet secretary said that it is "necessary" to update the legislation. Maybe so, but she must recognise that she has failed to explain why it is necessary to do so in this bill, under the emergency procedure. By doing so, we are not considering the matter carefully, as the cabinet secretary rightly said that we should do.

Although I might not agree that the commuting of short-term sentences is right, I can see why the Government might do it. However, the provisions in section 3, which have been thrown in, are not consistent with that aim. People would be much more comfortable with the bill if section 3 were to be removed, so that those provisions could be given the proper and full scrutiny that they merit. My amendment gives the Parliament the opportunity to do just that, so I press amendment 23.

16:45

The Deputy Convener: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division. Members should cast their vote now.

The vote is closed.

Lorna Slater (Lothian) (Green): On a point of order, convener. It appears that my vote did not register. I would have voted no.

The Deputy Convener: Thank you, Ms Slater. In fact, your vote had already been recorded.

Lorna Slater: There might be some problem with the app, because it is telling me that I have not voted, but I will check that.

The Deputy Convener: Thank you, Ms Slater. I understand that your vote has, in fact, been recorded.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

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

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 53, Against 65, Abstentions 0.

Amendment 23 disagreed to.

After section 3

The Deputy Convener: The next group is on the requirement to reinstate the 50 per cent release point if prison capacity improves.

Amendment 24, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene: Members will remember that, during the stage 1 debate, I asked, as vigorously as I could, what exactly was the emergency that the bill was trying to tackle and when the Parliament should use emergency legislation. In my view, emergency legislation should be used to provide short-term solutions to short-term problems.

The Government has made the case that the short-term problem is that our prisons are full, so action must be taken. We can take a view on what has been proposed. The action that the Government has proposed is that we reduce the length of sentences, but the cabinet secretary has made it clear that that is one of a number of measures that she is proposing that the Parliament takes. I am intrigued by that, and I look forward to hearing more about what those measures might be as we debate such matters further.

However, as I said at stage 1, and as I have said throughout this afternoon's debate, this is not a new problem; we have known for years that it was coming down the line. Two-and-a-half or three years ago, when I sat on the Criminal Justice Committee, we heard evidence that prisons were filling up fast and that action needed to be taken, so why on earth we are pushing the bill through in one day is beyond me. That point has been well made.

Edward Mountain: Will the member take an intervention?

Jamie Greene: I will do so in a second.

We are where we are with the bill, but the point that I want to make with amendment 24 is that nothing in the bill is temporary and nothing is an emergency measure to deal with an emergency situation. The changes that are proposed today are permanent ones, which will become permanent fixtures of our justice system. I have drafted an amendment to deal with that, and I will come on to that after I have given way to Edward Mountain.

Edward Mountain: We have known for a significant period that the situation was coming down the line. In fact, in 2016, it was promised that Inverness would get a new Highland prison—

The Deputy Convener: Mr Mountain, for the sake of the audio system, please address your comments to the front of the chamber.

Edward Mountain: I am sorry—I will do so.

We have known for a while that the situation has been coming down the line because, in 2016, it was agreed to increase the capacity of Highland

prison by creating a new one. It is still not built, and that has contributed to the problem. Surely that should be taken into account when we are considering amendments.

Jamie Greene: In the comments that I made last week, I gave a whole list of things that were contributing to the fact that our prisons are full, and capacity is the primary one. They are not full because there are too many people in prison—they are full because there are too few spaces for the people who are in prison. There is a capacity issue, which has been known for a very long time, and the actions that the Government said that it would take to improve capacity have simply not been taken.

The perfect example that Mr Mountain stated is not the only one. In my region, HMP Greenock is another perfect example of a prison whose conditions His Majesty's Inspectorate of Prisons for Scotland found to be wanting.

We are where we are with this bill, and amendment 24 is the last amendment, and, when all else fails, we add a sunset clause. That seems to be the way that we deal with legislation in this Parliament.

We have not been able to persuade the cabinet secretary of anything so far this afternoon, but I hope that she might be minded to be persuaded by this amendment.

Amendment 24 requires the Government to return to automatic early release rules, which are the status quo, if and when the Scottish prison population reaches 90 per cent—or below—of its target operating capacity.

I hope that the additional capacity is coming down the line because it might solve the problem. However, essentially, if the bill achieves its intended purpose—which seems to be to reduce the prison population—it should either be revoked, or Parliament should have the ability to revert to the status quo. If it is a temporary measure, let us make it a temporary measure. However, there is nothing in the bill that lets us do that. Amendment 24 would do so.

I have added some caveats, primarily to make—I hope—the amendment more palatable, and to offer some comfort to the cabinet secretary, the Government and other members that they will have some say in a way that we have not had so far.

The caveats are threefold. The first caveat is that the prison population would have to remain at—or below—90 per cent of its target operating capacity for at least 90 days or three months. That is a sensible addition to the proposal because the prison population fluctuates due to, for example, the fact that the number of people being held on

remand varies on a daily or weekly basis. There needs to be some consistency; I want to see a pattern in which the prison numbers are coming down and the bill is meeting its objective.

The second caveat is that ministers will have an additional power to vary the period. For example, if they believe that that trend needs to be longer, they may come to Parliament and present a case for that. That is a helpful addition to give ministers a little more flexibility.

The third and most important caveat is that Parliament should have a view, so the regulations would be subject to the affirmative procedure. If Parliament decides that early release at 40 per cent of the sentence needs to remain, it can vote for that. That is the point of giving Parliament a say.

I cannot support, in good conscience, emergency measures that have no end date in sight. The measures do not have that at the moment, but we can still achieve it, either by adding a sunset clause at stage 3 or by including the option for Parliament to revert. If, as we all hope, the bill meets its objective, let us insert something in the bill that allows us to go back to a fair principle of automatic early release at 50 per cent, whatever members' views are on that. Bearing in mind that this Government once promised to end automatic early release in its entirety, that proposal should not be unpalatable.

I move amendment 24.

Pauline McNeill: I thank Jamie Greene for lodging amendment 24, allowing discussion on what I think is a really important aspect of the bill. Current policy is that prisoners are released at 50 per cent of their sentence, which, if the bill is agreed to, will be moved back to 40 per cent, with no end in sight, as Jamie Greene has said.

I have big concerns about the bill, and the biggest is the one that Liam Kerr spoke to earlier in relation to section 3 and long-term prisoners. Probably the second most concerning aspect of the bill is that there is no prospect that, if we agree to it tonight, we will ever go back to the position of early release at 50 per cent of a sentence.

I do not know whether the Government is open minded, but I would have thought that it might be, because the rationale for the policy is to relax the numbers in our prisons to allow prison officers to manage the prison estate in a way that they think is safe.

Given that, there should be an opportunity at some point in the future to go back to the substantive policy that we have had for some time in Scotland, which is that prisoners should serve at least 50 per cent of their sentence if they are serving a sentence of less than four years. The

problem with the lack of scrutiny is that we are all going to be scratching our heads about exactly what point in the future might be palatable to the Government in any stage 3 amendments that we lodge—right now, I have no idea about that. Jamie Greene’s suggestion of 90 per cent prison capacity is definitely worth considering. There should certainly be a sunset clause on the proposals, and we will be thinking about what time period would be sensible.

Labour members will vote against the bill, but, if it survives, we would at least like to amend it so that there is some end in sight in relation to that policy.

Angela Constance: In respect of this final amendment grouping at stage 2, it is important that I balance the slight rewriting of history. I have looked at the issue tremendously closely, and the facts of the matter are that, due to the reforms that the Government has led, which were often opposed by Opposition members, the prison population decreased from 2010-11 until 2018. It started to increase again in 2019, for some of the reasons that we are contending with today. Covid came along and there was a dip in the prison population. With the post-Covid recovery, the prison population got to very high levels over 2023-24. Up until March this year, it was high, but it had stabilised at a high level, although I am not suggesting that that is not in itself problematic. There was then a spike between March and May 2024, which led to the introduction of early emergency release regulations.

The issue is what we will do now. I hear lots of discussion about the need for long-term plans. I have laid out the plans that we have implemented in the past and what we intend to pursue for the future. I am not going to rehearse the evidence sessions that I have participated in at committee or the four or five parliamentary statements that I have made.

Liam Kerr: I am listening to the cabinet secretary’s point. Will she remind me what the plans are to deal with the 25 per cent of the prison population who are on remand?

