



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 13 May 2025

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 13 May 2025

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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
13th Meeting 2025, Session 6

CONVENER

Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Meghan Gallacher (Central Scotland) (Con)
*Mark Griffin (Central Scotland) (Lab)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Emma Roddick (Highlands and Islands) (SNP)
*Alexander Stewart (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maggie Chapman (North East Scotland) (Green)
Katy Clark (West Scotland) (Lab)
Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
Daniel Johnson (Edinburgh Southern) (Lab)
Ben Macpherson (Edinburgh Northern and Leith) (SNP)
Carol Mochan (South Scotland) (Lab)
Willie Rennie (North East Fife) (LD)
Graham Simpson (Central Scotland) (Con)
Lorna Slater (Lothian) (Green) (Committee Substitute)
Shirley-Anne Somerville (Cabinet Secretary for Social Justice)

CLERK TO THE COMMITTEE

Jenny Mouncer

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 13 May 2025

[The Convener opened the meeting at 08:33]

Interests

The Deputy Convener (Willie Coffey): Good morning, and welcome to the 13th meeting in 2025 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are in silent mode and that all other notifications are turned off during the meeting.

I welcome our colleague Lorna Slater, who is attending as a substitute for Ariane Burgess, and invite her to declare any relevant interests.

Lorna Slater (Lothian) (Green): I do not have any interests that are relevant to this committee's work. Per my entry in the register of members' interests, I used to work for Orbital Marine Power and I am a member of Unite the Union.

Decision on Taking Business in Private

08:33

The Deputy Convener: The next item on the agenda is to decide whether to take item 4 in private. Do members agree to do so?

Members *indicated agreement.*

Housing (Scotland) Bill: Stage 2

08:34

The Deputy Convener: Our main business this morning is day 2 of the committee's consideration of the Housing (Scotland) Bill at stage 2. I welcome the Cabinet Secretary for Social Justice and her officials to the meeting. We are also joined by other members of the Scottish Parliament who have lodged amendments to the bill and are present to debate those amendments.

For anyone who is watching, I will briefly explain the procedure that we will be following during today's proceedings. Members should have with them a copy of the bill, the marshalled list of amendments and the groupings of amendments. Those documents are available on the bill's web page on the Scottish Parliament's website, for anyone else who is observing.

I will call each amendment individually in the order that is on the marshalled list. When an amendment is called, the member who lodged it should either move it or say that it is not moved. If that member does not move it, any other member present may do so.

The groupings of amendments set out the amendments in the order in which they will be debated, and there will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to the other amendments in the group. I will then call other members with amendments in the group to speak to—but not to move—their amendments and to speak to other amendments in the group, if they wish. I will then call any other members who wish to speak in the debate. Members who wish to speak should indicate that by catching my eye or the clerk's attention. I will then call the cabinet secretary, if she has not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether he or she wishes to press the amendment or to withdraw it. If the amendment is pressed, I will put the question on the amendment. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member present objects. If there is an objection, I will immediately put the question on the amendment.

Later amendments in a group are not debated again when they are reached. If they are moved, I will put the question on them straight away.

If there is a division, only committee members are entitled to vote, and voting is done by show of

hands. It is important that members keep their hands raised clearly until the clerk has recorded their names. If there is a tied vote, I must exercise a casting vote. The committee is also required to consider and decide on each section of and schedule to the bill and the bill's long title. I will put the question on each of those provisions at the appropriate point.

We will not dispose of any amendments beyond the end of part 1 of the bill today. With that, we will begin the proceedings.

Section 9—Power to designate rent control area

The Deputy Convener: Amendment 281, in the name of the minister, is grouped with amendments 412, 147, 282, 283, 207, 284 to 289, 289A, 290, 290A, 291 to 293, 293A, 294 to 302, 327, 332, 332A to 332H, 47, 333, 215, 48, 334, 49, 61, 61A, 61B, 62, 63, 63A, 64, 64A to 64C, 335, 65, 336 to 353, 66 to 68, 393, 398, 401, 402, 410, 77, 50, 78 to 80 and 406.

I remind members of the pre-emptions in this group, as set out in the groupings, including the correction that amendment 286 pre-empts amendment 55 in the group that relates to student tenancies and accommodation. I call the cabinet secretary to move amendment 281 and to speak to it and the other amendments in the group.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): Good morning. The amendments in this group relate to the amount by which landlords can increase rent, where a rent control area is in force, and include Government amendments in the name of Paul McLennan to set out the form of the rent cap in the bill. The amendments also touch on concerns about the impact of rent controls on the circumstances of individual landlords and where it might be appropriate to allow additional increases above the level of the cap. I recognise those concerns, and I continue to engage with landlord representative organisations and others in the sector.

Section 14 of the bill includes a power for Scottish ministers to make regulations that allow for rents to be increased above the level of the rent cap in specified cases. The aim is to ensure that, where appropriate, the individual circumstances of landlords who might be disproportionately impacted by rent control can be taken into account. I fully agree on the importance of providing clarity to the sector as soon as possible about how that will be accomplished, and I recognise that some stakeholders would prefer that that detail was set out in primary legislation. However, it is essential that decisions on that are informed by consultation, to ensure that the potential impact of the use of that power is fully

understood and that measures are developed in a way that is fair, is robust against challenge and can be clearly set out in legislation.

I have listened to the calls for clarity from tenants, landlords and investors about the implementation of rent control, which is why the Scottish Government has recently published a consultation to support the consideration of how the regulation-making powers could be used. That will ensure that the impact of any decisions on the use of those powers is fully understood and that any measures are framed in a way that is clear and proportionate. Bringing forward the consultation to a point before the time when it might have been anticipated—for example after the bill had completed its passage through the Parliament—will allow us to provide the clarity that is being sought as soon as possible and will support us to bring forward any secondary legislation at the earliest opportunity following royal assent.

I want to make it clear that I am completely convinced of the need to use powers in the bill to exempt, where appropriate, certain categories of property from rent control and to allow rent increases above the level of the cap in certain circumstances. That is important to ensure that we continue to encourage investment in Scotland and in housing. However, that must be supported by consultation that ensures that the impact of any such measures is fully understood and that our actions do not create any unintended consequences, taking into account the views of everyone with an interest.

Meghan Gallacher (Central Scotland) (Con): We have known for some time that the Government was considering bringing rent controls into the sector, so why was the consultation not carried out prior to this stage of the bill? Will the cabinet secretary reassure the sector that the consultation will go on for only as long as it has to and that exemptions will be made clear as soon as possible?

Shirley-Anne Somerville: I give the absolute assurance that the consultation is due to close soon and that we anticipate it to be one of the absolute priorities of the Government to move forward with the analysis of the consultation responses and the regulations thereafter. I absolutely wish to reiterate the importance of moving at pace on this matter, which is why we brought the timescale for the consultation forward. The consultation has happened at this point to ensure that we provide clarity as soon as we possibly can. I absolutely accept that that is integral to encouraging investment in housing.

Graham Simpson (Central Scotland) (Con): Can the cabinet secretary tell us whether we will have the clarity that she talked about before stage

3? I am not necessarily saying that something should be put in the bill at stage 3, but will we have clarity at stage 3?

Shirley-Anne Somerville: In some ways, that depends on when stage 3 is. I have also heard very understandable calls from the sector for us to move through the bill process at pace. We are still in the early stages of stage 2, so you will forgive me if I do not try to estimate when we will complete the bill process. However, I am mindful of the need to look at how quickly we can get that done, and I give the reassurance that, regardless of how we are working with regard to stages 2 and 3, we will be working at the same time on the analysis, so that, as soon as the consultation closes, we will get the analysis done and the regulations drafted. Therefore, regardless of when the bill process is complete, we are working to get that done as soon as possible.

To return to my earlier point, taking account of the views of those with an interest to understand the impact of any measures is why our consultation has asked some specific questions about possible exemptions for mid-market rent and build-to-rent properties. We have also asked questions about landlords who charge rents below market rates and who make improvements to the property. There are also opportunities for landlords who do not see their circumstances reflected in the specific questions in the consultation to give their views and for tenants to give their opinions on how the proposals will impact them. To that end, amendment 302, in Paul McLennan's name, sets out that the requirement in the bill on Scottish ministers to consult before laying regulations specifying properties that might be subject to a modified rent cap may be met by consultation carried out before the relevant section comes into force. That will support bringing forward any necessary regulations as soon as possible after the legislation comes into force, as I mentioned in my responses to the interventions.

Amendment 332, in Paul McLennan's name, sets out the form of the rent cap. Providing a formula for the rent cap in the bill—the percentage change in the consumer prices index plus 1 percentage point, up to a maximum increase of 6 per cent—is an approach that will provide protection for tenants who are at the highest risk of the most significant rent increases. Setting a ceiling of 6 per cent can help to protect renters against large increases in rents at times when inflation spikes. Including a ceiling means that a greater share of the risk of future extreme economic events that cause a spike in inflation will lie with investors or landlords, who are arguably better placed than renters to cope with the impact that such events can have in the short term. However, the cap will also provide clarity for

landlords and investors on rent increases in rent control areas.

CPI is a comprehensive measure of the trends in goods and services purchased by consumers in the United Kingdom economy. Costs relating to running a home are included in the index—for example, costs relating to maintaining a dwelling as well as the items within a dwelling. Linking the rent cap to CPI is, therefore, a reflection of the cost to landlords of offering a property for rent.

08:45

Allowing some margin over inflation, such as the 1 percentage point that we are proposing, will give investors some assurance that, over the long term, any periods in which growth is below inflation may be balanced out with periods in which rents may grow a little above inflation.

Through the housing investment task force, we have worked directly with investors and developers to understand how we can bring forward a system of rent control that both works for tenants and supports continued investment in private rented housing.

Daniel Johnson (Edinburgh Southern) (Lab):

The cabinet secretary is setting out the rationale with regard to investment and economic shocks. What consideration has been given to the overall economic effect that both the price cap and the exemptions may have? There is an overall effect in relation to price setting and the effect on supply and demand. Without going into a full economic thesis, I note that those go beyond simply investment and economic shocks, and there will be behavioural effects that may have unintended consequences. What consideration has been given to the broader pricing dynamic that the price cap will create?

Shirley-Anne Somerville: Much as I am tempted to get into an economic thesis on a Tuesday morning, I will refrain, but that is an important point. While we have talked about the specifics, it is also important to ensure that, in general, we provide as much certainty as we can to investors, because I recognise that not only the actions of Government, but the perceptions around that, are very important. It is important for the Scottish Government to encourage investment into Scotland and to encourage further private investment in housing; that is an important part of tackling the housing emergency.

Dealing with those aspects that you mention to ensure that we take into account what happens in the wider sector is exceptionally important, and that is why we are keen to give as much clarity as possible.

To return to my comments, CPI plus 1 percentage point is in line with what some stakeholders in the sector have been calling for. Stakeholders, including the Scottish Property Federation and the Association for Rental Living, welcomed the clarity that was provided by our statement in October last year, in which we confirmed the form of the rent cap that we are proposing through these amendments.

As it is not only the policy intention of rent control to reduce rents, if the total percentage determined under the formula is less than 0 per cent, the rent cap would be set instead at 0 per cent. As the form of the rent cap will be set out in the bill, several consequential or clarifying amendments are required. Amendments 281 to 301 and amendments 334 to 353 are necessary now that we are proposing to set out the form of the cap in the bill itself; they will ensure that all relevant sections of the bill interact appropriately with the new provisions that we have set out. Amendment 327 will make a minor technical adjustment to the wording of section 18.

I turn to the other amendments in the group. Amendments 47 to 50, in the name of Ben Macpherson, would let landlords in rent control areas who have not increased the rent for their property in the preceding 24 months set the initial rent for a new tenancy at the open market rate. I understand the intention behind those amendments, but I am clear that the circumstances in which rent can be raised above the rent cap should be set out in regulations, informed by consultation with those who are affected, as I mentioned earlier.

Amendment 77, in the name of Graham Simpson, would provide that regulations that were made under the power that would be created by amendment 48, in the name of Ben Macpherson, would be subject to the affirmative procedure. Amendments 61 to 64, 78 and 79, in the name of Graham Simpson, would create a process by which a landlord in a rent control area could increase the initial rent for a tenancy to open market rent where the final rent in the preceding tenancy was more than 10 per cent below open market rent.

Daniel Johnson's amendments 61A, 61B, 63A, 64A, 64B and 64C would amend Graham Simpson's amendments so that the process could be used by landlords only when the previous rent was no less than 10 per cent below open market rent.

Again, I understand very clearly that the intent behind the amendments is to recognise situations in which landlords have not increased rents such that they have fallen behind market levels. However, the amendments would enable some landlords to increase the rent regardless of whether there had been a rent increase in the

preceding 12 months, and that would be inconsistent with the aim of limiting rent increases for a property in rent control areas to once per year. Therefore, I cannot support the amendments, but I can confirm that issues with regard to landlords charging below market rent have been included for consideration in the consultation that was published recently.

Daniel Johnson: Does the cabinet secretary recognise that the intention behind the amendments goes beyond simply allowing correction for individual landlords? I agree with the broad principle of having a consistent approach to the rent cap in order to provide confidence to the sector, but there is a risk that it could act as a floor rather than a ceiling, and unless there is some adjustment mechanism, it will essentially incentivise all landlords to increase not up to, but at, the level of the cap. If we assume that the Bank of England achieves its inflation target, 1 per cent over that would, in essence, mean that rents would increase by 30 per cent more than inflation, unless an adjustment mechanism were provided. Does the cabinet secretary acknowledge that that is a risk and that some consideration needs to be given to the dynamics of how the cap would operate?

Shirley-Anne Somerville: I absolutely see where the member is coming from. That said—and I fear that I might be repeating this quite often this morning—regardless of whether I think that it is the right or the wrong thing to do, the place for it to happen is not within the bill. The consultation will allow those exact points to be brought up and discussed so that we can then move forward with regulations. Members might well hear me say that quite a lot with regard to different amendments in a number of groups this morning, but that is exactly why we are having the consultation and asking those open questions. It will allow those matters to be brought forward. I hope that Mr Johnson will forgive me for not being pulled on that particular point, but I think that what he has raised is a matter for the consultation.

Amendments 65 to 68 and 80, in the name of Graham Simpson, would allow for rents to be raised above the level of the rent cap, where the landlord has incurred significant costs relating to the maintenance, repair or regulatory compliance of the property. The rent officer would be tasked with determining the appropriate rent where the costs are deemed to be necessary and significant, but the amendment does not set out what maintenance, repairs or regulatory compliance would be covered or the basis on which that determination should be made. Again, I very much recognise the concerns expressed by landlords on the potential impact of rent controls on maintenance costs and their ability to invest in improving and sustaining quality properties. It is

important that those issues are considered further, which is why they are covered in the aforementioned consultation.

Therefore, I cannot support the amendments, and I encourage Ben Macpherson, Graham Simpson and Daniel Johnson not to move them. If they do so, I urge committee members not to support them, for the reasons that I have set out. It remains my position that the circumstances in which it would be appropriate to allow for rents to increase above the cap should be set out in regulations that are informed by the consultation, but I hope that I have managed to offer some reassurance to Mr Macpherson, Mr Simpson and Mr Johnson that I very much recognise and acknowledge the issues that they have highlighted in their amendments and that we are actively considering how to address them through the consultation. I would, of course, be happy to engage with members following the consultation's outcome.

Amendment 147, in the name of Edward Mountain, and amendment 412, in the name of Katy Clark, seek to amend the bill to require that the rent cap be calculated with reference to the quality, state of repair and energy efficiency of a property. I have responded to calls from the sector to provide greater certainty on how rent controls will be implemented by bringing forward a suite of amendments that provide a formula on the face of the bill for a fixed rent cap and which, if approved, would render amendments 147 and 412 obsolete. I consider that setting out the rent cap in primary legislation is needed to offer more clarity to tenants and landlords, and to those who invest in and develop rented homes. For those reasons, I cannot support the members' amendments, and I urge them not to move amendments 147 and 412.

