OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

# Local Government, Housing and Planning Committee

**Tuesday 27 May 2025**

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

# Tuesday 27 May 2025

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## LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE

**16th 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)
Murdo Fraser (Mid Scotland and Fife) (Con)
Ross Greer (West Scotland) (Green)
Ivan McKee (Minister for Public Finance)
Willie Rennie (North East Fife) (LD)
Graham Simpson (Central Scotland) (Con)
Chris Sinclair (Scottish Government)
Shirley-Anne Somerville (Cabinet Secretary for Social Justice)
Paul Sweeney (Glasgow) (Lab)
Evelyn Tweed (Stirling) (SNP)

**LOCATION**

The David Livingstone Room (CR6)

# Scottish Parliament

## Local Government, Housing and Planning Committee

*Tuesday 27 May 2025*

*[The Convener opened the meeting at 08:31]*

## Subordinate Legislation

### Town and Country Planning (Fees for Appeals) (Scotland) Regulations 2025 (SSI 2025/124)

### Town and Country Planning (Fees for Local Reviews) (Scotland) Regulations 2025 (SSI 2025/126)

**The Convener (Ariane Burgess):** Good morning, and welcome to the 16th meeting in 2025 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are on silent.

Today's agenda includes consideration of the Housing (Scotland) Bill at stage 2. We have permission to continue our meeting into the afternoon, so we will be suspending proceedings at around 12:30 until 20 past 2. We might therefore pause item 4 to take item 5 and then return to item 4 after the suspension.

First we have an evidence-taking session on the Town and Country Planning (Fees for Appeals) (Scotland) Regulations 2025 and the Town and Country Planning (Fees for Local Reviews) (Scotland) Regulations 2025.

I welcome to the meeting Ivan McKee, the Minister for Public Finance, who is joined by the following Scottish Government officials: Thomas Barratt, head of development management; Scott Ferrie, deputy director and chief reporter, planning and environmental appeals; Andy Kinnaird, head of transforming planning; and Chris Sinclair, policy manager. Thank you for coming.

We will move to questions from members, and I will start. We have heard from developers that the introduction of fees for planning appeals and reviews could act as a disincentive to development, including the development of much-needed new homes. I would be interested to hear your response to that suggestion, minister.

**The Minister for Public Finance (Ivan McKee):** It is important to recognise that planning appeals cost money, so somebody has to pay for them. The principle in the Scottish public finance manual is that the appellant should pay rather than the taxpayer.

We recognise that we are in a housing emergency. There are also many challenges in relation to the climate emergency, biodiversity and nature, and other challenges arising as a consequence of those. The planning system looks at all of that in the round, and there is a well-structured process. If people feel the need to appeal decisions, it is only right that the appellant, rather than the taxpayer, should carry the cost.

**The Convener:** Okay. Thank you.

**Mark Griffin (Central Scotland) (Lab):** Some of the evidence that we have received from stakeholders suggests that the introduction of fees for planning appeals and reviews favour the more well-resourced developers. What is the Government's take on that? Do the fees deny an appeals process to some developers, particularly small and medium-sized enterprise developers? There has been a contraction in the number of SME developers across the country, but they are key, particularly when it comes to rural and brownfield development. When the Government carried out the business and regulatory impact assessment on the instrument, what assessment was made of the impact on SME developers?

**Ivan McKee:** I am very conscious of that, of the need to build more houses in general and of the role that SME builders can play in specific situations. The bulk of building is done by larger house builders but I recognise the important role that SME builders can play in that area.

It is important to recognise the cost of the appeal—and I mean the cost, not the fees involved. When you make an appeal, the fact is that, regardless of its size, certain things need to be done. Some of the cost will be proportional, depending on the number of units; however, the very process of going through an appeal incurs a significant cost to the public purse, and we think it only right that those costs be carried by the appellant.

When we look at it through that lens, we can see that, with smaller developments—which, by definition, will most likely be built by SME builders—we recover less of the cost then we do for larger developments. So, if we were to implement a system that reflected more accurately the costs of conducting an appeal, the charges for SMEs would, under these proposals, be significantly higher than they currently are.

**Mark Griffin:** On the point about cost recovery, is the level of fees in the new system designed to cover full cost recovery?

**Ivan McKee:** Yes. We do not know how many appeals there will be or their complexity, but, in general, that is the intent.

**Mark Griffin:** Did the initial consultation not make it explicit that it would not be aiming to achieve full cost recovery?

**Ivan McKee:** Across the whole planning system, we recover only about two thirds of the fees from applicants. That is a long-standing issue that we are seeking to address by linking fees with inflation. My officials can speak to the specifics of the consultation.

**Chris Sinclair (Scottish Government):** We consulted on the principle that we were not going to charge for full cost recovery but, as the minister has highlighted, financial circumstances have changed significantly in the period since. We also looked at how best to ensure that the planning system is appropriately resourced. The Scottish public finance manual sets out that, as the minister has also highlighted, our initial position should be one of full cost recovery. We should not deviate from that unless there are clear reasons for doing so, and there is a set period of time in which we will remove any subsidy in that respect.

**Mark Griffin:** I appreciate the point about the public finance manual and public finances in general. However, do you accept that, if you consult on the principle that you are not seeking full cost recovery and then lay regulations that, as you have just said, seek full cost recovery, there is a disparity? There is clearly an issue with the consultation and how the Government has set out the principles of what it intends to do.

**Ivan McKee:** It is important to recognise that the costs need to be recovered from somewhere. If we do not recover them through this process, they will have to be covered by councils. I think that everybody around the table will agree that councils are in a challenging financial situation, and everyone involved in the planning system and the development of housing will recognise that it is important to get more resource into the system. This is one way of doing that. If we did not raise the money through this route, we would need to raise it through another route, but I think that this is the most effective way—that is, by charging those who seek to make an appeal on that basis. We will be able to get more money into the planning system through that route, rather than through any other route.

**Mark Griffin:** I appreciate that this is a point of principle for the Government. What I am saying is that you consulted on a different basis to that of the instruments that you have introduced. Do you not think that there is an issue with consulting with developers and the sector on one basis, and then introducing regulations that do something else?

**Ivan McKee:** We consulted on the basis of there being planning fees; clearly, there are people who would not want us to introduce planning fees for appeals, because they would have to pay them. However, we did consult on that basis, we gathered views and we took them into account, and the Government has made proposals that we think are the right ones, given all the factors that have been identified. If somebody is saying that we should not raise the money through that route, they will need to be clear about where else we can raise the money from to cover that fiscal gap. It would have to happen either through councils having to take resource from other budgets or through an increase in planning fees more generally.

**Mark Griffin:** My final question is on access to justice. The Law Society of Scotland and Homes for Scotland have raised issues about the lack of any option for a fee waiver or refund of a fee. What consideration has the Government given to fee waivers or refunds, given that we know that more than 50 per cent of applications are granted on appeal?

**Ivan McKee:** There is scope for that in specific circumstances. More generally, though, if you are talking about making a refund or fee waiver conditional on the outcome of an appeal, that takes us into a space that is not conducive to what we are trying to do, because it means that the decision on the appeal has a financial implication that could impact the decision-making process. If people want to take forward an appeal, an important principle is that the appellant should, by and large, pay for it. The planning process should run on the basis of the information that is in front of the person making the decision and should not run the risk of that decision being influenced by any financial consideration.

**Meghan Gallacher (Central Scotland) (Con):** Good morning, minister. You are on record as saying that

> "Planning has not created the housing emergency, but it can help us to find solutions to the challenges that we face."—[*Official Report*, 12 November 2024; c 12.]

Surely what is being proposed here goes against what you have previously said about trying to secure more planning developments in order to tackle the housing emergency. As Mark Griffin has rightly asked, will the fact that the consultation said one thing but you are going to do another squeeze out SMEs?

**Ivan McKee:** No, I do not think that that is the case at all—quite the opposite. What that does is to get more resources into the planning system, which everyone recognises requires extra resources. As I have said, the data shows that, on average, local authorities recover only about two thirds of the cost of running the planning system

from fees, so it is important that we address that. A range of measures has been taken, including linking fees with inflation, to support resource going into the planning system, which everyone will tell you is a significant part of the problem.

On the issue of SMEs, I have already addressed that point. If we charged for smaller appeals according to how much it costs the system to process them, the cost of smaller appeals would be higher than it is in the proposals that we are taking forward. We recognise that the fees need to be weighted more heavily against larger developments than against SMEs, and that is embedded in the proposals that we are taking forward.

**Meghan Gallacher:** If small and medium-sized developments cannot progress, though, that will not help tackle the housing emergency. Is that something that you would charge for?

**Ivan McKee:** It is the same with any process. The appellant would take a view on whether they wanted to proceed with the appeal, as they do when they make an application at the beginning of the process, because there are costs associated with that, too. If you are saying that we should not charge any planning fees at all, which is a logical extension of what you are saying, you would find resistance to that. If you are saying that we should not charge any fees at all, because it would encourage more people to bring forward housing development proposals, the problem would be that we would not have a well-resourced planning system. Everyone recognises that underresourcing is a particular challenge that we need to address.

**Meghan Gallacher:** I understand the point about underresourcing, but that is due to years and years of underfunding of local government.

We need to get back to the consultation point, if we can. I am concerned that you have consulted on one area, only to ignore the responses that you have received and decide to take different action. How will you restore confidence, particularly in the SME sector, that you will not make another decision in future that will go against the consultations that you have made in that particular area?

**Ivan McKee:** We consulted on the principle of fees for planning appeals and have taken on board the consultation responses. As I have said, there will of course be people who would be happy not to pay any fees for appeals—they would be delighted not to have to pay any planning fees at all—but that is not the world that we live in. We recognise that it is important to be able to resource the planning system. We recognise that there is a gap, as a result of only about two thirds of the cost of the planning system being covered by fees.

We have taken a number of measures, including the one that we are discussing and others to do with index linking and so on, to ensure that a higher proportion of the cost of the planning system is covered by fees than is the case at the moment. We think that tackling the resourcing issue that planning faces is an important step—of course, there are many others that need to be taken—in ensuring that the planning system is able to support development and tackle the housing emergency.

08:45

**Alexander Stewart (Mid Scotland and Fife) (Con):** I want to go back to a question that we have already touched on. Why should an appellant who receives planning permission on appeal pay for the appeal, given that they will already have paid the planning authority for the original application, which might have been rejected because the authority imposed unreasonable conditions on the awarding of planning permission? The appellant will already have stumped up money, so why should they contribute more to the process?

**Ivan McKee:** It is important that we separate the cost of running the planning system from the cost of the appeals process, which requires to be funded separately from the taking of decisions as part of the planning process. As I have said, in the planning process, decisions will be based on the information that is in front of the planning authority at various stages of the process. It is important that the process runs on that basis, and that is separate from the issue of the fees that are charged, which, as I said earlier, are to cover the cost of running the process.

**Alexander Stewart:** Do you think that the fees will cover the running of the process?

**Ivan McKee:** As I have said, at the moment, only about two thirds of the total costs of the planning system are covered by planning fees. We have sought to ensure that the costs of the appeals will be covered by the fees that are charged, but, as I have said, the total costs of the planning system are not covered by fees at the moment.

**The Convener:** On the same subject, I note that, under the Verity house agreement, it has been agreed with local authorities that funding will not be ring fenced. Concerns have been raised that, if a fee is charged for local reviews, that money will not go to local planning authorities. It would be interesting to hear what discussions you have had about ensuring that the money that is raised does what you have said, which is to help improve the system.

**Ivan McKee:** That there should be no ring fencing is an important principle. If we were to say, "We're gonnae tell local authorities how they should spend their money", I think that the committee would have something to say about that. That is an important point to recognise.

However, we have made it clear that we expect local authorities to use the money that they receive through the planning system—whether from fees for applications or fees for appeals—to resource the planning system. At the moment, councils are having to put extra money into the planning system in order to be able to process the applications and appeals that are in front of them.

The important principle that there should be no ring fencing, which we agreed through the Verity house agreement, is in place, but, as I have said, I would encourage local authorities to utilise the resource that is generated to support the planning system.

**The Convener:** What about the planning appeals that come to the Scottish Government? How will those be managed?

**Ivan McKee:** It is the same process. The fees that come to the Scottish Government for those appeals are calculated as being sufficient to cover the costs of processing the appeals through the system that the Government has in place.

**The Convener:** We have raised a number of concerns. How will the Scottish Government keep the system under review to ensure that it does what you have set out that it will do? Do you envisage some sort of annual review?

**Ivan McKee:** We monitor the data on the number of appeals, the level of fees and the amount of resources that come into the system on a regular basis, and we will continue to do so. If we found that there were issues, we would look at them.

**The Convener:** The committee can commit to keeping the matter under review, too.

The issue of planning fees fits into the bigger picture of the challenges that we have discussed around resources for local planning authorities. One feature of that bigger picture is the fact that not enough new planners are coming in through the pipeline, which is related to the lack of places for people to train as planners in Scotland.

It is a moving piece, with lots of parts. I note in our papers for this morning that it is hoped that the fees will lead to better applications in the first place; however, I have been picking up, certainly in my regional work, that planners used to meet developers and go on site, but that seems to be happening less. The experience for developers now, especially for SMEs—certainly in the Highlands and Islands; maybe it is a distance issue—is that they are not getting on-site information and good up-front insight as to what the local planning authority is looking for in relation to building height, roofing materials and so on. As we have more planners retiring and younger people coming in, we are possibly losing something if there is no transfer of knowledge.

There is something in the mix there, which is beyond these SSIs—I understand that—but I want to put that out there and get your thoughts on it.

**Ivan McKee:** I do not know the specific local cases that you are referring to, but in general, with regard to resourcing, we have taken significant steps. We have trebled the number of bursaries for planners coming through the system, which the Government is paying for, to help address the resourcing challenge. We have also hired a significant number of apprentice planners into the Government, which, again, the Government is paying for, to support the training of more young—and not-so-young—people who are coming into the system.

I have carried out a significant number of events with young planners to support and encourage them, and to look at routes for others who are mid-career and are seeking to come into the planning system. We have done quite a bit of work on the resourcing piece and on skills.

On best practice, the work that Craig McLaren, the national planning improvement champion, has taken forward is significant. It has involved peer-to-peer reviews across all 34 planning authorities, and the work that has come out of that has helped him objectively identify what best practice looks like and how planning authorities can learn from one another to improve the service that they offer to applicants.

You are absolutely right that having an informed conversation early in the process is better for everybody. It helps applications be of a higher standard, and it allows the applicant to understand what the planning authority is looking for when making its determination.

**The Convener:** I appreciate your reflections. We do not have any more questions.

The next item on our agenda is consideration of the two negative instruments, the first of which is the Town and Country Planning (Fees for Appeals) (Scotland) Regulations 2025. If members have no comments on the instrument, does the committee agree that we do not wish to make any recommendations in relation to it?

**Members** *indicated agreement.*

**The Convener:** The second SSI is the Town and Country Planning (Fees for Local Reviews) (Scotland) Regulations 2025. If members have no comments on the instrument, does the committee

agree that we do not wish to make any recommendations in relation to it?

**Members** *indicated agreement.*

**The Convener:** Thank you. I will suspend briefly to allow a changeover of witnesses.

08:53

*Meeting suspended.*

08:58

*On resuming—*

# Housing (Scotland) Bill: Stage 2

**The Convener:** The next item on our agenda this morning is day 5 of our consideration of the Housing (Scotland) Bill at stage 2. I welcome to the meeting the Cabinet Secretary for Social Justice and her officials. The committee is also joined both online and in the room by other members of the Scottish Parliament who have lodged amendments to the bill and are present to debate those with us today.

Members who wish to speak should indicate that by catching my or the clerk's attention. Voting is by a show of hands, and it is important that members keep their hands raised clearly until the clerk has recorded their names. That is especially important for colleagues online. I will let you know when we have counted your vote.

We will not dispose of any amendments beyond the end of part 4 of the bill before 1 o'clock today.

At previous meetings, we explained the procedure that we will be following. I propose to move straight into the consideration of amendments.

I remind members that we have additional meetings this week to finalise our consideration of the bill at stage 2. The length of our speeches and our interventions all contribute to the time taken to consider the amendments, so I ask members to take the opportunity for brevity, while recognising that it is important that we thoroughly scrutinise the legislation.

### Before section 24

09:00

**The Convener:** We begin with the group entitled "Dealing with Evictions". Amendment 119, in the name of Meghan Gallacher, is grouped with amendments 120 to 123, 491, 124, 125, 163, 452, 487, 126 to 129, 164 to 167, 187, 188, 250, 251, 362 to 369, 268, 269, 141, 409, 502, 413, 414, 200, 395 and 404.

**Meghan Gallacher:** Thank you, convener. I might fall at the first hurdle of brevity, because of the number of amendments that I have in the grouping.

I thank the wonderful team at Marie Curie who have worked alongside MSP colleagues on the amendments that I have lodged in this group.

A study that was undertaken by Marie Curie and the University of Glasgow, entitled "Dying in the Margins; The Cost of Dying", laid bare the barriers

to and experiences of dying at home for terminally ill people, their families and carers who are living with financial hardship and deprivation. Research analysis outlined the lack of compassion in immediately evicting relatives after a terminal illness or a terminally ill person has died, with relatives being forced to vacate properties only two weeks after the death, with no alternative accommodation in place. Not only are those individuals dealing with the tragic loss of a loved one and having to box up their possessions while grieving, but they are faced with the challenge of finding a new property should they receive an eviction notice, especially if they have no succession rights.

We can all understand and sympathise with the individuals who are impacted, because grieving takes longer than two weeks. The additional stress of whether someone will have a home that they can live in can take an unbearable toll on families who are adapting to life without caring for someone 24/7. I seek to bring some compassion into the Housing (Scotland) Bill through my amendments.

Marie Curie is rightly advocating that the bill should be used to strengthen the rights of terminally ill tenants and their families to ensure that they are protected from eviction. Evidence sessions that were undertaken by the UK Commission on Bereavement to better understand people's experiences of bereavement found serious issues with eviction. It was noted that people in local authority housing can be asked to move out if they are not on the tenancy agreement, or they might be required to move to a smaller property. Surviving family members then face further challenges in raising sufficient funds to cover security deposits and advance rent payments on a new property at a time when they have likely had to pay expensive funeral or other administrative costs associated with death.

A survey that was conducted by Opinium for Marie Curie concluded that, every year, 27,600 people in Scotland must move out as a result of a bereavement. It stated that 13,200 people had to move out because they could no longer afford to live in their home, and 11,400 people had to move because they did not hold the tenancy. Of those whose housing situation is likely to be impacted as a result of a bereavement, under-35s make up 28 per cent, followed by those aged 35 to 54, at 11 per cent, and those aged 55 to 74 and 75-plus, at 5 per cent. People find themselves in precarious situations and might declare themselves as homeless, for example, because the right support is not in place to help them.

Following discussions with the cabinet secretary, it is not my intention to press amendment 119 or move amendment 120 today, with the proviso that there will be further discussion with stakeholders and supportive MSPs on protections from evictions for terminally ill people.

I would like to work with the cabinet secretary to define "terminal illness", as we understand that individuals' prognoses can be wide and we want to ensure that there are clear margins between diagnoses of chronic, life-limiting and life-ending conditions.

I will wait to see what the cabinet secretary says before I consider the other amendments on terminal illness, particularly in relation to succession rights for bereaved families. I believe that that is important and that it will help to tackle unintended homelessness on the back of a terminal illness.