Angela Constance: The plans to deal with the 25 per cent who are on remand include getting the new bail test implemented, with the co-operation of the UK Government. That will be implemented at the start of 2025. Again, that measure was opposed by the two main Opposition parties in the Parliament. The plans also include continuing our investment in alternatives to remand and building on the progress that we have made with measures such as electronic monitoring, the use of which is at the highest level it has ever been at. At the start of the year, we will bring forward other measures, as I have outlined, including use of home detention curfews and measures to bolster

community justice services. Those are robust alternatives to short-term sentences and are often more effective.

17:00

Amendment 24, in the name of Jamie Greene, would reverse the change to the short-term release point if the prison population was at or under 90 per cent of the target operating capacity of the prison estate as a whole for a period of 90 days.

Any amendment linked to population numbers fails to recognise the complex and challenging nature of the prison population and the dynamic nature of the operating capacity in the Scottish Prison Service at any time. It is acknowledged that predicting the flow of prisoners into prison is challenging and that large fluctuations are seen daily. At times in the past few months, I have seen the prison population increase by 75 overnight.

Pauline McNeill: I understand the point that is being made about prison populations being complex. I accept that we are discussing a measure to deal with the crisis now and that, ideally, you would not want to be here, because you would want prisoners to serve 50 per cent of their sentence, but you are asking Parliament to make a permanent change. Are you at all open to having a sunset clause that would say that you would revisit the changes in three or five years? If you are not open to that, that would mean that you are asking Parliament to change for all time the early release point from 50 per cent of a sentence to 40 per cent, and all because of a crisis that exists now and might not exist in three years’ time.

The Deputy Convener: Please always speak through the chair.

Angela Constance: I intended to come to the point that Ms McNeill has just made once I had placed on record my objections to Mr Greene’s amendment 24. To be fair, I note that Mr Greene also made that point.

I reiterate the point that predicting the flow into prison is acknowledged to be challenging. We see large fluctuations, including in specific groups that need separate accommodation. It could be that population levels would trigger the need to amend the release point, but that by the time the change is applied, the prison estate could again be beyond its target operating capacity. As well as causing a high degree of operational uncertainty, that would have a negative impact on both prisoners and victims, because not knowing when a change could be triggered would introduce uncertainty into release planning and make it harder to ensure that victims can be notified in advance, should they have requested that information.

As I have repeatedly said, the bill is about not only the high prison population but the increasingly complex prisoner population and the capacity of the Prison Service to deliver a safe and rehabilitative regime.

I will make two points in response to Ms McNeill's intervention. One argument for having good and well-rounded subordinate legislation powers is to enable review of legislation in response to changing circumstances or new evidence. People always assume that ministers want to use their powers to shorten release points when, in theory, those points could be increased.

I would be willing to discuss the matter with Ms McNeill and Mr Greene in good faith to see whether we can find some common ground regarding a commitment to a statutory review of the operation of the act.

The Deputy Convener: I call Jamie Greene to wind up and to press or seek to withdraw amendment 24.

Jamie Greene: I thank both members for their comments and contributions regarding my amendment 24. Pauline McNeill raised some good points and posed the fundamental question whether it is realistic to think that we will ever revert to prisoners being released early after serving 50 per cent of their sentence. That is the question that we are being asked, and I think that we all know the answer: we will not revert to that. The cabinet secretary says that she will have the power to alter the early release limits and that they might even change in the opposite direction, so that people have to serve 70 or 80 per cent of their sentence. If you believe that, you will believe anything. There is no way on earth that the Government will revert to 50 per cent, and there is no ability for us, as a Parliament, to revert to it. That is the problem: we, as the Parliament, need the ability to decide that—not ministers.

There is a wider debate about the optimum value or length of a sentence. I would like to see academic work on that, and I am open-minded about having that debate. I am not necessarily even opposed to changing the length of sentences before people are released early. We have now come to the point at which the idea of reverting to 100 per cent of a sentence being served is pie in the sky. However, if we are to have the debate about what is the point at which a person should be released early—for good behaviour, for example—I would like to know what the optimum sentence length is for things such as proper and due rehabilitation, which we have not even had a proper debate about.

Liam Kerr made an interesting point earlier in today's debate. The last time that Parliament had a proper and meaningful debate about altering the

length of sentences, that process took nearly a year. That is probably a bit too long, but it certainly did justice to the subject matter, on which Parliament was then asked to make a judgment. We need time to do that. We need to take evidence and look at historical patterns. We need to look back and see what happened the last time that powers like this were used and what happened as a result. Using all that empirical evidence, perhaps Parliament can come to a sensible view. Parliament can still disagree. However, in rushing the proposal through as we are doing today, we are not even able to have that meaningful debate.

My office is on the phone at this moment, speaking to victims organisations that are watching the meeting online and are in a blind panic about what the bill means for victims. They are thinking about amendments that they could submit, but I have to say to them that it is too late—stage 2 will be done and dusted in about three minutes, but we might be able to cobble something together for stage 3. That is no way to make law such as this.

On amendment 24, the cabinet secretary talked a lot about the 90 per cent capacity and 90-day average issue, but she did not really offer a solution to it. All I would say to the cabinet secretary is that if 90 per cent is not an optimum figure, she can suggest a different one. She can tell me what the Government would like to see, such as 80 or 70 per cent. I am very much open to coming back with an amended version of amendment 24 that is palatable to the Government, but there must be a compromise. Maybe 90 days is not the optimum average to wait and see. The cabinet secretary is right that population fluctuations happen in the prison estate—the numbers go up and down daily and overnight. That is why I put in a three-month average—a three-month consistent reduction in operating capacity. Surely that is long enough to know that a trend is occurring and that changes could therefore be made.

At the end of the day, it is all about fairness. People who are watching the debate will want to see us inject some fairness into the process for the sake of victims.

The bigger point, which Liam Kerr made in his contribution, is, I assume, that if we were to reduce the remand population properly, quickly and efficiently, there would be no need for the bill at all. Why do we not do that, cabinet secretary?

I press amendment 24.

The Deputy Convener: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

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

The vote is now closed.

Lorna Slater: On a point of order, deputy convener. My app crashed. I would have voted no.

The Deputy Convener: Thank you, Ms Slater. Your vote will be recorded.

Douglas Lumsden: On a point of order, deputy convener. My app seemed to crash. I wanted to vote yes.

The Deputy Convener: Thank you, Mr Lumsden. I understand that, in fact, your vote was recorded.

For

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

White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (Ind)
 Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)

Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division is: For 54, Against 66, Abstentions 0.

Amendment 24 disagreed to.

Section 4—Consequential, transitional and transitory provision

Amendment 25 not moved.

Section 4 agreed to.

Schedule—Consequential, transitional and transitory provision

Amendment 26 moved—[Sharon Dowe].

The Deputy Convener: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

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

The vote is closed.

Lorna Slater: On a point of order, deputy convener. My app is still not connecting. I would have voted no.

The Deputy Convener: Thank you, Ms Slater. Your vote will be recorded.

For

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

Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O’Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)

Against

Adam, George (Paisley) (SNP)
 Adam, Karen (Banffshire and Buchan Coast) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Brown, Siobhian (Ayr) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Chapman, Maggie (North East Scotland) (Green)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Gray, Neil (Airdrie and Shotts) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Gillian (Central Scotland) (Green)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP) [Proxy vote cast by Rona Mackay]
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 McArthur, Liam (Orkney Islands) (LD)
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McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
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 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Deputy Convener: The result of the division on amendment 26 is: For 50, Against 70, Abstentions 0.

Amendment 26 disagreed to.

Amendment 27 not moved.

Schedule agreed to.

Section 5—Ancillary provision

Amendment 28 not moved.

Section 5 agreed to.

Section 6—Commencement

Amendment 29 not moved.

Section 6 agreed to.

Section 7—Short title

Amendment 30 not moved.

Section 7 agreed to.

Long title agreed to.

The Deputy Convener: That ends stage 2 consideration of the bill—

Liam Kerr: On a point of order, deputy convener. Rightly, you asked us whether we agreed to all the sections from section 4 onwards. However, earlier, we were not asked as a Parliament to agree to sections 1 to 3. I wonder whether the standing orders require us to do that.

The Deputy Convener: My understanding is that the sections that the member referred to were the subject of amendments that the member pressed.

If Liam Kerr wishes to make a further point, he needs to stand up and not make his point from a sedentary position.

17:15

Liam Kerr: As I understand it, the convener would put the question, “Do members agree to section 1?”, for example, and I do not think that Parliament was asked the question on the section.