Amendments 207 and 215, in the name of Rachael Hamilton, seek to make changes to the definition of the term "rent payable", specifically to exclude utilities. Amendment 207 would make that change for the purposes of the application of the rent cap, which could allow landlords in a rent control area to increase charges for utilities without any regulation. The amendment of the rent cap to a fixed formula would impact on the amendment itself, making it redundant.

Amendment 215 would make the change for the purpose of the provisions in the bill that regulate rent increases in rent control areas, but that would conflict with the existing definition of rent in the Private Housing (Tenancies) (Scotland) Act 2016. That would lead to different definitions of rent, depending on whether a property was or was not in a rent control area, and therefore would cause confusion.

I acknowledge the concerns that have been raised by landlords, particularly in rural areas,

about the potential impacts of rent controls where tenants pay the landlord directly for certain utilities or services. As has been set out, the bill already includes regulation-making powers that allow for circumstances in which landlords could raise rent above the cap. Our current consultation on the use of those powers acknowledges that rural landlords might face higher utility costs and asks for views on how such costs could be treated. Again, I am happy to engage with Rachael Hamilton and other members following the outcome of the consultation; I hope that that will reassure her, and I urge her not to move her amendments.

The amendments in Paul McLennan's name in this group—that is, amendments 281 to 301, 327, 332 to 353, 393, 398, 401, 402 and 406—deliver on our commitment to provide clarity on how rent control will be implemented by setting out how rents will be capped in areas where the provisions apply. I am clear that it must be done in a balanced way that recognises the interests of landlords and tenants, and in a way that continues to support investment in private rented housing. That will ensure that the system of rent control that is introduced continues to support the supply of rented housing, in recognition of the fact that the rented sector is a critical part of Scotland's overall housing system. The amendments have been lodged in direct response to calls for more clarity on the impact of areas designated for rent control.

Amendments 289A, 290A and 293A, in the name of Maggie Chapman, would enable a rent control area to be increased in size via regulations that vary the original designation. I consider that, where the rent control area is to be increased in size, that should be considered as creating a new rent control area and should be subject to the full process for designating such an area. For that reason, I cannot support the amendments.

Amendments 332A to 332H, also in the name of Maggie Chapman, seek to amend amendment 332 in Paul McLennan's name. Amendment 332A would amend the permitted rate to be the lower of CPI inflation plus 1 percentage point, or annual percentage changes or expected changes in income. Amendment 332B provides that an alternative lower percentage could be set by the Scottish ministers in specified circumstances under new powers confirmed by amendment 332H, while amendment 332F provides a definition of the term "specified circumstances". Amendment 410 provides for the new power inserted by amendment 332A to be subject to the affirmative procedure. Amendment 332C sets out the definition of the terms used in amendment 332A, while amendments 332D and 332E seek to amend the definition of "the latest index" in amendment 332 so that it covers the latest index "or figure"

published before the tenancy starts or the rent increase notice is served.

For the reasons that the Minister for Housing has already set out in the Government's response to the committee's stage 1 report, we recognise that there are benefits in ensuring that increases in rent control areas are linked to increases in household incomes. However, wages are only one component of household income, which might also be affected by hours worked or by other sources of income, such as self-employment, benefits and assets. In addition, average wage inflation might not reflect the differing trends that are experienced specifically by tenants across the workforce. The costs to landlords of offering a property for rent are also a crucial consideration, and measures of wage growth are unlikely to fully reflect them.

It is also vital that the rent cap can be clearly communicated. The CPI is a well-known metric, and adding in various measures of wage growth would complicate the rent cap formula without their being directly connected to changes in household incomes. I therefore consider the consumer prices index to be the most appropriate basis for the rent cap.

Maggie Chapman (North East Scotland) (Green): I hear what the cabinet secretary has said about other means of income being available to many households, but does she accept that wages are the primary source of income for the vast majority of renters and that, as we know, wage inflation has clearly not kept pace with the CPI?

09:00

Shirley-Anne Somerville: I appreciate where Maggie Chapman is coming from on the issue. I thank her for lodging the amendments to allow us to have the debate about how we can clearly set out what the rent cap is.

I go back to the points that I have already made about the importance of having something that takes other income into account, although I appreciate what Ms Chapman says about the likelihood of wages being the primary source of income for many renters. It is also important to have something that is understood by renters, landlords and investors. We need to be able to provide that insurance to all those interested parties. The clarity that the use of the CPI can provide is exceptionally important. I also believe that the CPI is the most appropriate method, for the reasons that I have set out.

Maggie Chapman: Has the Scottish Government done any analysis of the incomes of renters and what proportion of those comes from sources other than wages?

Shirley-Anne Somerville: I am not aware of such analysis having been undertaken to a point at which I could speak to it today, but I would be happy to have that discussion with Ms Chapman following stage 2. I appreciate that this is an area that she has been concerned about for some time, and we would be happy to carry on those conversations. For the avoidance of doubt, it is unlikely that Ms Chapman will change my mind on the Government's position, because we believe that clarity is important. However, I am happy to work with her to see whether we can bring forward some analysis to have that discussion before stage 3.

Amendments 332G and 332H, and consequential amendment 410, would allow the rent cap to be set at a negative percentage in certain circumstances, which would reduce the existing rent of a property. The purpose of rent control has been set out as to stabilise rents in areas where they are rising steeply; the measures are not intended to allow for a reduction in existing rents. I do not consider that providing for an automatic requirement for rent reductions in certain economic circumstances in that way would allow for rent control to operate in a proportionate way.

Further amendments in Paul McLennan's name in this group are consequential or clarifying amendments. Those include amendments 333 to 353, which make required drafting changes to section 19.

Amendment 393 would amend section 52 to remove reference to section 13(1) from the list of powers that are subject to the affirmative procedure. That is in consequence of Meghan Gallacher's amendment 107, which would remove section 13 of the bill. We support amendment 107, as the Government's amendment 329, which was considered with group 7, will move that power from the bill into the Private Housing (Tenancies) (Scotland) Act 2016, in consequence of amendment 332, which specifies the rent cap in the 2016 act.

Amendment 398 would amend the schedule to the bill and is consequential on amendment 329.

Amendments 401 and 402 are consequential amendments to the schedule to the bill. They provide for regulations that are made under various sections to be subject to the affirmative procedure.

Finally—the committee will be pleased to know—amendment 406, which also seeks to amend the schedule, is consequential on amendments 107 and 329.

In summary, I urge members to support Paul McLennan's amendments in the group, and I ask Katy Clark, Edward Mountain, Rachael Hamilton,

Ben Macpherson, Graham Simpson, Daniel Johnson and Maggie Chapman not to move their amendments in the group. If they move them, I urge members of the committee not to support any of them, for the reasons that I have given.

I move amendment 281.

Katy Clark (West Scotland) (Lab): Amendment 412 aims to raise the relationship between the condition of a property and the rent that can be charged to enable rent controls to adequately reflect whether a property is in a good condition or a poor condition and to incentivise improvements, but to do so in a way that ensures that the tenant has protection and that there are no unreasonable rent increases.

According to 2023 data from the Scottish house condition survey, 45 per cent of all private rented accommodation in Scotland had disrepair. Measures that allow tenants to seek redress are limited. Private sector accommodation is also among the most energy inefficient in Scotland.

We need to encourage improvements to the stock, but we need to do so in a way that ensures that there will not be unreasonable rent hikes for tenants. My amendment 412 seeks to provide that the rent that is payable under a private residential tenancy in a rent control area would not be increased by more than an amount that is calculated under regulations with reference to

"the quality, state of repair, or energy efficiency of the property".

I have listened to what the cabinet secretary has said, and I will consider her amendments carefully. Therefore, I do not intend to move amendment 412.

Meghan Gallacher: Like Katy Clark's amendment 412, amendment 147 aims to allow repair works, improvements and any work relating to energy efficiency to be taken into account. The exemption would be calculated based on the level of work that is required. There is a strong argument for reference having to be made to the condition of the property, whether it is in a good condition or a bad condition, as that could provide an additional layer of protection for tenants. I am unsure at this point whether Katy Clark will move her amendment, but I think that she has indicated that she will not move it.

I am concerned by amendments 284 and 285, which will leave a loophole in the bill, as ministers will no longer have to consult the relevant local authorities, tenants and landlords on the form and level of the rent control measures that are being considered for proposed rent control areas. Amendment 285 will mean that, when designating a rent control area, ministers will no longer have to include the reasons for doing so, or the level of the

rent control measure to be introduced in that area, in their report to the Parliament. That will remove an additional layer of protection from the bill, which would be vital should rent controls be put in place.

I also want to mention my upcoming amendment 107, which would remove exemptions. That relates back to the overall Scottish Conservative principle and stance that we are opposed to rent controls. It will be a bit odd to push for that amendment but to then talk about adding exemptions in subsequent amendments. However, given our overall position and stance, it is right that we try to remove sections on rent controls, but we recognise that, if rent controls are to be put in place, those exemptions would be an important part of the argument. There are certain areas that we want to be exempt from rent controls.

Of course, there is an on-going consultation on exemptions from rent controls. I have pressed the cabinet secretary to ensure that that consultation is concluded as soon as possible in order to provide reassurance to the sector.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Amendment 207 would provide much-needed clarity to references to “rent payable” under part 1 of the bill, on the

“designation of rent control areas”.

The amendment would introduce a clear definition of “rent payable”, which is essential to ensure that rent comparisons between properties are accurate and meaningful, especially in rural areas, where utility arrangements can differ significantly.

Under the Private Housing (Tenancies) (Scotland) Act 2016, there is no distinction between rent and other charges. However, as the cabinet secretary has set out, in rural tenancies, rent often includes payments for water, sewerage or electricity services that are supplied privately due to the lack of mains infrastructure. Because the 2016 act prohibits passing on service charges, landlords often bundle those costs into the rent, which creates confusion.

I disagree with the cabinet secretary. She misses the point, because the failure to separate those charges for privately supplied services will undermine the accuracy of rental data and the fairness of rent assessments. She said that future regulation-making processes would make my amendments redundant. I would be grateful if the cabinet secretary would identify how we could separate those charges and ensure the accuracy of rental data, so that there is equity between those who receive the bundled charges that I have described and those who receive and pay for their services through council tax. As I have said, in urban areas, those services are normally paid for

by the tenant directly through council tax or their utility bills.

Amendment 207 would ensure that only the true rent—the rent that is payable for the property itself—is counted as “rent payable”. Charges for essential services in areas without mains access would be identified separately, not hidden in the rent. That change would allow the collection of more accurate data across local authorities, fairer comparisons across the rental market, and greater transparency for both tenants and landlords.

Maggie Chapman: Good morning to the cabinet secretary and officials. In many ways, this grouping relates to the most important part of the bill. If the bill is passed, the provisions in this section will allow the introduction of rent controls for the first time in Scotland for almost 40 years. They could not have come a moment too soon. Since 2010, the rent for a two-bedroom property has increased by 61 per cent, on average, across Scotland but by 82 per cent in Glasgow and by a staggering 104 per cent in Lothian. Has the quality of properties soared to match those rent increases? No. Have people’s wages in Lothian gone up by 104 per cent since 2010? Certainly not. That is a sign of a fundamentally out-of-control private rented sector.

My amendments to the minister’s amendment 332 would change the formula that the Scottish Government has proposed, which would cap rents at CPI plus 1 percentage point up to a maximum of 6 per cent. My alternative proposal is to cap rents at the lower of CPI or earnings growth up to the same maximum of 6 per cent. That is an important principle. I have asked the Scottish Parliament information centre to model both of those formulas. The Green version would make a small but significant difference to rents in most areas and a bigger difference in others. Had the Green formula been applied in Glasgow since 2019, rents would be £19 a month lower than if the Scottish Government’s formula had been in place. In Aberdeen and Aberdeenshire, they would have been £66 lower. For many renters who are struggling with low incomes and the rising cost of living, that would represent significant help.

More importantly, though, my amendments would establish an absolutely critical principle that rents should match people’s ability to pay. If the earnings and living standards of renters are not increasing, neither should those of landlords. It is interesting that analysis has not been undertaken to justify the principle that the cabinet secretary set out—that other income is available for renters, beyond wages. We have very little evidence of that, and we know that most renters do not have significant other income. For landlords’ incomes to rise more quickly than those of renters is nothing more than the pure extraction of wealth from those

on lower incomes by those who are privileged to own properties.

It is simply not acceptable to have in legislation the raising of rents by 1 percentage point above the cost of living as a given, regardless of what else is happening in the world. We should not be locking in above-inflation increases, which is what the Scottish Government's formula does.

My amendment 332H would add an extra but important provision. It would allow ministers to specify exemptions to the formula in order to allow lower increases, a freeze or a decrease. I will speak to that principle more fully in the debate on the next grouping, in which I have a similar set of amendments. I have lodged amendment 332H to recognise that, in some areas of Scotland, rents have gone up by as much as 100 per cent in the past 15 years and that even a small increase would simply pile misery on top of that. In 15 years, very few renters have seen their incomes go up by anything approaching 100 per cent.

Willie Rennie (North East Fife) (LD): Does the modelling for the member's proposals include the effect on investment in the sector? Does she understand what they would do to house construction?

Maggie Chapman: The modelling that we have done, with the support of SPICe, has focused on the impact on renters and their ability to pay in order to have an affordable house—a roof over their heads. As I said last week, the Housing (Scotland) Bill was introduced as part of a collection of policies and strategies designed to provide a new deal for tenants. The purpose of rent controls is to allow tenants to have affordable homes in which to live, not to line the pockets of profiteering landlords.

09:15

Meghan Gallacher: We are in a housing emergency—I think that we all agree on that—and we need the private sector to bring in investment in order to build more homes. How are we going to tackle the housing emergency if we cannot have that investment in Scotland to build more homes and get people into them? Surely there is an argument that, if we build more homes, that will naturally reduce rents.

Maggie Chapman: We have not seen rents decrease where more homes have been built. I have lodged further amendments to the bill, which we will consider at a later point, on some of the challenges around mid-market rent and build to rent. We have not seen rents go down when a lot more homes have become available through the kind of building that Meghan Gallacher describes.

Daniel Johnson: Will the member give way on that point?

Maggie Chapman: I will finish my point first. We have seen homes become unaffordable for a vast number of renters, with renters being forced into homelessness or invisible homelessness, such as sofa surfing, which is not always captured by the figures that we have. There are many ways to increase the supply of homes, and the measures that I am proposing seek to retain affordability as a key element of that supply.

Daniel Johnson: I accept the fundamental point that we need to ensure that people have an affordable home. However, would the member acknowledge, on the basis of what she has just said, that the housing supply is going down and the number of starts and completions has fallen to the lowest level since the global financial crash? We must, absolutely, seek to ensure that rent is affordable for people, but there is also an impact on the incentive to invest across all sectors, among not just private landlords but housing associations and others. We are in a dynamic situation, but, fundamentally, the housing emergency is being caused by the fact that the number of homes that are being built is decreasing.

Maggie Chapman: Over the same time period to which Daniel Johnson refers, we have also seen an increase in the number of people who are struggling to pay rent. A significant issue is the increasing unaffordability of homes and rents, with people being unable to secure tenancies, never mind get into any other type of tenure across the housing market.

Many of us believe that the housing market itself is fundamentally broken, and my proposed measures are designed to protect those who are—not always, but in many cases—the most vulnerable. That includes not just those renters who cannot afford to buy or who choose not to be owner-occupiers, but people who have been faced—as the modelling has shown—with an increase in rent of more than 100 per cent in the past 15 years. Very few people—I would go so far as to say virtually no renters—have seen their income increase by anything like that amount. That is what my amendments seek to address.

Amendment 332H seeks to ensure that a freeze or a cut is possible, in order that the way that rates have soared in certain areas can be taken into account.