Convener, if you can bear with me, before I conclude my remarks, I will turn to amendment 487, which is on a different matter. It is similar to amendment 452, which was lodged by Willie Rennie, and concerns decisions that were taken during the time of Covid on legislative changes to protect tenants from eviction, which have made it significantly more difficult for a congregation to reclaim the use of a manse once they have called a minister.

Manses are often let out by parishes when the minister's post is vacant or when they are in between ministers. That provides much-needed income, as well as making that dwelling available for use. I believe that the issues to do with recovering possession of manses that have been let out on short-term basis will be exacerbated should section 24 of the bill be enacted in its current form. For the bill to be proportionate, there need to be further discussions with the Church of Scotland and other religious groups to ensure that the bill is fair and encompasses all groups.

Proposed new section 51A of the Private Housing (Tenancies) (Scotland) Act 2016, as set out in section 24, states:

> "When specifying in an eviction order the day on which a tenancy is to end, the First-tier Tribunal must consider whether it would be reasonable"

to delay the end of the tenancy. In doing so, the tribunal may consider certain factors, particularly factors relating to the tenant and to the landlord. Those relating to the landlord are:

> "whether a period of delay in bringing the tenancy to an end would ... cause the landlord to experience financial hardship ... have a detrimental effect on the health of the landlord, or ... have another detrimental effect on the landlord due to the landlord having a disability".

The balancing protections that will be available to landlords under that proposed new section will not be available to a landlord who is not considered to be a natural person. That is the

point that I wish to make through amendment 487. The protections will not be available to Church of Scotland congregations. Manses are owned or let either by local congregational trustees or on behalf of the congregation or by the Church of Scotland general trustees.

Self-evidently, those factors cannot apply to the landlord in such cases. They are unlikely to apply regardless of whether the landlord is a general trustee or local congregational trustees, as their interest in securing vacant possession of a manse is not primarily financial but is to use it for housing a minister.

Prior to the removal of the mandatory eviction ground that let property was required for occupation by a person engaged in the work of a religious denomination as a residence from which their duties were performed, the Church of Scotland let out a large number of their manses on a temporary basis as a result of parish minister retirements and recruitment difficulties. The income that is generated from such lets is an important contribution towards sustaining the work and the mission of congregations and their local communities.

When ministers are called to a parish, it is important that a manse is available for them. However, it is challenging for a congregation to let an empty manse when it might not be able to get back the house when it is needed. That is already resulting in many situations in which congregations are now unwilling to let out such properties, and the church finds itself in the uncomfortable position of being the custodian of a considerable number of large dwellings that are standing empty. I do not think that that helps to tackle the housing emergency that we are experiencing.

This morning, I am asking the cabinet secretary to consider the impacts on manses—and properties belonging to religious groups other than the Church of Scotland, as highlighted in Willie Rennie's amendment 452—to see whether there is a way forward in which it does not become difficult for those properties to be let out or brought back into use under the church when a minister is made available.

I understand that an amalgamation process is under way, but we must look at all those issues as part of the Housing (Scotland) Bill in relation to tenants' rights.

I will end my remarks there, convener. I know that I will be coming back in shortly to speak to Edward Mountain's amendments.

**The Convener:** Thanks, Meghan. I ask that you move amendment 119. If you would like to speak to Edward Mountain's amendments now, you can do so.

**Meghan Gallacher:** I do not plan to move amendment 119.

If I might speak to Edward Mountain's amendments—

**The Convener:** I will pause you there. Part of the process is that you have to move it first, then we will come back to you after the debate. We will follow the process, then you can withdraw it.

**Meghan Gallacher:** Thank you, convener. I will move amendment 119 but I confirm that I will withdraw it later.

Edward Mountain's amendment 163 seeks to ensure that the three-month eviction process is concluded within three months of a tribunal application being submitted by the landlord.

I believe that Edward Mountain's intention in relation to his amendments in this group—amendments 163 to 167—is to ensure that the tribunal application process is dealt with swiftly. Instead of the current process, we would have a defined three-month eviction process. The process will be concluded within that time, which will not just allow the tenant to move on to another property, wherever that might be, but allow the landlord perhaps to bring in a new tenant.

I conclude my comments there. Edward Mountain's intention is straightforward.

I move amendment 119.

**The Convener:** I call Fulton MacGregor, who joins us online, to speak to amendment 491 and other amendments in the group.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I will mainly speak to my amendment 491. The amendment came about through a discussion with the Church of Scotland. I know that Willie Rennie's amendment 452 came about through similar conversations and may be in a similar area—Meghan Gallacher has just highlighted some of that.

I thank the cabinet secretary for the constructive conversations. I confirm at the outset that I do not intend to move amendment 491; it is more of a probing amendment.

The amendment seeks to address the issue for a landlord who is not an individual, in relation to the proposed new section 51A of the 2016 act. The bill as drafted says:

"The Tribunal may consider in particular ... whether a period of delay in bringing the tenancy to an end would—

i) cause the landlord to experience financial hardship,

ii) have a detrimental effect on the health of the landlord, or

iii) have another detrimental effect on the landlord due to the landlord having a disability".

Those provisions mirror the considerations that are contained in section 51A(2)(a). In the case of a manse let, the landlord may not be able to prove financial hardship, as they will still be entitled to rent during the period. The provisions in proposed new sections 51A(2)(b) and 51A(2)(c) could not apply to a landlord who was not an individual.

The proposed new section would enable the First-tier Tribunal to consider another detrimental effect on a landlord that is not an individual. For example, in the cases of manses, the detrimental effect would be that the house could not be used by the landlord for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed. The detriment would prevent a minister who is called to the charge from being able to take up occupation in the parish if the manse is occupied. The example that was given to me when I met the Church of Scotland representatives was one in which a manse is used for charitable aims such as hosting refugees. Amendment 491 may be helpful in such a scenario.

I reiterate that I do not intend to move amendment 491. I am happy to continue discussions with the cabinet secretary and others ahead of stage 3.

**Willie Rennie (North East Fife) (LD):** Meghan Gallacher and Fulton MacGregor have set out the case in relation to the problem that churches and religious groups are not natural persons but are groups of people, which means that the bulk of the criteria that have been set out do not apply to them. My amendment 452 seeks to include all religious groups, rather than only the Church of Scotland, as Meghan Gallacher proposes. Fulton MacGregor's proposal to include an additional criterion is also a sensible way to solve the problem.

The main problem is that there are manses that are potentially not getting used because congregations and other religious groups fear that they will not be able to get those properties back when they need them. We need to try to solve that problem.

I know that the cabinet secretary will not accept my amendment, although I do not know what she will do with the other amendments. I would like to hear from her what she intends to do about that problem, because it is a real issue, and whether she thinks that section 24 exacerbates the problem. Church of Scotland congregations are fearful about letting out the manses on a short-term basis because they fear that they will not be able to get them back when they need them. I would like to understand what the cabinet secretary and the Government are going to do to improve communication and the application of information.

**Meghan Gallacher:** There is also an issue around the tribunal that we need to look at in relation to the groups that are impacted. Usually, the congregation needs to go to the tribunal and must weigh up the costs that are associated with that and the time impact on its ability to move a minister in and move the tenant out—that is, of course, if the tribunal agrees with the decision.

09:15

**Willie Rennie:** That might touch on one of the solutions. Partly, our amendments are trying to remove the ability to delay, because that exacerbates the problem. I do not know whether that is what the cabinet secretary is thinking about as a solution to the problem.

I will conclude at that point, because I am keen to hear what the minister has to say.

**The Convener:** I call Maggie Chapman to speak to amendments 187 and the other amendments in the group.

**Maggie Chapman (North East Scotland) (Green):** Like Meghan Gallacher, I will fall foul of the request to be brief, in this group at least. However, as one of my amendments is 12 pages long, I think that I can get away with it this once—maybe.

A warm, safe home that we can call our own is absolutely essential to our wellbeing. That being the case, forcing somebody out of their home should only be done in the most rare and unavoidable circumstances. At the moment, eviction notice periods work differently depending on how long a person has been in a property, and I struggle to see the justification in that. Being forced from your home against your will is going to have an impact regardless of how long you have been there. That being the case, my amendment 187 provides a four-month notice period for everyone, so that all tenants are treated equally. It also has the virtue of simplifying the system.

The same amendment provides a 12-month protection from eviction in the same way as will shortly be provided to tenants in England under the Renters' Rights Bill. The amendment would ensure that people have a guarantee of a minimum of one year of stability in their home, and it also ensures that protections in Scotland do not fall behind those of other parts of the UK.

My amendments 188 and 200 provide for a ban on winter evictions, specifically between November and March. Disallowing evictions during the winter period is not at all exceptional or experimental. We had an evictions ban in Scotland very recently, and almost the same measures as I

am proposing have been in force in France for more than 70 years. Similar provisions exist in certain states in the United States, where evictions cannot happen when the temperature drops below a certain level. In a country that can be as cold as ours, I do not think that I need to press home the point too strongly that we should not be moving people out of their homes and into temporary accommodation that is often poorly insulated, and, where new arrangements do not work out, onto our freezing streets.

There are, of course, appropriate exemptions, but the ban will apply to most of the common grounds for eviction. I understand that the Scottish Government's approach prizes flexibility, and that is appropriate when ensuring that evictions do not coincide with exams taken by a member of the household, for example, which can happen at any time of the year. The case is similar for religious holidays, as clearly Christian and Muslim households, for example, will need protection against evictions at different times of the year. However, winter evictions are a different matter. As we all know from sliding down the Royal Mile in the ice and snow, Scotland is reliably cold in the last few months and first few months of each year.

The Scottish Government's approach is asking for inconsistency. The bill says that tribunals "may consider" delaying an eviction due to a "seasonal factor", but they might not. They might also differ in the interpretation of a "seasonal factor". Even if members have concerns about particular aspects of the drafting, I ask those members of the committee who agree with the basic principle to support the amendment when I move it, which I intend to. I will be happy to work with them ahead of stage 3 to iron out any details.

If the cabinet secretary does not intend to support the proposal, I have one simple question. The Scottish Government—including my party and that of the cabinet secretary—brought in an evictions clause through the Cost of Living (Tenant Protection) (Scotland) Act 2022. If it was the right thing to do then, why is it not the right thing to do now?

Amendment 251 gives effect to a long-standing ask from Generation Rent. It would require the First-tier Tribunal, when allowing an eviction, to order the landlord to make a payment to the tenant equal to two months' rent, or allow the tenant to withhold the last two months of rent. That is in recognition of the significant costs that tenants incur when being evicted.

Polling by Survation for Generation Rent showed how much money tenants lose. Fifty-two per cent of tenants reported that they took more than four days to pack, move and clean at the end of a tenancy, often requiring time off work, which can be costly for those who do not have leave available. Due to overlapping tenancies, 40 per cent of private renters reported that they had had to pay rent on more than one property at once when moving home. More than a third—40 per cent—of those renters had paid rent on two properties for more than two weeks. That is not to mention the costs of cleaning the property or having it cleaned and hiring vehicles to move possessions. When up-front costs, deposits set at five weeks' rent and time off work are all considered, it typically costs renters £1,400 just to move home. The measure in the amendment is a modest one to help people deal with those costs, which are often put on them at short notice.

Moving to other amendments in the group, there are many that we in the Greens support. Mark Griffin's statutory review of eviction grounds is a timely and helpful measure. A root-and-branch review is desperately needed. His amendment to restrict evictions where ECO4 energy improvements have been made addresses issues arising recently in respect of troubling evictions, whereby people agree to the disturbance of installation works, only to be evicted so that the more energy-efficient property can be sold or rented more profitably.

Meghan Gallacher's amendments to restrict evictions in the case of terminal illness make well overdue compassionate changes. I also welcome the tougher sanctions on landlords who do not play by the eviction rules or seek to manipulate them. Those amendments have been lodged by Katy Clark and I thank her for doing so.

However, there are a number of amendments that I cannot support. Edward Mountain's amendments appear to water down the bill's plans for evictions to be delayed. I opened by noting that evictions should happen only in the most rare circumstances and only when absolutely unavoidable. That being the case, and with all due respect to faith groups who rent out properties, needing the property for a religious purpose is not a good enough reason for an eviction not to be delayed. I also see no reason to exempt the Church of Scotland alone from those provisions. I therefore encourage colleagues to vote against Willie Rennie's amendment 452 and Meghan Gallacher's amendment 487.

**The Convener:** I call Emma Roddick to speak to amendment 250 and other amendments in the group.

**Emma Roddick (Highlands and Islands) (SNP):** Amendment 250 modifies the 2016 act to give local authorities and registered social landlords first refusal on purchasing a property when a landlord evicts a tenant for the reason of intent to sell. Amendment 141 adds using intent to sell as a reason for eviction and then not selling the property to the list of wrongful eviction

reasons. That would be triggered if the property is not sold within a year. We know full well that the reason is misused. There may be legitimate reasons for a sale to be held up or for a council or social landlord not to want to buy the property but, as it stands and given that we are trying to crack down on unfair evictions, it is too easy for landlords to use intention to sell as a reason for eviction, with no checks or balances on whether that claim is being made in good faith.

I have a lot of sympathy for Maggie Chapman's amendments on winter evictions and notice periods. We have to remember that evictions can be a matter of life and death, and they can certainly quickly become life changing. The current law and the bill as introduced do not give that enough recognition. We recognise the landlord's right to sell up or move into their property, or to let a family member move in, but if eviction might risk the life of a tenant, as well as their right to a safe and secure home, the balance of rights must come down on the side of protecting the tenant.

**The Convener:** I call the cabinet secretary to speak to amendment 362 and all the other amendments in the group.

**The Cabinet Secretary for Social Justice (Shirley-Anne Somerville):** Thank you, convener, and good morning. Apologies, but I, too, will not be brief, given the number of members' amendments in this group. However, I can assure you that this will be the largest speaking note.

I share the intention behind many of the amendments in this group to increase eviction protections in certain circumstances and to strengthen existing penalties where an unlawful eviction or wrongful termination occurs. However, I cannot support them, for the reasons that I will set out. Amendments 119 and 120, in the name of Meghan Gallacher, would prevent private landlords from applying to the tribunal to evict in cases where a tenant or a member of the tenant's household has a terminal illness. I am very sympathetic to the outcomes that those amendments are seeking to achieve. However, they do not strike the right balance between protection for tenants and the rights of landlords. The amendments would prevent a landlord from recovering a property, regardless of the circumstances, and for an indeterminate period, including where those circumstances relate to their own health or ability to continue as a landlord. We have strong existing protections from unfair eviction, and the tribunal must consider all circumstances in determining whether it would be reasonable to grant an eviction. That would include where a person has a terminal illness.

Sections 24 to 27 of the bill will further strengthen those protections, ensuring that, when an eviction is granted, the tribunal must consider whether there should be a delay to the enforcement of the eviction. That will increase protection for all tenants, including those with a terminal illness, and it will ensure that the rights of tenants and landlords can be appropriately balanced.

However, I appreciate where Meghan Gallacher is coming from. She spoke earlier about bringing compassion to the bill and I assure her that I share that determination. I thank her for the genuinely useful and meaningful conversations that she and I have had over the past few weeks, and I also thank the Marie Curie charity for the direct discussions that we have had.

I accept Meghan Gallacher's point that the ending of a tenancy via an eviction is exceptionally difficult and that people should be treated sympathetically and provided with support and advice. That will particularly be the case for those with a terminal illness. I am therefore keen to develop guidance for private landlords that will set out good practice in this area. I will seek input from organisations that support those who are facing terminal illness, such as Marie Curie, to ensure that tenants are supported as early as possible and to avoid the ending of a tenancy in eviction whenever possible. I hope that Meghan Gallacher will be able to contribute to those conversations and meetings.

Meghan Gallacher also mentioned amendments on succession, which I believe are in a later group. Without spoiling the surprises that are in my speaking notes for group 22, I am also keen to work with her on many aspects that relate to that group.

Amendments 122 to 129, in the name of Meghan Gallacher, would add terminal illness as a specific consideration for the courts or the tribunal when exercising the new duties to consider a delay to the enforcement of an eviction. Although the bill will allow the courts or the tribunal to take terminal illness into account, I understand the desire to highlight this specific issue. However, further consideration is needed on how best to address it in legislation. I am happy to work with Meghan Gallacher to lodge amendments at stage 3 to ensure that terminal illness is added to the list of things to be taken into account. On that basis, I ask her not to move those amendments and to instead work with me ahead of stage 3.

Amendment 491, in the name of Fulton MacGregor, would amend the new duty to consider a delay to the enforcement of an eviction to include a consideration of the detrimental impact it could have on a landlord that is a company or a business. I confirm that, although the bill refers to a specific number of factors, that is a non-exhaustive list and the tribunal may take all circumstances into account. The impact on the

landlord, regardless of whether it is an individual, a business or another entity, will be a key factor in determining whether it is reasonable to delay. The amendment is therefore not necessary and I ask Fulton MacGregor not to move it.

Amendments 163 to 167, in the name of Edward Mountain, would prevent the tribunal and courts from ordering a delay to an eviction of longer than three months. I understand that those amendments respond to concerns from landlords about the length of any delay. However, I do not think that it is appropriate to restrict the discretion of the tribunal and courts. There are also issues with the drafting of the amendments that mean that, in practice, there could be no delay, or a minimum delay, which would undermine the purpose of the measures in the bill. I ask Edward Mountain not to move those amendments.

Amendment 452, in the name of Willie Rennie, and amendment 487, in the name of Meghan Gallacher, would create further exceptions to the duty to consider a delay when the property is needed for religious purposes and when

"the landlord is the Church of Scotland".

I recognise the concerns that have prompted those amendments. However, I am not persuaded that an exemption is appropriate. Existing exemptions to the duty reflect areas in which it would rarely be reasonable to delay enforcement and mainly relate to the conduct of the tenant. For all other repossession grounds, the tribunal is the correct place to balance the rights of tenants and landlords. The type of landlord or the purpose for which the property will be used do not, in and of themselves, merit an exemption, particularly when such an exemption would remove the protection that the measures in the bill are intended to provide for tenants.

The requirement on the tribunal to take all the circumstances into account, including for the landlord, will ensure that a delay to an enforcement is only ordered when it is reasonable to do so. That will protect the interests of landlords as well as tenants. I therefore ask Willie Rennie and Meghan Gallacher not to move those amendments.

**Ross Greer (West Scotland) (Green):** I refer members to my entry in the register of members' interests, which states that I am a member of the Church of Scotland. My understanding is that the Church of Scotland is keen to have this issue debated because it has a number of properties that it would like to make available due to long-term ministry vacancies, but it would obviously still require those properties when the ministry vacancies are filled. However, it has found it challenging to engage with the Scottish Government on this issue. Would the cabinet secretary be amenable to a discussion with the Church of Scotland about how its considerable property portfolio can be used to help tackle the housing crisis, given the limitations on that portfolio?

09:30

**Shirley-Anne Somerville:** I would indeed, and my very next paragraph was to say that the aspects that Willie Rennie, Meghan Gallacher and now Ross Greer have mentioned reiterate a concern from the Church of Scotland. I appreciate its desire to make its housing stock available to assist with the housing emergency where possible and I am keen to have those discussions with the Church of Scotland to ensure that we can work through its concerns. I hope that that will provide the reassurance that we all want to see and that I believe to be the intent behind the amendments. I am happy for those discussions to take place between the Church of Scotland and me and my officials.