The Deputy Convener: When the question posed by an amendment is to leave out a section and the amendment falls, there is no requirement thereafter to put the same question again. I hope that that is clear.

We have now reached the end of stage 2 of the Prisoners (Early Release) (Scotland) Bill. On behalf of the Presiding Officer, I ask that the Minister for Parliamentary Business, Jamie Hepburn, and the business managers join me, the Presiding Officer and the other Deputy Presiding Officer in committee room 5 to discuss timings and the deadline for lodging amendments to stage 3.

I will suspend proceedings for around 10 minutes to allow that discussion to take place. I urge members to stay in the chamber for the duration of that short suspension. The meeting will be reconvened immediately after that discussion takes place, so that members can be advised of the timescales involved.

17:16

Meeting suspended.

17:29

On resuming—

The Convener (Alison Johnstone): Following consultation with the Minister for Parliamentary Business and business managers, I can confirm that the deadline by which to lodge stage 3 amendments will be 6.30 pm.

I ask members to remove their cards from the voting consoles and to leave the chamber while the clerks prepare for stage 3 proceedings.

I now close this meeting of the Committee of the Whole Parliament. Members will be notified in due course of the time at which stage 3 proceedings will commence.

Meeting closed at 17:29.

19:48

On resuming—

Meeting of the Parliament

Prisoners (Early Release) (Scotland) Bill: Stage 3

The Presiding Officer (Alison Johnstone):

The next item of business is stage 3 proceedings on the Prisoners (Early Release) (Scotland) Bill. In dealing with the amendments, members should have the bill as amended at stage 2—that is, Scottish Parliament bill 53A—the marshalled list and the groupings of amendments.

The division bell will sound and proceedings will be suspended for around five minutes for the first division of stage 3. The period of voting for the first division will be 45 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons, or enter RTS in the chat, as soon as possible after I call the group. Members should now refer to the marshalled list of amendments.

Section 3—Power to modify timing of automatic early release

The Presiding Officer: Group 1 is on the power to make determinations in relation to persons transferred to Scotland. Amendment 1, in the name of the cabinet secretary, is grouped with amendment 4.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): I gave members notice of these amendments when I spoke to the amendments in group 2 at stage 2.

Amendments 1 and 4 are technical amendments to ensure that, in the event of a prisoner who is serving a sentence outwith the United Kingdom being transferred to a Scottish prison to serve the remainder of a short-term sentence, and when that sentence is for the equivalent of a sexual or domestic abuse offence, the prisoner will definitely be excluded from the change in the release point and will instead continue to be released at the halfway point in their sentence.

Such transfers are uncommon: there are currently no prisoners in custody in Scotland who fall into that category. However, I have been clear throughout the bill process that the changes that are made should not apply to those who are serving sentences for sexual offences or for domestic abuse. Amendments 1 and 4 will ensure that the bill captures every case to which those exclusions should apply.

Amendments 1 and 4 will allow the Scottish ministers to determine that any prisoner who is serving a sentence for a sexual offence or a domestic abuse offence and is transferred to Scotland from abroad will be treated, for the purposes of release, as though that offence was committed in Scotland. That determination will be carried out as part of the transfer process and will be based on information received about the facts and circumstances of the case.

The amendments include a narrow regulation-making power to enable further changes to be made, subject to Parliament's approval, to ensure that the solution operates correctly within existing processes and is consistent with all relevant legislation.

It should be noted that amendments 1 and 4 concern prisoners who are transferred from outside the UK. Different legislation applies to prisoners who are transferred to Scotland from other parts of the UK, who would be transferred on the basis that their release is determined by the law of the part of the UK that sentenced them. As a result, no provision needs to be made in relation to those prisoners.

I again emphasise that it is not expected that the issue with regard to prisoners who are transferred from abroad will arise often. In fact, it is not relevant to anyone who is currently in custody in Scotland. However, it is important that we ensure that the provisions of the bill apply as intended and that we future proof the bill to encompass all foreseeable circumstances. I therefore urge members to support amendments 1 and 4, which ensure consistency across the bill.

I move amendment 1.

The Presiding Officer: As no further requests to speak have been made, I invite the cabinet secretary to wind up.

Angela Constance: I have wound up.

Amendment 1 agreed to.

The Presiding Officer: Group 2 is titled "Statement in connection with the power to change release point". Amendment 2, in the name of Sharon Dowe, is grouped with amendment 2A.

Sharon Dowe (South Scotland) (Con): As I said earlier, I was disappointed that the Government did not support my amendments at stage 2. However, I am pleased that the Government has worked with me on this amendment and with Pauline McNeill on amendment 2A, which Conservative members will also support.

Amendment 2 will require that, if ministers make any changes to the regulations, they must make an oral statement to Parliament setting out the

reasons for those changes. I am grateful to the minister for working with me.

I move amendment 2.

The Presiding Officer: I call Pauline McNeill to move amendment 2A and to speak to both amendments in the group.

Pauline McNeill (Glasgow) (Lab): Amendment 2A amends Sharon Dowe’s amendment 2 by adding that the Scottish ministers’ statement to Parliament must say

“what information will be available to victims about the change that the draft regulations would make (if approved) and the release of prisoners under the provisions amended by the regulations”.

I said at stage 2 that we wanted more information to satisfy the public, and victims, about the changes and about the impact that those will have on communities. I recognise that the Government has been prepared to work with me and with Sharon Dowe.

I move amendment 2A.

Angela Constance: I am pleased that Parliament approved Maggie Chapman’s amendment 21 at stage 2. That amendment requires the Scottish ministers to consult organisations providing support to victims, as well as key delivery partners, before regulations changing the release point can be made.

I said at stage 2 that I was willing to work with members to see what more could be done to ensure that the Parliament is updated about any proposed regulations under the power.

I support amendment 2 and amendment 2A. Taken together, they will require the Scottish ministers to seek to make an oral statement to the Parliament on laying the regulations that sets out the reasons for making the regulations, the consultation that has been undertaken and the information that will be available to victims about the changes that will be made, if approved. Although we would have always intended to keep the Parliament updated, that is an appropriate and proportionate approach, which will provide further reassurance on that point. I thank Sharon Dowe and Pauline McNeill for the constructive discussions that we had about how we might further strengthen the process for making regulations under the powers in the bill. I urge members to support amendment 2 and amendment 2A.

The Presiding Officer: I call Sharon Dowe to wind up on amendment 2.

Sharon Dowe: I have nothing to say in winding up.

The Presiding Officer: I call Pauline McNeill to wind up and indicate whether she wishes to press or withdraw amendment 2A.

Pauline McNeill: I will press amendment 2A.

Amendment 2A agreed to.

The Presiding Officer: I call Sharon Dowe to press or withdraw amendment 2, as amended.

Sharon Dowe: I will press amendment 2, as amended.

Amendment 2, as amended, agreed to.

The Presiding Officer: Group 3 is titled “Removal of new power to change release point”. Amendment 3 is the only amendment in the group.

Martin Whitfield (South Scotland) (Lab): I do not intend to entertain—if that is the right word—members with regard to this amendment for any undue length of time, save to say that the Parliament exists as a single chamber that relies at times on either a committee or, indeed, this chamber to act as the second voice, to point out errors and omissions, and decisions that are taken here that might lead to unknown circumstances further down the line.

At stage 2, the challenge of dealing with long-term prisoners in the bill was articulated, and I do not need to add to that. I merely wish to give the cabinet secretary the opportunity to think again on the matter, given the unicameral nature of the Parliament.

I move amendment 3.

Liam Kerr (North East Scotland) (Con): I rise to speak in support of amendment 3. There is little that I can add to my earlier remarks or to the sage analysis of Martin Whitfield of this unicameral Parliament and the importance of the process. All that I will reiterate is that, as it stands, section 3 does not serve the same purpose as the rest of the bill. What it does is reduce scrutiny—previously, a year was required by the Parliament to consider a similar provision.

In the circumstances in which we find ourselves today, the Government having only recently conducted a shortened consultation on similar proposals that were withdrawn in the face of the evidence, the bill looks less like prudent legislating and more like opportunism. The point that Martin Whitfield has made is so important that the Opposition has raised the issue at every opportunity during the process, to assist the Government in producing a competent bill. For that reason, I support amendment 3, in the name of Martin Whitfield.