My proposed changes to amendment 289 address changes to rent control areas themselves. Amendment 289 would allow the regulations to be revoked or the size of the areas to be decreased. However, the experience of a rent control area might show that the area is too small, so my

amendment 289A would add the option of increasing the size of the area. I accept the cabinet secretary's point that that would imply the designation of a new rent control area, and I understand that there is hesitation to apply an increase without going through the process of analysis that leads to such a designation. However, that information will be forthcoming in the analysis of existing rent control areas, and I think that it could be used to justify increasing the size of an area. That does not mean that the provision would have to be used in that way, but it could be.

I will speak briefly to some of the other amendments in the group. Amendment 412, in the name of Katy Clark, and Edward Mountain's amendment 147 would allow for the quality, energy efficiency and state of repair of a property to be taken into account when controlling rent. The Greens have lodged amendments to other parts of the bill with the same intent, and, as I think that amendments 412 and 147 would support those Green amendments, I am happy to work with Katy Clark and Edward Mountain on them and will support them if they are moved. After all, we need an effective and consistent approach to drive up the quality of private rented accommodation.

On amendments 49, 61 and 64, in the name of Graham Simpson, which seek to allow rents to be increased where they have not been increased recently or where they are significantly below the open market rent, I am a little bit concerned not just about the complexity that might arise but about the uncertainty that the amendments might create for tenants and renters. Open market rents are already inflated, because of the way in which they are worked out, so using them as a reference point at the moment might be flawed. However, I will be interested to hear what Graham Simpson has to say.

Amendments 66 and 67 would allow rents to be increased to recoup costs related to the maintenance, improvement or regulatory compliance of rented properties. For me, that has the potential to send the wrong message to landlords, specifically in respect of regulatory compliance. We should not be rewarding landlords just for getting their rental properties up to a minimum legal standard by allowing them to raise rents. I ask Graham Simpson to address the point about compliance, in particular, because we should not be rewarding people just for meeting basic compliance standards.

Finally, on Rachael Hamilton's amendment 207, I listened carefully to her comments about the need to be clear about what we mean by rents and what utilities may or may not be included in them. As her amendment would help to provide clarity in that regard, we will support it.

I will leave my comments there, convener.

The Deputy Convener: I call Ben Macpherson, who is joining us remotely, to speak to amendment 47 and the other amendments in the group.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Thank you, deputy convener. I just want to check that the committee can hear me okay.

The Deputy Convener: We can.

Ben Macpherson: I am sorry—I have had some technical difficulties this morning.

I am grateful to colleagues for the opportunity to speak to my amendments. I am sorry that I am not with you in the room this morning and that I am having to join remotely. I am making a visit this morning as part of my responsibilities as the convener of my committee, and I wish to honour that commitment.

In speaking to my amendments 47 to 50, I first express my support for the bill and the measures to moderate rent levels in general, and I pay tribute to Living Rent and other campaigners, including those in my constituency, who have helped to get us to this point. I have been working collaboratively with them since 2016, because, unfortunately, the number of people who are paying too much rent has become a growing concern in my constituency, as it has in other areas. Often, there will be large increases in rent between tenancies, which is why I support the measures to address that in the bill. The market has not worked on its own, so intervention through regulation is clearly required. Too many landlords are charging too many tenants too much each month, and I believe that, for the benefit of all of society, that needs to change.

That said, it is really important to emphasise that there are, of course, lots of really well-motivated, generous landlords who, in my experience, generally care about their tenants' wellbeing and want to do the right thing. I am grateful for the representations that I have received from landlords as well as tenants, and my amendments, therefore, relate to both parties. In my work as a constituency MSP, I have come across several cases of landlords charging tenants rents that are lower than they could charge. Some choose to charge less for a variety of—often benevolent—reasons. The tenant might be vulnerable, for example, or the landlord might have known the person for some time and know them to be a good tenant. We do not want the bill to disincentivise that sort of benevolent behaviour and generosity among landlords.

When the bill was proposed, a concern that I heard from the Scottish Association of Landlords and others was that rent controls might lead

landlords with so-called underrented properties, for which they charge less than they could charge, to feel it necessary to start raising their rents every year so that, when a tenancy ended, they would not be disadvantaged by the restrictions in the bill to control rent rises between tenancies. Although, as I have said, I agree with those restrictions in general, I therefore lodged amendment 49, which seeks to exempt properties from the control of rent rises between tenancies so that benevolent—often smaller—landlords who have underrented properties are not disincentivised to offer lower rents to, for example, vulnerable or reliable tenants.

However, I note that, as the cabinet secretary mentioned in her remarks, from 23 April until 18 July, the Scottish Government is consulting on exemptions, and I think that it would be better and wiser to await the conclusion of the consultation before putting into legislation an exemption such as the one that I am proposing. I would, though, welcome further reassurance from the cabinet secretary that the concept in my amendments will be considered by the Scottish Government in its consideration of exemptions.

Since I lodged my amendments, I have also reflected on the definition of the words “open market” in amendment 48 and on the idea that such a rent could be excessively costly for tenants. After engaging with Living Rent, I am mindful of the fact that the definition could make tenants vulnerable to having to pay inflated rents in constituencies such as mine.

For those reasons, I intend not to move my amendments. However, I continue to urge the Scottish Government, as part of its consultation, and the committee, as part of its consideration of exemptions in due course, to consider the matters that I have raised in relation to the implementation of the bill, assuming that it progresses and is passed by the Parliament at stage 3, as I hope it will be.

The Deputy Convener: I invite Graham Simpson to speak to amendment 61 and the other amendments in the group.

Graham Simpson: It is good to be able to follow on from Ben Macpherson, who set out very clearly the situation where we have landlords who are charging very fair rents and looking after tenants—they often charge rents that are below market value. He set that out very well, and that is the situation that I am attempting to address in a number of my own amendments.

The Scottish Association of Landlords carried out an interesting survey that, members might be surprised to hear, discovered that most tenants in Scotland are already paying rent that is below market value. Some 60 per cent of respondents

said that that was the case; 15 per cent of people who responded to the same survey are estimated to be paying more than 20 per cent below the market value. Those were quite surprising figures, so there is an issue in that regard.

Amendment 61 proposes that if, at the end of a tenancy, the rent is more than 10 per cent below the open market value and no tenants from that tenancy will be named as tenants on the next tenancy, the rent can be increased to the open market value. An initial rent notice must be issued by the landlord to the tenant specifying the date on which there was last a rent increase and the final rent under the immediately preceding tenancy. The notice must also specify that the final rent under the immediately preceding tenancy was more than 10 per cent lower than the open market rent and that the initial rent is more than that but no more than the open market value. I hope that members can follow my explanation.

Amendments 62 to 64 provide for a system where tenants could go to a rent officer if they thought that the figures were wrong. I note that the minister, and now the cabinet secretary, are looking at that very issue in the on-going consultation. On that basis, and on the basis that there is on-going consultation on the other issue that I will come to, I am minded not to move those amendments today. However, I want to be very clear that it is an issue on which I expect clarity ahead of stage 3.

09:30

I know that the cabinet secretary said that we cannot predict when stage 3 will be, but I expect that it will probably be after summer. I am guessing that, but I think that we have time.

I want to comment on the welcome change of tone from the Government before I move on to speak to my other amendments. There have been very useful conversations with the cabinet secretary since the events of last week, which is positive. If parties can work together moving forward, that will be very productive. She wrote to a number of us and to the committee. In a letter that I was copied into, she offered to set up a meeting with the purpose-built student accommodation review group. I encourage her to do that. Having a meeting at which a number of MSPs were present—it should be an in-person meeting of at least half a day, because it will have many issues to cover—would be very welcome.

I will move on to the other amendments in the group. My amendment 63 deals with the issue, which has been mentioned, of when a landlord has had to spend money—often significant sums—on a property. My amendments propose that they would have to submit a detailed

application to the relevant local authority, including a breakdown of the costs incurred, evidence of the necessity for and reasonableness of the costs and any supporting documentation. The local authority would then review the application and determine the eligibility and extent of the rent increase.

The intention of the amendments is not to allow landlords to recoup money for doing things to properties that should be standard practice, to address the question rightly raised by Maggie Chapman, because that would be entirely wrong. I know that she had that concern. If that were to happen, I would share that concern, but I think that enough protections are built into the amendments that such a scenario would be avoided.

I will not go into all the amendments, but I do not intend to move amendments 66, 67 and 68, given that a consultation on the issue is on-going. However, again, I want to see some progress on the matter, because it is important.

My other amendments in the group are fairly technical, so I do not think that I need to spend any more time on them. I will end it there.

Daniel Johnson: I should begin by explaining that I lodged my amendments because Graham Simpson beat me to the punch in submitting his amendments on the application of the rent control cap.

I very much welcome the Government's move, because clarity and certainty are very important for investment. The fundamental principle in relation to some of the debate that we have had so far is that we are in the middle of a housing emergency that has had the effect of rents increasing well above wage inflation, which is intolerable.

We must attempt to come up with effective remedies, which includes ensuring that we have investment in housing supply, because fundamental to the issue is the decrease in housing supply. In my view, that is having a direct impact on the affordability of housing both for people who rent and for those who are owner-occupiers.

I believe that it is of critical importance that we have controls that protect people against excessive rent increases. No one can look at what has happened in recent years and think that we can stand by and do nothing. We have already agreed not to go into economic theses, but there is a point to make about the way in which price setting, supply and demand work in conjunction with one another. Often, when prices increase because of a reduction in supply, price controls can have the inverse effect to what was intended. If price controls are not considered holistically, they can be inflationary.

I very much welcome a consistent formula for the application of a rent cap. Ben Macpherson has made the case that a rent cap could disincentivise landlords from acting in a way that is generous and reflects the needs and requirements of their tenants. If that were expanded across the market, we could well end up with a mechanism that does not act as a ceiling, but as a floor, which would be perverse. For example, if we end up in a lower inflationary environment of 2 per cent or lower, charging 1 percentage point over and above that rate would mean that renters would experience inflation that is well in excess of general inflation, which would be perverse. Therefore, it will be important that we have a mechanism that allows adjustments to be made if rents are being held above inflation, or, indeed, if other circumstances have changed. If we do not, we could incentivise landlords to use a rent cap as the mechanism by which they increase rents, and we may well see it being baked into tenancy agreements from the beginning, which would ensure that the formula becomes an automatic increase.

I welcome Katy Clark's amendment 412 and Edward Mountain's amendment 147. We may well disincentivise investment in properties if landlords have no ability to adjust rents. The ability to alter rent on the basis of changed circumstances and rents that have been previously set is important not only in particular cases but more generally, as we are dealing with the fundamental mechanisms by which prices are set. If that is not done in a way that reflects how the market operates as well as the behaviours of landlords and tenants, the effects could be counterproductive. I have lodged my amendments because I do not want the proposed rent cap to act as a floor—it must act as a ceiling. Therefore, there needs to be a mechanism for adjustment.

I heard what the cabinet secretary said about the wider reflection and consultation process, which is important. For that reason, I will not move my amendments 61A, 61B, 63A and 64A to 64C. However, I believe that my concerns need to be reflected in the bill at stage 3. Even though the bill may not include the precise mechanisms that I have proposed, I think that it should include broad regulation-making powers and broad objectives in order to provide clarity of intent and to ensure that such a mechanism is put in place. Failure to do so could mean that, although the bill intends to protect renters, they may face higher prices. None of us would wish to see that outcome.

The Deputy Convener: As no other member wishes to contribute, I invite the cabinet secretary to wind up.

Shirley-Anne Somerville: I will try to go through the main points that have been raised. I

thank all members for the discussion, particularly on the Government amendments.

I will deal with the aspects that Meghan Gallacher raised about concerns over the removal of consultation. If the rent cap is included in the bill, as we intend it to be, there will be no need to consult on it, because it will have already been included in the bill.

Amendment 327 is technical.

Turning to issues raised by Katy Clark and others, I absolutely appreciate that there is a need to tackle the disrepair that exists in the private rented sector. As members will know, we will come on to discuss other groups of amendments that also deal with the issue of disrepair and the general standard of the private rented sector, where that is poor. I think that there are other ways of dealing with the challenge that Katy Clark has rightly put forward, and I am happy to continue to discuss the overall issue with her—and, indeed, with the other members who have raised it with me both today and previously—both in the run-up to stage 3 and in relation to the other groups that we will come on to.

Much of what Rachael Hamilton has discussed today is referred to in the current live consultation, so I very much recognise where she is coming from. The Minister for Housing has also agreed to engage with Scottish Land & Estates over the summer on the same aspects, so I am taking the issue that she has raised very seriously.

On the substantive issues that Maggie Chapman has raised about the rent cap formula, although I think that she and I are in exactly the same place in wanting to protect the most vulnerable tenants, this is one of those areas where I fundamentally disagree with her. I believe that we cannot protect the most vulnerable by creating a system that puts off investment and therefore the delivery of more homes—there is a balance to be struck between what we do to protect tenants and ensuring that we encourage investment and the building of more homes.

I hope that I can reassure her that repairing standard compliance would not be included in those circumstances in which rent could be increased above the cap, as set out in the consultation. Others might have different views on that, and I appreciate that the consultation is ongoing, but, as I am sure will come through in that consultation, there is a discussion to be had about landlords making improvements to meet the sector's minimum standards and those who might be investing heavily in modernisation or different types of work. As I have said, I am sure that those nuances will come through in the consultation.

As for having discussions on the formula that has been set out, I am happy to get back to and

discuss the matter with Maggie Chapman before stage 3. However, according to the material that I have today and which I can highlight in these closing remarks, although CPI and wage growth can fluctuate relative to each other over time, the post-war experience has been that wages tend to grow faster than inflation in the long run. The 6 per cent cap also protects against situations, such as the recent cost of living crisis, in which a spike in inflation causes real wages to fall sharply. I go back to my point that the area needs to be clearly understood. I think that, at this point in time, this will just have to be one of those areas on which Ms Chapman and I will continue to disagree.

Maggie Chapman: I accept what the cabinet secretary has said about the post-war consensus and I take on board the exchange that she had with Daniel Johnson about not getting into an economic lecture here. However, it is quite clear that, in economic terms, the financial crash in 2008 broke that consensus, and since then, we have clearly seen wages vastly underperforming any other measure of inflation. Indeed, that looks set to be the new consensus. Looking back to something that is 80 years old as a justification for not allowing people to pay rents that increase in line with their earnings is problematic. However, I accept that we will just disagree on that point this morning.

Shirley-Anne Somerville: I am afraid so, but I can also point to some technical challenges. Wage growth is not, as I mentioned earlier, a direct measure of changes in household income, but there are other complexities with regard to the measures in question. For example, the data from the annual survey of hours and earnings is published only once a year, with a significant lag. Although average weekly earnings data is published on a monthly basis, the headline measure, which includes bonus payments, can be very volatile. Moreover, it is not a measure of rates of pay, as it can be affected by changes in the composition of workforces, such as the proportions of the workforce that work full time and part time.

Although we might disagree, I hope that that at least reassures Maggie Chapman that the issue has been looked at, and, as I have said, I am happy to carry on those discussions ahead of stage 3. I have to say, though, that it might be one of those areas where we will not be able to persuade each other on that point.

09:45

As for the points that have been raised by Ben Macpherson, Graham Simpson, Daniel Johnson and others, I think that, again, everyone is trying to get to the same place. We are trying to help

landlords who help tenants, and we are endeavouring to provide clarity to the sector.

Graham Simpson challenged me—he wants clarity ahead of stage 3. I cannot say when stage 3 will happen, but I again reassure him that we will expedite work in this area. When I look at our work on the bill, and as we go through this process, I feel that one of my integral responsibilities is for the Government, and other parties, to provide clarity and certainty to investors. I will do everything that I can do on the issue. Moreover, I heard what he had to say about the meeting with the PBSA review group, and we will work on that matter.