Amendment 187, in the name of Maggie Chapman, would insert into the 2016 act a new section that would extend notice periods for ending a tenancy, for example, when there are rent arrears, to four months rather than the current 28 days, or to 12 months rather than the current 84 days, when the landlord is ending the tenancy in order to sell, or the property is to be sold by the lender. That change would make it harder for a landlord who needed to sell a property due to financial hardship; it would delay the sale for a substantial period and contribute to that hardship. It would also mean that a landlord could not end a tenancy quickly when there was antisocial behaviour or the property had been abandoned. Scottish ministers are committed to a wider review of repossession grounds, and that issue is best considered as part of that work. Again, I appreciate what Maggie Chapman is looking to do with her amendments, but I am concerned about their unintended consequences.

**Maggie Chapman:** How would you respond to the question of there being different protections in other parts of the UK, where there will soon be that 12-month protection—with appropriate exemptions for the issues that you raised, such as the abandonment of property or antisocial behaviour?

**Shirley-Anne Somerville:** I have looked very carefully—again, only yesterday—at what is proposed in the UK Renters' Rights Bill. There are areas where aspects in Scotland provide better support for tenants, and there are, of course, different aspects of the overall application of a tenancy that mean that we cannot just replicate what is happening in a UK bill.

I am happy to carry on conversations about that between stages 2 and 3, should there be a situation in which tenants' rights are lesser in Scotland than they are in other parts of the UK. That is not how I look at the legislation, but I am more than happy to be challenged if we feel that our rights are falling short of rights elsewhere. I am also content that there are other areas where the rights of a tenant are still better served in Scotland. In addition, sometimes, the rights of the landlord are better served by the current circumstances. However, if there are aspects in which we are falling short, I am quite happy to go through them in detail in the run-up to stage 3.

Amendments 188 and 200, also in the name of Maggie Chapman, would introduce a winter eviction enforcement ban, except in limited circumstances, which is similar to the temporary emergency measures under the Cost of Living (Tenant Protection) (Scotland) Act 2022. The time-limited nature of the 2022 act was a key factor in achieving the lawful balance between the protection of tenants and the rights of landlords. However, Maggie Chapman's amendments would be permanent and would apply every year. That is in addition to the enhanced eviction protections that are already in the bill.

I, too, want to ensure that we protect tenants and prevent, as far as possible, the negative impacts of eviction, but we must do so in a proportionate manner. In developing the bill, we explored greater restrictions on evictions over winter and consulted on that as part of our new deal for tenants. That highlighted support for additional protections, but reflected that the Scottish climate can be challenging at any time of year and that other times also present financial and emotional wellbeing pressures for people, such as periods of religious significance and exam periods.

I am also concerned about the creation of an eviction season after the end of the winter period and the negative impact of the additional pressure that that could put on housing and homelessness services, along with the issue of tenants finding alternative accommodation.

The measures in the bill will ensure that a more person-centred approach is taken, as the tribunal or court will need to consider whether the enforcement of an eviction should be delayed at any time of year, although seasonal impact is set out as a specific factor that should be considered.

I understand that the intention behind Emma Roddick's amendment 250 is to increase the supply of affordable housing, which we are all committed to doing. However, the amendment does not appropriately take account of landlords' rights. It would be overly restrictive to prevent landlords from selling a property on the open market, even if they had good reason for doing so. Amendment 250 could have unintended negative consequences should landlords decide to exit the market due to the increased risk of being unable to dispose of their property on the open market, so I cannot support it.

However, I reassure Emma Roddick that, in addition to being able to sell empty homes, private landlords can already approach social landlords with a view to selling their property with tenants in situ. Our affordable housing supply programme supports such purchases when they meet a clear strategic purpose and the tenants are at risk of homelessness. A recent example was the purchase in March this year of 20 homes, most of which were tenanted, in a pressured area of Perth and Kinross. We will continue to promote that existing flexibility through our close working relationships with councils, and we are in the process of strengthening our guidance to encourage that still further.

I ask Emma Roddick not to move amendment 250, but I will keep her informed of, and would welcome her thoughts on, the strengthening of the guidance that we will undertake.

Amendment 251, in the name of Maggie Chapman, sets out a proposal that responds to concerns about the costs of moving when a tenancy ends through no fault of the tenant and the misuse of repossession grounds. I am sympathetic to the issues that have been raised, but further detailed consideration of the need for, and the impact of, the amendment is required. That would best be done through the review of repossession grounds that we are committed to.

Amendments 362 to 368 and 395, in Paul McLennan's name, will ensure that tenants who pay no rent or a low rent are appropriately compensated under the new unlawful eviction damages process. The current unlawful evictions legislation applies to all residential occupiers. That means that the provisions apply to all forms of tenancy and to forms of tenure other than a lease, such as a service occupancy or licence. It is therefore possible that a person who occupies a property will not necessarily pay rent or will pay a low rent. Changes in the bill that base damages on a calculation that involves multiplying the monthly rent could disadvantage people in those circumstances, which is not our intent.

Our amendments address that issue by prescribing that the figure of £840 should be used for the calculation in circumstances in which no rent or a low rent is paid. That figure is based on the average rent for a two-bed privately rented property, which is the most common size in the private rented sector. The amendments also provide powers for ministers to amend that amount through regulations.

Amendments 369 and 404, in Paul McLennan's name, seek to change the compensation that can be awarded when a wrongful termination occurs to an amount between three and 36 times the monthly rent. That mirrors the way in which damages for an unlawful eviction are calculated. By prescribing £840 as the figure that should be used for the calculation for tenants who pay a low rent, amendment 369 will ensure that such tenants will be appropriately compensated. Powers are also provided for the Scottish ministers to amend the amount through regulations.

Amendment 268, in the name of Mark Griffin, would introduce a requirement for the Scottish ministers to carry out a review of eviction grounds under the 2016 act within 12 months of the bill receiving royal assent. As I have said, I remain committed to such a review being carried out for the private rented sector, and I understand Mr Griffin's desire for it to be carried out in a timely manner.

However, if a detailed and robust review of repossession grounds is to be delivered, that work must be supported by stakeholder engagement. The imposition of a 12-month timeframe risks limiting the scope of the review, and I am sure that Mark Griffin would agree that none of us would want that to happen.

As I said when I wrote to the committee following its meeting on 6 May, I am committed to engaging with committee members on a range of issues. As part of that process, I will write to committee members with more information regarding our plans following the conclusion of stage 2. I therefore ask Mark Griffin not to move amendment 268.

Amendment 269, also in the name of Mark Griffin, introduces a similar requirement for a review of all the other grounds for eviction within the same timescale. There is no existing commitment to review the grounds for eviction more broadly and no evidence of a need for a review of that for the social rented sector or, indeed, evidence of calls from stakeholders to do so. Also, as no new tenancies can be created in relation to older protected or assured tenancies, that broader review would have little benefit. I therefore ask Mark Griffin not to move the amendment.

Amendment 141, in the name of Emma Roddick, seeks to address an important issue, the misuse of repossession grounds, which was also highlighted by the committee's stage 1 report. No landlord should wilfully mislead a tenant or the tribunal into ending a tenancy. There are existing penalties for doing so through the Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016, which could result in imprisonment for up to two years, a fine or both. I recognise the need for further action in that area; however, I am not convinced that amendment 141 will deliver the outcome that is being sought. It is through the wider review of repossession grounds that the issue is best considered.

I reassure members that we are taking immediate action to increase penalties for wrongful termination through amendments 369 and 404. They would see compensation for a wrongful termination increasing from the current maximum of six months' rent to 36 months' rent. I therefore ask Emma Roddick not to move the amendment.

**Graham Simpson (Central Scotland) (Con):** There are some interesting amendments in this group, but I will focus on amendment 141, in the name of Emma Roddick, which raises the issue of when a landlord says, "I intend to sell; therefore, you need to go." Does the cabinet secretary accept that, when that happens—and it happens quite regularly—there is no monitoring of whether the landlord does put the property up for sale or sells it. That is just not happening. I think that that is what Emma Roddick is trying to address—she is nodding—and it does need to be addressed.

**Shirley-Anne Somerville:** I agree. The conversations that I have had directly with Emma Roddick on the issue have absolutely strengthened my opinion that there can be—indeed, in some circumstances, there has been—a misuse of that ground. That is why the existing penalties are very strong, but, regardless of that, I think that it still can happen. One aspect of that might be the lack of monitoring, which is why I am keen that that is looked at in the review of repossessions. As with other aspects of the bill, we must not just be satisfied that something is in the legislation if it is not being used to the benefit of the tenant or, in some circumstances, the benefit of the landlord; we must look at why those things are still happening. I am sure that monitoring is one of the areas that will come up in the review of repossession grounds.

**Graham Simpson:** Monitoring is key. The questions are, who does the monitoring, and then, who does the enforcement? The reality at the moment, is that, if you are a tenant and you are told by the landlord, "I intend to sell; therefore, you need to go", chances are that the tenant will just go and will not bother monitoring what happens with that property.

Then, of course, the tenant falls foul of the cost of removal. Maggie Chapman raised that very good point in the discussion on amendment 251. Removal costs can be extremely high. I have been in that position myself here in Edinburgh. The property did sell—I checked—but I incurred significant costs to move. If the property had not sold and I was not monitoring whether it had, it

could just have been rented out again. These are significant issues, so who does the monitoring?

**Shirley-Anne Somerville:** I am sure that we will come to that question during the review of repossession grounds, when we will get into the details of those aspects. We cannot sort out the details of that issue in the bill, but we will clearly have to look at it.

Again, I make the point that there is no point in having those aspects in legislation if we are not able to make use of them, whether because of monitoring or other areas where there are gaps in implementation. We must look at the use of the legislation, and awareness of rights is a key aspect of that. The monitoring is indeed challenging.

09:45

**Emma Roddick:** On that point, I wonder whether the work that the cabinet secretary is considering around data collection in relation to another part of the bill might help to highlight that inconsistency. If we are getting the data from landlords that I have suggested, it would be much easier to spot when the ground of intent to sell is being used but the property is let out for a different rent further down the line.

**Shirley-Anne Somerville:** The aspects of data collection that we are looking at in relation to the bill are to ensure that we can implement rent controls. I appreciate that there are other pieces of data that members might wish to see collected for overall information purposes relating to the private rented sector. In one of the many round-table meetings that we will have over the summer, we will have to look at why we would be collecting the data, its purpose and what it would be used for. Those are the questions that we will need to get into if we are looking at evictions and the question of whether a property has been sold. We will need to consider how often that ground is used and how we can monitor the sale of properties.

Those details will have to be teased out. I do not know whether that can be done through data collection provisions in the bill, because those would specifically relate to rent control implementation. It is a challenge that we will have to come back to.

**Maggie Chapman:** I thank Graham Simpson for referring to amendment 251. Cabinet secretary, you mentioned the review of repossession grounds. In the letter that you will write to the committee after stage 2, will you include the timeframe for that review, so that we know when we will have that information and what we will be able to do with it when it comes out?

**Shirley-Anne Somerville:** I am conscious that I am offering to work on a great deal over the summer with committee members. I am also conscious of their commitments over the summer, particularly in constituencies, and of the time limit in relation to what we can achieve before the election. I want to send that letter because I am keen to set out the Government's suggested workload and to seek the committee's views on that, so that there is full openness on what we expect to be able to do and in which areas.

However, I hesitate to give timeframes for each area because I am notching up quite a lot of commitments. I want to make sure, when I look at the totality, in the round, that those commitments are genuinely deliverable and that I do not overpromise—or, indeed, ruin everybody's summer holidays to too great an extent.

**Maggie Chapman:** I think that is happening already.

**Shirley-Anne Somerville:** Convener, I assure you that I am nearly there. I will move on to amendments 409, 413 and 414, in the name of Katy Clark. Amendment 409 would introduce a new offence, with the potential for a prison sentence, for landlords who are found to have misled the tribunal or misled a tenant into ending a tenancy. I understand and sympathise with the hardship that wrongful termination can cause, as we have mentioned, and I agree that it is vital that suitable recourse and proportionate compensation are available. However, I do not think that amendment 409 is necessary, as I have already set out in relation to amendment 141.

Amendment 413 seeks to increase the maximum penalty that can be applied for wrongful termination, from six months' rent to 36 months' rent. I am supportive of deterring landlord malpractice and, as I have set out, amendment 369 seeks to do that.

I sympathise with the intent of amendment 414; however, I cannot support it. As I said in relation to other amendments in the group, there are existing offences that can be used in relation to the provision of false information to tribunal proceedings, and, through the bill, we are strengthening penalties in relation to wrongful determination. Therefore, I urge Katy Clark not to move amendment 414.

Mark Griffin's amendment 502 would prevent an eviction where the landlord has received ECO4 funding for energy efficiency measures in the previous 12 months. I recognise the good intent behind the amendment, but I cannot support it. The amendment does not enable a landlord's circumstances to be taken into account, so it does not strike a proportionate balance between the rights of tenants and landlords.

There are existing protections through the legal framework that ensure that all circumstances of a case are taken into account when deciding whether it is reasonable to grant an eviction. I share Mark Griffin's concern about the issue of potentially vulnerable tenants being evicted after such funding has been received. However, the design of the ECO4 scheme is decided by United Kingdom Government ministers, and they did not agree to the changes that we proposed last year to strengthen the safeguards for householders. I would welcome Mark Griffin's support in pressing UK ministers to do that urgently, but I urge him not to move amendment 502.

For the reasons that I have set out, I ask members to support the amendments in the name of Paul McLennan. I urge Meghan Gallacher, Fulton MacGregor, Edward Mountain, Willie Rennie, Maggie Chapman, Emma Roddick, Mark Griffin and Katy Clark not to press or move their amendments. If they do so, I urge the committee not to support the amendments.

**The Convener:** I call Mark Griffin to speak to amendment 268, Katy Clark's amendment 409 and any other amendments in the group.

**Mark Griffin:** Amendments 268 and 269 would require Scottish ministers to review grounds for eviction under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 within 12 months of the bill coming into force. From analysing the case load of the First-tier Tribunal for Scotland, listening to the submissions of organisations that act on behalf of tenants and observing the outcomes of changes that were made to schedule 3 of the 2016 act and the emergency legislation that was made during the pandemic, it is clear that at least some of the grounds for eviction mean that the balance of rights in such cases is tilted unfairly away from tenants. While the grounds remain discretionary, the opportunity will exist for unscrupulous landlords to take advantage of the imbalance to unfairly evict tenants.

Although I am in favour of much of the thrust of part 2 of the bill, which will tighten up the circumstances under which eviction should be allowed, there is further to go in ensuring that the balance of rights is fair. That is why I support all the amendments in this group that will make it more difficult to allow unfair evictions.

My amendment 268 would allow the Government to review the structure under which such unfairness can take place. The amendment deals with the cause of the imbalance, while the rest of the bill attempts to mitigate the effects of that. We have all heard stories about tenants who, having been told that the landlord intends to put the property on the market, found that, after they were evicted, the property was put back up for rent, often at a higher price. All my amendments in this part of the bill seek to ensure that the balance of rights is re-weighted towards tenants, while still allowing landlords the ability to end a tenancy when there is a legitimate need to do so.

The time has come to review the grounds for eviction so that the Government can properly consider them in the light of the time that has passed and the experience that has been gained of the application of the grounds since the 2016 act and the subsequent amendments to the schedule came into force.

I take on board the Government's commitment to undertaking the review and the fact that the timescale of 12 months might be overly prescriptive in relation to consulting on and providing a full perspective of the changes that are required, so I do not intend to move amendments 268 and 269.

Amendment 502 would prevent landlords from evicting tenants under no-fault circumstances for 12 months after they have carried out work as a result of a grant made under the ECO4 scheme. A 2023 Scottish Government report estimated that, by March 2024, nearly half of all households in the private rented sector would be living in fuel poverty. The ECO4 grants are part of the UK Government's strategy to meet carbon emissions targets and reduce the impact of the cost of living crisis. The focus is on households that are deemed to live in fuel poverty. Grants are means tested to the tenant's income; there is no relation to the landlord's situation. If a landlord receives a grant to make improvements to the energy performance of the home, the decision has been taken to award the grant because of the financial circumstances of the tenant and not those of the landlord.

The tenant in question, having been the reason why the landlord got the grant and having been inconvenienced by the work that was carried out in their home, should be given more protection from eviction, so that they get the intended benefits of the improvement to the property, rather than the landlord being able to evict them and then, as is often the case, re-let the property at a higher price due to the improvements, which were funded by the Government because of the circumstances of the tenant.

I appreciate the points that the cabinet secretary makes, so I do not intend to move the amendment at this stage. However, there is a gap in the legislation on how we deal with that, whether that be at a UK or Scottish level. I am happy to have further discussions to iron out the anomaly of a landlord getting funding to improve a property on the basis of a tenant's circumstances and then evicting them to re-let it.

**Graham Simpson:** I wonder whether the issue is best dealt with at a UK level, and whether conditions should be attached to the issuing of a grant, which would tackle the issue that Mr Griffin raises.

**Mark Griffin:** I am not opposed to conditions being attached to the grant. I am not aware of the legal discussions that have gone on in relation to that scheme or whether there are difficulties between reserved and devolved competencies with regard to the laws on housing evictions and other areas. As I said, I am happy to have a discussion with the Scottish Government on the legal interaction between reserved and devolved competencies. I am happy to not move the amendment, to leave that to a further discussion and to come back at stage 3, potentially.

I turn to the amendments in the name of my colleague Katy Clark. Amendment 409 aims to strengthen the criminal law relating to unlawful eviction and the action that can be taken against the worst landlords, particularly repeat offenders.

Freedom of information requests from the Legal Services Agency to the Crown Office and Procurator Fiscal Service revealed that, of the 153 complaints that it received of unlawful eviction in the five years to 31 March 2018, COPFS proceeded against only 56 to 59 people. Such proceedings resulted in a minimum of three and a maximum of 12 convictions annually. At the time of a 2020 publication by the Legal Services Agency, the First-tier Tribunal had made an award of damages for unlawful eviction only once in its entire history.

Amendment 409 seeks to tighten the legal provisions against unlawful evictions by amending the Private Housing (Tenancies) (Scotland) Act 2016 to create a wrongful termination offence that criminalises the act of misleading

"a tenant into ceasing to occupy a let property."

That allows for a defence where an individual had not intentionally misled the tribunal or the tenant.

An individual who is guilty of that offence on a summary conviction would be liable to a fine not exceeding the statutory maximum or to a six-month maximum custodial sentence, or to both. If convicted on indictment, the individual would be liable to a fine or to imprisonment for a maximum two-year term, or to both. The amendment is an attempt to strengthen the penalties in the most extreme cases.

On amendments 413 and 414, further to the previous amendment, amendment 413 also seeks to strengthen deterrence against unscrupulous actions by landlords by setting higher penalties under a "wrongful-termination order". The amendment would increase the maximum penalty for wrongful termination. It also seeks to increase the cumulative total that the tribunal may require landlords to pay from six months to 36 months.

Amendment 414 relates to eviction orders for occupied properties on the grounds of sale, only for landlords to later seemingly abandon those plans to sell. Research from Generation Rent in 2022 found that, despite tenancy reforms, nearly a third of private landlords who evicted tenants in order to sell their property failed to sell the home more than a year later, with 9 per cent of cases of tenants who were evicted on grounds of sale seeing the home simply sold to another landlord who then re-let the property. Therefore, amendment 414 would add protections on property sale, restricting landlords from letting or attempting to let the property in question within 12 months of an eviction order being granted.