Liam McArthur (Orkney Islands) (LD): I concur with the comments from Martin Whitfield and Liam Kerr. In the stage 1 debate, on Thursday

last week, I made the same points as they have made. Although I accept the urgency of the situation and therefore the need for emergency legislation, what concerns me most is the far-reaching and wide-ranging powers that are being taken under section 3. For me and for my party, it is a step too far in the legislation. As Martin Whitfield has just done, I ask the cabinet secretary to think again, even at this late stage, and to support the amendment that Martin Whitfield has lodged.

Angela Constance: I acknowledge the strength of feeling and the views that have been expressed by some members. I have already set out the reasons why I believe that it is necessary to update the current powers that Scottish ministers have to amend the point of release using subordinate legislation. The regulations would be subject to affirmative procedure, which means that they could not become law without being approved by a vote of the whole Parliament. That would also provide opportunity for committee scrutiny.

20:00

As I made clear, we do not plan to make any change to long-term prisoner release until detailed work has been carried out to ensure that those who are released can be safely managed in the community.

There was support in principle among justice agencies. However, there was acknowledgement from those who have been consulted—and, indeed, from me—that there is merit in further exploration. The powers will not be used until all issues are resolved.

I have supported amendments that will guarantee that consultation is carried out and that Parliament is kept updated, in order to inform full scrutiny.

I know that not all members agree on the way forward, but, in the context of a high prison population, we need to ensure that a wide range of options is available. I consider it of vital importance that that power is now restored.

The Presiding Officer: I call Martin Whitfield to wind up and to press or withdraw amendment 3.

Martin Whitfield: I am disappointed that, even at this late stage, the Government has not taken the opportunity to think again on something that does not directly relate to the overcrowding or the urgency with which the bill has been presented to the chamber. However, I sense the view of the Government and, although I do not agree with it, I appreciate it. Therefore, I seek leave to withdraw amendment 3.

Amendment 3, by agreement, withdrawn.

After section 3

Amendment 4 moved—[Angela Constance]—and agreed to.

After section 4

The Presiding Officer: We move to group 4: reporting on operation of act. Amendment 5, in the name of Jamie Greene, is the only amendment in the group.

Jamie Greene (West Scotland) (Con): I thank everyone who has helped us get through this evening, particularly our office staff and the Parliament's legislation team, who have worked tirelessly. We owe them a huge amount of gratitude given the circumstances that we have put them in—and particularly for allowing me to submit a late amendment at stage 3.

I have been asked to keep my comments brief because Brian Whittle is desperate to get to the gym. He told me that on the way in, but I am not sure that I believe it.

Amendment 5 is on reporting on the operation of the act. I gave some hints that I might submit something of this nature, and I will explain quickly what the amendment does. It requires Scottish ministers, as soon as possible after two years of the changes being in force, to produce a report on the operation of the act and what effect it has had on the prison population, which is a point that I raised in earlier stages.

Importantly, amendment 5 also requires ministers to publish the number of individuals who have been released in each release period, breaking down that number by the offence for which they were detained in the first place. Arguably, that requirement could or should have been in the bill in the first place, but it provides any future Parliament with the bare minimum that is required to scrutinise the legislation in some way. It provides a mechanism to do so.

I should also be clear about what the amendment does not do. It is not a sunset clause, which many of us would like to have seen in the bill. It is not indicative of any analysis of harm that the bill might do to public safety. It will do nothing to analyse offenders' rehabilitation, or the effect that the bill will have on victims of crime and, importantly, on reoffending rates, which is an issue that has been raised repeatedly. Amendment 5 is not quite enough and it does not give any future Parliament the ability to revoke the measures in the bill.

Those are all things that we would like to have seen. With more time, we could perhaps have compromised further with the Government on them. However, we are where we are, and

amendment 5 is the best that we could do in the circumstances.

The amendment will, interestingly, take us into the next parliamentary session with, perhaps, a new Government and a new Parliament. Might I make a suggestion to that future Parliament? Some of us who are here today will form part of that Parliament and some of us will not, but I make this plea. The bill has shone a light on the fact that somebody, somewhere needs to do a full, end-to-end piece of work on sentencing in Scotland as a means of both punishment and rehabilitation. In future debates, we might find that there is much common ground on how we tackle our prison population, how we deal with reoffending and how we keep people out of prison in the first place.

We need to stop tinkering with sentencing in the way that we are doing today, with the endless eroding and erasing of the meaning and efficacy of sentencing. The Government seems to be embroiled in a never-ending task of putting out fires without being able to identify their root causes, and that has to stop. It is not how we make good law. I want us to have a justice system that we can all be proud of and, importantly, one that meets the test of proportionality and fairness in the eyes of the public. I urge members to vote for my amendment 5.

I move amendment 5.

Pauline McNeill: I join Jamie Greene and the Parliament in commending our staff, the legislation team and all those who have made this emergency legislation possible.

I have been slightly frustrated by the rushed nature of the process, because I had intended to add my name in support of the amendment. I also intended to raise the question that Victim Support Scotland asked us to raise, which was about the insertion of information about the use of the policy and the number of offenders who are released. Due to the rushed process, I was unable to do that. Despite that, however, I support amendment 5.

Like Jamie Greene, we considered that a sunset clause would be appropriate in the case of this bill because, as was said at stage 2, a crisis is a short-term issue, but this is permanent regulation. We do not know when or if it will ever come to an end, so a sunset clause would have been appropriate. However, the amendment at least allows a future Parliament to reflect on whether the policy has achieved its aims and to analyse the information that the amendment requires. I welcome that.

As Jamie Greene said, it is important that a future Parliament has a close look at the legislation to see whether it has achieved its aims, and that it looks at the analysis of which prisoners

have been released and what offences they committed, so that a future Government can decide whether to revert to the policy of early release at the 50 per cent point.

Angela Constance: I advise Mr Greene that I hope to advise Parliament in the not-too-distant future with respect to the independent review of sentencing and penal policy that I advised Parliament last year that I intended to commission.

I, of course, acknowledge some of the frustrations that Pauline McNeill has articulated, and I have absolutely no doubt that we will return to many of these issues in the weeks and months ahead. The bill is one step, but it is certainly not the final step.

I recognise the Parliament's important role in scrutinising the impact of the bill and the significant public interest in the impact of a change to the release point for short-term prisoners. I therefore support Jamie Greene's amendment 5, which will require Scottish ministers to lay a report before the Scottish Parliament as soon as is reasonably practicable two years after commencement. That supports our commitment to actively review the need for the changed release point as well as, more generally, the impact of the change.

The amendment will require the Scottish Government to include specific information in the report, including the prison population throughout the review period and, for the initial tranches of release, a breakdown of the offences for which prisoners were detained and the number of prisoners who have been released in each local authority and health board area.

In relation to reporting on those released in the initial tranches immediately following commencement, I agree that it is important to closely monitor the impact of those releases, which is why I am also committing to separately publishing information within two months of the end of the last tranche. That information will include how many victims were notified of release, reflecting the information that was published following emergency early release in the summer. As I have previously said, following the initial tranches of release, releases will be managed in the normal way through business-as-usual processes.

I consider that reporting requirement to be proportionate in keeping the impact of the change under review and in giving Parliament the opportunity to scrutinise the effectiveness of that change. If required, secondary legislation could then be used to make further changes to the release point, depending on the contents of the report.

The Presiding Officer: I call Jamie Greene to wind up and press or withdraw amendment 5.

Jamie Greene: I thank Pauline McNeill for adding at least her verbal, if not written, support to the amendment. I share her frustrations; my office was working closely with Victim Support Scotland late into the evening, trying our best to amend the bill at this late stage. Amendment 5 was lodged 90 seconds before the deadline—we simply ran out of time. I therefore apologise directly to Victim Support Scotland. We will do our best to listen to its concerns, and I hope that the cabinet secretary will do the same in her engagement with stakeholders on the bill.

Perhaps I can end on a point of consensus with the cabinet secretary. She talked about the huge public interest in the bill—and she is absolutely right. There is huge public interest in what we are doing, and that should remain at the forefront of our minds when we vote this evening. However, I will say more about that in my closing speech.

I am happy to press amendment 5.

Amendment 5 agreed to.

The Presiding Officer: That ends the consideration of amendments.

As members will be aware, I am, at this point, required under standing orders to decide whether, in my view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In my view, no provision of the Prisoners (Early Release) (Scotland) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority to be passed at stage 3.

Motion without Notice

20:12

The Presiding Officer (Alison Johnstone): Before we move to the stage 3 debate, I am minded to accept a motion without notice that, under rule 11.2.4, decision time be moved to approximately 9 pm. I invite Jamie Hepburn, on behalf of the Parliamentary Bureau, to move the motion.