With regard to Daniel Johnson's comments about what he wishes to see at stage 3, I do not want to repeat myself, but we do have a live consultation at the moment. If he believes that more reassurance is needed before we get to stage 3, I am happy to have those discussions with him to see what can be done. Again, though, I caveat that by saying that I do not want to pre-empt the consultation or do anything that would get us into difficulties as a result of our putting something in the bill that we have not consulted on.

I will leave it there, convener.

The Deputy Convener: I remind members that, if amendment 281 is agreed to, I cannot call amendment 54, which was debated in the group entitled “Student tenancies and accommodation”, or amendment 412, which was debated in the group entitled “Rent control areas: amount of rent cap”, due to pre-emption.

The question is, that amendment 281 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 281 agreed to.

Amendment 147 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 147 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
Slater, Lorna (Lothian) (Green)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

The Deputy Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 147 agreed to.

The Deputy Convener: At this point, colleagues, I will call a short break. The next sections are likely to be fairly lengthy, so it would be useful to have a 10-minute break now to give us an opportunity to tackle them properly. We will reconvene at 9.59 am.

09:49

Meeting suspended.

10:02

On resuming—

The Deputy Convener: Welcome back.

Amendment 148, in the name of Maggie Chapman, is grouped with amendments 149, 158 to 160, 424, 425, 186, 185, 426, 199 and 196. I call Maggie Chapman to move amendment 148 and speak to all the amendments in the group.

Maggie Chapman: There are three sets of amendments in this group, and I will take each of them in turn. The first set, which comprises amendment 158 and consequential amendments 148, 149, 159, 160 and 185, would allow the Scottish Government to introduce an emergency national rent control system.

Members of the committee will remember our introducing emergency powers in a great rush during the Covid pandemic. The simple aim of amendment 158 is to ensure that we do not have to rush to reinstate those powers, should the unthinkable happen again and we face a similar public health or other emergency. We would not need to go through the process of an emergency bill because we would already have the powers to act. That does not mean that ministers would have to use the powers; it means that they would have the opportunity to do so if circumstances called for them. It is a simple precautionary measure.

The second set, which comprises amendment 199 and consequential amendments 186 and 196, seeks to reinstate the transitional provisions that offered some protection to tenants ahead of rent

control areas coming into force. Those protections expired at the end of March, exposing renters to unacceptable rises in rents, above the protected limit of 12 per cent that those provisions guaranteed. Those measures were meant to act as a bridge to the bill's controls, and it makes absolutely no sense for them to have lapsed before rent control areas are in place and the bill has achieved royal assent.

I would go as far as to say that knowingly allowing those protections to lapse was reckless, and no impact assessment was undertaken before that happened. Renters on lower incomes—those who can least afford such uncontrolled hikes—have virtually no protections now. The Scottish Government, which supports rent controls, is allowing rents to soar in the two years before its new rent control measures come into force. Landlords can use and are using this period to hike rents before rent control measures begin.

The Scottish Government told this committee:

"If we were to move directly from the emergency measures by switching them off entirely at some point in the future and go back to open market comparisons for rent adjudication, there would be severe and unintended consequences."—[*Official Report, Local Government, Housing and Planning Committee*, 28 February 2023; c 7.]

That is exactly what is happening now—we are experiencing "severe and unintended consequences." We need to act, and that second set of amendments deals with that situation.

My third and final set of amendments, which comprises amendments 424 to 426, would introduce "special rent control areas". Those areas would work much the same way as rent control areas, but they would allow for rents to be increased by a lower amount than is specified in the central formula, to be frozen or to be cut. Those powers are crucial. Rents have increased by grotesque amounts in some areas—as we have already heard this morning, they have increased by more than 100 per cent in some areas—and the central formula of CPI plus 1 percentage point up to a maximum of 6 per cent will do nothing to address that.

There is a very strong case in Glasgow, Lothian and some other areas that have recently had large rent increases to apply short-term controls that would allow for much tighter limits on rent. If we do not do that, we would essentially be endorsing the unacceptable increases that have taken place in recent years.

I will be happy to discuss with colleagues whether those tighter controls should require different processes for approval, different standards of evidence or other safeguards. I have already limited the lifetime of the proposed special rent control areas to one year. However, I hope

that we can agree on the principle that there are some areas in which tighter controls will temporarily be needed. Recognising that principle means that we should do something about it, which is what I am seeking to do with my amendments. I hope that colleagues can support that principle and therefore my amendments.

I move amendment 148.

Shirley-Anne Somerville: Amendments 148, 149, 158 to 160 and 185 in the name of Maggie Chapman would collectively enable the Scottish ministers to designate the whole of Scotland as a national rent control area in certain circumstances.

Introducing rent controls interferes with the property rights of landlords and any interference must be proportionate. A national rent cap might be difficult to justify due to the varying social and economic circumstances across the country. The way that the amendments are drafted means that the safeguards for normal rent control areas would not apply. Without those safeguards, it might not be possible to impose a national rent cap that is proportionate.

The measures in the bill will create the framework to deliver a nationally consistent approach to the consideration of the need for rent control, while maintaining the link to local circumstances. That is an appropriate, robust way to deliver rent control in Scotland. Although I acknowledge that there could be circumstances in which the Scottish ministers might wish to consider wider temporary rent control measures, their powers under Maggie Chapman's proposed amendments would be far too broad.

Our vision for a long-term system of rent controls that delivers a nationally consistent approach with flexibility for local circumstances is key. Should action on rents be required where there has been significant change in rent levels or in the rate of rent increases in the period between the five-yearly cycle of local authority assessments, there are already powers in the bill for local authorities to carry out an additional interim assessment of rent conditions in their area or for the Scottish ministers to direct a local authority to undertake such an assessment.

Were such extreme circumstances to arise in the future to necessitate a blanket national rent cap that would apply regardless of local circumstances, that would be a significant intervention, and it would not be appropriate for that to happen only through regulations. Such action should be subject to the full parliamentary scrutiny that is afforded to primary legislation, as was the case with the emergency legislation that was introduced by the Government in response to the Covid-19 pandemic.

I therefore cannot support amendments 148, 149, 158 to 160 and 185. I urge Maggie Chapman not to press amendment 148 and not to move those other amendments.

Amendments 186, 196 and 199, in the name of Maggie Chapman, would, essentially, reintroduce the temporary modifications to rent adjudication that were set out in the Rent Adjudication (Temporary Modifications) (Scotland) Regulations 2024, which expired at the end of March.

Although I recognise the good intent behind the amendments, and the desire to protect tenants from unreasonable in-tenancy rent increases, I cannot support them.

The temporary modifications were developed specifically to support the transition away from the emergency rent cap, which was introduced under the Cost of Living (Tenant Protection) (Scotland) Act 2022. Those temporary changes were part of that transition and were aimed at preventing a return to market rents in a single step where a tenant sought a review. They were not designed—indeed, they would not have been able—to operate until rent control becomes operational.

Maggie Chapman: The cabinet secretary said that the measures were not designed to be transitional, so why was the committee told that they were, and that having a gap between the measures and RCAs coming into force would be extreme and problematic?

Shirley-Anne Somerville: I appreciate that Maggie Chapman is frustrated by the gap, but I go back to the point that I made about the arrangements being transitional. It was important that we supported people through the transition out of the rent cap, but that measure was intended to be temporary and exercisable only on or in anticipation of the expiry of the rent cap measure in the Cost of Living (Tenant Protection) (Scotland) Act 2022, and, through regulations that were approved by Parliament, they could apply for a 12-month period. Therefore, I go back to the fact that they were not designed to be a bridging mechanism to longer-term rent controls.

The existing mechanism for adjudicating rent increases under the Private Housing (Tenancies) (Scotland) Act 2016, which is based on open market rent, will continue to operate as intended, protecting tenants from unreasonable rent increases.

I cannot support amendments 186, 196 and 199 and urge Maggie Chapman not to move them. If they are moved, I urge members not to support them.

Amendments 424 to 426, in the name of Maggie Chapman, would provide for the introduction of special rent control areas. In those areas, a rent

cap could be set, for up to one year, below the level of the rent cap that would apply under my amendment 332. Maggie Chapman's amendments would enable the rent cap in a special rent control area to be set at 0 per cent, or even a negative figure, requiring landlords to reduce rents.

Although I recognise that Maggie Chapman has concerns with the fixed rent cap being proposed in my amendment 332, I consider that it is necessary to provide clarity for landlords, tenants and investors on the impact of rent control in those areas where it will apply. The amendments would remove that clarity and would reintroduce the uncertainty that landlords and investors have called on the Scottish Government to address.

For those reasons, I urge Maggie Chapman not to move amendments 424 to 426. If they are moved, I encourage members not to vote for them.

The Deputy Convener: I invite Maggie Chapman to wind up and to press or withdraw amendment 148.

Maggie Chapman: I acknowledge that the national rent cap does not take into account geographical variation, but that is the point—it is a national system that is designed for a situation in which there are external pressures that are extraordinary.

I appreciate what the cabinet secretary said about the powers being broad and that local authorities will have interim assessment powers within the existing framework, but there might well be instances when we need to act very quickly. I believe that having that power would give some comfort to renters who do not necessarily have the leeway to cope with external shocks—that is why we introduced the emergency provisions a few years ago. The amendments would give ministers the power to do that again, but they do not require them to use that power.

I take issue with what the cabinet secretary said about the protections that expired at the end of March not being intended as a bridging mechanism. The Housing (Scotland) Bill was supposed to be much further along by this point in the parliamentary session and we had expected rent controls to be in place by now, so the protections were bridging mechanisms. The fact that no impact assessment was carried out means that the Scottish Government has no idea what the negative impact of the loss of those protections will be on renters.

Finally, the designation of special rent control areas is a temporary measure that would deal with hyperlocal areas. However, I appreciate what the cabinet secretary has said and giving those powers perhaps goes too far. I wonder whether there is scope for conversation on and an opportunity for us to consider hyperlocal issues in

areas that a local authority has already designated as rent control areas. I would appreciate an intervention from the cabinet secretary on that point.

10:15

Shirley-Anne Somerville: I absolutely see where Maggie Chapman is coming from. I think that we will come back to the issue when discussing other parts of the bill. This is about trying to ensure that we make the bill as nuanced as possible. The Government is determined to provide clarity to tenants, landlords and investors on many aspects, so I would be happy to discuss the issue with Maggie Chapman in the run-up to stage 3. However, in all those discussions, my underlying principle will be our need to provide clarity to investors. I would be hugely reluctant to do anything that would detract from that clarity, which the Government is seeking to bring through its stage 2 amendments.

Maggie Chapman: I thank the cabinet secretary for that.

I press amendment 148.

The Deputy Convener: The question is, that amendment 148 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Slater, Lorna (Lothian) (Green)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 148 disagreed to.

The Deputy Convener: I call amendment 282, in the name of the minister, already debated with amendment 281. I remind members that if amendment 282 is agreed to, I cannot call amendments 94 to 97 due to pre-emption.

Amendment 282 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 149 moved—[Maggie Chapman].

The Deputy Convener: The question is, that amendment 149 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Slater, Lorna (Lothian) (Green)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 149 disagreed to.

Amendment 283 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 283 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

Against

Gallacher, Meghan (Central Scotland) (Con)
Slater, Lorna (Lothian) (Green)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 283 agreed to.

Amendment 207 moved—[Rachael Hamilton].

The Deputy Convener: The question is, that amendment 207 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
Slater, Lorna (Lothian) (Green)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

The Deputy Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 207 agreed to.

Amendment 98 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 98 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 98 disagreed to.

Section 9, as amended, agreed to.

Section 10—Designation of rent control area: consultation

Amendment 284 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 284 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

Against

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 284 agreed to.

Amendment 285 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 285 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

Against

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 285 agreed to.

The Deputy Convener: I remind members that if amendment 286 is agreed to, I cannot call amendment 55, which was debated in the group on student tenancies and accommodation, due to pre-emption.

Amendment 286 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 99 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 99 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 99 disagreed to.

Section 10, as amended, agreed to.

Section 11—Duty to keep rent control area under review

Amendments 287 and 288 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 289 moved—[Shirley-Anne Somerville].

Amendment 289A moved—[Maggie Chapman].

The Deputy Convener: The question is, that amendment 289A be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
Slater, Lorna (Lothian) (Green)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 289A disagreed to.

Amendment 289 agreed to.

Amendment 100 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 100 disagreed to.

Section 11, as amended, agreed to.

Section 12—Variation of rent controls in existing rent control area: consultation

Amendment 290 moved—[Shirley-Anne Somerville].

Amendment 290A moved—[Maggie Chapman].

The Deputy Convener: The question is, that amendment 290A be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Griffin, Mark (Central Scotland) (Lab)
Slater, Lorna (Lothian) (Green)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 290A disagreed to.

Amendment 290 agreed to.

Amendments 291 and 292 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 293 moved—[Shirley-Anne Somerville].

Amendment 293A moved—[Maggie Chapman].

10:30

The Deputy Convener: The question is, that amendment 293A be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Slater, Lorna (Lothian) (Green)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 293A disagreed to.

Amendment 293 agreed to.

Amendment 101 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 101 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 101 disagreed to.

Section 12, as amended, agreed to.

Section 13—Properties exempt from rent control area restrictions

The Deputy Convener: Amendment 102, in the name of Meghan Gallacher, is grouped with amendments 150, 208 to 210, 103 to 105, 134, 151, 152, 211, 411, 212, 566, 416, 106, 329, 329A to 329F, 329J, 329K, 329M, 329G to 329I, 329L, 330 and 331.

Meghan Gallacher: I lodged amendment 102 to strongly show what my party believes should be contained in the provisions on exempt properties, in case my amendments to remove part 1 of the bill should not be agreed to. Of course, I lodged the amendment before the consultation on exemptions on rent controls went live.

The bill provides that

“The Scottish Ministers may by regulations define, for the purpose of section 9(3), what is an exempt property.”

Amendment 102 would alter the provision from “may” to “must”. I suspect that the cabinet secretary will ask members to vote down the amendment if pressed. However, I still have concerns about the process of exemptions, and moving the amendment provides me with the opportunity to put them on record.

Not including exemptions in primary legislation and setting them out in secondary legislation means that there will be fewer opportunities for MSPs to debate and expand the list of agreed exemptions following the conclusion of the exemptions consultation. At best, the housing sector, as it stands, will need to rely on the cabinet secretary deciding what exemptions are preferable, which means that some important options could be left out—although I hope not. That is why several colleagues have lodged amendments to this section of the bill. I do not believe that the provisions in the bill are the best way to move forward. I would have preferred to have seen exemptions in primary legislation, which would have given a stronger signal to the sector that protections from rent controls will be in place. Secondary legislation is also easier to amend.

I seek reassurance from the cabinet secretary that the issue of exemptions will be taken seriously and that all responses from stakeholders will be considered when the Scottish Government begins to scrutinise consultation findings. The sector needs clarity. I hope that the cabinet secretary understands how important this section is to the future of the housing sector and to securing future investment to build more homes.

10:45

The issues that we debated last week are also important. As Graham Simpson outlined, following last week’s committee meeting, I had the opportunity to meet the cabinet secretary and to have initial discussions on how we move forward with the legislation, particularly with regard to exemptions and other issues that were debated last week. We need to reflect on last week’s meeting as we move forward. The bill is complex, and it is important that the Government outlines its position on the issues that members raise at stage 2.

I go back to the exemption element of the bill. My party does not believe that rent controls are the answer. We need to ensure that all groups that will be impacted by the legislation are taken into consideration, and that includes those who provide homes in the private rented sector.

Amendment 103 would ensure that social landlords or a subsidiary of registered social landlords are exempt from rent controls. I think that this amendment is a no-brainer, and I hope that social landlords will be at the top of the Scottish Government’s list for exemptions. Social landlords provide affordable housing to many people across the country, and, in the case of councils, rents are set by councillors. The rents accrued are usually placed into a budget that is invested in carrying out repairs, maintenance and aesthetic work relating to exterior and interior design, which benefits tenants as well as the reputation of councils.