10:00

That covers the amendments in my name and Katy Clark's name, but I want to touch briefly on the amendments in the name of Meghan Gallacher that relate to protections due to terminal illness. I support the work that Meghan Gallacher, the cabinet secretary and Marie Curie have done in that area and hope that we can reach a consensus and strengthen protection for those who are terminally ill and their families.

I also want to touch briefly on the issues raised by Willie Rennie, Fulton MacGregor and Meghan Gallacher on the use of properties that are held by religious organisations. In general, I agree with Maggie Chapman that the organisations that hold such properties should not dictate how easy it is to evict. However, if that leads to those properties lying empty, especially when they are the large, family-sized properties that we are crying out for, it would be helpful for the Government to look at how to allow those organisations to let such properties and relieve that pressure, with the assurance that they can bring them back into use for a minister, a priest or any other employee.

**Meghan Gallacher:** A lot of important issues have been raised in relation to this grouping on evictions. I am grateful to the cabinet secretary for our conversations on my amendments that deal with terminal illness. I have worked alongside Marie Curie, and other colleagues have been involved in those conversations. The conversations, working relationships and cross-party work that have taken place show a resetting of the approach to the bill. I welcome the opportunity to have further discussions with the cabinet secretary over the summer, which I hope will involve Marie Curie—the organisation that is behind the amendments on terminal illness.

I will touch on the amendments that relate to religious organisations letting out properties, which is a really important issue. I understand that that relates to legislation that was introduced during the pandemic, but there is a legacy issue. How can we find a balance between letting those homes out and ensuring that, when those homes need to be occupied by a minister of a local church, that can happen? I do not believe that we can resolve that issue overnight, but Ross Greer's suggestion about the cabinet secretary meeting religious groups and organisations to see what can be done to tease out the issues would be a step in the right direction.

It has been made clear at stage 1 and now, at stage 2, that we need to consider how to strengthen the tribunal's powers in relation to its overall authority to strengthen tenants' rights. We also need to consider, from the perspective of landlords, whether the tribunal has followed the correct processes and, if it has, how landlords can find a suitable resolution to any issues that are being raised. That is raised in various amendments today, and certainly in relation to evictions, which this grouping deals with.

I am sympathetic to Maggie Chapman's amendments on winter evictions. My problem is with how we define winter. Maggie Chapman might want to explore that but, given the climate in Scotland, it will be incredibly difficult to work out. We have some summers that look like winters, for example, and we could end up with a year-long process that does not allow any eviction processes to happen.

I understand that that could be the position that Maggie Chapman wants to set out, and she is within her rights to do so. However, there has to be a balance, because there are situations in which landlords need to take back their property. If we put in measures against winter evictions, that could prevent such things from happening in situations where they genuinely need to.

**Maggie Chapman:** The protection would specifically be for the four months over winter—November, December, January and February—so that is clear. I am not saying that it needs to extend to awful weather at other times of the year; it is about winter evictions.

**Meghan Gallacher:** I take on board Maggie Chapman's comments. As I said, I am sympathetic to the situation that people could be faced with, given the climate in Scotland. However, we have to balance that against what our climate is like generally. There could be a means to expand what such a protection would do, given that we have extreme weather throughout different parts of the year. I know that Maggie Chapman is saying that that is not her intention, but I feel that her amendments could be the starting point for expanding such an approach.

I understand what Mark Griffin is trying to do in his amendment 502. Graham Simpson made an important point about whether the grant issue should be dealt with at UK level instead of in the bill. However, given that Mark Griffin's proposal is about tenants' rights and housing in general, I believe that it was right to lodge the amendment, even if he decides not to move it.

I understand that time is ticking on, convener, so I will leave my remarks there. I seek to withdraw amendment 119.

*Amendment 119, by agreement, withdrawn.*

*Amendment 120 not moved.*

### Section 24—Private residential tenancies: duty to consider delay to eviction

*Amendments 122, 123, 491, 124 and 125 not moved.*

*Amendment 163 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 163 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

Burgess, Ariane (Highlands and Islands) (Green)
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 Convener:** The result of the division on amendment 163 is: For 2, Against 5, Abstentions 0.

*Amendment 163 disagreed to.*

*Amendments 452 and 487 not moved.*

*Section 24 agreed to.*

### Section 25—Scottish secure tenancies etc: duty to consider delay to eviction

*Amendments 126 to 129 not moved.*

*Amendment 164 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 164 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

Burgess, Ariane (Highlands and Islands) (Green)
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 Convener:** The result of the division is: For 2, Against 5, Abstentions 0.

*Amendment 164 disagreed to.*

*Amendment 165 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 165 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

Burgess, Ariane (Highlands and Islands) (Green)
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 Convener:** The result of the division is: For 2, Against 5, Abstentions 0.

*Amendment 165 disagreed to.*

*Section 25 agreed to.*

### Section 26—Assured tenancies: duty to consider delay to eviction

*Amendment 166 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 166 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

Burgess, Ariane (Highlands and Islands) (Green)
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 Convener:** The result of the division is: For 2, Against 5, Abstentions 0.

*Amendment 166 disagreed to.*

*Section 26 agreed to.*

### Section 27—Protected tenancies and statutory tenancies: duty to consider delay to eviction

*Amendment 167 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 167 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

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

**Against**

Burgess, Ariane (Highlands and Islands) (Green)
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 Convener:** The result of the division is: For 2, Against 5, Abstentions 0.

*Amendment 167 disagreed to.*

*Section 27 agreed to*

### After section 27

*Amendment 187 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 187 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 187 disagreed to.*

*Amendment 188 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 188 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 188 disagreed to.*

*Amendment 250 not moved.*

*Amendment 251 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 251 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 251 disagreed to.*

10:15

### Section 28—Unlawful eviction: notification and damages

*Amendments 362 to 368 moved—[Shirley-Anne Somerville]—and agreed to.*

*Section 28, as amended, agreed to.*

### After section 28

*Amendment 369 moved—[Shirley-Anne Somerville]—and agreed to.*

*Amendments 268, 269, 141, 409, 502, 413 and 414 not moved.*

*Amendment 442 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 442 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 442 disagreed to.*

**The Convener:** I suspend the meeting and invite us all to have a 10-minute break.

10:18

*Meeting suspended.*

10:35

*On resuming—*

### Section 29—Private residential tenancies: keeping pets and making changes to let property

**The Convener:** Welcome back. The next group is on a tenant's right to keep a pet. Amendment 522, in the name of Emma Roddick, is grouped with amendments 259 to 261, 523, 24, 25, 524 to 527, 370, 168, 26, 169, 528, 529, 170 to 172, 263 to 265, 180 to 182, 27, 530 to 532, 28, 533, 534, 563 and 564

I remind members that amendments 523 and 24 and amendments 532 and 28 are direct alternatives—that is, they can both be moved and decided on. The text of whichever is the last agreed to will appear in the bill.

**Emma Roddick:** As somebody who lives with a cat and has struggled to find landlords who are happy with that, I am really excited about the fact that the bill will strengthen the rights of tenants to keep pets. My amendments simply seek to provide that certainty to tenants as soon as possible.

Amendment 523 seeks to change the period in which landlords must respond to a request to keep a pet from 42 to 28 days. Having spoken with the cabinet secretary about that and explored the likelihood that forcing an answer before the landlord has had a chance to take everything into account might lead to an unnecessary no, I understand that there are debates about what is the best time frame. On that basis, I will not move the amendment. I am happy to rethink the matter before stage 3, to ensure that the balance is in the right place.

Some of my other amendments, along with those of Maggie Chapman, remove reference to assumed refusal in the bill, as we both believe that a non-response should be considered to be consent.

On amendment 522, I am aware that, in a later group, we will discuss property factors—one of many reasons why I am concerned about the burden that might be placed on the First-tier Tribunal. Where it is clear that a tenant has or can

comply with reasonable conditions for keeping a pet and the landlord has not refused the request but has simply failed to give consent, I do not believe that it would be a good use of anyone's time for the tenant to have to challenge the default refusal through a tribunal, while others are waiting to hear back from the tribunal on unreasonable conditions.

I also believe that, unless there are considerable, reasonable reasons why a tenant cannot keep a pet or why the property is simply not suitable for that pet, there is no good reason for the landlord to make such a refusal, and the tenant should be very clear as to why a refusal has been made in any circumstance.

**The Convener:** Could you move the amendment?

**Emma Roddick:** I move amendment 522.

**The Convener:** Thank you very much. I call Maggie Chapman to speak to amendment 259 and other amendments in the group.

**Maggie Chapman:** This is another fairly lengthy—but not too lengthy—contribution from me. I know that many members of the committee and, indeed, many members of the Parliament, are pet owners and animal lovers. Emma Roddick entered Sparky, her beautiful English bull terrier, into the Holyrood dog of the year competition earlier this month, and Meghan Gallacher entered Trevor, a Dogs Trust dog.

Pets make a house a home, and this part of the bill seeks to set up a clear framework for tenants to make requests for their pets to live with them as part of their family. There is a lack of pet-friendly rented homes in Scotland. A 2021 survey of landlords, letting agents and tenants on pets and rental properties conducted by YouGov on behalf of Cats Protection and the Dogs Trust found that 68 per cent of private Scottish landlords who do not currently allow pets in any or all of their properties say that nothing would persuade them to do so. That demonstrates the need for a legal framework to actively encourage landlords to see the benefits of pet ownership for responsible tenants.

Additionally, the survey highlighted the number of blanket no-pet policies in Scotland. Some 18 per cent of Scottish landlords do not allow cats because they use a standard contract template provided by the letting agent, and 6 per cent because they use a standard contract template which they download. Tenants are being denied the opportunity to experience the benefits of pet ownership simply because their contract says no to pets. The proposals will end blanket no-pet policies by enabling tenants to request to keep a pet without fear of automatic rejection because of a contractual clause.

Giving responsible tenants a right to request to keep a pet in their home that landlords cannot unreasonably refuse, will decrease the burden on animal rehoming organisations such as Cats Protection. In 2023, Cats Protection took in the equivalent of around three cats each day due to landlords not allowing them in their properties. Our proposals have the potential to help relieve the large waiting lists that rehoming organisations face and allow them to focus their resources on other animals in need.

A number of my amendments would make the pet request process work better and they have all been developed in partnership with Cats Protection, Dogs Trust and Sight Scotland. My amendments 24 and 28 reduce the time a tenant has to wait to get a response to a pet request from 42 to 14 days. Dogs Trust believes that that would allow tenants to better plan for pet ownership, reduce any kennelling or cattery expenses and lessen the significant stress of not knowing whether they will be able to keep their pet in their rented property. From the landlord's point of view, it would still afford a reasonable timeframe in which to consider the request.

My amendment 26 addresses a loophole in the proposed system. If a landlord does not meet the timescale, they are deemed to have refused the request, which is simply not fair. The tenant has no way of knowing why the landlord does not consent to the pet and therefore has no ability to offer assurances to the landlord or to challenge the decision. Amendment 26 would change that, so that the landlord is deemed to have consented if they do not reply within the timescale. That is not new or an untested formula. It is the same approach that appears in section 30 of the bill, on social housing. There is no good reason at all why social and private tenancies should not be treated exactly the same in that respect. It is very important that all parties are clear on what does and does not constitute a reasonable request and a reasonable refusal, so my amendments 26 and 27 would require ministers to produce appropriate guidance on that.

My amendments 259 to 261 and 263 to 265 cover assistance animals. The amendments exempt assistance animals from the pet request process, granting an automatic right to have an assistance animal in a rented property. I have heard concerns that the subject of the amendments is already covered by the Equality Act 2010, which, of course, prohibits discrimination against disabled people, but there are no specific protections for disabled tenants who need their assistance animals at home. Sight Scotland reports having to work with the landlords of blind and partially sighted people to ensure that their assistance animals can live with them. If the 2010

act were perfectly clear on that point, that would clearly not be happening, but it is.

I would like to provide a quote from a person with sight loss living in Edinburgh who has repeatedly been refused a tenancy because they need their guide dog to live with them and have been told no:

"It was very disheartening when I was told that I could not rent a property because of my Guide Dog. It made me feel very upset and frustrated.

Even when I explained the laws and legislation, I was still told no and that the letting agent had to take the landlord's side. It made me very wary of looking for a rental property, and I started to discount a lot of properties, as the adverts stated no pets.

This left me with a very limited choice of houses to pick from. The stress of finding a property is bad enough without having to explain my sight loss and why I have a Guide Dog as my mobility aid."

Disabled people should not be made to jump through the hoops of the Equality Act 2010 to prove that it covers having their assistance animal with them in their home. There should instead be a very clear and simple statement in Scottish housing law confirming that they can, and that is what my amendments seek to do. I am very pleased that Health and Social Care Alliance Scotland, Guide Dogs and Sight Scotland support the amendments.

**Shirley-Anne Somerville:** Amendments 522 and 564, in the name of Emma Roddick, would provide for a new appeal route if a private landlord withdraws consent for a pet because the tenant has not complied with the reasonable conditions imposed. There exist routes of recourse in the private rented sector through the First-tier Tribunal in relation to a breach of the tenancy agreement, which could be used in those circumstances.

Although I think that the amendments are unnecessary, I appreciate the member's desire for clarity on the issue, because it is an exceptionally important point. Guidance for tenants and landlords will be important in supporting those new rights, and further support on that type of issue will be addressed through that guidance. I give Emma Roddick reassurance on that point and therefore ask her not to press amendment 522 and not to move amendment 564.

10:45

Emma Roddick's amendment 259 and Maggie Chapman's amendment 263, and her associated amendments 260, 261, 264 and 265, would allow private and social tenants to keep an assistance animal without the landlord's consent. While I am sympathetic to the sought outcome, I do not think that the amendments are necessary, because a disabled tenant can already ask a landlord to keep an assistance animal. If the tenant requires any such animal, such a request cannot be unreasonably refused. Under the Equality Act 2010, that is known as making a "reasonable adjustment". The amendments are likely to confuse matters as they do not take account of other tenants' needs or the property's suitability. We can address the issue that Maggie Chapman has raised today around guidance, and it is now easier to seek redress through the tribunal. I recognise the concerns that Maggie Chapman has raised, but I suggest that there is another way to address them.

**Maggie Chapman:** I understand what the cabinet secretary is saying, but surely a disabled person should not have to go through a tribunal. They should not be put through that additional hurdle in order to have the animal that allows them to function in society living with them. It is another burden and adds more bureaucracy, which we would not ask of somebody who is not disabled, so why are we asking it of somebody who is disabled?

**Shirley-Anne Somerville:** I agree that such a case should not get to the point of going through a tribunal. That goes back to a point that we have raised on many issues, about being able to support tenants in better recognition of their rights and landlords in recognition of their obligations. However, we also need to take account—in the private rented sector, for example—of aspects such as shared accommodation and whether other tenants have allergies.

I completely appreciate Maggie Chapman's point. The case studies that she mentioned are clearly very concerning, which is why it is important that we do further work on tenants' rights and landlords' responsibilities on those issues. However, I unfortunately remain persuaded that the amendments are not necessary and that we can achieve the outcome that Maggie Chapman and I wish to achieve in other ways.

Amendments 523 and 532 in the name of Emma Roddick and amendments 24 and 28 in the name of Maggie Chapman seek to reduce the period in which landlords must respond to a pet request. We recognise that pets are important members of people's families and believe that tenants should be able to benefit from the experience of pet ownership, as is the case for most other households, including my own.

Amendment 523 would reduce the period for private landlords to respond to a pet request from 42 days to 28 days, and amendment 24 would reduce the period to 14 days. I am concerned that reducing the period to 14 days might result in disputes that could be avoided if a slighter longer period is in place. Even if a landlord is content to agree to a request, the landlord might have further

questions. Ensuring that there is enough time for the landlord and tenant to discuss the request will help both parties. The landlord might otherwise be unable to consent, only because there has not been enough time to agree reasonable conditions.

As part of our landlord and tenant engagement questionnaire, we consulted on the appropriate timescale for a landlord to respond. In setting the timescale at 42 days, we tried to strike a balance between providing landlords with a reasonable timescale to consider and respond to a tenant's request and ensuring that the timescale is not unreasonably long from a tenant's perspective. The timescale is also aligned to that for the consideration of a request to make a category 2 change to the property. However, I recognise that there are concerns, including from animal rights charities, that 42 days is too long. I am therefore happy to work with both members to consider the timescale before stage 3. On that basis, I ask the members not to move those amendments.

Amendment 532 would reduce the period for social landlords to respond to a pet request from one month to 28 days, whereas amendment 28 would reduce the period to 14 days. I am concerned that reducing the period to 14 days may result in unnecessary disputes, in a similar way to the private sector. The period of one month is a bit more onerous than the 42 days that are afforded to the private sector, but that was considered reasonable given that social landlords already respond within a month to other requests from tenants, such as requests to take a lodger, sublet, assign a tenancy or exchange a house. I think that it is helpful for social landlords to have a consistent period for responding to such requests, but I am happy to discuss that matter again with members. On that basis, I ask the members not to move their amendments.

Amendment 25, in the name of Maggie Chapman, would change the provision so that, when a private landlord fails to respond, a request would be automatically approved. I am concerned that there would be negative consequences to an assumed consent model in the private rented sector. For example, it would be difficult to remedy disputes in cases in which a landlord has not responded, or appears not to have responded, to a request in the timeframe, but there was a legitimate reason for a delayed response. If the tenant had assumed consent and had already obtained a pet in the interim, that would create significant issues. On that basis, I ask the member not to press the amendment.

**Maggie Chapman:** I appreciate the potential issue that the cabinet secretary has highlighted, but, surely, the flipside of that is also true: if a landlord does not respond and, therefore, a tenant has assumed refusal, they would have absolutely no way of seeking to appeal or challenge the decision. That is how it is currently presented, although that might not be the intention. A landlord may be happy for a renter to have a pet but there may be reasons why they have not responded to their request. The tenant may think, "They haven't met the deadline, so I have no options left."

**Shirley-Anne Somerville:** The tenant can appeal an unreasonable refusal, so I hope that that reassures Maggie Chapman that they would have the ability to appeal. As an animal lover and a pet owner, I am concerned that we would be asking people to have to rehome their pets or to find them alternative accommodation, when those pets are, in effect, members of their family. The issues that are raised with assumed consent would be quite concerning for the tenant and, indeed, the pet.

Amendments 524 to 527 in the name of Emma Roddick would remove the ability of a tenant to seek redress where a landlord has failed to respond to a pet request. I understand that the amendments intend to support the effective operation of the deemed consent model that is proposed under amendment 25. I have already set out my concerns about the risks that that model would create, and I do not think that that is the right way to deliver improved rights in this area. I ask the member not to move her amendments.

**Emma Roddick:** Does the cabinet secretary recognise that, in many situations, the person who is seeking to rent a property would already have a cat or dog and that they may have to leave them with a family member, or perhaps in a cattery or dog kennel? They would be in limbo while they were waiting to hear from the landlord.