Motion moved,

That, under Rule 11.2.4, Decision Time be moved to approximately 9 pm.—[*Jamie Hepburn*]

Motion agreed to.

Prisoners (Early Release) (Scotland) Bill

The Presiding Officer (Alison Johnstone): The next item of business is a debate on motion S6M-15603, in the name of Angela Constance, on the Prisoners (Early Release) (Scotland) Bill at stage 3. I remind members that, as per rule 11.3.1(h) of standing orders, the question on the motion will be put immediately after the debate.

I invite members who wish to speak to press their request-to-speak buttons, and I call Angela Constance to speak to and move the motion. You have up to seven minutes, cabinet secretary.

20:13

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): The purpose of the bill is to allow for changes that will relieve some of the acute pressure that is currently being experienced in our prisons due to the high prison population. We all know the consequences of the high prison population—not least for the staff who work around the clock in our prisons. They are on the front line of the Scottish Prison Service and carry out dedicated and formidable work day in, day out, so I want to put on the record my appreciation and heartfelt thanks to them.

A letter that was received this week by the Criminal Justice Committee from the Prison Officers Association's Scotland branch reported that its members are increasingly concerned that

“the crucially important relationships between staff and prisoners that allow them to share those confined spaces in a way that allows good order, discipline, and productive rehabilitative work to be undertaken”

are being put at risk. The Prison Governors Association's Scotland branch has also written to the committee in support of the bill, highlighting the necessity for the prison population to be reduced in the short, medium and longer terms.

The purpose of the bill is to do just that. The change to the point of release for most short-term prisoners will be for those who are currently sentenced and those who will be sentenced. That will provide immediate relief from the pressures that our prisons are facing.

The initial release of an estimated 260 to 390 prisoners will be managed in three tranches over six weeks from February 2025. Importantly, as it is a permanent change, there will then be a sustained reduction of the sentenced population, with estimates that it will remain around 5 per cent lower than it would have been without the change.

We need the prison system to focus on those who pose the greatest risk to the public and to provide a range of support to help to reduce

reoffending and to support integration back into the community.

Martin Whitfield (South Scotland) (Lab): The cabinet secretary mentioned the release of potentially up to three tranches of prisoners to tackle the backlog from before the bill. Has any thought been given as to how those tranches will be made up? Will they be geographic? Will they be based on time served? What are the Government's thoughts on that?

Angela Constance: That matter is referenced in the policy memorandum. It will not be done in relation to geography, because of the bill's retrospective nature. Once the bill commences, there will be people who are already eligible for release. However, they cannot all be released at once; therefore, people who are closest to their liberation date will be released post their new liberation date. Releases will go forward in that fashion.

The bill includes built-in exceptions for people who are serving sentences for sexual offences or domestic abuse. I have recognised throughout the process that I totally understand that victims and their families might be concerned about the changes that we are making. That is why we are already working with victim support organisations and providing them with clear information about the bill, so that people who are seeking assistance can be well supported. I will also work with those organisations to encourage people who want to have information on prisoners in their cases to sign up to the victim notification schemes if they want to do so. That is ahead of future reforms to the service, which Siobhian Brown, who is the Minister for Victims and Community Safety, will introduce at stage 2 of the Victims, Witnesses, and Justice Reform (Scotland) Bill.

I acknowledge the differences of opinion in and around the subordinate regulation powers in respect of long-term prisoners. I will not repeat what I have said at stages 1 and 2, other than that I hope that I have been clear throughout the process that it is of vital importance that the power be reinstated so that we can act flexibly to manage the prison population in the future, and can continue to work with partners to find a better balance between time spent in custody and under supervision in the community. That was widely supported in the consultation on the release of long-term prisoners that we held in the summer, and I fully accept that more detailed work needs to be done before—and if and when—any proposals are brought forward.

I also welcome the constructive amendments that were made during stages 2 and 3, which will ensure that any use of the regulation-making powers is the subject of consultation and that the

Parliament is provided with information to inform later scrutiny of regulations.

Provisions in the bill allow for the prison population to be reduced at pace and for that reduction to be maintained. However, I have recognised throughout that the legislation alone cannot solve the complex issue of why we have one of the highest prison populations in western Europe. What the bill does is create vital space in our prison system now, which will be maintained. That will allow—in respect of the medium-term measures, such as enhanced processes for release and home detention curfew, and on-going work to encourage more widespread use of alternatives to remand—those endeavours to have an impact. It will also allow the Prison Service to more effectively support those who are in its care, which will contribute to a longer-term reduction in reoffending.

As I have said, we cannot ignore or tolerate the position that our prisons are currently in due to their high and complex population. The final form of the bill is needed to give clarity to the Prison Service, community partners, victims and those who will be released in order for the process of implementation to begin. Agreeing to pass the bill tonight will allow for the changes to be made as quickly as possible, which will provide relief to our Prison Service and staff.

I move,

That the Parliament agrees that the Prisoners (Early Release) (Scotland) Bill be passed.

The Deputy Presiding Officer (Annabelle Ewing): I call Liam Kerr to open on behalf of the Scottish Conservatives.

20:20

Liam Kerr (North East Scotland) (Con): After two days' scrutiny—five working days after MSPs, civic Scotland and crime victims saw it—MSPs now consider whether to pass a bill that will, in a permanent change, automatically release short-sentence prisoners after they have served only 40 per cent of their time, and it will ensure that, when the Government wants to do the same for long-term prisoners, it can do so through subordinate legislation.

However, the bill might also threaten victims' personal safety, jeopardise public safety, fail to deal with rehabilitation and reintegration and load pressure and cost on to councils, the third sector and all justice organisations, while costing the taxpayer a huge amount of money.

Assistant Chief Constable Tim Mairs warned that those who will be freed before serving their full sentences would

“go back and start”

offending

“again”,

and he was right. Let us not forget that, in an earlier panic release, more than 40 per cent reoffended within six months. Last summer's programme saw one in eight criminals being back inside after only weeks.

The Government wants to suggest that this is about relieving a prison system that is bursting at the seams, but really it is about the SNP's failure—during 17 years—to develop a proper holistic strategy around the justice ecosystem; to build new prisons or to get the staffing and resourcing right in those that we do have; to properly investigate safe alternatives to custody; to properly examine the prison population to ascertain whether all should be being accommodated; or to deal with a remand population that yesterday's His Majesty's Inspectorate of Prisons for Scotland report flagged as being a key issue.

If the bill were simply about relieving pressure in the short term, there would be a sunset clause, which Pauline McNeill spoke powerfully about during stage 2 and stage 3 amendments debates, or there would be the reversion provision that Jamie Greene tried earlier to include through an amendment that was defeated, or the Government would have conceded that, in a unicameral Parliament, the moving of long-term prisoner release to regulations is opportunistic and—dare I say it?—sinister, and it would have accepted my amendment and that of Martin Whitfield at stage 3 in order to give the relevant section full and proper scrutiny.

On the amending process, despite all the examples of poor legislation during the past few years, the Government was so confident that it had got its drafting spot on first time that it lodged not a single amendment at stage 2. Then, belatedly realising that it had missed something on international prisoner transfers, it amended through what was an important and sensible amendment at stage 3, thereby begging the question—which MSPs should be carefully asking themselves—if the Government missed something like that in the rush to legislate and the failure to interrogate, is it not surely possible that something else has been missed along the way?

Meanwhile, although the cabinet secretary states that public safety remains her absolute priority, the Government veto, which was demonstrably a key aspect of keeping the public safe previously, when it was used to block the release of 178 prisoners who were deemed to be an immediate risk to specific persons or members of the public, is not in the bill. The Government voted down sensible amendments earlier, and in

doing so risks public safety on the back of weak arguments about diverting resources and inability to plan.

When the 390 criminals are set free, we should remember the fiasco last summer, which saw only 2 per cent of victims being notified. The Government says that Martin Whitfield's specific challenge at stage 2 around the notification of child victims is being dealt with, but a response yesterday to my written question, in which I asked how much the new victim contact centre would cost and whether the funds would be cannibalised from funds that have been allocated to victim support organisations or other third sector partners, was met with no direct answer. Instead, the Government simply said that it will use resources that are already in the system.

The Government finds itself in an entirely predictable situation of its own making, following its 17 years of overseeing Scottish justice. Everyone understands that its term in office has left our prisons bulging at the seams, but forcing through a bill with insufficient scrutiny and hoping that, by the time that prisoners are released and long-term prisoners are being considered for release, people will have moved on, is—as Jamie Greene said earlier—

“no way to make law.”