To expand on the point that I have raised previously, my concern about exemptions is that, in many cases, the housing sector will need to wait until the consultation has concluded, the findings have been analysed and the results have been brought forward in a plan. That could further stifle development, which is not what we want to see. It is imperative that members think about that today when looking at exemptions and consider whether they believe that, out of the list of amendments before us, some of them have merit and could or should be included in the bill.

Amendment 106 complements amendment 103 by defining what registered social landlords and their subsidiaries are. Amendment 104 relates to an exemption from rent controls for properties with cladding or reinforced autoclaved aerated concrete. Again, this is a self-explanatory amendment, which complements my colleague Graham Simpson’s amendment, whereby landlords who incur unintended and considerable costs to remediate buildings with cladding or RAAC should be exempt from rent controls. I lodged amendment 104 due to concerns that we have raised and had debates about in the chamber and in the committee. We still do not know how many properties are affected by those materials, and landlords will have to foot the bill to ensure that the properties are safe for tenants to use. The only way that some landlords would be able to recoup some of that money would be by raising rents at a sensible rate. Therefore, through this amendment, I urge the Scottish Government to consider such properties when looking at exemptions. I am certain that that aspect will form part of the consultation responses that the Government will receive.

Amendment 105 relates to the situation where landlords are carrying out works to make a property energy performance certificate compliant. Issues that relate to that have been discussed in the committee. Although we have yet to see what the EPC consultation will conclude, landlords are considering how best to improve their properties. Again, that work comes at a substantial cost, especially with regard to decarbonising homes and

particularly in rural areas. Therefore, I hope that the cabinet secretary is sympathetic to my amendment, which encourages landlords to act responsibly for the benefit of achieving net zero but that also demonstrates an understanding of the costs that are associated with that work. There is a consultation under way to review the EPC system. Although that is welcome, it comes at a conflicting time, given that we are considering the Housing (Scotland) Bill. It might have been better to have concluded the EPC consultation first, because that could form part of an exemption in this legislation.

Amendment 134 would create an exemption from rent controls for smaller landlords—for example, a landlord who has no more than two other let properties. The reason for the amendment is to ensure that smaller landlords do not continue to leave the market because of rent controls. This is a measured approach, and I hope to see it form part of the work that will follow the consultation.

Amendment 329K is another important exemption that the Scottish Government needs to consider. Charities such as Right There are working to prevent people from becoming homeless and separated from loved ones. It works alongside the private rented sector to secure homes and to prevent people from becoming homeless, and its end goal is to ensure that every person has somewhere safe to call home. As we have heard from other members previously, landlords are often demonised, but this is another exceptional example of work that they undertake to provide people with a home but also to work alongside our incredible charities who serve to help and support people who need that. I hope that the feedback that is received in the consultation includes that particular sector, as I would not want it to be left out of the list of exemptions.

On amendment 109—I will double check that I have not got ahead of myself. Yes, I went too far ahead. I will leave my remarks there, as I believe that I will come back in to talk to Edward Mountain's amendments.

I move amendment 102.

The Deputy Convener: I was just about to ask whether you were going to speak to Edward Mountain's amendment 150. If that is the case, please speak to that amendment and the other amendments in the group.

Meghan Gallacher: I turn to my colleague Edward Mountain's amendments. Amendment 150 relates to Scottish ministers providing definitions of which properties are exempt within six months of section 13 coming into force. We need to have a measured approach that makes sure that exemptions for properties are brought forward

within a suitable timeframe while also providing clarity to the sector.

Amendment 151, which has also been lodged by my colleague, would provide an important exemption in that it would exempt military accommodation from rent controls. Again, this exemption is a no-brainer and I hope that it will be in the feedback from the consultation.

Amendment 152 would exempt any property

"for which the tenant is an employee of the landlord."

That will relate to many farms and rural dwellings, which should be taken into consideration. We need to make sure that family farms—or any farms—are thriving enterprises, so we need to consider exemptions in this area as well.

Rachael Hamilton: I agree with Meghan Gallacher that we would like to see exemptions in primary legislation rather than wait for the consultation, which has been worrying the sector.

Amendment 208 would allow ministers to exempt properties from rent controls if significant upgrades, such as energy efficiency improvements, have been made. A crucial point to recognise is that a property before improvements is fundamentally different from the same property after upgrades. That transformation naturally warrants a revised rental valuation.

Why does that matter? It is because housing providers repeatedly told the committee that rent controls risk discouraging investment in property upgrades, as they fear that they will not be able to recover the costs. This exemption would solve two problems. First, it would give landlords a fair route to adjust rents when they have generally improved the property. Secondly, it would ensure that tenants will benefit from better, more energy-efficient homes.

Most upgrades happen between tenancies, and allowing reasonable rent adjustments during that window would create a clear incentive to invest in quality improvements. Rent controls should not be a barrier to better housing, and this exemption would turn them into a catalyst for upgrades to Scotland's housing stock.

Amendment 209 would allow ministers to exempt properties from rent controls if they are let at rates comparable to social or local authority housing. Housing providers that offer rents in line with secure tenancies should be able to adjust them in step with local authority or social housing increases. Positive actions by landlords should be encouraged. Those rent levels are already well below market rates and in most cases any increases would still fall within rent control limits.

The exemption would act as a safety net, protecting providers that offer below-market rents

from unexpected cost spikes, especially those that affect the wider social housing sector. It would reassure landlords who choose to charge low rents that they will not be penalised for doing so through rent control.

Amendment 210 would build on amendment 209 to expand the scope of rent control exemptions to include properties for which rent is already restricted for other reasons. It would cover cases like reduced rent agreements during periods of financial hardship—for example, the pandemic—or housing provided to a former employee at a peppercorn rate. Those are situations in which rent has intentionally been kept below market value for valid and often temporary reasons. The amendment would give housing providers a fair opportunity to reset rents to market levels between tenancies, ensuring long-term sustainability without penalising past goodwill. The amendment would also ensure that providers that have acted responsibly and compassionately are not locked into artificially low rents indefinitely.

Amendment 211 directly addresses a key concern that has been raised by stakeholders, which is that rent control risks driving out investment. We have heard a lot about that today, especially with regard to new housing developments, from large-scale build-to-rent projects to small rural developments that are specifically for the local rental market. The message from the sector was, again, clear: without confidence in a fair return, developers will walk away—the build-to-rent market has illustrated that in recent years as investment has been redirected away from Scotland. Amendment 211 provides that confidence.

Scotland's housing crisis is driven by a shortage of supply—not by affordability. Amendment 211 recognises that reality and would ensure that the bill supports, rather than stifles, the delivery of new rental homes. In practice, it would give investors and developers a green light to build in the knowledge that their ability to recover costs and earn a return will not be undermined by future rent control measures. The result would be more homes, more choice, and a stronger rental market—exactly what Scotland needs.

Amendment 212 is consequential on amendment 209.

Amendment 566 is consequential on amendment 211. It clarifies what is meant by “build-to-rent property” and outlines that the exemption would apply for the first two years after the development of the property has been completed. Following last week's committee proceedings, I updated the amendment to include within its definition of build-to-rent property rural properties that are built for rent under a relevant tenancy. That ensures that rural developments

that are built exclusively for rent are explicitly encompassed by the definition. Such rural developments are usually built out of necessity and are rarely economically viable. Nevertheless, they are critical to boost the supply of rental housing across rural Scotland.

Mark Griffin (Central Scotland) (Lab): Our absolute priority should be to end the housing emergency by increasing supply across all tenures. Therefore, the debate and discussion around exemptions is particularly crucial, and anything that we do in the bill should be with the aim of not impacting on the supply of new houses. In including mid-market rental homes, there is a risk that efforts to regulate rent prices will have the effect of cutting off affordable housing supply and exacerbating the causes of the housing emergency.

I am satisfied that the Scottish Housing Regulator monitors and regulates rent in mid-market rental properties and their subsidiaries to ensure affordability and fairness, so I do not believe that subjecting them to the rent control measures under the bill will do anything to further deal with the symptoms of the housing emergency. Deterring investors could well exacerbate the cause. I am also satisfied that, through the lengthy rounds of consultation and evidence, and through the housing minister's desire to meet and talk to housing providers, the organisations have successfully argued the point about the exemption of mid-market rent.

When we discussed the emergency legislation, there was acknowledgement that mid-market rent should not be caught up with that and that the issue would be addressed when it came to the permanent rent controls. Social and affordable housing, including mid-market rental properties and their subsidiaries, should not be caught by rent control provisions. Similarly, where Government grants require rents to be aligned with local affordable rents as overseen by the Scottish Housing Regulator, current affordability controls are more than adequate, so those types of properties should be exempt from additional rent control measures. That is what I have to say on amendment 411 on mid-market rent.

On amendment 416, which is in my name, the Government has already, in effect, conceded that the types of properties in the amendment should be subject to exemptions. In its consultation, it proposes exemptions for build-to-rent property, including single-family rental and mid-market rent schemes, alongside sensible carve-outs for properties that are let below market value or that are significantly upgraded or improved. The consultation document recognises that investment will not flow into a market that is limited by rent controls. Including build-to-rent properties in rent

control measures is likely to exacerbate the symptoms of the housing emergency, rather than increasing the much-needed supply of houses across all tenures. That can be seen by the sharp decline in the number of properties, which is evident in figures that have been released today.

The arguments have already been fully rehearsed. There is no need to continue with the uncertainty surrounding this aspect of the bill. My amendment 416 seeks to define build-to-rent properties and to ensure that the sector is protected in as many tenures as possible. I appreciate that the Government is not opposed to the principle of the amendments but has expressed concerns that they could give rise to a legal challenge and that the issues are best addressed through the consultation process. I am happy not to move my amendments, with the expectation that the sector is provided with clarity on the issues before the final stage 3 vote.

Shirley-Anne Somerville: This group of amendments relates to the provisions in the bill that create a power for Scottish ministers to exempt certain properties from rent control by regulations. Although I cannot support the amendments in the group that have been lodged by other members, I agree with the importance of ensuring that full consideration is given to the circumstances in which it might be appropriate to make exemptions. That is why we published a consultation on the use of the powers to ensure that the impact on landlords and tenants of any exemption that might be provided for in regulations is fully understood.

I repeat what I said earlier: I am completely convinced of the need to use powers in the bill to exempt, where appropriate, certain categories of property from rent control and to allow rent increases that are above the level of the proposed rent cap in certain circumstances. Members have already raised many compelling arguments for that. However, that must be supported by consultation that ensures that the impact of such measures is fully understood and that our actions do not create any unintended consequences, taking into account the views of everyone who has an interest.

With reference to amendments in the group, our consultation asks specific questions about possible exemptions for mid-market rent and build-to-rent properties. Alongside that, there are opportunities for landlords who do not see their circumstances reflected in the specific questions to give us their views, and for tenants to give us their opinions on how the proposals will impact on them. We will consider all those points as they are proposed in the consultation.

I turn to amendments 329, 330 and 331 in the name of Paul McLennan. Amendments 329 and

331 will have the effect of moving the power to define an exempt property in section 13 of the bill so that it appears in other legislation alongside the rent controls to which it relates. That flows from previously debated amendments that would replace the power to set a rent cap in section 9 of the bill with the provision for a rent cap in the other legislation. The relocation of the power would make obsolete the existing power to define what is an exempt property in section 13. Therefore, I support Meghan Gallacher's amendment 107, which was debated earlier, because it would remove the resulting obsolete section of the bill.

Amendment 330 will make a technical correction to the bill to change part of the title for the new part 4A of the 2016 act from "excluded" to "exempt".

I turn to other amendments in the group. Meghan Gallacher's amendment 102, Edward Mountain's amendment 150 and Willie Rennie's amendment 329A would create a duty for Scottish ministers to define an exempt property by affirmative regulations. However, those regulations cannot be made without the approval of the Scottish Parliament, meaning that compliance with the duty would not be entirely in the gift of Scottish ministers. I agree that it is essential that exemptions are provided for, but imposing that as a duty on Scottish ministers is not the right way to progress that. Accordingly, I urge members not to press or move amendments 102, 150 and 329A but, if they do so, I urge members of the committee not to support the amendments.

I turn to Meghan Gallacher's amendments 103, 105 and 106, Rachael Hamilton's amendments 208 to 212 and 566, Mark Griffin's amendments 411 and 416 and Willie Rennie's amendments 329B to 329D and 329G to 329I. Collectively, the amendments set out potential exemptions from rent control in the bill, covering properties that are let by subsidiaries of landlords, including those delivering mid-market rental properties, build-to-rent properties, properties that are subject to improvements, including energy efficiency, and properties that have been offered for rent at below-market rates. Although I absolutely understand the reasons behind the amendments, I do not think that such properties should be included as exemptions in the bill. The reason for that approach is that exemptions must be fully informed by consultation with stakeholders so that they are framed in a way that ensures that they disapply rent control in the appropriate circumstances and do not capture circumstances in which rent control should apply.

Rachael Hamilton: I understand what the cabinet secretary is saying, but, with respect, the lodged amendments have been agreed in consultation with quite a number of those who are

concerned that the exemptions should be brought forward without having to have a consultation.

Shirley-Anne Somerville: I absolutely hear Rachael Hamilton's point, but I point to the nuance in her saying that most people—or whatever the exact phrase was that she used—would agree with the amendments. As I said earlier, I am very minded to take on board the points that have been raised with me. That is exactly why the consultation is phrased in the way that it is and why it has been brought forward. We have taken criticism from others for not having the consultation at the end of the bill and having it now, but that is because I want to provide clarity. If there was a way to do it more quickly, I assure Rachael Hamilton that I would do it, because, like her, I want to get to the point of providing clarity. However, I believe that that has to happen through consultation.

Amendment 104, in the name of Meghan Gallacher, would require Scottish ministers to exempt from rent control let properties for the duration that works are being undertaken by the landlord to eliminate or mitigate the risks to human life connected with any building materials, cladding or RAAC. The amendment would allow unrestricted rent increases in rent control areas for properties in which there were risks to the tenant's life, whereas properties that did not contain such risks would be subject to the rent cap. Accordingly, I cannot support the amendment, but I understand and expect those discussions to be in the consultation and look forward to reading views in response to the consultation on that area.

Amendment 134, in the name of Meghan Gallacher, would require Scottish ministers to exempt from rent control properties that are let by landlords who have three or fewer rented properties. Although we are committed to ensuring that we deliver a system of rent control that values the contributions that private landlords make, that must be balanced against the purpose of rent control in stabilising rents. Amendment 134 would exempt a significant amount of landlords—I understand that it would be around 89 per cent of landlords at this time—so I cannot support it.

Amendment 151, in the name of Edward Mountain, seeks to exempt from rent control all properties that are let by the Secretary of State for Defence. Amendment 151 is not required, because a tenancy in which the landlord is the Secretary of State for Defence cannot be a private residential tenancy and, therefore, will not be covered by rent control.

Amendment 152, in the name of Edward Mountain, seeks to amend section 13 of the bill to require Scottish ministers to exempt from rent control by regulations properties that are let under relevant tenancies to an employee of the landlord.

I am uncertain as to the rationale for not extending rent control to tenants on the basis of the tenancy being offered by an employer, as it cannot be presumed that such tenancies are not offered at or near to market rent. As such, I cannot support the amendment.

Amendments 329E and 329F, in the name of Maggie Chapman, would oblige Scottish ministers to exempt property only when the charge for that property is at or below the local housing allowance rate or the social housing rate for that area. That would remove the discretion of Scottish ministers to exempt any other category of property where the rent was charged above those levels, which is presumably not the intention of the amendments. The amendments do not clarify what is meant by local housing allowance rate or social housing rate. For those reasons, I cannot support the amendments.