**Shirley-Anne Somerville:** I recognise that, which is why am more than happy to work with you and Maggie Chapman on the timings for how long some of the decisions can, and should, take. I appreciate the support that a person can draw from the company of their pet, and that the costs that would be incurred by placing them in a cattery or kennels can be quite substantial, even over a short period of time. As I have set out, although there are reasons for the timings that the Government has proposed, Emma Roddick's and Maggie Chapman's amendments have importantly highlighted the issues and that we do not have the balance correct. I am more than happy to see what can be done before stage 3 in order to try to alleviate some of the concerns and to assist with the points that Emma Roddick has just made.

Amendment 370 in the name of Paul McLennan is a minor technical amendment correcting a previous typo, which makes no change to the effect of the provision.

Amendments 168 to 172 and amendments 180 to 182, in the name of Edward Mountain, relate to reasonable conditions for approval to keep a pet. I recognise that Mr Mountain is seeking to provide greater clarity and certainty in the bill with regard to ensuring that ministers make use of the regulation-making powers that the bill provides for and on some of the detail that they should cover. For example, that would include setting out that it would be a reasonable condition for approval for the landlord to require the tenant to have the property professionally cleaned at the end of the tenancy.

I note that, in order to make those additional rights operational, regulations will need to be introduced to set out further detail. The details of what would be considered an unreasonable refusal or reasonable conditions for approval must be developed in consultation with landlords, tenants and other relevant stakeholders. I firmly believe that that is the right approach, and that is why the bill specifically includes statutory provisions that require consultation for the exercise of the regulation-making powers under the affirmative procedure. We will include in that work the aspects that are highlighted by these amendments, and I therefore ask Mr Mountain not to move them.

Amendments 26 and 27, in the name of Maggie Chapman, would amend the bill so that the Scottish ministers "must" make use of the regulation-making powers in the bill to set out when it is reasonable for a landlord to refuse to consent to a tenant keeping a pet. I can reassure members of the committee that, although the provisions as drafted use the word "may", making use of the regulation-making powers will be an essential part of the bill's implementation. Effective guidance will be essential to the successful implementation of those measures, as will ensuring that landlords are provided with sufficient information to inform their decisions. I therefore ask the member not to move those amendments.

I turn to the other amendments in the group, which are in the name of Emma Roddick. Amendments 528 and 529 seek to provide greater clarity and certainty in the bill. Current provisions in the bill already mean that refusal and any consent conditions must be reasonable—which is the appropriate test—and amendment 528 is therefore not needed.

Amendment 529 includes aspects that the regulations may cover, and I do not believe that the amendment is necessary either. As I have made clear, we are committed to consulting further with landlords and tenants on the detail that should be included in regulations under the affirmative procedure, in order to support the operation of the new rights. There is already a duty in the bill in connection with that, and I can reassure members that the aspects that are covered in the amendment will also form part of that work.

On that basis, I ask Ms Roddick not to move amendments 528 and 529.

Amendments 530 and 531 relate to the refusal of a request to keep a pet by a social landlord. They would make it a condition that landlord refusal is

"necessary and proportionate"

and that there is

"clear reasoning or supporting evidence".

A tenant who is unhappy about the landlord's decision to refuse their request can appeal using the landlord's complaints process, and has a further route of redress beyond that to the Scottish Public Services Ombudsman. I believe that any additional conditions for refusal are best developed, once again, through consultation and engagement with the sector and set through secondary legislation.

Amendment 533 seeks to provide that, where a social landlord fails to respond to a pet request within the period required, the landlord is "deemed to have consented". What the member is seeking is provided for by new paragraph 8H, which is inserted into the Housing (Scotland) Act 2001 by section 30(3) of the bill. On that basis, I do not think that anything more is needed to deliver what is being sought, and I therefore ask Emma Roddick not to move the amendment.

Amendments 534 and 563 would provide for a new appeal route if a social landlord withdraws consent for a pet because the tenant has not complied with the reasonable conditions imposed. All social landlords provide their tenants with a written tenancy agreement, which sets out their tenancy obligations, including the conditions to which the tenant is required to adhere in relation to keeping pets. Any breach of tenancy conditions could result in appropriate and proportionate action being taken by the landlord, which could include, where necessary, withdrawal of consent to keep a pet.

I believe that, if any changes are required to the existing process for withdrawal of consent by social landlords, those are best developed through consultation and engagement with the sector, and set through secondary legislation, following public and parliamentary scrutiny. I therefore ask Ms Roddick not to move the amendments.

In summary, for the reasons that I have set out, I ask Emma Roddick, Maggie Chapman and Edward Mountain not to press or move their amendments in the group.

**The Convener:** I call Meghan Gallacher to speak on behalf of Edward Mountain to amendment 168 and other amendments in the group.

**Meghan Gallacher:** As the cabinet secretary has set out, amendment 168 would make it a duty for the Scottish ministers to make provision about when it is reasonable for a landlord to refuse to consent to a tenant keeping a pet at a let property. The amendment is about clarity. Similar to other amendments in the group, it is about knowing what is fair and reasonable, and it is about ensuring that landlords know what the parameters of that would be. It is similar to the amendments that would allow a tenant to know why keeping a pet in a property has been refused.

11:00

Amendment 169 would give the landlord the ability to reasonably refuse consent for pets to be kept at a property

"if the landlord has a medical reason"

for doing so. The amendment is very important. I think that it was Maggie Chapman who said that 18 per cent of landlords say that they do not allow pets. I believe that a small proportion of those landlords will have allergies to cats or dogs. In my view, that could be a justifiable reason for not allowing a pet at a property, particularly if the allergies are severe.

With the amendment, Edward Mountain is attempting to strike a reasonable balance. It does not say no to pets, but provides that, if a landlord owns a property and has to visit it for checks and other reasons, a medical condition would be a justifiable reason for not allowing a pet in that property. I imagine that that would apply to a relatively small number of landlords and would not be a widespread circumstance across the private rented sector.

Amendment 170 seeks to make it a duty for the Scottish ministers

"to make provision about when a landlord's consent condition for keeping a pet"

at a let property

"is reasonable."

It relates to amendment 168, as well as to amendment 171, which seeks to ensure that the Scottish ministers "must", by regulations,

"make provision about when a condition specified in a landlord's notice is reasonable."

Again, that is about creating further clarity and guidance for landlords, should there be changes to tenants' right to keep a pet.

Edward Mountain's amendment 172 seeks to provide that a landlord can reasonably make it a condition that, when he or she consents for pets to be kept at a let property,

"any carpeted floor surfaces and soft furnishings must be professionally cleaned at the end of the tenancy by"

an independent company. With amendment 172, Edward Mountain is again seeking to put pet ownership responsibility into the bill. If someone has a pet that sheds, for example, that could lead to the need for carpets and other soft furnishings to be cleaned. Amendment 172 seeks to address that circumstance.

**Maggie Chapman:** Will the member take an intervention?

**Meghan Gallacher:** Of course.

**Maggie Chapman:** I appreciate that these are not your amendments and that you are speaking on behalf of Edward Mountain. One of my concerns with amendments 172 and 182, on professional cleaning, is the costs. I wonder whether, if we had conversations with Edward Mountain between now and stage 3, he would consider amending the wording slightly to say that the property must be cleaned either professionally or in another way to a similar standard, to ensure that tenants are not liable for extortionate costs. I also wonder whether there would be room for conversation about exempting people with assistance animals from those costs.

**Meghan Gallacher:** I understand exactly what Maggie Chapman is saying. I do not want to pre-empt what my colleague Edward Mountain would say, but I am certain that he would like to bring these or similar amendments back at stage 3 so that he can speak to them himself, as he been unable to attend committee for the reasons that I gave at an earlier committee meeting on the bill. I can certainly take the conversation that we have just had back to him. As the amendments are his, I do not think that it would be right for me to come to any conclusion on that.

Amendment 180 seeks to put a duty on the Scottish ministers to make provision about the consent condition for keeping a pet and what makes that reasonable. Again, that is about seeking more clarity.

Amendment 182 is, as Maggie Chapman and I have just discussed, in relation to carpeted floors and soft furnishings being professionally cleaned by an independent company at the end of a tenancy. Again, that is about responsibility in pet ownership. It is probably what you would do in your own home should furnishings need to be cleaned for any pet-related reasons.

I turn to other amendments in the group, because these are issues that I care about.

Maggie Chapman is absolutely right that about my entering a Dogs Trust dog in the Holyrood dog of the year competition. I have done so every year bar one, when I was on maternity leave, and that is because I believe in what the organisation is trying to achieve. It is trying to make it easier for people to own a pet and, of course, ensure that animals do not end up in rescue homes, when they can have forever homes. I think that most committee members would support that.

I have an issue with amendments 24 and 28. Actually, it is not an issue as such; I have a view on the timeframes that are acceptable or reasonable. Will the timeframe be 14 days, 28 days or something else? I do not think that we can necessarily determine that at today's committee meeting. We might need to have another discussion about it—I know that we will be having a lot of discussions—to work out what would be fair and reasonable. I can come up with scenarios, such as a landlord being on holiday or ill, or there could be other personal circumstances that might mean that they do not have sufficient time to respond within the 14 day period. I understand that there could be workarounds to allow for those circumstances, but I wonder whether 28 days would be more reasonable than 14 days—I have already discussed that with the Dogs Trust—or whether there should be another timeframe. We can all have a good debate about the timeframe as we approach stage 3, because it is important.

On amendment 25, on whether a request would be automatically approved, we need to determine what timeframe would be appropriate before we consider the amendment. However, I understand the reasoning and I am sympathetic to the proposal, given the points that have been raised about people having the right to own a pet, which I think that many members would support in principle. We also need to consider the type of pet, which has been mentioned briefly but not at length. There is a massive difference between a Border terrier and a Siberian husky, for example. I am not trying to say which breed of dog is my favourite, because I have friends who own each of those breeds, but we need to consider that and be mindful of whether a small rental property would be an appropriate place to keep a large dog.

On Maggie Chapman's amendments on assistance animals, I take the cabinet secretary's point about the Equality Act 2010, but I would be interested in understanding whether that would cover additional animals such as therapy pets. I am not entirely sure that it does, which is why I am throwing out the issue for discussion. We also need to look at that as we approach stage 3. Assistance dogs could be guide dogs to assist people with their sight or hearing loss, or it could refer to other therapy pets.

I will leave my comments there. I think that I have addressed all Edward Mountain's amendments in group 26, and, certainly, the amendment that I have an interest in.

**The Convener:** If no other members wish to speak, I call Emma Roddick to wind up and to press or withdraw amendment 522.

**Emma Roddick:** I will withdraw amendment 522, but I remain concerned about some of the aspects raised in the amendments that Maggie Chapman and I have lodged. I have concerns about the period of time in which people could be waiting in limbo and the ability of tenants to dispute the reasons that they have been given for not allowing them to have a pet. I believe that it is much more difficult if no reason is given and there is simply a default refusal. I am also concerned about what would happen when the person who is waiting in limbo relies on their animal to perform daily tasks.

*Amendment 522, by agreement, withdrawn.*

*Amendment 259 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 259 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Griffin, Mark (Central Scotland) (Lab)
Burgess, Ariane (Highlands and Islands) (Green)

**Against**

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

**Abstentions**

Roddick, Emma (Highlands and Islands) (SNP)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 259 disagreed to.*

*Amendment 260 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 260 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Griffin, Mark (Central Scotland) (Lab)
Burgess, Ariane (Highlands and Islands) (Green)

**Against**

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

**Abstentions**
Roddick, Emma (Highlands and Islands) (SNP)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 260 disagreed to.*

*Amendments 261, 523, 24, 25 and 524 to 527 not moved.*

*Amendment 370 moved—[Shirley-Anne Somerville]—and agreed to.*

*Amendment 168 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 168 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 168 agreed to.*

*Amendment 26 moved—[Maggie Chapman].*

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

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 26 agreed to.*

*Amendment 169 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 169 be agreed to. Are we agreed?

**Members:** No.

**The 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)

**Abstentions**
Burgess, Ariane (Highlands and Islands) (Green)

**The Convener:** The result of the division is: For 3, Against 3, Abstentions 1. As there is a tie, I must exercise a casting vote. My casting vote is against the amendment.

*Amendment 169 disagreed to.*

11:15

*Amendments 528 and 529 not moved.*

*Amendment 170 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 170 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 170 agreed to.*

*Amendment 171 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 171 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 171 agreed to.*

*Amendment 172 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 172 be agreed to. Are we agreed?

**Members:** No.

**The 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)

**Abstentions**

Burgess, Ariane (Highlands and Islands) (Green)

**The Convener:** The result of the division is: For 3, Against 3, Abstentions 1. As there is a tie, I must exercise a casting vote. My casting vote is against the amendment.

*Amendment 172 disagreed to.*

**The Convener:** The next group is on tenants' right to make changes to let property. Amendment 173, in the name of Edward Mountain, is grouped with amendments 174 to 176, 262, 252 and 177 to 179. Meghan Gallacher will move amendment 173 on behalf of Edward Mountain and speak to all the other amendments in the group.

**Meghan Gallacher:** With amendment 173, Edward Mountain seeks to ensure that, at the end of the tenancy, a tenant who makes any category 1 or category 2 changes must return the property to its original state. Edward Mountain seeks to provide clarity and ensure that landlords do not have additional expenses at the end of a tenancy should a tenant wish to make personalised category 1 or category 2 changes to a property.

In relation to category 1 changes, I am referring to adjustments such as putting up posters and pictures. Category 2 changes would include things such as painting walls. That can vary a lot according to personal taste in colour, for example, so amendment 173 is about providing clarity for landlords and giving them reassurance that, should any of those changes be made, the tenant will be expected to return things to their original state.

It is interesting that the bill has little to say about tenants of social rented properties. That contrasts with the provisions that relate to the private sector. It makes you think that social tenants have perhaps been overlooked. There are slight differences between the new provisions for private rented properties and the existing provisions for social rented properties. However, we must ensure that, should tenants be allowed to make changes—I do not think that anyone is necessarily arguing against that—there will be a degree of reasonableness and proportionality in relation to what would be expected and the costs that the landlord would have to incur to change things back once a tenancy ended.

Amendment 174 would make it a duty on the Scottish ministers to specify changes to a let property that may be made by the tenant. That is really important. Again, this relates to category 1 and category 2 changes. I have already referred to the definitions of those, but it must be made clear in guidance that, should changes be allowed, landlords must know exactly what the changes look like and what category they fall under. If that is not the case, there might be a lot of discrepancy between what landlords and tenants think is reasonable. It would not be helpful if there were disagreements about that because it has not been properly legislated for in the bill.

Amendment 175 would specify that structural changes to a property must not be categorised as category 1 changes. Again, I believe that the amendment comes on the back of conversations that Edward Mountain had with people in the private rented sector. The Government should clarify category 1 and category 2 changes. Amendment 175 would provide more clarity by specifying that structural changes would not be categorised as category 1 changes.

Amendment 177 would make it a duty on the Scottish ministers to make provision in relation to when it is reasonable to refuse consent for a category 2 change, which, of course, is a step above a category 1 change. Again, this is about what it is fair, measured and reasonable for tenants to seek to do to a property. It would not be about painting walls a certain colour, but clarity on provisions on refusing consent would be helpful.

Amendment 178 would amend "may" to "must" in relation to the provision for the Scottish ministers to make provision about when it is reasonable for a landlord to refuse consent to the making of a new category 2 change to a let property. That is similar to amendment 177.

Amendment 179 would add that regulations must provide that it is reasonable for a landlord to refuse consent to any structural changes to the property. This is to ensure that we have seamless directions on what is expected and allowed and on what guidance landlords can follow. I do not believe that the bill currently provides that.

There are only two other amendments in the group, so it seems appropriate to allow the member who lodged those to speak first, and I can summarise at the end.

I move amendment 173.

**The Convener:** I call Maggie Chapman to speak to amendment 262 and the other amendments in the group.

**Maggie Chapman:** Amendment 262, in my name, continues on from my amendments on assistance animals in the previous group. It takes the Equality Act 2010 provisions on changes to rental properties for disabled people as the starting point but makes more explicit the fact that changes to make the property accessible should not require explicit approval. The amendment is meant to clarify disabled people's rights in relation to changes to a property and to stop disabled people having to rely on the provision of section 190 of the Equality Act 2010. Those include changes to make a property wheelchair accessible, changes to create accessible washing and cooking facilities and facilities that relate to assistance animals, and changes that relate to the installation of guardrails, handrails, visual alarms and bells.

As with my previous amendments, these provisions are supported by the Health and Social Care Alliance Scotland, Guide Dogs Scotland and Sight Scotland. I am happy to work with colleagues on the drafting of the amendments ahead of stage 3 to address any concerns that they might have about any of the wording of amendment 262.

Amendment 252, in my name, establishes a right to grow food and plants in outdoor spaces of rented properties. The physical and mental health benefits of gardening and growing your own food are well established, and this amendment would ensure that there should be no undue barriers to renters using outdoor spaces that are part of a property to grow their own food and plants as well as to promote animal and insect life, such as by planting flowers that support pollinators. That kind of action is vital as we are facing a nature emergency, with many of Scotland's animal, insect and plant species threatened with extinction.

Given that young people in the most deprived areas of Scotland have significantly worse access to play space, the amendment also seeks to make it easier for modest changes to be made to garden and other spaces, so that they can enjoy the benefits of outdoor play.

Turning to the other amendments in the group, I agree that major structural changes should be out of scope, so there is Green support for Edward Mountain's amendments 176 and 179. However, on his amendment 173, although it would help to smooth the process of tenants gaining approval for changes to a property, requiring all changes to be reversed unless the landlord agrees otherwise might have unintended consequences, including for disabled people who have made accessibility changes. Therefore, I ask Edward Mountain to work with colleagues ahead of stage 3 to address those concerns.

**Shirley-Anne Somerville:** I turn to amendments 173 to 179, in the name of Edward Mountain, in relation to making changes to let property.

Amendment 173 places a statutory duty on a tenant who has made a category 1 or category 2 change to a let property to ensure that the property is returned to its original state at the end of the tenancy, unless the landlord agrees otherwise. That might discourage some tenants from making use of their right to make changes to the let property, and even perceived improvements might have to be stripped back if the landlord did not agree that they could remain, with no test of the reasonableness or proportionality of that requirement. Measures in the bill enable the Scottish ministers, following consultation, to set out through regulation a non-exhaustive list of reasonable conditions that a landlord might set, where they consent to a category 2 change, such as reinstatement at the end of a tenancy, where it was reasonable in the circumstances to do so. Where a tenant did not view that as a reasonable condition, they would have a route of redress through the tribunal.

In relation to amendments 174 to 179, I recognise that Mr Mountain is seeking to provide greater clarity and certainty in the bill as well as to ensure that ministers make use of the regulation-making powers. I reassure committee members that, although the current drafting of the provisions uses the word "may", making use of these regulation-making powers will be an essential part of the implementation. The framework that relates to personalisation would require that detail be filled in via regulations in order to set out the pertinent definitions.

I understand that landlords and tenants will be keen to understand what it will be possible to do without consent under category 1—for example, putting up a picture—and what will fall under category 2, such as painting walls, which will need consent. However, I am clear that it is essential that the detail of the types of changes that fall into each category is best developed through consultation and engagement with the sector and set through secondary legislation. That is why the bill specifically includes statutory provisions that require consultation for the exercise of the regulation-making powers under the affirmative procedure. That will ensure that we take account of landlords' and tenants' views. It will also ensure further public and parliamentary scrutiny of how the powers are used.