The Government has failed to make the case for why this bill, why now, and why under this procedure. Everything has been about getting the bill through in preference to getting it right. However, at decision time, no doubt the Government's MSPs will fall into line and help it rather than the public. I, on the other hand, will not vote for a bill that endangers the people of Scotland, that betrays victims, that grabs power from Parliament and gives it to the Executive, and that fails our justice agencies, our hard-working prison staff and our third sector organisations while failing to deliver any meaningful solution to the situation.

At decision time, I shall vote against the Prisoners (Early Release) (Scotland) Bill.

20:25

Pauline McNeill (Glasgow) (Lab): It is a sad day for criminal justice, because today we are faced with the prospect of reducing the point at which prisoners who are serving short-term sentences will be released back into the community. They will be released at 40 per cent of sentence served, and, as Liam Kerr says, there will be no governor's veto to provide a safeguard. That will be the case for the foreseeable future. Scottish Labour acknowledges that there is a crisis in our prisons due to consistently high numbers recently, but as we have said since the beginning,

we do not think that it merits emergency legislation and a permanent change in prison policy.

We put on record our appreciation, as the cabinet secretary has done, for the remarkable work of prison officers, prison governors and Teresa Medhurst and her team for the work that they do on a daily basis. Early release was always a controversial policy because of public concern and the lack of understanding about what early release amounted to. Prisoners do not serve their full sentence, but now the public will be even more alarmed because prisoners will serve less of their sentence—only 40 per cent of it.

The issue of pre-release planning and reducing offending was an important part of the stage 2 debate, and I am grateful to those who took part in it. Although the Government did not accept my amendments, I will continue to press for progress on the issue. I am not convinced that the work that has been done is yet sufficient to make the system ready for the early release programme. I do not think that we have had enough time to consider the implications for victims and how they could be better notified of the release of those who have offended against them. The bill is a short-term fix for the current problems. We do not know how long the crisis will last, but the policy will remain.

Although the spike in the prison population is recent, there are longer-term issues that need resolving. For example, as I have raised many times in the Criminal Justice Committee, the capacity in Barlinnie prison in Glasgow has always been difficult to manage over the years, and prisoners have been doubling up in cells for many years. We must see the modernisation of the prison estate.

I want to address section 3 and the contributions by Martin Whitfield and Liam Kerr, which I wholeheartedly agree with. As Martin Whitfield said, section 3 relates to what we see as being two bills in this emergency legislation. The substantive part of the section gives powers to the Government to potentially radically change how we release prisoners serving four years or more. Scottish Labour and the Scottish Tories tried to remove that section on the basis that it requires much closer scrutiny and should have been subject to the normal three-stage process, according to the principles of devolution on which this Parliament stands.

When the policy on early release was changed in 2015, the change was probably not fully appreciated. I am one of those who did not fully appreciate that prisoners serving long sentences who were sentenced after 2015 would no longer be released at the two-thirds point, but at six months before release. However, we know that now.

Was it not obvious when the policy was changed that it would lead to an increase in the prison population and that less capacity would be an issue? It is obvious that prisoners would serve much longer sentences than they previously did, but no plans were made to address that.

There will be no in-depth stage 1 report that deals with the implications of how those powers have been used, and neither will there be a stage 1 report on how the release of long-term prisoners will change if we vote for the bill at decision time.

I do not accept that that is how we should do legislation in this Parliament. We do not know what is in the Government's minds on how it plans to use the powers, if it plans to use them at all. Does the Government plan to use them to revert back to the policy of release after two thirds of sentence served, or to move to another release point?

As I said, the state of our prisons remains a live human rights issue. HM Inspectorate of Prisons for Scotland has, year on year, reported concerns about conditions in Scottish prisons.

In fact, many prisoners have written to me to express their concerns about not being able to go on a rehabilitation programme. It appears that there are long waiting lists for such programmes, and I would like the Criminal Justice Committee to look at that subject, given the importance of rehabilitation in reducing reoffending rates.

In conclusion, Scottish Labour will continue to scrutinise the programme for early release from prison, should the bill be passed into law. We will oppose it tonight, but if it passes, we will still demand the resources that are necessary to ensure that early release of prisoners does not put our communities more at risk, and that victims get better notification, given the implications of the policy for their lives.

20:30

Maggie Chapman (North East Scotland) (Green): Criminal justice is about people: people who cause and experience harm; people who represent, judge and sentence them; people who support and help them; and people who speak the truths that we need to hear. One man has been, at different times in his life, several of those people. His story and his work are familiar to many of us. His name is Kevin Neary.

Kevin is an extraordinary man, but the first part of his life story is far from unusual. Like many, he was trapped in the revolving door that we spoke of in the stage 1 debate last week, between Scotland's prisons and an outside world that is brutal and traumatic for children in poverty and for the adults they become.

He grew up in a Glasgow tenement flat, with parents who loved him and his brothers and sisters but for whom alcohol abuse was the only way to survive the stress and deaden the pain. He saw violence around him, in his home and on the street, witnessing, when he was only four, what seemed to the children to be a fatal knife attack on their father.

At school, he was afraid, with toxic stress blocking his ability to read along with the class, so he would create distractions, for which he was punished with blows from the belt, sometimes several times a day. When he was at secondary school, his parents could not buy him a tie, and that absence around his neck was all that the teachers seemed to see. He skipped school, and at 13, he, too, began drinking to find those moments of peace.

Talking about his life as a child, on "The Community Pioneers Podcast", Kevin explained:

"I wanted to be everyone else, I didn't want to be me".

Drink turned to drugs, including heroin and crack cocaine. Childhood misdemeanours turned into adult offences, with repeated prison sentences over three decades. He might still be there, one of the increasing numbers of men who are living out their old age in Scotland's prisons, but at the age of 40, while he was serving a sentence for assault and robbery, something new happened to him.

A prison officer called him by his first name, asked to chat with him and told him about the rehabilitation programmes that could help him to end his addictions. That contact and care, and those programmes, were enough to transform Kevin Neary's life. Now, he works to help others at both ends of the prison process. He shares his own experiences in vital prevention work in schools and, as a co-founder of Aid & Abet, he supports people who are leaving prison so that, in the charity's words,

"Once someone has been in prison, they need never go back".

It is a life story with many lessons for us about the long-term effects of childhood poverty and trauma, about education and exclusion, and about the power of those with lived experience to make transformational change. For now, however, for us in the chamber tonight, there is one more lesson to learn. If that one prison officer had not had the time to speak to Kevin as an individual, and to spend time in conversation with him, to hear about his life and to signpost the way ahead, and if the prison authorities had not had the capacity to run those courses, and all that they could do was keep him confined, along with all the other human beings for whom they are called on to care, what then?

If we are serious about rehabilitation, we must make space, and time, for it to happen. That requires staff and space, and I believe that, for that, this bill is required. It is only one small part of the process, but it is, I believe, an essential one.

20:34

Liam McArthur (Orkney Islands) (LD): As colleagues will be aware, I was unable to participate in the stage 2 proceedings, so I very much welcome the chance to make a contribution at stage 3. I thank all those, both inside the Parliament and outside, who have been operating under severe time pressures to scrutinise and amend the bill.

The approaches have differed. Some members have taken a more forensic approach; Mr Liam Kerr has perhaps taken a more blunt approach. Nevertheless, I thank members for their efforts over stages 2 and 3.

I will keep my contribution brief, partly because of the lateness of the hour, but mostly because I said most of what I needed to say during the stage 1 debate, last Thursday, and not an awful lot has changed since then. A week may be a long time in politics, and it appears to be just about enough time for the Government to pass two separate pieces of emergency legislation when it is so minded.

The problem that we are dealing with here, as I said on Thursday last week, has been years in the making, as seems to be acknowledged around the chamber. Not enough focus has gone into reducing rates of incarceration or into alternatives to custody, rehabilitation programmes, diversionary approaches or youth work—and, indeed, the work of Kevin Neary, whom Maggie Chapman just referred to.

We are now on to our second early release programme in less than two months, and we are being asked to consider the provisions in a rushed fashion. As I said at stage 1, the thing that troubles me most about the bill is that it seeks to extend ministerial powers over a complex area of policy that needs—and, indeed, demands—robust and detailed scrutiny.