Maggie Chapman: Local housing allowance rate is determined and well understood. In fact, it is published on the Scottish Government's website, so I am a little unsure as to why the cabinet secretary says that she does not understand what is meant by local housing allowance rate. It is published, and rent officers provide information on the 30th percentile of local rented accommodation. I am struggling to understand her point.

11:00

Shirley-Anne Somerville: The concern is that it is not a legal definition, so it is subject to change and to understanding, for example, when changes are made by the United Kingdom Government. Therefore, it would not be sensible to base our legislation on it.

Amendment 329J, in the name of Maggie Chapman, would put restrictions on the types of property that can be excluded from rent control, to prevent tenancies in which the landlord is a registered social landlord or a subsidiary of such a landlord from being exempt from rent control. Tenancies in which the landlord is a registered social landlord cannot be private residential tenancies, so they would not be caught by rent control in any event. The amendment would also prevent certain mid-market rent tenancies from being exempted. I can see no reason for such a restriction on the powers to exempt properties from rent control and, therefore, cannot support the amendment.

Amendments 329K and 329L, in the name of Meghan Gallacher, provide that there must be an exemption from rent control for landlords who work with charities whose purpose includes "the prevention of homelessness". The exemption is widely framed, as it does not specify the nature or

duration of such work. I cannot support that restriction on the exemption powers. However, as Meghan Gallacher mentioned in her opening remarks, I am sure that the issue will come out in the consultation and that the Government will have a view on it at that time.

Amendment 329M, in the name of Maggie Chapman, would place a restriction on the types of property that can be excluded from rent control, to prevent tenancies in build-to-rent properties from being exempt from rent control. An exemption for build-to-rent properties is being considered in the consultation, so I can see no reason for creating such a restriction on the powers to exempt properties from rent control and, therefore, cannot support the amendment.

I recognise that some stakeholders and members would wish for exemptions from rent control to be set out in primary legislation for circumstances in which landlords might be able to increase rent above the level of the rent cap. Others might have concerns about exemptions for specific types of properties and are keen for those not to be included. However, it is essential that decisions in relation to the matter are formed by full and open consultation, to allow all those people who will be affected to have their views considered. That will ensure that the impacts of any decision on the use of those powers are fully understood and that those exemptions and other safeguards are framed in a way that is clear and proportionate.

Bringing the consultation forward to now will provide the clarity that is being sought and will support us to introduce secondary legislation at the earliest opportunity, following royal assent to the bill. I am clear that that is the correct approach and reassure members that engagement will continue while the consultation is under way. I invite members who seek exemptions, or who want specific circumstances in which rents can be increased above the cap to be defined, to continue to engage with us during the consultation and as we develop any future regulations. I commit to discussing with members our views on what would be included in the regulations before we publish them. I hope that that reassures Meghan Gallacher about her point on the requirement for members to discuss those issues with the Government before regulations come before a committee.

During engagement with stakeholders, I have heard calls for exemption from rent control for properties that are let by social landlords for mid-market rent and build-to-rent properties. I acknowledge those calls and confirm that both those categories are included as part of the consultation that we published on 23 April. There

is also space in the consultation to cover any other areas in which there should be an exemption.

Other circumstances where it might be appropriate for a landlord to increase rent above the level of the cap include when the landlord has made improvements to the property or when the landlord has consistently charged a rent that is below market rent. Those circumstances are also being considered.

On that basis, I urge Meghan Gallacher, Edward Mountain, Rachael Hamilton, Mark Griffin, Willie Rennie and Maggie Chapman not to press or move their amendments. If they do so, I urge members not to support the amendments in their names, for the reasons that I have set out, and I ask the committee to support the amendment in the name of Paul McLennan.

Willie Rennie: We are witnessing the effects of the Scottish Government's welcome change of direction on housing policy over a period of time. It is an example of the need to understand how, when we consider only one side of a debate and do not have a comprehensive understanding of the effect of any proposals, there can be negative impacts, as we have seen with the massive decline in the build-to-rent market, which is down by something like 26 per cent over the past year.

Too many of my constituents, and many people across the country, are desperate for a house. We cannot simply consider one side of the argument. We need to consider investment and demand, but also supply. We are broadly getting to that position now. The reason why there are lots of proposals on exemptions—including mine—is that we want the Government to confirm that it understands that, and to ensure that there is a complete change of direction. I have to say that the confidence was not there before, but we are moving in that direction now, which I am pleased about.

I would prefer my amendments to become part of the bill to give clarity and confidence to investors, but I understand the process that the minister set out on a consultation on exemptions. However, for the sake of it, I will go through what I am proposing, which I hope is reflected in the conclusion of the consultation.

I am looking for specific exemptions for mid-market rent and build-to-rent properties, which is what the Government has indicated in its consultation paper. In particular, I want the proposals in amendments 329B and 329G, which ask that registered social landlords be excluded, to be considered. Mark Griffin is right to say that there was a discussion on mid-market rent when we discussed the emergency measures, so this is not a new debate. At that time, we were unable to get that nailed down, which knocked the

confidence in the RSL sector, which, of all the sectors, is the one that we should be encouraging to build more. I would like it to be excluded altogether from the rent control measures.

Amendments 329D and 329I try to give a definition of mid-market rent for landlords who are providing accommodation. That would be set at around half the amount of open market rent.

The build-to-rent proposals in amendments 329C and 329H state that build-to-rent properties should be defined as those that are “purpose built”, are in “institutional ownership”, are “professionally managed” and are “self-contained”. Those phrases are included in the Government’s consultation, but I would also like to see them in the bill.

I suspect that the cabinet secretary will not give us any response to those proposals, but I hope that she hears the strength of views that have been expressed by many members.

Shirley-Anne Somerville: I hope that Willie Rennie heard me say in my remarks that I take the issue very seriously.

The points that he has raised are exceptionally important and have been made directly to me by the sector, loud and clear. I am keen to pick them up at speed in the consultation to provide clarity, just as I hope that I did last Thursday during portfolio questions, when I was absolutely clear that the Scottish Government has no intention of doing anything in the bill to bring in the PBSA sector. Indeed, if anything was done on that basis in last week’s committee meeting, we would work with members to seek to amend that at stage 3.

Willie Rennie: What you have said about the purpose built student accommodation and the wider approach is welcome. We have learned that we cannot tackle the housing emergency on our own, just using the public sector; we need the private sector and private investors to be included. We are not talking only about specific proposals, but about the rhetoric that we use. Using language such as “exploitative” in relation to landlords in a generalised way does not help to provide confidence to those who are seeking to invest. On that front, I have seen a change of direction from the Government, and we now have a much more inclusive approach to tackling the housing emergency.

The Deputy Convener: I invite Maggie Chapman to speak to amendment 329E and to other amendments in the group.

Maggie Chapman: Greens oppose exemptions to rent control measures. To work for renters and landlords, the system needs to be simple and transparent. We broadly have that with the system as established. Adding various exemptions—such

as if the landlord is an employer of the tenant, is a military landlord, is a social landlord, if the property is buy-to-let—would make the system excessively complicated. Many renters are already not familiar with their rights. Bringing in a system of rent control but taking it away again for significant numbers of renters will only add to that problem.

The cabinet secretary has spoken a lot this morning about clarity for landlords and for investors. What about clarity for renters? Having so many different exemptions would not provide clarity for tenants. Therefore, I ask committee members not to support most of the amendments in this group but to support my amendments 329E, 329F, 329J and 329M. Amendments 329E and 329F have been worked up in partnership with Living Rent. If we absolutely must have exemptions, those amendments would limit them to properties that charge local housing allowance and social rates, so they meet the intention that the cabinet secretary outlined.

Amendment 329J would disallow exemptions for mid-market rents. Such an exemption would blow a significant hole in rent controls and mean that many lower-income households would not be protected; they would be priced out of much of the rental market. Amendment 329M would disallow exemptions for build-to-rent properties, to address the same situation that amendment 329J addresses for mid-market rents. An exemption for build-to-rent properties would mean that the vast majority of new-build build-to-rent properties could not be controlled under the legislation, which runs counter to the existential point of the bill.

I urge colleagues to consider very carefully the questions about exemptions. Exempting mid-market rents and build-to-rent properties could drive lower-income households out of urban centres and city centres. It could stoke gentrification. I ask members to consider what kinds of city centres we want to create—city centres for everyone or city centres that are only for the richer people who can afford to live in areas where rents are not controlled?

I repeat that, broadly speaking, the Scottish Greens do not support exemptions to rent controls. If we must have exemptions, they should be limited to those properties that are charging above the local housing allowance rates.

The Deputy Convener: As there are no further contributions, I ask Meghan Gallacher to wind up and to press or withdraw amendment 102.

Meghan Gallacher: As was highlighted—I think by Mark Griffin—this is a really important section of the bill. The conversation has been helpful, including the exchange between Willie Rennie and the cabinet secretary and the points that other members have made in rightly raising concerns

about exemptions not being in the bill itself. I still believe that certain exemptions should be in the bill and that there should be further consultation to allow for other exemptions to be considered thereafter.

However, I understand that, given the position and the direction of travel of the Government and the fact that the consultation is live, we should wait to see what responses are received to the consultation. I am sure that the sector will feed into the Scottish Government what exemptions it wants to see in secondary legislation. I hope that the Government takes notice with regard to exemptions and the sector's concerns about ensuring that it is protected in order that we do not stifle investment, so that we can get on with building more homes and tackling the housing emergency. Tackling the housing emergency is what we should be debating and what I would expect a housing bill to be about. However, I feel as though we are unpicking bits of that debate because of the discussions that we are having in the committee about the amendments that members have lodged.

Rachael Hamilton: There is some dubiety about when the consultation will be concluded and published and when we will be able to see that; the cabinet secretary said that herself. I am thinking about what the situation will be if we do not move some of the amendments that we have lodged on exemptions. I know that we do not have the support of the Greens, but we may have other support. The concern is that, if we do not see the shape of the published consultation, we will not be able to bring forward the amendments at stage 3. That worries me slightly, because it is such an important aspect of the bill.

Meghan Gallacher: I completely understand—

Shirley-Anne Somerville: May I just come in on that point?

Meghan Gallacher: Oh—an intervention on an intervention. Of course, cabinet secretary.

Shirley-Anne Somerville: I just wanted to make sure that I could get in before Meghan Gallacher finishes winding up.

I am unable to find in my weighty folder the specific date on which the consultation closes, but I think that it is in July—

Graham Simpson: It is 18 July.

Shirley-Anne Somerville: Thank you for your assistance, Mr Simpson. I am very keen to move expeditiously with the discussions in short order afterwards.

11:15

Meghan Gallacher: That is the risk in relation to how the bill has been developed and positioned alongside the consultation. I thank the cabinet secretary for moving the consultation forward, but I still question why the consultation was not conducted prior to stage 1 of the bill. That would have been a far better place for it to be, as that would have allowed us to know exactly what the sector is looking for, and it would then have been up to members to debate what could or could not be placed in primary legislation in the process of stage 2 and stage 3.

That is not where we are, and we need to deal with what is in front of us. It is imperative for all members to consider whether they want to move their amendments at this stage or whether they want to bring the amendments back at stage 3, should that be their intention. It is important to have these debates not just in the committee but also in the chamber, to make sure that we stand up and advocate for the sector that the bill will impact the most. It is imperative for members to come to that conclusion and to make sure that we raise the concerns that have been brought to us.

As Rachael Hamilton highlighted, a lot of the amendments in this group have been drafted alongside stakeholders, including representatives of the private, voluntary and independent sector and others. We need to bring this to a conclusion and get clarity from the cabinet secretary on what the Scottish Government expects to see in the bill.

Shirley-Anne Somerville: On the basis that Meghan Gallacher and I are keen to ensure that there is clarity on a number of issues in the bill, will she join me in recognising that the Government and—I hope—her party do not want to include purpose-built student accommodation in the bill? If anything has caused that to happen, I hope that members will be able to work together to rectify that at stage 3, if required.

Meghan Gallacher: Yes, I will work alongside the cabinet secretary, Willie Rennie and other members in relation to that point.

It is important that, as we move forward, we make sure that we listen to concerns from the sector and, in particular, from investors. We do not want to stifle the market. Since stage 1, the position of the Scottish Conservatives has principally been to oppose rent controls but, should they be introduced, to make sure that we take an appropriate and measured approach. That is the best way of moving forward. I welcome the tone of the debate today and the exchanges from all members.

Amendment 102, by agreement, withdrawn.

Amendment 150 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 150 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 150 disagreed to.

Amendments 208 to 210, 103 to 105, 134 and 151 not moved.

Amendment 152 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 152 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 152 disagreed to.

Amendments 211, 411, 212, 566 and 416 not moved.

Amendment 106 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 106 disagreed to.

The Deputy Convener: Amendment 107, in the name of Meghan Gallacher, has already been debated with amendment 85.

Meghan Gallacher: Given the discussions that we have had, I will move the amendment.

Amendment 107 moved—[Meghan Gallacher]—and agreed to.

Section 14—Properties subject to modified rent control area restrictions

Amendment 294 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 294 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 294 agreed to.

Amendment 56 not moved.

Amendments 295 to 300 moved—[Shirley-Anne Somerville].

The Deputy Convener: Does any member object to a single question being put on amendments 295 to 300?

Lorna Slater: I object.

The Deputy Convener: Okay. The question is, that amendment 295 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 295 agreed to.

The Deputy Convener: The question is, that amendment 296 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

Against

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 296 agreed to.

The Deputy Convener: The question is, that amendment 297 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

Against

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 297 agreed to.

The Deputy Convener: The question is, that amendment 298 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Slater, Lorna (Lothian) (Green)

Against

Gallacher, Meghan (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

The Deputy Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 298 agreed to.

The Deputy Convener: The question is, that amendment 299 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 299 agreed to.

Amendment 300 agreed to.

Amendment 57 not moved.

Amendment 301 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 301 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 301 agreed to.

Amendment 302 moved—[Shirley-Anne Somerville].

The Deputy Convener: The question is, that amendment 302 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Gallacher, Meghan (Central Scotland) (Con)
Griffin, Mark (Central Scotland) (Lab)
MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Slater, Lorna (Lothian) (Green)

The Deputy Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 302 agreed to.

Amendment 108 moved—[Meghan Gallacher].

The Deputy Convener: The question is, that amendment 108 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

For

Gallacher, Meghan (Central Scotland) (Con)

Slater, Lorna (Lothian) (Green)

Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)

Griffin, Mark (Central Scotland) (Lab)

MacGregor, Fulton (Coatbridge and Chryston) (SNP)

Roddick, Emma (Highlands and Islands) (SNP)

The Deputy Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 108 disagreed to.

Section 14, as amended, agreed to.

The Deputy Convener: At this point, we could do with a short suspension to consider how much further we can proceed, given the timings that members have agreed for this part of stage 2. Perhaps we can take another five-minute break.

11:31

Meeting suspended.

11:39

On resuming—

The Deputy Convener: Welcome back.

We have had some discussion about how far we can proceed today. We are content to proceed for the next hour or so, to try to conclude the next group. I thank everyone for their co-operation.

Section 15—Information that may be sought by local authority

The Deputy Convener: Amendment 303, in the name of the minister, is grouped with amendments 3, 448, 4, 5, 304 to 311, 153, 154, 312, 313, 155, 314, 6, 315, 316, 449, 317, 318, 450, 156, 157, 481, 319, 482, 7, 320 to 322, 109, 8, 323, 9, 483, 10 to 14, 237, 15, 484, 324, 324A, 16, 485, 17 to 20, 137, 486, 325, 325A, 326, 328 and 394. I remind members that there are pre-emptions in this group, which are set out in the groupings of amendments.

Shirley-Anne Somerville: I ask for the committee's forbearance, because my speaking

notes for this group are quite long—I apologise in advance for that—as they cover a number of amendments from a number of members. It is important that I try to set out in detail the work that has been done on the amendments and the fact that we are keen to work with members as we move forward.