Amendment 252, in the name of Maggie Chapman, seeks to set out some of the detail of category 1 changes that would not require the

landlord's permission. The amendment is exceptionally broad in scope and would allow for a very broad range of changes to the outside of a property without the landlord's involvement. Although I recognise that the member has specified in the amendment that the change must be reasonable, as these would be category 1 changes, the landlord would have no ability to prevent the change, if given prior knowledge, or recourse, where they did not view the change as reasonable after it was carried out.

When providing new rights to tenants, legislation must strike the right balance with the rights of landlords. Amendment 252 would not do that, so I cannot support it. The detail of the changes that are to be included in categories 1 and 2 are best provided through the secondary legislation that I have mentioned and developed through consultation with landlords and tenants. Existing measures in the bill provide the framework for that, and that is the right way to facilitate greater rights for tenants while respecting landlords' rights.

11:30

Amendment 262, which is also in the name of Maggie Chapman, sets out a broad range of changes that a disabled tenant or a tenant who is a guardian or carer of a disabled member of the household could make without needing permission. I am very sympathetic to the outcome that Ms Chapman is seeking to achieve and I, too, wish to see the lives of disabled tenants, guardians and carers made easier. However, as with amendment 252, this amendment would allow for a broad range of potentially very significant changes to a let property without any involvement of the landlord. Setting that out in the bill without consultation or engagement on the provisions with tenants and landlords would not enable us to ensure that we have the right balance between the respective rights.

Existing measures in the bill provide the overarching framework that is needed for us to get this right. As I indicated, further consultation is required to inform the types of changes that would fall into categories 1 and 2. The regulations will be subject to the affirmative procedure, which will ensure additional scrutiny from Parliament. That is the best way to deliver rights in the area while ensuring that they are compatible with landlords' rights.

I therefore ask the members not to press the amendments in this group.

**Meghan Gallacher:** I believe that it was Edward Mountain's intention to press the amendments, although he would welcome the conversation that we have had about the best way to provide clarity and whether that is in guidance or in secondary legislation. However, I believe that those things need to be introduced as quickly as possible to ensure that the private rented sector is aware of the changes that could happen to properties that are let out, and so that tenants who wish to make adaptations to their homes are also aware of that.

I am sympathetic to Maggie Chapman's amendment 262 and would welcome a conversation with her on the issue before stage 3. She raises a valid and important points about tenants who have a disability, measuring that and setting out what adaptations they can make to their homes to make their lives easier. We are looking to the housing of the future. With a lot of new-build housing in particular, it is commonplace to have adaptations such as rails or wider doors anyway. We need to look at the issue in a reasonable and pragmatic way. We could have conversations in the run-up to stage 3 about how the proposal would impact the private rented sector as well as making life more comfortable for tenants who have a disability.

On the points about categories 1 and 2, I believe that we need more clarity. The engagement questionnaire suggested that category 1 would be things such as putting up pictures and posters on walls, as I said, but it also suggested that category 2 would be things such as painting walls and installing wall shelves. That is very limited information on what adaptations could be made. I understand that the information on that will come following further consultation and engagement, but the reason why members have lodged amendments on the issue is that they are unsure what the categories will look like. Members have had discussions with the sector and wanted to bring clarity to the bill.

I will press amendment 173, in the name of Edward Mountain.

**The Convener:** The question is, that amendment 173 be agreed to. Are we agreed?

**Members:** No.

**The 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)

**Abstentions**

Burgess, Ariane (Highlands and Islands) (Green)

**The Convener:** The result of the division is: For 3, Against 3, Abstentions 1. As there is a tie, I must exercise a casting vote. My vote is against the amendment.

*Amendment 173 disagreed to.*

*Amendment 174 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 174 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 174 agreed to.*

*Amendment 175 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 175 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 175 agreed to.*

*Amendment 176 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 176 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 176 agreed to.*

*Amendment 262 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 262 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 262 disagreed to.*

*Amendment 252 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 252 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (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 Convener:** The result of the division is: For 1, Against 6, Abstentions 0.

*Amendment 252 disagreed to.*

*Amendment 177 moved—[Meghan Gallacher].*

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

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

**The Convener:** Fulton, in subsequent votes, I ask that you please put your hand closer to your face to indicate your choice when we are voting.

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

*Amendment 177 agreed to.*

*Amendment 178 moved—[Meghan Gallagher].*

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

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 178 agreed to.*

*Amendment 179 moved—[Meghan Gallagher].*

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

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 179 agreed to.*

*Section 29, as amended, agreed to.*

### After section 29

**The Convener:** The next group is on social housing: Scottish secure tenancies. Amendment 440, in the name of Paul Sweeney, is grouped with amendments 456, 423, 457 and 457A. Paul Sweeney joins us online.

**Paul Sweeney (Glasgow) (Lab):** The purpose of amendment 440 is to bring the legislation on housing into alignment with sections 109 to 113 of the Co-operative and Community Benefit Societies Act 2014. That would mean that registered social landlords could transfer engagements only if two thirds of tenants vote in favour of a resolution to do so. Currently a simple majority of tenants in favour is required to proceed through the process.

Section 111 of the Co-operative and Community Benefit Societies Act 2014, which governs shareholder voting and takeovers of societies and is legislation that applies across the UK, stipulates that a special resolution must be passed at a general meeting by at least two thirds of the eligible members who vote.

I was motivated to lodge amendment 440 by what happened at Reidvale Housing Association in 2023 and 2024. Had the measure in amendment 440 been in place then, the tenant ballot would not have reached the threshold required for the proposal to proceed to the special general meeting, at which the two-thirds majority requirement to transfer engagements was not met.

In December 2023, Reidvale Vale Housing Association proposed to transfer its housing stock of 900 properties, valued at around £180 million, to Places for People Scotland. In a tenant ballot, which was open for 32 days and in which 72.9 per cent of tenants cast their vote, 61.8 per cent of tenants voted in favour of the proposal. Had a two-thirds majority rule been in place, the proposal would have fallen at that point because it did not meet the threshold of 66.6 per cent.

As you may know, Reidvale Housing Association was one of Scotland's first community-based housing associations and was formed after the Housing Act 1974. In 1975, it had around 900 homes in the Dennistoun area of Glasgow. There had been significant concerns about its governance and investment, and the board had decided to seek a transfer partner to take over the association—its tenancies, properties and staff. However, there were significant concerns about the process being railroaded through with coercion, and the Glasgow and West of Scotland Forum of Housing Associations resisted the proposal.

The forum highlighted concerns about the tenant ballot. At the time,

"GWSF director David Bookbinder said the 61.8% 'Yes' result"

in favour of transferring the housing stock

"must be viewed in the context of previous transfer votes, most of which have generated positive results by at least 90%."

Indeed, if we look at the transfers of engagements of housing associations over the last few years, we see that they have largely had the support of over 90 per cent of tenants. I think that only one fell below the 90 per cent level, which

was for the Pineview Housing Association and Kendoon Housing Association transfer, and the support for that was 88 per cent.

Clearly, in instances in which transfers of engagements are sought, they should enjoy the support of the vast majority of tenants for the propositions to be reasonable. With yes votes in transfer ballots normally exceeding the 90 per cent threshold, it was clear that there was a concern in Reidvale's case, as almost 40 per cent of voting tenants opposed the transfer, despite the offer of a five-year rent freeze. That was hardly a resounding vote of confidence.

11:45

The requirement for a supermajority, which would require support from two thirds of the tenant body, would make it clear that there was a settled majority view on what would be the best future for a community-based housing association. After all, it is a one-way road from being a community-based association to joining a large national housing group. There has never been a case in Scotland when a large national housing group has devolved or spun out a small community-based association, so I think that my amendment 440 is important in order to protect the sector.

Once it had the required tenant approval of the transfer, which was in place by a simple majority, Reidvale Housing Association went on to hold a special general meeting of its shareholders on 16 January 2024 in order to seek ratification of the transfer of engagements to Places for People. At the meeting, 138 shareholders, or 66.3 per cent, voted to reject the takeover and backed continued community ownership, with only 70 shareholders, or 33.6 per cent, supporting the transfer. It was clear that that was a huge victory for community-based ownership, after a grass-roots campaign that was fighting against an overwhelming narrative that there was no alternative but to transfer to a large national housing group. Presenting a counter-proposal was very challenging but, nonetheless, the proposal cut through and was able to win the support of shareholders. The chair of the Glasgow and West of Scotland Forum of Housing Associations, John Hamilton, said at the time that, as an obvious supporter and promoter of community-based housing associations,

"GWSF welcomes the 2 to 1 decision of Reidvale's members not to ratify the outcome of the tenant ballot. We recognise many of the concerns expressed by members, including the impending loss of community assets, and the inevitable disappearance of local decision making. The relative closeness of the separate tenant ballot, with less than 62% in favour, compared with the usual 90+% yes vote in previous transfers, was a clear sign of the anxiety and uncertainty felt by many tenants despite the promise of a five-year rent freeze."

That is why I think that amendment 440 is reasonable and coherent. It proposes the prudent measure of bringing the voting threshold for tenants and shareholders of housing associations into alignment with a two-thirds threshold. That would serve to provide extra protection for community-controlled housing associations against what are often cynical attempts to railroad through irreversible takeovers of community-controlled assets and risk pitting tenants against member shareholders, which has been a worrying trend in Scotland's housing sector in the past few years. It would be particularly fitting for the committee to support the amendment now, because this year marks the 50th anniversary of Scotland's first community-based housing associations being established. The proposal has the backing of the Glasgow and West of Scotland Forum of Housing Associations.

I move amendment 440.

**Mark Griffin:** Amendments 456 and 423 work together to make a small practical change to how RSLs are required to give notice of rent increases to tenants. If agreed to, the amendments would allow notices to be delivered by normal post as well as by hand, email or tracked mail. Currently, associations are obligated to use tracked mail, email or hand delivery in order to meet the existing legal requirements under the Housing (Scotland) Act 2001. Housing associations agree that hand delivery of notices is unnecessarily resource intensive and wasteful, that email delivery does not offer a guarantee that all tenants would receive a notice, and that tracked mail is too expensive.

In Scotland, existing legislation sets out that documents can be delivered only in one of three ways: personal delivery, delivered through a method of post that can be recorded, or delivery by agreed electronic transmission. However, the general law can be overruled by the specific terms of a statute, so I am confident that my amendments are legally competent. My amendments would allow landlords to deliver notices by different delivery methods, as they state that standard post can be used without any legal implications, which would lessen the burden on RSLs to comply with housing legislation and would allow them more time to support tenants in other ways and deliver a strong supply of housing in Scotland.

Amendments 457 and 457A would ensure that, when their current accommodation does not meet families' needs, social landlords cannot prevent them from moving to more suitable accommodation because they have outstanding house arrears and housing-related debts. The amendments do not prevent debt recovery action. In many cases, people who are on low incomes and in unsuitable accommodation can be trapped

in a cycle of debt. If they are in social housing, the opportunity to move to more suitable accommodation can be denied by the organisation if they have built up arrears. That can leave families trapped in debt and in housing that is either too big, not safe or overcrowded.

Unaffordable, overcrowded and substandard housing conditions have an adverse impact on people's ability to cope, physically and mentally, and on wider family wellbeing, and that can exacerbate the cycle of debt. Urgent and compassionate reforms to public debt management and recovery, including rent and housing arrears, are required to tackle child poverty, support families, uphold children's rights and ensure that every child and family has the opportunity to thrive. We need to promote compassionate and supportive debt management approaches. It is imperative that public bodies and housing associations develop debt recovery policies that recognise the impact of domestic and economic abuse to prevent victims/survivors from being pursued for debt coerced in their name as a result of abuse.

My amendments will work to prevent families from being denied more suitable accommodation as a result of built-up arrears. They will create greater protections for families that are affected by domestic abuse and ensure greater consistency with statutory human rights, children's rights duties, and equally safe commitments for protecting women and children from the impact of violence and abuse.

I accept that local authorities should be able to pursue arrears, but I do not believe that that is best done by preventing families from accessing more suitable accommodation when it becomes available.

**Shirley-Anne Somerville:** I welcome the conversations that I have had with Paul Sweeney, particularly on community-based housing co-operatives. I spent many an enjoyable time on placement when I was training to be a housing officer at a community-based housing co-op, so I absolutely share his passion for them and their place in our housing sector. I thank him for his interest in the area.

Unfortunately, however, I cannot agree to his amendment 440. Although I understand his intentions to ensure that the views of tenants are rightly taken into account in significant decisions relating to their homes, I have reservations. The position that is set out in section 107 of the Housing (Scotland) Act 2010 is that, for a transfer to proceed, a majority of tenants should agree to it. The rationale for the suggested change is not wholly clear, although I appreciate the comments that Mr Sweeney has made about the Reidvale Housing Association.

Moving to a requirement for two thirds of tenants could be viewed as setting out a position in which the expressed wish of a majority of the tenants can be ignored. Given that there has been no consultation with the sector—either landlords or tenants—it is difficult for the Government to support such a change to what has been in place since 2012. I understand that 21 transfers out of the 22 that have been proposed since 2010 have all received well over two thirds of tenant approval. Although that could suggest that the amendment would not be problematic in practice, it could indicate that there is no real need for change as well. For those reasons, I urge Mr Sweeney not to press amendment 440.

Amendments 456 and 423, in the name of Mark Griffin, aim to amend the provisions in the bill to allow social landlords to serve rent increase notices by sending them by regular post. A social landlord is required to provide a tenant with 28 days' notice of a rent increase and the 28-day period needs to be evidenced. If a notice does not reach the intended recipient, they could be unaware of the rent increase, which could result in a tenant being in rent arrears. Tenants would not be able to evidence any change that they had not received the rent increase notice if regular post is an acceptable service method. There needs to be certainty that the notice has been delivered to the tenant, and a tracked service provides that certainty while regular post does not.

The bill at present, which also allows for electronic or personal service, aligns the service options for the social rented sector with the private rented sector. The amendment would remove the requirement for a tracked service, which would be at odds with the protection that is provided to tenants in the private rented sector.

The bill already provides for two additional methods of delivery. The first is electronic delivery, which reflects the increased use of web-based tenancy management systems, email and paperless communications that, over time, are likely to become the default for the majority of tenants and will primarily be cost neutral for landlords; the second is a tracked postal service to point of delivery, which removes the requirement for a signature. I therefore urge Mark Griffin not to move amendments 456 and 423.

Although I understand the intention behind Mark Griffin's amendments 457 and 457A, they would prevent a landlord from refusing consent for a mutual exchange on the basis of rent arrears when the criteria that are set out in his amendments are satisfied. Those are that

"one or more children under the age of 18"

live with the tenant, that the tenant's current home is inadequate and that the proposed exchange

home would be suitable. That would apply regardless of the total amount of rent arrears or whether the tenant was currently paying the rent arrears or keeping to a repayment plan. The only situations when a landlord could refuse consent for a mutual exchange would be when a notice of proceedings had already been served on the tenant on conduct grounds or when an eviction order had been granted against the tenant for the current tenancy.

Although Mr Griffin's amendments would not prevent the landlord from taking steps to recover any rent arrears, those would become former tenant arrears, which are generally more difficult for social landlords to recover and often must be written off, which reduces landlord income and impacts on the service that social landlords provide to tenants and on their ability to maintain affordable rent levels.

Social landlords already have discretion to agree to a mutual exchange between their properties when there are rent arrears, if moving to a property with a lower rent would be more financially sustainable for the tenant and if a repayment plan is put in place.

I accept the points that Mr Griffin made in his remarks about those suffering from domestic violence and instances when there is domestic abuse in the home. I would be happy to have conversations with Mr Griffin in the run-up to stage 3 on aspects of those particular cases when there is a threat or there has been a history of domestic violence. However, on this occasion, I urge him not to move amendments 457 and 457A.

**The Convener:** I call Paul Sweeney to press or withdraw amendment 440.

**Paul Sweeney:** I am disappointed that the cabinet secretary does not see the logic in having amendment 440. The fact that the Reidvale case was so unique demonstrates the need for the extra safeguard of having a settled majority of tenants. In the case of Reidvale, there was a significant level of discord in the community about contentious transfer; the way to deal with that is to have a settled majority.

As the cabinet secretary highlighted, in every other example of a transfer of engagements in Scotland, there tends to be a supermajority in support of that transfer of engagements. I would like to see a supermajority requirement in the bill. It would be a good safeguard and a demonstration that we have learned the lessons of what happened in Reidvale. In one of Scotland's most-deprived communities, the loss of more than £100 million worth of community-owned assets would have been devastating.

I would like to work to build support for amendment 440. Therefore, I will not press it now but will look to return to it at stage 3. Given that there is agreement on the sentiment behind the amendment, we could perhaps discuss whether there could be more appropriate wording or an appropriate measure to provide for the extra threshold for tenants, which would bring it into alignment with what is required for shareholders. The reality is that a two-thirds majority is required with shareholders, so why not increase the threshold for tenants as well? That would bring everything into alignment. It would be a neat and logical process.

*Amendment 440, by agreement, withdrawn.*

### Section 30—Scottish secure tenancies etc: keeping pets

*Amendment 263 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 263 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Griffin, Mark (Central Scotland) (Lab)
Burgess, Ariane (Highlands and Islands) (Green)

**Against**

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

**Abstentions**

Roddick, Emma (Highlands and Islands) (SNP)

**The Convener:** The result of the division is: For 2, Against 4, Abstentions 1.

*Amendment 263 disagreed to.*

12:00

*Amendments 264 and 265 not moved.*

*Amendment 180 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 180 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 180 agreed to.*

*Amendment 181 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 181 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 181 agreed to.*

*Amendment 182 moved—[Meghan Gallacher].*

**The Convener:** The question is, that amendment 182 be agreed to. Are we agreed?

**Members:** No.

**The 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**

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

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

*Amendment 182 disagreed to.*

*Amendment 27 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 27 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 27 disagreed to.*

*Amendments 530 and 531 not moved.*

The Convener: I remind members that amendments 532 and 28 are direct alternatives—that is, they can both be moved and decided on, and the text of the one that is agreed to last is what will appear in the bill.

*Amendments 532, 28, 533 and 534 not moved.*

*Section 30, as amended, agreed to.*

The Convener: We have come to a convenient point in the groupings to close our work on the bill for now. We will continue day 5 of our consideration of the Housing (Scotland) Bill at stage 2 this afternoon at 20 past 2.

12:05

*Meeting suspended.*

12:12

*On resuming—*

## Decision on Taking Business in Private

**The Convener:** We resume in public briefly to agree to take item 5 in private. Do members agree to take that item in private?

**Members** *indicated agreement.*

12:12

*Meeting continued in private.*

14:22

*Meeting continued in public.*

## Housing (Scotland) Bill: Stage 2

**The Convener:** Welcome back to today's meeting of the Local Government, Housing and Planning Committee. Following our suspension, we continue day 5 of our stage 2 consideration of the Housing (Scotland) Bill.

I welcome back to the meeting the Cabinet Secretary for Social Justice and her officials. We are also joined online and in the room by other members of the Scottish Parliament who have lodged amendments to the bill and are present to debate those with us today. We move straight to consideration of amendments.

### Before section 31

**The Convener:** The next group is on tenancy deposits and guarantors. Amendment 73, in the name of Graham Simpson, is grouped with amendments 189, 130, 190, 371 to 373, 184, 374 to 377, 195 and 396.