Improvements have undoubtedly been made, and I commend Pauline McNeill and Sharon Dowey for the work that they have done in relation to the information that is provided to victims. I also acknowledge the willingness of the Cabinet Secretary for Justice and Home Affairs to engage in those debates and to take as constructive an approach on the issue as she has in other areas of the justice portfolio.

I am not a fan of sunset clauses, but I am not a fan of emergency legislation, either. This must be

one of those rare occasions where two wrongs would just about make a right, or something that is at least palatable. Unfortunately, the calls on that point fell on deaf ears, but I thank Jamie Greene and Pauline McNeill for their efforts in that regard.

Like everybody else, I acknowledge the urgency and the seriousness of the situation and the risk to staff welfare across the prison estate, as well as the risk to prisoners and our communities from the unsafe state that our prisons are in, bursting at the seams as they are. I also recognise the need to buy time, which Maggie Chapman just referred to, in order to allow medium-term and longer-term measures to have an effect and bring down the size of our prison population—not least the numbers on remand.

As I said, however, in relation to Martin Whitfield's amendment 3 at stage 3, the Government's refusal to take account of genuine, serious and cross-party concerns regarding the inclusion of order-making powers in section 3, which will reduce the Parliament's future scrutiny role, is a step too far for me and for the Scottish Liberal Democrats. For that reason, we will not be supporting the bill at decision time.

The Deputy Presiding Officer: We move to closing speeches.

20:38

Maggie Chapman: I put on record my sincere thanks to all the parliamentary staff who have, from last week through to this evening, supported the passage of the bill, from the legislation and business teams to the catering and security staff. We can be here this evening only because of them.

I thank Teresa Medhurst and all her prison staff, who work in increasingly difficult, stressful and exhausting circumstances to transform the lives of the people in their care. I am also grateful to members in the chamber for another thoughtful debate. I will pick up on a few points from today and last week.

We have heard a lot about risk and harm, but there are many kinds of risk, and failing to act does not eliminate them. We are failing in our duty if we use fears of theoretical short-term risks as excuses for inaction and allow more serious long-term dangers to accumulate. Prisons are not safe places, but they can become relatively safer if there are sufficient staff, educational and rehabilitative resources and clear, accessible and achievable pathways to progression. When prisons are overcrowded, with insufficient staff time and resources, we see deteriorations in mental and physical health, loss of hope and respect, increased addiction and involvement in serious organised crime. Those are real and

serious dangers to prisoners, survivors, families and communities.

With regard to longer-term prisoners, as my amendment 21 at stage 2 underlined, it is vital that the work of consultation and debate is comprehensive and robust. The situation that we have at the moment has existed only for a relatively short period, since the Prisoners (Control of Release) (Scotland) Act 2015 came into force, so we have a considerable fund of information and experience available from before that date.

There has been a widespread recognition, not only in this jurisdiction, that the approach that was typified by the 2015 act maybe has not worked as well as we hoped, which Pauline McNeill alluded to. We have consequent problems of overcrowding, cost, a lack of staff time for rehabilitation and insufficient time in the community for those who are leaving prison on licence to receive the support that they need. That is perhaps especially true for those who are serving long sentences, for whom the outside world can not only be hostile but cold, unfamiliar and bereft of any friends and family members.

I and the Scottish Greens, in supporting today's bill, are under no illusion that it represents anything like all that we need to do. As I set out in my closing speech in the stage 1 debate last week, there are many other areas that we, as a Parliament, need to prioritise if we are to address the overlapping crises that come together in our criminal justice system. We need effective prevention, which begins with acknowledging, preventing and treating childhood trauma. We need alternative responses to crime that meet the needs of victims and survivors, communities and those who have caused harm. We need secure and long-term resourcing for the public and third sectors.

I look forward to co-operation across the chamber to achieve those ends, with today's legislation being a crucial part. I am pleased that we will support the bill when Parliament votes on it.

20:41

Martin Whitfield (South Scotland) (Lab): I echo Maggie Chapman and others in giving my thanks to all who have supported us today in the Parliament, in our own offices and, ironically, perhaps even in our own homes, where they are waiting for us.

It is with some disappointment that I find myself in this position with regard to the bill. It is accepted that there is an emergency in relation to the overcrowding in our prisons and the quality of our prison estate. However, for it to get to the point where emergency legislation requires to be

passed in the Parliament so that prisoners can be released early shows a failure—perhaps of this Parliament, but certainly of this Government—to see something that was blatantly obvious to people who work in the Prison Service, people who have responsibility for the management and control of our prisons and people who help those in our communities. There is a massive challenge with regard to locking people up and then doing nothing, and it comes back to remind us that it is still there.

Therefore, it is with great disappointment that we are faced with emergency legislation on this matter. As I highlighted before, and as many others have highlighted, this is two bills that have been pushed together. We have not really had an explanation of why section 3, on long-term prisoners, is urgent. Yes, the issue is complex and important, but the reason why it is urgent has eluded us. Perhaps there has been a missed opportunity for a committee to look in depth at the matter in order to reach a consensus on how we move forward, which has been offered in a number of contributions from across the chamber.

In the short time that I have, I will again raise—I have no fear in doing so—the situation relating to young people and children under the bill. That includes children who are victims; children aged 12 or under, who are not able to register and who require others, usually their parents or carers, to do so; and children who are offenders. The explanation for including children who are offenders, who are in a part of the detention service where there is no overcrowding, is that it makes the situation the same as for adults, yet the United Nations Convention on the Rights of the Child sets out that the best interests of the child should always be foremost. For the children of offenders who might be released, I welcome the cabinet secretary's assurances and undertaking to reach out and work with those who represent young people and speak on their behalf.

Indeed, many of those young people have sent in views and opinions during the bill process. I hope that, in summing up, the cabinet secretary will say that she will reach out to young people and children to hear their voices—the voices of children who are concerned should a parent be returning to their house; the voices of children who have, for complex reasons, found themselves as offenders in the situation; and the voices of children who are victims, who are very concerned about what might happen and who do not understand that the Scottish Government does not understand the difference between 40 per cent and 50 per cent, or who do not understand how to access, or who find it challenging to get, support.

As the bill could become permanent legislation, I welcome the fact—and will hold the Scottish

Government to its undertaking and assurance—that funding will be available and that support will always be there for the victims, for the offenders to return to society and for the children of offenders who, at the minute, have a very quiet voice, but a voice that should be listened to.

I am very conscious of the time. My final question is this: was this not the bill to maintain the Scottish Government's promise of post-legislative scrutiny?

20:46

Jamie Greene (West Scotland) (Con): Of course, I am disappointed by the speed at which we have rushed through the bill, but I have been impressed by the sincerity and quality of the debate that we have had over the past week.

I found the process disappointing, and the bill is all the worse for the lack of consultation that it was due and deserved. I wanted to hear from experts in their field about wider issues that the bill raises such as reoffending and rehabilitation, and I wanted proper discussions about optimum prison sentence length and what early release means to the victim of a crime.

I wanted to hear victims' lived experience of what has happened to them when this Parliament has legislated to release people early. What does it feel like to be the victim at the other end of the phone when a prisoner inside prison harasses them in advance of their release? We know that that has happened. Those are the sorts of people I wanted to hear from.

I wanted to hear from offenders. What happens when you are chucked out of prison and have nowhere to go, with no support or supervision? What happens when you find yourself back in custody after just a few weeks or, even, days? Those are the sorts of debates and conversations that I wanted to have but which we have not had.

As an example, I mentioned earlier that we have been negotiating with organisations such as Victim Support Scotland and Scottish Women's Aid—real-life organisations that are out there on the front line. We all say that we support them and what great work they do but, when they come to us begging us to amend bills to protect victims in the way that they see fit, we are not able to. That is no way to legislate. The sort of last-minute negotiations that I was having with parliamentary drafters would have meant that I would have lodged amendments at stage 3 that were completely incoherent and probably not fit for purpose. That is no way to legislate.

The Scottish Government has said, time and again, that the current prison population is the reason for the bill, because it makes it impossible

to keep people safe and to rehabilitate prisoners. However, in the same breath, it voted down amendments that would have required prisoners to engage in rehabilitation, and it voted down amendments that looked at alternatives such as the use of community sentencing.

Numerous times, ministers have repeated the mantra that sentencing decisions are ultimately matters for independent judges. We have heard that time after time. If that is the case, which it might be, why are we rushing through legislation that alters the outcome of sentences that were handed down independently in the first place? We cannot pretend that that is not happening. The argument is that this action is legitimately within the gift of ministers, which it is. However, in my view, that does not make it right, no matter which Government does it—I put that on the record.