The measures that are set out in sections 15, 16 and 17 of the bill will provide local authorities with the power to request certain data from landlords where the local authority considers that that could provide it with relevant information in connection with its duties under part 1 of the bill. Those provisions support the local authority to undertake its function of assessing rent conditions in its area.

Having heard the issues that have been raised by stakeholders, we share the view that amendments are required at stage 2 to further strengthen the data collection powers in the bill. I thank all members who have lodged amendments on the issue. We have given them careful consideration, and I look forward to the discussion that we will have.

However, the Government has lodged its own set of alternative amendments, which we think strike the correct balance in allowing for information to be collected in a practical and cost-effective way. In designing those amendments, we have given consideration to the committee's stage 1 report, which noted that

"local data will be vital to determining whether rent control areas are required",

as well as identifying the need for a

"national approach to data collection".

Our set of amendments will give the Scottish ministers powers to collect data from landlords that will facilitate partnership working and data sharing between local authorities and the Scottish Government. That will allow greater flexibility for national and local-level data collection to be delivered in the most practical and cost-effective fashion.

Looking forward, we are committed to working closely with our local authority partners as they put the assessment process into operation. I have listened closely to their concerns about the resource implications of the assessment process and the collection of information, and that has influenced the amendments that we have lodged. Our further engagement will include how the Government can best support the collection of the information that is needed to enable a robust assessment of rent conditions in all 32 local authority areas.

Although we have concerns about the implications of some of the amendments that have been lodged, it is clear that there is consensus

across all parties on the need for robust data. In that spirit, I take the opportunity to invite members who have lodged amendments on data collection to join our planned engagement with local authorities over the coming months, during which we will begin to set out options and plans to put processes for local authority assessments into operation. That will allow members to fully understand the potential impacts that some of the proposed amendments would have on local authorities, with a view to working with our local government partners and the Scottish Government on any further amendments that may be needed ahead of stage 3. My door remains open to members for further discussion on the issue.

I turn to how the Scottish Government sees the partnership approach being put into practice. We already publish statistics on advertised rent levels by broad rental market area. We are also taking steps to supplement that to provide data at local authority level, which will provide a solid starting point for the local authority assessment process and aid our understanding of rent levels. All of that will be underpinned by guidance for local authorities, which we are committed to co-authoring alongside members of our local authority working group on rent control. As well as ensuring that there is a consistent approach across Scotland, that will provide for the local flexibility that we all know will be crucial.

Further Government amendments in the group include amendments that will expand the list of information that local authorities and the Scottish ministers can request from landlords regarding their property. We propose consequential amendments to sections 16 and 17 so that the Scottish ministers, as well as local authorities, will be able to apply to the First-tier Tribunal for Scotland for an order requiring up to £1,000 to be paid by a landlord who has failed to give information or has deliberately given false or misleading information. We also propose amendments that will provide for information sharing and co-operation between local authorities and the Scottish ministers to assist with the exercise of their respective rent control functions under the bill and to provide ministers with the powers to publish aggregated statistics.

I turn to the amendments relating to the potential to collect rental data through the landlord register. The landlord register does not currently operate as a register of properties; the information that is requested to assess compliance with legislative requirements is in relation to a landlord's portfolio. I have significant concerns about amendments that would commit us to change the function of the landlord register to enable us to collect rental data from every landlord. Those amendments would place significant additional legal obligations on landlords

and would impose new obligations on local authorities as the operators of the landlord register. Moreover, a redevelopment of the register itself would likely come at considerable cost.

I recognise, though, that clear systems and processes will be required to facilitate the collection of data from landlords in the most efficient and cost-effective way. My officials will consider that in partnership with local authorities.

11:45

I consider that the measures that are included in the bill, along with amendments 303 to 322 in Paul McLennan's name, will enable effective partnership working with local authorities, which will provide for the collection of the necessary data to support rent controls in a more practical and cost-effective way.

I turn to those amendments in Paul McLennan's name. Amendments 303 and 304 will allow the Scottish ministers, in addition to local authorities, to request information from landlords and tenants. That will help to facilitate effective partnership working between local authorities and the Scottish Government, which will be crucial in ensuring that we collect the right data in a practical and cost-effective way to support our long-term aspirations for rent control. Amendment 315 is a consequential amendment to reflect those changes.

Amendments 305, 306 and 308 are technical amendments to ensure that, if part of the house is subject to a tenancy or occupancy arrangement, information can be sought about each tenancy or occupancy arrangement.

Amendment 307 allows for the collection of information about the "frequency of rent payable".

Amendment 309 sets out that information may be requested about

"whether the rent payable includes payment of any costs associated with the house and, if it does, the amount of each such cost and the matter to which it relates,"

as understanding whether the rent is inclusive of bills such as council tax and utilities bills is relevant to the rental value.

Amendment 310 allows for the collection of information about the date of the most recent rent increase and the amount and frequency of the rent that was payable immediately before that rent increase took effect.

Amendment 311 allows for information to be requested on the number of bedrooms, public rooms, kitchens, bathrooms and other rooms.

Amendment 312 allows for information to be requested on

“whether the house (or part of it) is fully furnished, partially furnished or unfurnished by the landlord”.

Amendment 313 allows for information to be requested on whether the house, or part of it, is subject to a sub-tenancy or other occupancy arrangement where the landlord is someone other than the person registered on the landlord register.

Collectively, that information will help to build up a picture of the rent that is charged for different types of property, which will support the assessment of rent conditions in local authority areas.

Amendment 314 provides that only one request can be made by a local authority or the Scottish ministers for the same information from the same person in one 12-month period. That is to protect landlords from having to respond to duplicate requests.

Amendments 316 to 318 make changes to section 15 of the bill to clarify the purpose for which information might be requested by a local authority or by the Scottish ministers and the frequency of requests. Those amendments will ensure that information can be collected outwith the local authority assessment and reporting cycles, as that might be necessary to robustly analyse trends in rental data.

Maggie Chapman: I have a question about amendment 314 and only one request being allowed in a 12-month period. Would that apply once information has been provided? My concern is that, if information is not forthcoming or only partial information is provided, surely the local authority should be able to go back to the landlord and say, “Where’s this missing information? We need more.”

Shirley-Anne Somerville: I absolutely take Maggie Chapman’s point. That is not the intent behind the amendment, which is to prevent the need to do what she has mentioned.

I will ensure that I look at that as part of our work for stage 3, to examine whether there are any unintended consequences. The intent behind the amendment is to avoid duplication and to save landlords unnecessary bureaucracy. It is not to give a way out, should any person try to find one. I will come back to the member on that in the build-up to stage 3, to make sure that there are no issues there.

Maggie Chapman: Thank you.

Shirley-Anne Somerville: Amendment 319 seeks to amend section 15 of the bill to provide definitions of the terms that are used in the amendments that I have described, and

amendments 320 and 321 are consequential amendments, which seek to reflect the new arrangements for information requests that are made by the Scottish ministers.

Amendment 322 will provide the Scottish ministers with a power to modify section 15 to change the information that might be sought by a local authority or the Scottish ministers. That will provide flexibility to adapt the data that is collected to suit changing circumstances, should existing information no longer be necessary or should new information be required. Amendment 394 will subject those regulations to the affirmative procedure.

Amendment 323 seeks to allow for information sharing between local authorities and the Scottish ministers and between individual local authorities, and it clarifies the purpose for which information can be shared and seeks to minimise the number of requests that are made of landlords.

Amendments 324 and 325 seek to remove and replace sections 16 and 17, which currently provide enforcement mechanisms for a local authority when a landlord fails to comply with a request for information or knowingly provides false information in response to a request. The replacement sections that amendments 324 and 325 provide take account of the new powers to request information that are being conferred on the Scottish ministers.

Amendment 326 will provide the Scottish ministers with a power to request information that is held in a local authority’s landlord register to enable them to carry out their functions and to assist local authorities in carrying out their functions under part 1 of the bill. Contact information for landlords and letting agents will allow the Scottish ministers to collect the data that they will be allowed to collect under the amendments that the Government has lodged.

Amendment 328 will enable the Scottish ministers to use the data that is collected to conduct research, to publish statistics or to encourage others to do those things, and it will enable the processing of the information that is received from landlords so that anonymised statistics can be published. I hope that that will reassure Meghan Gallacher, Edward Mountain and Carol Mochan in respect of their amendments in relation to making data publicly available.

The collection of information from landlords is critical to the implementation of rent control. The Government’s amendments will strengthen the ability to collect the relevant information from landlords, thereby assisting local authorities in undertaking their assessments of conditions in relation to rent and in reaching a recommendation on whether rent control is appropriate.

On the other amendments in the group, amendments 3 to 6 and 8, in the name of Emma Roddick, would, alongside her consequential amendments 7 and 9 to 20, make it a duty for all landlords—of whom there are almost a quarter of a million—to provide all the information that is listed in section 15(2) of the bill

“within 28 days of being entered into the local authority’s landlord register,”

and

“thereafter at such frequency as the local authority may determine”.

The amendments would allow any local authority to request any further information and would remove the purpose for which such information can be requested, and they would place a significant administrative burden on local authorities and landlords to collect and provide data. They would also remove the discretion of local authorities to seek the data that they deem necessary in the context of the local circumstances in their area.

Alexander Stewart (Mid Scotland and Fife) (Con): You have touched on the vitally important issue of consistency of data, but you have also highlighted some of the practicalities that some of the amendments that you are discussing would give rise to, and the issue of whether local authorities would be able to cope with some of the extra work that would be required to manage the process. I am encouraged by your comments, because I think that the extra burden that would be put on local authorities might mean that the information that was received would not be as consistent as one would expect.

Shirley-Anne Somerville: I thank Alexander Stewart for that intervention—he is right to say that we must look at the practicalities. The intention of the Government’s amendments is to ensure that we have a robust set of data that will allow rent control to function effectively and efficiently. Regardless of whether members agree with rent control, the fact is that, if the bill is passed, we need the system to work effectively and efficiently, so we need to collect enough data for it to be robust. However, we are also required to ensure that we take a value-for-money approach and that we take cognisance of the impact on individual landlords, because we do not want to put them off entering or staying in the private rented sector.

Emma Roddick (Highlands and Islands) (SNP): Why is it the case that it is not onerous for a local authority to request such information from a landlord at any time, and for the landlord to have 28 days to respond, yet it is onerous to make it clear to all landlords that, once they register, they will be expected to provide such data?

Shirley-Anne Somerville: I thank Emma Roddick for that intervention and for all her work in this area. As I have just said to Alexander Stewart, I am keen to ensure that we strike the correct balance, and I am keen, too, for local authorities to have the powers to collect the necessary data to ensure that the legislation works effectively.

I take Emma Roddick’s point and acknowledge that she still has concerns about gaps and about the system not being robust enough. Indeed, that is exactly why I made the invitation that I made at the start of my opening remarks—I want to ensure that, regardless of where we end up with this discussion and with the amendments that will be voted on today and later this week, if concerns remain, we can have discussions about ensuring that we have robust data and a system that works effectively. I take the member’s point and, as I have said, I recognise that she remains concerned about the issue. We can certainly pick the issue up in discussions with local authorities over the summer.

Moving on, I thank Emma Roddick for lodging her amendments, and I appreciate the concerns on which she has based them. However, I have my own concerns about the proportionality of her amendments and about the resource burden that having to collect information from landlords on an on-going basis would place on local authorities. Therefore, I cannot support the amendments, but I hope that I can discuss the issues and work with her—and, indeed, local authority colleagues—on them over the summer.

Amendment 109, in the name of Meghan Gallacher, would require the Scottish ministers to publish information that is collected under section 15. I recognise the usefulness of making data available—indeed, amendment 328 has been lodged to support the publication of information—but I do not consider it necessary or cost effective to publish each individual piece of information that is collected, so I cannot support Meghan Gallacher’s amendment. I come back to the principle of ensuring that we are not creating an overly complex or bureaucratic system that does not deliver value for money.

Meghan Gallacher: The cabinet secretary’s remarks have been really helpful, because we know that not enough data has been published—if it has been published at all—on these areas in the past. We need to ensure that the data is not only made available to MSPs to scrutinise but is put in the public domain, so that people have full transparency on what the market is saying and what information is being collected by local government. If there would be an opportunity for me to be part of the meeting with local government colleagues, I would certainly be interested in that.

I also wonder whether we can, as soon as possible, get a feel for what the simplified system will look like. We in Parliament often talk about high-level things, but, as Alexander Stewart and others have said, local authorities will have to administer the system, and we do not want to put a burden on colleagues who might not have the resource to do the work.

Shirley-Anne Somerville: Meghan Gallacher has made a useful point about what can and should be in the public domain. It is important that we open up the information and data that are collected—indeed, that is why the Government has lodged the amendments—and I look forward to her taking part in the discussions over the summer to ensure that we test the system. It is important that we are able to test it before stage 3 to ensure that members who still remain concerned about, say, the system not collecting enough information or it collecting too much information and being overly cumbersome can come and have that discussion with me. They will then be able to come back with amendments at stage 3, should they so wish.

Amendment 137, in the name of Emma Roddick, and amendment 237, in the name of Maggie Chapman, would increase the potential financial penalty on landlords for failure to comply with requests for information from £1,000 to £10,000. However, I note that my amendments 324 and 325 seek to remove and replace sections 16 and 17, as a result of information-gathering powers being conferred on the Scottish ministers by amendments in the group. Similarly, Maggie Chapman's amendments 324A and 325A seek to increase the relevant penalty to £10,000. Unfortunately, I cannot support the amendments, as I consider that they set a penalty that is too high in the context of a landlord's conduct. I still believe that £1,000 represents a more proportionate penalty.

On that basis, I ask Emma Roddick and Maggie Chapman not to move their amendments and to work with me ahead of stage 3 if they still have concerns on the issue. From the work that the Government has done on the matter, I remain convinced that the penalty is at the right level.

12:00

Amendments 153 to 155, in the name of Edward Mountain, seek to make changes to the type of information that can be sought from landlords. I understand the purpose of the amendments, but I consider that amendments 305 to 313, in Paul McLennan's name, provide a more comprehensive expansion of the list of information that can be requested from a landlord. The list that is proposed in amendments 305 to 313 is more consistent with the information that is collected by

rent service Scotland to support decisions on rent adjudication. Amendments 305 to 313 are therefore more appropriate in the context of the information that is needed to support rent control, as they will deliver information that is more closely comparable with the data on advertised rents that rent service Scotland collects.

Amendments 156 and 157, in the name of Edward Mountain, would mean that the information that is requested by local authorities would be added to the landlord register. The primary purpose of landlord registration is to give councils a means to assess whether an individual is a fit and proper person to let property. I do not believe that adding that information to the landlord register would assist local authorities in making that assessment. The amendments could result in inconsistent information being held on different landlords, depending on whether a landlord has received a request for information. The amendments would also require further consequential amendments to the Antisocial Behaviour etc (Scotland) Act 2004.

Although I acknowledge the intent behind the amendments and recognise that there could be benefits to using the landlord register as part of the data collection process, it is important to emphasise that the proposed changes would place significant additional burdens on landlords and on local authorities as operators of the landlord register. I do not consider that they are necessary in connection with rent control, and I believe that they could inadvertently make a fundamental change to the purpose of the landlord register without due consideration of the impact on its core purpose, which is ensuring that someone is a fit and proper person to be a landlord. Therefore, I cannot support the amendments.

Amendment 448, in the name of Maggie Chapman, would amend the bill to change the discretion of a local authority to a duty, which would mean that every local authority in Scotland would need to write to every landlord on the register to request all the information that is set out in section 15(2) of the bill. As I have previously set out, although I understand and support the strong desire for robust information about tenancies, I cannot support the amendment. It would remove the discretion of local authorities to seek the data that they deem to be necessary, and it would be costly and disproportionate to the level of data that is needed to inform rent control assessments.