**Graham Simpson:** The committee will be delighted to know that amendment 73 is the final amendment that I will speak to. I will leave that hanging, and I will try not to take too long. The amendment raises a serious issue, which is the requirement for foreign students in particular to have a UK-based guarantor. It is a fact that that is not always possible. Sometimes, they cannot come up with a UK-based guarantor.

Amendment 73 would remove the requirement for landlords to require tenants to have a UK-based guarantor who either owns property or earns more than a certain amount of money. The amendment proposes to insert new section 120A(1) into the Housing (Scotland) Act 2006 so that Scottish ministers must by regulations provide that, when a guarantor is required, their residential status or annual salary must not be a pre-requisite.

I have mentioned in this committee and the other committee that is dealing with the bill the cross-party group on housing report on student housing and homelessness that came out last September. It found that international students face additional challenges, with guarantor requirements being just one of them. A suggestion in that report was a revised and enhanced guarantor programme to be run by universities. I had correspondence from a student from the University of Aberdeen, who said:

"I do not have a local guarantor, and my parents are old pensioners back in my home country, so I was limited to my choices of housing. I paid some fees to a company that promised to act as my guarantor, but then I got cheated. I barely had less than a month to begin classes, and I was

desperate to get a roof over my head. Sometimes I skip my dinner to afford housing rent."

This is an issue that needs to be dealt with. Amendment 73 might not be the way to do it, or it might be—I shall wait and see.

Ross Greer has an amendment in the group—amendment 189—that suggests that we set up a public body to act as a guarantor for a tenant who is under 26 and is estranged from their family. That is probably the route that we ought to go down. There ought to be a body that people who need it can turn to, and if that is where we get to in this process, that will be a positive outcome. I will decide whether to press amendment 73 on the basis of the debate and what the cabinet secretary says.

Just before I came into the meeting, I had a very quick chat with Universities Scotland—it would have been longer but for the fact that the meeting was due to start. Universities Scotland is alive to all the issues that I have raised. I will be having more and much longer conversations with it, and I am sure that other members will do the same.

As I have said previously, we can probably come to some kind of solution by working together with the sector and the cabinet secretary. We do not want to make matters worse, of course. We need to have enough student housing, but let us accept that some of Scotland's universities are in a perilous financial state and they are relying on foreign students to bolster their finances. We need to look after those foreign students. We also need to look after UK-based students. Some of them might struggle to get the guarantors that are asked for, so we are not just talking about foreign students.

**Alexander Stewart:** Do we have a rough idea of the numbers of students who are having that difficulty? You spoke about foreign students, but you also indicated that some UK students might have a similar issue. Do you have any statistics on the size or depth of the problem?

**Graham Simpson:** It is a very good question, but I do not have the numbers. I suspect that they are small, but it is very much an issue. We can explore getting the numbers from the sector in the next few weeks. It would be useful to have the figures, but I do not have them. I know from the report of the cross-party group that there is a huge shortfall in accommodation for students in general, but that does not relate to the specific issue that I am talking about.

I am keen to hear what other members have to say and I will decide what to do on the basis of what I hear.

I move amendment 73.

**The Convener:** I call Ross Greer to speak to amendment 189 and other amendments in the group.

**Ross Greer:** Unlike Graham Simpson, I am probably going to disappoint everybody by saying that my amendments in the group are not the last ones that I will speak to, but we are getting close to the end of mine.

Together, amendments 189 and 195 would require ministers to establish a scheme for public bodies to act as guarantors for young people who are estranged from their families. That reflects the fact that many young renters, particularly students, have to provide a guarantor when they enter a private tenancy. In practice, the vast majority of the time, for Scotland-domiciled students, or for UK-domiciled students, that role is often fulfilled by a family member—typically a parent.

14:30

The scheme would deliver on a recommendation from a piece of research that the Government commissioned on the barriers that are faced by estranged students. That was published in 2022, but it has not yet been actioned. Guarantor requirements are often used in a discriminatory manner but, as long as those requirements exist, that small but vulnerable group of people should be supported. It is a sad reality that, for some young people, moving away from home for the first time for university or another reason is their first opportunity to escape an abusive family or home situation. Guarantor schemes act as a massive barrier to that, and they often allow abusers to maintain a position of power over young people into their adult life. Some universities already operate their own guarantor schemes, which is fantastic, but it is far from being the case that all universities do that.

This is the missing piece of the puzzle in support for estranged young people in particular. We have seen improvements in other areas, such as student support funding, which was campaigned for and won by Councillor Blair Anderson based on his personal experience of abuse and estrangement. He has worked with me on the amendments, which would make a huge difference for a small but really vulnerable group of young people who face a very particular barrier to being able to secure housing and escape from often unsafe home situations.

Amendment 189 would require ministers to set up such a scheme. Amendment 195 is simply a consequential amendment that sets out that the regulations that were relevant to that provision would come under the affirmative procedure.

**The Convener:** I call Meghan Gallacher to speak to amendment 130 and other amendments in the group.

**Meghan Gallacher:** Amendment 130 relates to the payment of tenancy deposits. It seeks to include a framework for those payments in the bill so that tenancy deposit regulations must include a provision to ensure that a tenancy deposit is paid by the tenant directly to the scheme administrator. More than anything, it is a probing amendment. It will be helpful to hear where the cabinet secretary sits on including the provision in the bill.

I move on to the amendments in the name of Edward Mountain. Amendment 184 would add a fund for improving or securing the provision of social housing to the list of possible uses for transferred unclaimed deposits. I have a great deal of sympathy with that, as does Edward Mountain. The amendment is about ensuring that we utilise unclaimed deposits in a positive way—in this case, by investing them in social housing, which is under huge pressure. The amendment seeks to find better and more positive solutions for the use of that money. Through discussions with the cabinet secretary, I understand that there are other areas where the money could also be better utilised, so I look forward to hearing her response to amendment 184. Any positive use of that money would be of great benefit to tenants.

I want to go back to the really interesting and important issue of guarantors. It is perhaps not an issue that we can solve through amendments today, but it could certainly be solved in the future. We have spoken a lot about students and young people who are trying to access further and higher education, and we need to be able to look after students who are from here but also students who are from elsewhere in order to utilise our education system. We need to be mindful that they have needs and requirements, including housing, and we must ensure that we recognise those issues throughout the bill.

I look forward to hearing the cabinet secretary's response and the other contributions on this group of amendments.

**The Convener:** I call Maggie Chapman to speak to amendment 190 and other amendments in the group.

**Maggie Chapman:** My amendment 190 addresses two important issues in relation to deposits. The first is the large deposits that so many landlords now require. As rents have skyrocketed, so have deposits. The average rent for a two-bedroom flat in Lothian is £1,358 a month. As landlords can ask for up to two months at once, a maximum deposit would be around £2,700. That presents a major barrier to securing accommodation for very many renters. As the discretionary housing payments budget is hugely oversubscribed, using that fund to help people to pay overly large deposits is clearly not the best use of a limited pot.

The second part of amendment 190 addresses up-front rent payments. It seeks to make it clear that

"any requirement to pay rent prior to the commencement of a tenancy or to secure ... the tenancy"

in the first place

"is a prohibited requirement."

I welcome most of the other amendments in the group. Meghan Gallacher's amendment 130 would require deposits to be paid directly to a deposit protection scheme. That would set up a direct line of communication between tenants and the scheme and make it easier for deposits to be returned. It would also avoid the problems of landlords illegally holding deposits themselves.

Graham Simpson's amendment 73 would make it easier for people with less connection to the UK to provide a guarantor. We agree with that principle. Pam Duncan-Glancy's amendment would make it easier for students to provide a guarantor, which we also support.

Paul McLennan's amendments in the group are broadly welcome, but I seek an assurance that amendment 374 will not make it harder to create new purposes for which unspent deposits may be used. I would appreciate the cabinet secretary addressing that point in her remarks.

**Shirley-Anne Somerville:** Graham Simpson's amendment 73 seeks to place restrictions on private landlords' guarantor requirements, including for purpose-built student accommodation. I recognise the member's good intention with the amendment, which I think was prompted by concerns in relation to non-UK domiciled students in particular. However, it could inadvertently have negative consequences for those whom it tries to protect.

Although I understand that views on the place of guarantors in the private rented sector vary, the ability to request a suitable guarantor mitigates the risk for the landlord should the tenant not pay the rent or other tenancy-related costs. During our recent engagement with the Scottish Association of Landlords, it raised significant concerns about the impact of the amendment. For many landlords, asking for a suitable UK-based guarantor is part of facilitating a let that might otherwise not go ahead, such as when the tenant does not have a stable income, has a poor credit score or is unable to provide suitable references. Without a guarantor, the tenancy would be too much of a financial risk for many landlords and would simply not go ahead. The amendment might also have an

adverse effect on the landlord's ability to obtain rent guarantee insurance, which is another safeguard that landlords use to manage financial risk.

Imposing restrictions on the type of guarantor that a landlord could use would be likely to result in a reduction in the number of landlords who felt able to let to students and other low-income tenants, making it harder for the latter to access a home in the private rented sector. I am sure that that is not the outcome that Graham Simpson is seeking, but it might be the end result in practice. As I outlined in relation to amendments that were debated in the group on student tenancies, I also have significant concerns about the impact on PBSA and continued investment in that sector.

Many alternative options already exist for tenants who are unable to provide a suitable guarantor, such as payment of rent in advance or local authority and third sector rental guarantee schemes. Given the potential for negative unintended consequences, I ask Mr Simpson not to press amendment 73.

**Graham Simpson:** I think that the cabinet secretary recognises the issue; what she has not offered is any kind of solution. I hear what she says, which is that there are other things in place. There might well be things in place—she has said that repeatedly during our consideration of the bill—but they are not working, so we need something new. I know that the cabinet secretary is committed to having lots of discussions, but this matter is very important. Albeit that it affects only a small number of people who pass through the system, they still matter, and they matter to Scotland. Are we able to do something for them?

**Shirley-Anne Somerville:** We do. The only potential difference is that I would consider whether we need to do something new or to ensure that what we have in place is robust and working for all those who require it.

That brings me to Ross Greer's amendments 189 and 195. I would be grateful if Graham Simpson would allow me to discuss those now, because I will then wrap up and talk about the potential way forward for Mr Greer's amendments and Mr Simpson's amendments together.

Ross Greer's amendments 189 and 195 provide for the establishment of a rent guarantor scheme for estranged young people. I am sympathetic to the outcomes that he seeks to achieve. However, that situation would be complex and it would have ongoing, unknown financial implications. Given that a number of rent guarantor schemes already exist across Scotland, which are operated by universities, local authorities and charities, I am not convinced that setting up a new scheme via a public body would be the best way to deliver increased support for estranged young people.

However, I recognise the concern that Ross Greer has and I see the gaps that he has alluded to in the current set-up. Dealing with that is particularly important, but not only for estranged young people.

**Ross Greer:** I will wait to hear how the cabinet secretary is going to tie all that off before deciding whether to move my amendments in this group. However, on the point about financial uncertainty, it is worth putting on the record that my understanding is that, if every estranged student in Scotland made use of the rent guarantor scheme in a single year and defaulted, the cost would still be less than £10 million. In practice, there will never be a situation in which every estranged young person or student needs the scheme and where they all default at the same time.

Does the cabinet secretary recognise such a level of financial risk is one of dozens of examples of financial risk that the Scottish Government is able to successfully carry every year? In the grand scheme of a Government budget, not even a £10 million cost with not even close to a £10 million risk is perfectly manageable.

**Shirley-Anne Somerville:** The challenge—this explains why I am taking your amendments and Mr Simpson's together—is that, although those amendments deal with two very important aspects of the student population, we must recognise that guarantor challenges do not apply solely to students and might apply to others. That is why I am keen to see what can be done to strengthen the existing avenues of support.

I think that it was Mr Greer who mentioned that some universities have schemes and others do not, and some local authorities do and others do not. I recognise that, and that is the challenge that we have. The push for a more national answer comes because of that patchwork approach, which is a concern to me and to other ministers.

Mr Simpson mentioned that I have talked on a number of occasions about how I want to improve the system that we have at the moment rather than add new systems. I make no apologies for that because, when we make legislation, we are always in danger of making a system more complex to attempt to solve challenges that we all know are there, rather than trying to make the existing system work better and more efficiently. We sometimes overcomplicate things and have a system that is more difficult for people to find a way through by attempting to sort things in a piecemeal way.

That is why I suggest that there is work to be done before stage 3 to see what can be achieved using the set-ups of universities, charities and

local authorities. If Mr Greer or Mr Simpson do not feel that we have gone far enough in that work and if they feel that we still require an additional piece of the jigsaw to make that work, they can bring back amendments at stage 3. I believe that, between me and Graeme Dey, for example, when it comes to students, something can be done to improve the current system. That is my suggestion for a way forward for the international student situation and for estranged young people.

**Ross Greer:** I am grateful to the cabinet secretary for laying that out. For clarity, is she suggesting that there is a way to legislate to make existing processes and schemes more consistent across the country? For example, could we work together on lodging an amendment at stage 3, or is she suggesting that we should try to improve the current non-legislative approach and that she will attempt to reassure us that there is an adequate non-legislative solution to that ahead of stage 3?

14:45

**Shirley-Anne Somerville:** My preference would be for a non-legislative approach. That is what can be done. The challenge when it comes to guarantors—particularly, but not only, for students—has been recognised for long enough. That non-legislative approach would be my preference. Members might not feel that we can make sufficient progress on those concerns by stage 3 through a non-legislative approach, and they are free to do whatever they wish at stage 3, regardless of what I say. However, it would be my intent to try to work before stage 3 on whether we could take that through in a non-legislative manner.

Amendment 130, in the name of Meghan Gallacher, would ensure that provision is made in regulations that a tenant may pay a tenancy deposit directly to the scheme administrator. I am not opposed to that amendment in principle, but it would be a major policy change that requires careful consideration to ensure that it would be workable and would have no unintended consequences for tenants or landlords.

We already have regulation-making powers via the Housing (Scotland) Act 2006 to make any necessary changes in that regard, and we plan to exercise those powers following passage of the bill to reduce the likelihood of deposits being unclaimed. I am happy to commit that, as part of the work, which requires consultation with tenants, landlords and the tenancy deposit schemes, we will explore the model that Ms Gallacher has proposed in her amendment. That is the appropriate way and time to consider the issue further and to ensure that there are no negative impacts or unintended consequences. I ask her not to move amendment 130, on the basis of the reassurances that I have set out on the work that we will undertake.

Amendment 190, in the name of Maggie Chapman, has two parts: restrictions on the payment of advanced rent and the reduction of the maximum tenancy deposit to one month's rent. On advanced rent, I recognise the concerns that are being raised. The ability to pay advanced rent is currently one of the options that can help to facilitate a let when a tenant is unable to show that they have sufficient income, cannot demonstrate creditworthiness or cannot provide a suitable guarantor. Current requirements restrict that to no more than six months' rent.

Although I am sympathetic to the outcomes that are being sought, I have concerns that the proposed restrictions could result in landlords choosing not to rent to tenants who are unable to provide a suitable guarantor or demonstrate that they are able to afford the tenancy, but who could have previously afforded to pay rent in advance. That could create an unintended barrier to obtaining accommodation, potentially increasing the risk of homelessness.

Although I am unable to support the amendment as set out, I wish to explore further with Ms Chapman, should she be agreeable, the potential for a reduction in the maximum amount of rent that a landlord could accept as advanced rent, with a view to bringing back an amendment at stage 3 on that issue.

Amendment 190 also seeks to reduce the maximum deposit payment from the equivalent of two months' rent to one month's rent. Although I understand that the intention is to reduce barriers to entering the PRS market, that change might have adverse effects for prospective tenants and could also lead to landlords being unwilling to let to certain tenants—for example, those on lower incomes—given an increased risk of recovering rent arrears or property damage at the end of a tenancy.

In addition, the measures in the bill that create rights for tenants to make category 1 changes to a let property—changes that do not require the permission of the landlord—are based on the current deposit maximum of two months. I fully understand Ms Chapman's intention, and I am supportive of tenants' rights, as is clearly demonstrated by the Government's introduction of the package of measures in the bill. I ask Ms Chapman not to move amendment 190. As I have set out, I commit to exploring further restrictions on the payment of advanced rents for stage 3.

I turn to Edward Mountain's amendment 184. I understand Mr Mountain's desire to increase the quality and provision of social housing and to tackle the housing emergency. I share that aim.

Although I am keen for unclaimed deposits to be put to good use, I do not believe that it is appropriate for those funds—funds that belong to the people who have lived in the private rented sector—to be used for that purpose.

As we set out when the bill was introduced, we intend those funds to be used to help those who are living in the private rented sector, by supporting the provision of advice, assistance and services and by preventing homelessness. I hope that that will achieve the member's objective of tackling the housing emergency, although in a different way and through the private rented sector itself.

Amendments 374 and 396, in the name of Paul McLennan, respond to concerns raised by the Delegated Powers and Law Reform Committee regarding the scope of the regulation-making power in section 31 in relation to the use of unclaimed funds. On reflection, I agree with that committee, and those amendments therefore remove the regulation-making power.

In line with the removal of that power, amendment 371 would ensure that unclaimed tenancy deposit funds can be used to support prospective tenants in the private rented sector as well as to support existing tenants. As I have discussed with Mr Greer, that would enable unclaimed funds to be used for projects and activities to support access to the private rented sector. For example, they could be used to support guarantor schemes.

Amendments 372, 373, 375 and 376 make minor and technical changes to the bill. Amendment 377 seeks to provide clarity that the provisions cover existing, and future, private residential tenancies and student tenancies. I ask members to support those amendments to ensure a more robust framework for the use of unclaimed tenancy deposit funds.

In summary, for the reasons given and in light of the assurances that I have offered, I ask Graham Simpson, Ross Greer, Meghan Gallacher, Maggie Chapman and Edward Mountain not to press or move their amendments in this group. If the amendments are pressed or moved, I urge members to reject them but to support the amendments in the name of Paul McLennan.

**The Convener:** I call Graham Simpson to wind up and to press or withdraw amendment 73.

**Graham Simpson:** The cabinet secretary has asked members not to move their amendments in most groups and has done the same here, but we have also seen that she is prepared to work ahead of stage 3 with people who have raised sensible issues. We are all going to be very busy, but that is what we are here to do.

I am pleased that she has offered to work with Maggie Chapman, who raises the serious issue of the sometimes unaffordable size of the deposits that people have to pay. She has also agreed to work with Meghan Gallacher, whose amendment 130 suggests that tenancy deposits should be paid directly to the scheme administrator. That would get round what is, in my view, a bit of a racket, where people can withhold deposits for spurious reasons.

**Meghan Gallacher:** I believe that there is something in amendment 130 and was grateful to hear that the cabinet secretary is willing to work with me ahead of stage 3, because there are potential benefits for tenants and landlords. There will be benefits for tenants because of the reasons that Graham Simpson has outlined, and the administrative burdens on landlords would also be reduced. Does Mr Simpson believe that that is the right way forward and that the amendment would benefit both tenants and landlords?

**Graham Simpson:** I think that it would. I can speak from the tenant's point of view by again relating my experience. I am now on my third rental flat in Edinburgh and have some experience of the market. I remember moving out of one flat and being asked to clean it. My wife was a cleaner—that was her business—and she came in and cleaned the flat, yet the letting agent found specks of dust on a skirting board and tried to withhold money from us. That was the flat that I referred to earlier, which was being put up for sale. The landlady said, "Take what you want. Empty the flat," so I took what I wanted. That was the deal, so it was absolutely ludicrous that the letting agent was trying to withhold money when the flat was cleaner than it had been when I moved in.