I do not say this lightly, but we are at serious risk of getting to the point where the value of a sentence that is handed down by a sheriff or a judge is utterly meaningless relative to the sentence that will be served. That is the point at which the public will lose faith in the justice system, and they will probably—and rightly—lose faith in us as well.

I was grateful to get a review into the bill, but it was not a sunset clause. At the beginning of the process, I said that it was my intention to improve the bill in any way that I could, even if I ultimately disagreed with it, and I have done that to my best efforts. The most egregious decision that was made today was the one on my amendment that would have excluded people who are serving sentences for attacking emergency workers from being released early. I simply pose the following moral question to colleagues: why on earth should those people benefit from early release? No one has been able to answer that question. Members will need to look blue-light service workers in the eye the next time they meet them.

Our votes here have consequences. Bills have consequences. As I said last week, if the Parliament votes to pass the bill and it leads to a single victim of crime as a result, we will owe that victim an apology. Whatever members' views are on incarceration as a means of punishment or rehabilitation, public safety must come first. The bill fails to meet that test, and for that reason I cannot support it.

20:50

Angela Constance: I start by thanking my officials in the Scottish Government and the parliamentary officials for all their work. I also extend my thanks to all members who have contributed to the debates around the bill. I assure all members that emergency legislation is not my

default position. I have appreciated the engagement with members from across the political divide, even when we have disagreed and even though, at times, I have been challenged on the resources for implementation and then, when I have delivered those resources, people have complained about the cost to the *Daily Mail* or whatever.

Fundamentally, I believe that it is not unreasonable for members of the public, or for any member of the Parliament, to ask how the bill makes them safer and why people are having their sentences reduced. The answer to that is, in short, that we all have a vested interest in rehabilitation but that it has to be rehabilitation that works. Rehabilitation is about challenging people on their behaviour, but it is also about engaging them and the importance of relationships. It is not about enforcement or tick-box exercises.

At the start of the stage 1 debate, both Liams—Liam Kerr and Liam McArthur—made a reference about my having had a hospital pass, which was somewhat wry for me, as a former prison social worker and a former hospital social worker in a psychiatric hospital. There are two things that I know in my bones. I know that, right now, neither Liam would swap places with me, because they both have a luxury that I do not have. Despite the challenges, right now, there is no other job that I would choose to do. I know that I am not alone in this but, for me, this work is deeply personal as well as political.

Yes, I am a 54-year-old woman who has grown up in a society that has endemic misogyny and where violence against women and girls remains endemic and continues to be on the rise. Yes, I am the Cabinet Secretary for Justice and Home Affairs and a former prison social worker—I often forget that I am a politician and still think of myself as a social worker.

There is not a choice between supporting prison staff, supporting victims and supporting prisoners—we have to deliver for everyone. I again go back to the letter that we all received from the Prison Officers Association, which said:

“I don’t think it will come as a surprise to anyone that while we are extremely proud of the incredible work our members are doing on a daily basis in our prisons, we are ... extremely fearful for their physical and mental health the longer they are asked to put themselves in harm’s way”.

That is why I need to take and lead action now. I do not have the luxury of not pursuing every option that is available to me.

Liam McArthur: Will the cabinet secretary take an intervention?

Angela Constance: I will in a moment, time permitting.

When the population in custody is high and complex and when we have vulnerable people mixed in with dangerous serious organised crime nominals, rehabilitative activities are curtailed, time in cells is increased, tensions are raised, relationships are strained and frustrations boil over into violence.

Maybe, for some people, there is some sort of reassurance in thinking, “Well, it’s behind prison walls,” but prisons are not the end of the line—they should not be out of sight, out of mind. What happens in that space before someone is released and, crucially, after release matters, and it matters much more than whether the release point is at 50 per cent or 40 per cent of someone’s sentence.

Yes, I believe in punishment and I believe in the protection of the public, but, in equal measure, I believe in rehabilitation and reintegration, because if people are not safely accommodated and if our prisons do not control and care for those who pose the greatest risk to our society, there will be more victims in prison but there will also be more victims in our communities. Most prisoners return to our communities, so we need to be invested in changing lives to create safer communities, including for our children.

I apologise deeply to Mr McArthur that I could not take his intervention. I accept that the bill is not a panacea. It will reduce the prison population from the level that it would otherwise be, but that is a necessary step. However, I assure members that it will not be our last step. The two Liams—Liam Kerr and Liam McArthur—and Mr Greene should perhaps be a wee bit careful about what they wish for, because I intend to see this process through and I very much hope that those gentlemen will join me in that endeavour, as we have to move beyond the narrative and the problem of why and get to the how and the when.

Yes, we can critique the past and debate the future, but the question tonight is now. We need to move beyond the question of why—we know why we are doing this. The bill is about the how and the when, and the when is now.

The Presiding Officer (Alison Johnstone): That concludes the debate on the Prisoners (Early Release) (Scotland) Bill at stage 3.

We will now move to the question on the motion. There will be a short suspension to allow members to sign back in to the digital voting system.

20:57

Meeting suspended.

21:00

On resuming—

The Presiding Officer: The question is, that motion S6M-15603, in the name of Angela Constance, on the Prisoners (Early Release) (Scotland) Bill, be agreed to. As this is the motion to pass the bill at stage 3, the question must be decided by division. Members should cast their votes now.

The vote is now closed.

Alexander Stewart (Mid Scotland and Fife) (Con): On a point of order, Presiding Officer. My phone would not connect. I would have voted no.

The Presiding Officer: Thank you, Mr Stewart. We will ensure that your vote is recorded.

Russell Findlay (West Scotland) (Con): On a point of order, Presiding Officer. I could not connect. I would have voted no.

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

For

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

Matheson, Michael (Falkirk West) (SNP)
 McAllan, Màiri (Clydesdale) (SNP) [Proxy vote cast by Jamie Hepburn]
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP) [Proxy vote cast by Jamie Hepburn]
 McLennan, Paul (East Lothian) (SNP)
 McNair, Marie (Clydebank and Milngavie) (SNP)
 Minto, Jenni (Argyll and Bute) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Robertson, Angus (Edinburgh Central) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Slater, Lorna (Lothian) (Green)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)
 Stewart, Kaukab (Glasgow Kelvin) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thomson, Michelle (Falkirk East) (SNP)
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baker, Claire (Mid Scotland and Fife) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Choudhury, Foysol (Lothian) (Lab)
 Clark, Katy (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Dowey, Sharon (South Scotland) (Con)
 Duncan-Glancy, Pam (Glasgow) (Lab)
 Eagle, Tim (Highlands and Islands) (Con)
 Findlay, Russell (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallacher, Meghan (Central Scotland) (Con)
 Golden, Maurice (North East Scotland) (Con)
 Gosal, Pam (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Gulhane, Sandesh (Glasgow) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Hoy, Craig (South Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kerr, Stephen (Central Scotland) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Marra, Michael (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCall, Roz (Mid Scotland and Fife) (Con)
 McNeill, Pauline (Glasgow) (Lab)
 Mochan, Carol (South Scotland) (Lab)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 O'Kane, Paul (West Scotland) (Lab)
 Regan, Ash (Edinburgh Eastern) (Alba)

Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Sweeney, Paul (Glasgow) (Lab)
 Villalba, Mercedes (North East Scotland) (Lab) [Proxy vote
 cast by Richard Leonard]
 White, Tess (North East Scotland) (Con)
 Whitfield, Martin (South Scotland) (Lab)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division on motion S6M-15603, in the name of Angela Constance, on the Prisoners (Early Release) (Scotland) Bill, is: For 67, Against 54, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Prisoners (Early Release) (Scotland) Bill be passed.

Business Motion

21:03

The Presiding Officer (Alison Johnstone):

The next item of business is consideration of business motion S6M-15624, in the name of Jamie Hepburn, on behalf of the Parliamentary Bureau, on changes to this week's business.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business for Thursday 28 November 2024—

after

2.15 pm

Portfolio Questions:
Social Justice

insert

followed by

Ministerial Statement: Supporting Older People with Increasing Energy Costs

and after

followed by

Financial Resolution: Housing (Scotland) Bill

insert

followed by

Appointments of Commissioners of the Scottish Land Commission—[*Jamie Hepburn*]

Motion agreed to.

Decision Time

21:03

The Presiding Officer (Alison Johnstone):

There are no further questions to be put as a result of today's business.

Meeting closed at 21:03.

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