Amendments 449 and 450, in the name of Maggie Chapman, would provide for data to be obtained from landlords for the purpose of being provided to the rent officer or the First-tier Tribunal to assist them in determining open market rent. It is not clear that that information is needed by rent officers or the First-tier Tribunal, as they already

make determinations of open market rent without access to that information. It is also uncertain how such a process is intended to operate or how often information would be needed for that purpose. That would place an additional burden on local authorities, with potentially significant costs and no clear benefit, and I am unable to support the amendments.

Amendment 481, in the name of Carol Mochan, would require local authorities to provide the tenant with a copy of the information that they have obtained from a landlord. Although I recognise the intention behind the amendment, it would add a significant additional administrative burden and cost in relation to the collection of data. The concern is about the accuracy of the information that is provided by the landlord, but there are already powers in the bill for local authorities to request information from tenants. I therefore cannot support the amendment, as I do not believe that it is needed.

Amendment 482, also in the name of Carol Mochan, would remove the ability of the Scottish ministers to remove information from the list of information that can be requested from a landlord. That would remove the flexibility that the power was intended to create, and it would mean that primary legislation would be required to remove from that list any information that is no longer considered relevant. Regulations under section 15(7) are subject to the affirmative procedure, so there would be parliamentary scrutiny of any attempt to reduce the information that can be requested. I therefore cannot support amendment 482.

Finally, Carol Mochan's amendments 483 to 486 would amend sections 16 and 17 of the bill to remove elements of discretion from the enforcement procedures behind the duties on landlords to provide information. Those amendments would remove an element of discretion from local authorities and, in certain cases, would create strict liability for a financial penalty, even when the First-tier Tribunal considered such a penalty to be inappropriate. I therefore cannot support those amendments.

Sections 15, 16 and 17 of the bill were drafted with the intention of ensuring that the powers for local authorities and the Scottish ministers support the collection of data on a proportionate basis and do not unnecessarily burden local authorities, landlords and tenants. My amendments in the group seek to enhance those powers while respecting the rights of landlords.

I understand the intent behind the amendments in the group, but I cannot support them, for the reasons that I have set out. I therefore urge Emma Roddick, Maggie Chapman, Edward Mountain, Carol Mochan and Meghan Gallacher not to move

their amendments in the group and to work with me ahead of stage 3. If any of their amendments are moved, I ask members to oppose them and, instead, to support the amendments that have been lodged in the name of Paul McLennan.

I move amendment 303.

Emma Roddick: Most of my amendments in the group seek to require data that the bill currently allows local authorities to request. Amendments 3, 4, 6, 7 and 10 to 20 would make the change at various points where there are references to a local authority being able to request data to require that the data be provided.

Amendment 8 would allow local authorities to make changes to the information that a landlord must provide and to ask landlords for information beyond what is listed in the bill, in line with ministers' guidance. I feel that that is important to allow the local context to be taken into account.

Amendments 5 and 9 would change the limit for providing data from 28 days from it being asked for by a local authority to 28 days from entry in the landlord register, and it would allow the local authority to refer to the First-tier Tribunal when that requirement was not met. I feel that that is important in providing certainty around landlords, which has been discussed, and making very clear the expectations when somebody takes up that role.

Amendment 137 would increase the penalty for a landlord not providing information from £1,000 to £10,000. I lodged the amendment because £1,000, especially when it is a small part of a set monthly rent, might be seen as a fee worth paying to get out of providing other information. Refusing to provide what is agreed to be reasonable information should incur a higher fine.

I believe that it is entirely reasonable to make use of existing processes to ensure that we have sight of rent levels and other information that councils are already allowed to nag landlords for. The Government's amendments represent progress, but they do not provide for that cross-cutting data on current rent levels. The lack of data on current rents and the complexity of trying to tie together the data that we have and the Government justifying policy progress through data that was scraped from Zoopla can make even the best policy impossible to implement well or even at all. That has long been a sincere frustration to me, and my lodging the amendments came from a place of wanting to fill those gaps and bring truth to future debates on the private rented sector.

We do not need to sit and argue with one other, as we often do in this committee, about whether anecdotes, whichever side they come from, are representative of a wider situation. We do not

need to wonder whether rent levels that are set for those who have been in situ for a long time are below, above or at the market rate.

Allowing local authorities to request data piece by piece will never give us a broad view. Even if local authorities make regular use of that power, they will be building a skewed picture, because they are asking landlords for the data for a reason. We will still not know what is happening in rentals that are generally unproblematic and are not changing hands. That impacts everything from evidence bases for bringing in rent controls to the definition of “market value”.

During my time on the committee, I have heard a broad range of witnesses speak to the urgency and necessity of having better data. Citizens Advice Scotland said:

“we need better data collection for ... policy making.”

Generation Rent said that,

“Without good local-level rent data, it is hard to know what effect the measures that the Scottish Government”

has already brought in

“are having on the local market”.

Scottish Land & Estates agrees that

“good data underpins good legislation”,

and it added:

“we would like to be in a position where the data underpinning the bill is as clear as possible for both landlords and tenants.”

We also got interesting evidence from Robin Blacklock, who said:

“Rent pressure zones did not work because we did not collect the data. If we do nothing else under the bill but set up data collection, it will be a success.”—[*Official Report, Local Government, Housing and Planning Committee*, 28 January 2025; c 8, 19, 36, 37.]

It is therefore clear to me that better data collection is vital. It is sensible, as it will uncover those situations to which the likes of Scottish Land & Estates want attention to be paid, which involve landlords who have not put in the effort to protect their long-term rural residents or have not raised rents over many years. It will prove or disprove whether rent levels are exorbitant. If we are to be able to review the impact of the legislation and ensure that future changes to policy are reactive and appropriate, we need to rely on strong data.

I appreciate that some stakeholders have outlined cost issues with my suggested approach while remaining supportive of the idea in principle. I want to be clear that I am not dead set on the information being collected by the local authority, on all the information being in a standard form or on a set interval being used. I do not want to make things harder for local authorities or for landlords,

but we need to have the data on what current rent levels are.

I am glad to hear about the summer engagement and will be happy to take part in that. I would be happy to look again at my amendments on the basis that we are working to introduce provisions at stage 3 that will allow a more cross-cutting view to be taken of rent levels. However, I will lodge amendments at stage 3 if the Government does not do so. I am disappointed that my discussions with the minister, which were initially positive, have not resulted in the progress that I hoped for. I do not consider that the Government's amendments go far enough, because they will not enable us to find out what current rent levels are, and we should know that.

As I said, Robin Blacklock told the committee that, if we do nothing else but collect better data, the bill will be a success. I want the bill to be a success, so let us make it a success, build a solid evidence base and stop guessing.

Maggie Chapman: My amendments in the group focus on two main issues. Some are subject to pre-emption, and we will come to how that washes out in a moment.

I thank Emma Roddick for her comments. I agree with the points that she made, and my amendments address issues that are very similar to—or, in some cases, exactly the same as—those that she has sought to address.

I turn first to the issue of rent levels and what they actually mean or represent. My amendments 448, 449 and 450 address a technical, but important, issue. Current challenges to rent increases are based on open market rent as understood through advertised rent, not rents that are actually being paid. Since the majority of advertised rents are set at the maximum that the market will bear, open market comparison always pulls rents upwards. A real rent comparison would act as a stabiliser, and amendments 448 to 450 seek to move us towards that. As Emma Roddick outlined, we need to collect clear, coherent and comparable data across the country.

In her remarks, the cabinet secretary indicated that she was not clear about the benefit of the measures that are proposed in amendments 449 and 450. The benefit is just that—they will allow rent officers to have real rent information rather than some mythical advertised or guesswork information. Having accurate information on what renters are experiencing and landlords are charging will allow us to have a much clearer sense of what is going on than we have at the moment.

The next bunch of amendments—amendments 237, 324A and 325A—seek to raise the fines for non-provision of information and the provision of

false information from £1,000 to £10,000 in both the original and the proposed new sections of the bill. That underlines the importance of getting the necessary correct information, which was highlighted in the evidence that the committee received at stage 1. In that evidence, it was identified that what made rent pressure zones unworkable was not having the information in the right form, as Emma Roddick outlined.

We cannot be in a situation in which the fines that are imposed are treated by some landlords as just the cost of doing business. If they get found out, they will be fined, but they will incorporate those fines into their expected costs. The fines must be real incentives to act properly and appropriately and provide the information that is required when it is required. That is why I believe—and I think that others round the table agree—that the £1,000 fine is just too low. It does not incentivise appropriate and proper behaviour.

12:15

The Scottish Government has a large number of amendments in the group, and I support most of them. Overall, rent controls will work only when local councils have the necessary information on rents and other aspects of the properties. The Government's amendments seek to provide for that information.

I support Emma Roddick's amendments in the group and the intention behind them, which is to shift the burden of providing information on to landlords by requiring them to provide it as soon as possible after they register as a landlord, rather than waiting to be asked for it.

Carol Mochan's amendment, which provides for the information that is provided by landlords to be sent to the tenants, who will then be able to challenge its accuracy and perhaps provide additional information, is also welcome.

Section 15 is important. If we want to ensure that we have accurate and appropriate information, we need to support the mechanisms for the collection of that information, and we need appropriate penalties for use when it is not provided or it is provided falsely or inaccurately.

Overall, there is a lot of positive work in section 15. I take on board the cabinet secretary's offer of on-going conversations, and I would be pleased to engage with her on that basis in advance of stage 3. However, like Emma Roddick, if we do not get to where we need to be and we do not get as far as we need to go, I will seek to bring my amendments back at stage 3.

Meghan Gallacher: In the interest of time, I will speak to Edward Mountain's amendments in the group and then to my amendment 109, convener.

Amendment 153 is about information gathering. We have had quite a long discussion on that already, and the cabinet secretary has outlined her reasoning for not supporting the amendment at this stage due to a wider conversation that will happen in due course. For the interest of those who are following today's proceedings, I note that amendment 153 seeks to include the number of bathrooms in the house in the information that is sought by local authorities. Similarly, amendment 154 would include information about the floor area of the house. Those amendments are about making sure that we obtain more information and data that is relevant to rental properties and to those who will be renting those properties.

Amendment 155 would require the information that is collected by local authorities to include the quality of the property, the required repairs and the EPC rating. I mentioned EPCs in earlier contributions. The information that amendment 155 would require will be important once we know more about the EPC review, and I hope that that can be teased out as part of the conversation that we will have during the summer. EPC compliance has been an area of interest not just for the Government but for the committees that cover that work.

Amendment 156 would allow the local authority's landlord register to be used as an alternative means of gathering data to ensure that it is accessible, usable and collected in the appropriate manner.

I understand that the cabinet secretary has outlined her reasoning for not supporting those amendments, but I believe that we should look more widely at the landlord register and how it is used, and at ways in which we can do things differently to improve the overall aims of section 15.

Finally, I turn to my amendment 109, which, following the discussions that have taken place, I will not move. I emphasise that data is crucial to the bill. Whatever we do moving forward, we know that we are not in as good a place as we need to be when it comes to scrutinising particular areas of legislation because we do not have that data readily available. However, I take on board the issue of local government resourcing and how that will be put in place should certain amendments be voted for and agreed to today or at stage 3. Of course, we need to be mindful that, at a time when local authority funding has depleted, particularly in recent years, we should not put more financial pressures on local authorities to try to achieve something that they might not be able to achieve.

We need to look at the issue in the round. I do not necessarily believe that we will get the exact steer or direction today, but I welcome the

comments from the cabinet secretary and other colleagues on the issue.

Carol Mochan (South Scotland) (Lab): My amendments in the group seek to strengthen the capacity of local authorities to assess rent conditions in their areas.

I have listened carefully to the debate, and I think that we share a common purpose with regard to the importance of data. The purpose of amendment 481 is to recognise that tenants are essential to verifying the accuracy of information that is provided by landlords to local authorities. The amendment would require local authorities to share information that is submitted by landlords with the tenants who are registered at the address. That would create a standardised process in which the tenants had the option to report information in their landlord's submission that they thought might be false or incorrect. Landlords are required by law to inform tenants of any rent changes, so tenants are the only party that is able to verify that information.

Although I appreciate that that provision would add to the administrative burden that is faced by local authorities, the bill places a duty on them to investigate false information, and the only way to enforce that is with the participation of the tenant. Amendment 481 gives purpose to that duty in the bill.

Amendment 482 recognises that a well-regulated rented sector will be reliant on consistent information. The amendment therefore seeks to place on the Scottish ministers a duty to maintain the minimum categories of information that local authorities must report on, and not to reduce those. Each is essential to understanding rent increases against types of tenure and property. In future, the range of information that is sought might be expanded but it should never be reduced beyond the original categories. The amendment would safeguard consistency so that geographic areas are not evaluated by different criteria.

I have taken note of the minister's points on those aspects and, like others, I hope that we will be able to discuss them further over the summer.

Amendments 483 to 486 seek to create standardised sets of notices that can be issued by a local authority where a landlord either fails to provide information or provides false information. The intention is to ensure the integrity of data collection by encouraging landlords to fulfil their responsibility to report accurately.

Specifically, amendments 483 and 484 seek to instruct a local authority to initiate proceedings if a landlord does not provide any information when requested. There is also a duty to re-see missing information and initiate a recurring penalty fine

until the information has been submitted. Amendments 485 and 486 would create a similar mandatory requirement for a local authority to initiate First-tier Tribunal proceedings in the circumstances in which information that is provided is suspected to be false.

We can agree on the importance of accurate data, and that is why it is important that some of what the amendments seek to require is included in the final bill. However, I intend to take the cabinet secretary up on her offer and seek further discussion.

The Deputy Convener: As no other member has indicated that they wish to speak, I ask the cabinet secretary to wind up on the group.

Shirley-Anne Somerville: The debate on the group has been really useful. It has brought to light once again the necessity of robust data and the fact that such data is required for the bill to be effective. I thank members for lodging their amendments and for the discussion that we have had.

Some members have suggested that they are interested in taking part in the discussions that will happen over the summer. I assure Carol Mochan, Maggie Chapman, Meghan Gallacher, Emma Roddick and anyone else who I have forgotten about that they are invited to take part in those discussions, and I thank them for their continuing interest.

Today, I have heard clearly once again that, despite the Government lodging a number of amendments after listening to the concerns that were set out in the committee's stage 1 report, people still have concerns. It is important that we have further detailed discussions and that we do so in a way that ensures that the views of local government colleagues and landlords are heard. We seem to be in collective agreement that we want the legislation to work for tenants, councils and landlords and to ensure that we can collect robust data in a cost-effective manner, recognising the burdens that we will be placing on landlords. I will continue to focus on that area over the summer.

I will address a couple of points of detail. As I mentioned earlier, we are already moving to collect more data on advertised rents at local authority level. The powers that we propose in the amendments that are before the committee today will allow the Government to supplement that with information about in-tenancy rents. It is important that we engage with local authorities and, as I said, members as we move through the practicalities of that, because members are quite right to point to the need for information about rents not only as advertised but as a tenancy is continuing.

On the level of fines, the maximum penalty of £1,000 is in line with level 3 of the offences, penalties and powers of enforcement guidance and it is the normal maximum penalty for obstructing a person who is performing a statutory duty. That is why that level is designated in the bill and is what the Government is proposing. If that detail and reasoning still leaves members with concerns, I am happy to continue discussions on the matter, but that is the basis for the £1,000 figure.

I will leave it there, convener. I look forward to the discussions, if members wish to take part in them.

The Deputy Convener: Thank you, cabinet secretary. I remind members that, if amendment 303 is agreed to, I will be unable to call amendments 3, 448, 4 or 5 due to pre-emption.

Amendment 303 agreed to.

The Deputy Convener: At this point, I will draw the public part of our meeting to a close, as previously agreed.

I thank the cabinet secretary and her officials for their attendance. We will reconvene tomorrow for further consideration of the bill at stage 2.

12:28

Meeting continued in private until 12:35.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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