I pushed back and they relented, because they realised that they were not going to win. That must happen all the time—it is a racket. If deposits were paid directly to the scheme administrator, we would end up with a better system. It is very positive that the cabinet secretary has offered to work with Meghan Gallacher.

That brings me to my amendment 73 and Ross Greer's amendment 189. We have heard that there is a patchwork situation across Scotland. Some universities offer to act as guarantors, while some do not. There are local authority schemes in some areas but not in others. I think that the cabinet secretary recognises that. She said that she is prepared to work to resolve those matters ahead of stage 3, and I am prepared to accept that. If we have sensible discussions about arriving at a better situation—which, I am sure, is what Ross Greer is aiming for, as, indeed, we all are—ahead of stage 3, we can see where we get to. If we are not happy, we can lodge amendments again. However, I hope that we will find a solution.

On that basis, I will not press amendment 73.

*Amendment 73, by agreement, withdrawn.*

*Amendments 183 and 189 not moved.*

*Amendment 535 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 535 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 535 disagreed to.*

*Amendments 130 and 407 not moved.*

*Amendment 536 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 536 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 536 disagreed to.*

*Amendments 190 and 537 not moved.*

### Section 31—Use of unclaimed tenancy deposits

15:00

*Amendments 371 to 373 moved—[Shirley-Anne Somerville]—and agreed to.*

*Amendment 184 not moved.*

**The Convener:** Does any member object to amendments 374 to 377 being moved en bloc?

I object.

*Amendment 374 moved—[Shirley-Anne Somerville].*

**The Convener:** The question is, that amendment 374 be agreed to. Are we agreed?

**Members:** No.

**The 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**

Burgess, Ariane (Highlands and Islands) (Green)

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

*Amendment 374 agreed to.*

*Amendments 375 to 377 moved—[Shirley-Anne Somerville]—and agreed to.*

*Section 31, as amended, agreed to.*

*Sections 32 to 37 agreed to.*

### After section 37

**The Convener:** The next group is on the landlord register. Amendment 417, in the name of Mark Griffin, is grouped with amendments 418, 488, 454, 419, 455, 503, 420 and 421.

**Mark Griffin:** Amendment 417 addresses a gap in the current landlord registration framework under the Antisocial Behaviour etc (Scotland) Act 2004. As it stands, the act requires registration of those who own and lease residential property, but it does not clearly capture those who rent a property and sublet it to others. The amendment clarifies that individuals who rent or sublease properties—who, in practice, are landlords—must also register. The amendment would ensure that intermediate landlords could no longer operate outside the regulatory regime, thereby avoiding scrutiny, safety checks and compliance obligations.

That is particularly relevant in cases of rent-to-rent schemes, in which someone rents a flat and then re-lets it to others at a profit, without the necessary oversight. Tenants in such arrangements are especially vulnerable. Amendment 417 would strengthen tenant protections, close a legal grey area and ensure consistency and accountability across all rental arrangements.

Amendment 418 seeks to improve the transparency of the landlord register by requiring the inclusion of key property information. Specifically, it would ensure that the register

included the rent charged, the size of the property—including the number of bedrooms and floor levels and the floor area—the maximum number of occupants and, where relevant, the current number of occupants for each property.

That would be a crucial step forward, because it would give local authorities a clear picture of what the private rented sector looked like in their area and would enable better enforcement of overcrowding provisions, rent controls and property standards. It would also enhance the value of the landlord register to tenants, who should have the right to know basic details about the homes that they are considering, especially rent levels and occupancy conditions. Amendment 418 would modernise the register and ensure that it reflected the real conditions of the housing market.

Amendment 419 proposes to reduce the duration of a landlord's registration under the Antisocial Behaviour etc (Scotland) Act 2004 from three years to one year. The current three-year cycle allows too much time to pass before registration is reviewed, during which time property standards may deteriorate, landlord circumstances may change or breaches may occur without any follow-up. A yearly cycle would strengthen transparency, keep records current and support better enforcement by local authorities.

Amendment 419 would ensure that information relating to monthly rent was kept up to date and would bring that information into line with the frequency with which landlords outwith rent control areas are currently able to increase monthly rents for private rented tenancies. The amendment is not about increasing bureaucracy; it is about raising standards and closing gaps that allow neglect or non-compliance to persist unchecked for a number of years.

Amendment 420 seeks to impose a new duty on the Scottish ministers to collate and publish rent data drawn from local authority landlord registers. It would require the Scottish ministers to prepare and publish statistics that would be based on the information collated on rent levels in the register, and to break it down by local authority area. That would be a vital step towards transparency and accountability in the housing market, and it would allow local authorities to use the information from an area to consider whether a rent control zone was necessary.

Amendment 421 would introduce a new duty on the Scottish ministers to promote the use of the landlord register to support tenants. It would require the Government to take steps to raise awareness of the register and to ensure that it was actively used to help tenants to understand their rights, to verify landlord registration and to seek redress where necessary. The Scottish Government should use the data gathered in the Scottish landlord register to encourage and support local authorities to communicate with private tenants on their rights via their details as recorded in the register. The amendment would place an obligation on the Scottish Government to ensure that tenants had information about their rights and responsibilities as tenants of rented properties in Scotland.

Amendment 455, which seeks to amend part 8 of the 2004 act, would ensure that the landlord register was accessible and searchable, and it would place obligations on the Scottish Government to enable that. It would require there to be a central, searchable interface, which would make it easier for tenants to access information. In placing that obligation on the Scottish ministers, the amendment would provide consistency and would ensure that local authorities did not face additional expenses. It would support transparency and empower tenants to verify the legitimacy of the landlord or letting agent before signing a lease.

Amendment 488 seeks to improve the landlord registration system significantly, by requiring those who register to provide detailed standardised information about the properties that they let, including information on property classification, number of rooms, heating systems, energy performance certificate—EPC—ratings, past repairs, safety features, accessibility adaptations and known hazards, such as damp or flooding. It also covers compliance with legal standards, such as the repairing standard and electrical installation condition report—EICR—certification, along with clarity on shared spaces and insurance cover.

Amendment 488 would turn the landlord register into a genuinely useful resource for tenants. It would allow councils to make informed choices, it would target enforcement, and it would help national policy makers to address housing quality and climate goals. The data in question would not be burdensome to collect—we are talking about information that responsible landlords already have. The information that would be collected would form part of the information to be shown as part of a home report for any prospective buyer. The proposal supports transparency and balances the need to provide genuinely useful information with the need not to overburden landlords.

Taken as a package, all the amendments in the group speak to what I see as a significant failing of the landlord register as it stands. They provide a real opportunity to amend and update the information that we collect and to gather the data that the committee has spoken about, and has said that we would require, almost every year of the session.

I look forward to hearing the Government's response to my proposals and—regardless of whether it supports the amendments—hearing about how we can ensure that the landlord register collects the crucial information that we, as legislators, and the Government need in order to make policy decisions and to support tenants to make informed choices about the tenancy agreements that they enter.

I move amendment 417.

**Ross Greer:** Amendment 454 is a simple one: it seeks to devolve to local authorities the ability to set fees for registration with a landlord register. We talk about "the" landlord register, but there are 32 landlord registers—there is a single national letting agent register for Scotland, the responsibility for which sits with the Scottish ministers; the responsibility for landlord registers sits with 32 local authorities. Most members in the room are former councillors, and I am sure that they can think of many occasions on which they chafed at having decisions micromanaged for them by the Scottish Government.

I see this as being a simple matter of policy coherence: if it is the responsibility of the local authority to maintain the register, surely we should give the local authority the ability to set something as basic as the registration fee. We could have political commentary around whatever rate it set it at—I hope that that would not be the case, given how minor an administrative matter this is—but the point is that the responsibility for setting the fee should sit with the elected representatives to whom we have given responsibility for the register. Amendment 454 would devolve that to our colleagues in local government, in line with the Verity house agreement.

**Maggie Chapman:** Amendment 503 seeks to further reinforce rent controls. As I said previously, we need to ensure that rogue landlords will not chance raising rents above what is legally allowed. That was the rationale for having much higher fines. An additional deterrent would be to remove the landlord from the landlord register if they have flouted rent controls, which is what amendment 503 would enable. I am happy to discuss changes to make the proposal agreeable to the committee, but if we are serious about rent controls, we need to back that with genuine deterrents for landlords who seek to get around them.

Mark Griffin's amendments would bring more transparency to the private rented sector by requiring more information on the properties let by a landlord to be included in the register. Information on rents would also need to be included, which would support rent controls, as well as broader information for tenants. That is welcome, as it would make the register more accessible to tenants and prospective tenants.

I have a question on amendment 419, which Mark Griffin could perhaps address when he sums up. That amendment would remove landlords from the register unless they re-registered after one year, rather than the current three years. That would improve accessibility for landlords, which we welcome, but there is a question about the burdensome nature of that provision, particularly for local authorities. It would be useful if Mark Griffin could address that issue.

**The Convener:** Do any other members wish to speak?

**Meghan Gallacher:** I will speak to amendment 417. At a previous stage 2 committee meeting, I made the comment that the legal definition of "relevant landlord" must be consistent across housing legislation. That is backed by various stakeholders, including Scottish Land & Estates, which is looking for better data collection through a stronger landlord register. I understand that we are still debating where stakeholders are positioned in that regard.

Mark Griffin raised the issue of how the register currently sits in relation to, for example, people who are required to register not as a landlord but as an agent. I think that that undermines the register's purpose. We need to ensure that all private landlords are responsible individuals who meet letting standards and are accountable to tenants and local authorities.

Amendment 417 relates to previous commentary on the issue. Will the cabinet secretary work with Mark Griffin and other interested MSPs on that matter, alongside the other issues that I raised at a previous committee meeting, ahead of stage 3?

**Shirley-Anne Somerville:** The core purpose of landlord registration is to ensure that those who operate as private landlords are fit and proper persons and that tenants and prospective tenants can be assured of that. Although I understand the thinking behind the amendments in this group and share the view that landlord registration is an important way of driving high standards in the private rented sector, a number of the amendments are not necessary, and many could have unintended consequences that would risk the integrity of the core purpose of registration.

Landlord registration is also a high-volume system that includes more than 200,000 landlords and 350,000 properties. Changes to how a system of that scale operates ought to be clear on the benefits that they would achieve, in order to justify the cost to Government, both national and local, and the increase in administrative burdens for landlords. I strongly believe that any significant changes to how registration systems operate

should be informed by consultation with local authorities, landlords and tenants.

15:15

I appreciate that some amendments in the group may have their origins in data collection and the use of information for rent controls, as we discussed in group 8. I reiterate the commitment that I made when we discussed that group. We share the view that robust data is needed for that purpose, and I invite members who have lodged amendments in that area to join our planned engagement with local authorities over the coming months.

I turn first to Mark Griffin's amendment 417. Information about sub-landlords is already entered in the landlord register, as they are classed as persons who act for the landlord, albeit that they are not required to register. Requiring sub-landlords to register would involve a duplication of information on the landlord register and would place an administrative burden on local authorities. In addition, the amendment does not consider the other parts of the 2004 act that would need to be considered in order to cater for sub-landlords in that way.

However, I accept the principle of ensuring that information can be sought from sub-landlords to support rent control. In that respect, Government amendments 303 and 304, which were previously agreed to by the committee, will provide a transparent and effective procedure for local authorities and the Scottish ministers to obtain information from landlords and

"any other person acting as landlord".

I hope that that reassures Mr Griffin that information will be able to be sought from sub-landlords to support the delivery of rent control, in a proportionate way, through means other than changes to the registration system.

Meghan Gallacher mentioned—and we have previously discussed in committee—SLE's concerns about those areas. The Minister for Housing met SLE very recently and made an offer for SLE to bring forward its proposed solution to the challenge. Ministers have said that we will look seriously at that before stage 3. Given that that work has not been done, I am not in a position to say whether we would support the solution that is put forward by SLE, but we are certainly cognisant of the issue, both from the committee's previous discussions and the meetings that the minister has had. I reconfirm that we will work through SLE's proposed solution before stage 3 and will inform the committee whether the Government wishes to take forward that suggestion. Of course, members will have their own views on SLE's recommendations.

Amendment 418, which is also in the name of Mark Griffin, would add to the landlord register information about rent and size of property. I agree that information about rent and property size are critical to the operation of rent controls, but Government amendments 303, 304 and 313—all of which were previously agreed to—will allow the Scottish ministers and local authorities to seek that information, and it is not necessary to link that with the operation of the landlord register. To do so would change the purpose of landlord registration and of the register, which currently serves to assess and record whether an individual is a fit and proper person to operate as a landlord. The regime and the digital platform are designed around the person applying to be a landlord; the register is therefore neither intended nor designed to be a tool to record detailed information about each property. We ought not to shift the focus and change the purpose of the landlord register without extensive consultation with councils, landlords and tenants.

Mark Griffin's amendment 488 would add new types of information that must be included in an application to a local authority to be entered in a register of landlords. I recognise that some of that information is useful for tenants. However, I note that a number of the proposed new data categories are already part of the existing fit-and-proper-person test and are already available to tenants and prospective tenants as part of property adverts or can be requested when a tenancy is taken up. I remain unclear on the potential benefits for tenants of the inclusion of some other categories.

As I have said, the purpose of the landlord register is to record who is a fit and proper person to operate as a landlord, and I do not believe that we should change that purpose without consultation. The register does not currently operate as a register of properties. Information is requested at portfolio level, so increasing the data requirements would not be operationally straightforward. To deliver on amendment 488 would involve a very significant change and would require changes to primary and secondary legislation, information technology systems and local authority practices.

For those reasons, I cannot support the amendments.

Amendment 454, in the name of Ross Greer, would delegate the fee-setting function for landlord registration to local authorities. Setting fees at a national level is transparent, predictable and straightforward for landlords, many of whom operate across local authority boundaries. That predictability is also important for local authorities as they manage their own resources.

As members will be aware, landlord registration is an important part of the protections for private rented sector tenants. Ensuring that the process of applying for registration is as straightforward as possible, anywhere in Scotland, is of material importance.

**Ross Greer:** I am confused about the point about consistency. Local government is not just another set of public bodies; they are 32 governments, and that level of government has been given responsibility for the landlord register. The argument about its being helpful to have consistency across the country somewhat flies in the face of the fact that councils can set their own rate of council tax. Indeed, the Visitor Levy (Scotland) Act 2024, which we have just passed in this Parliament, allows them to set their own rate for that levy, and the point that was made in relation to a cruise ship levy is also about local authorities being able to set a rate that is relevant to them.

There is a whole range of other measures whereby local authorities can set a rate—whether for fees, charges, taxes or so on—that suits their local context. I am struggling to see how the Government's position can be reconciled with the Verity house agreement that this Government signed.

**Shirley-Anne Somerville:** The reasons that I have set out are, in essence, about the impacts on landlords, particularly on smaller landlords who might still be moving over a local authority boundary and therefore operating in two systems. I appreciate where Mr Greer is coming from and the point that is being made. However, as we have moved through the bill, I have been very conscious of the administrative burden particularly on, but not only on, small landlords, as well as the importance of encouraging people into the private rented sector, both as landlords and as investors. That is why, I am afraid to say, Mr Greer and I disagree on the amendment.

The amendment also appears to seek to link fee levels with compliance with other legal requirements. I reassure members that compliance with the law is a key component of the fit and proper person test applied by local authorities, and it is not necessary to link that with the level of fees. A critical consideration is already made in determining whether someone is suitable to be a landlord at all.

Amendment 419, in the name of Mark Griffin, would reduce the registration period to one year from three and require more than 200,000 landlords to re-register and potentially pay an annual registration fee. That would be costly and burdensome for landlords and local authorities. As I am not persuaded by the argument as to why such a significant change to the operation of the registration process is considered necessary, I ask the member not to move amendment 419.

Amendment 455, also in the name of Mark Griffin, would open up access to the data held on landlord registers. As applications include personal and sensitive data, careful consideration of data protection rules would be needed before considering the publishing of such information—if opening up such access would even be possible. Elements of the register are already searchable by the public, including basic details of landlords, letting agents and property addresses, or are available upon application.

The fact that a landlord has been entered on the register confirms that a local authority has made the necessary assessment that they are a fit and proper person, and such a determination means that the landlord has provided the prescribed information needed for such assessment. There is also a wide range of information that tenants are already entitled to request from their landlord. Therefore, I cannot support the amendment.

Amendment 503, in the name of Maggie Chapman, proposes to add new considerations to the fit and proper person test for landlord registration, including where the landlord has tried to raise the rent above the cap, has failed to set the rent in accordance with rent control restrictions, or has been subject to a wrongful termination order. Although I share Ms Chapman's view that the assessment of suitability to be a landlord is a critical part of the protection for tenants, and that a landlord's compliance with the law on rent and termination of a tenancy should be part of that assessment, the points that are made in amendment 503 are already covered by section 85(2)(c) of the 2004 act. As such actions would be contraventions of landlord and tenant law, they would already be relevant considerations in the fit and proper person test. By picking out those particular contraventions, we weaken the generality of the existing provision, without adding any particular protections. Therefore, I cannot support the amendment.

Amendment 420, in the name of Mark Griffin, would introduce a requirement to publish statistics on average rent, supported by the information that would be available as a consequence of amendment 418, which I cannot support for the reasons that I have already set out. I would just reflect that the Government's amendment 328, which has already been agreed to, would enable the processing of information obtained from landlords in connection with rent control for the purposes of publishing aggregate statistics on rent levels. I hope that that reassures the member.

Lastly, I turn to amendment 421, also in the name of Mark Griffin. Of course, it is important that tenants are aware of their rights and are

empowered to use them—I share Mr Griffin's views in that respect. However, as local authorities have existing legal duties to provide advice and assistance to both landlords and tenants on landlord registration and other aspects of landlord and tenant law, I am not clear on the need for a specific statutory requirement to promote the register and, as a result, I cannot support the amendment.

Again, I reassure members that ministers are committed to continuing to raise awareness of tenancy rights and responsibilities, and to see what more can be done about that after the bill is, as I hope, passed by the Parliament. We will seek to work with tenants, landlords and stakeholders to do that in the most effective way.

**Maggie Chapman:** I want to ask a very quick question, cabinet secretary, as I would like your assurance on a matter. You said that the points made in my amendment 503 are already covered by the 2004 act. Can you assure me that they are indeed covered, given that rent controls are not mentioned in that act, as they did not exist when it was passed? My amendment specifically mentions deviations from rent control levels.

**Shirley-Anne Somerville:** I am content that that is clear and that we are covered. If Ms Chapman can persuade me, before stage 3, that her points are not covered by the 2004 act, I will be happy to look at bringing the amendment back.

**The Convener:** I call Mark Griffin to wind up and indicate whether he wishes to press or withdraw amendment 417.

**Mark Griffin:** I appreciate the cabinet secretary's support in principle for the intention behind my amendment 417 and the Government's on-going dialogue and engagement with Scottish Land & Estates to work towards making potential changes at stage 3. I therefore seek permission to withdraw amendment 417 in order to allow those discussions to continue.

On Maggie Chapman's point about amendment 419, I realise that there would be an increased burden if we were to switch from a three-year to a one-year cycle of registration, but we need to balance outdated rent levels and outdated registrations. Some landlords stop being landlords but do not withdraw from the register; they simply allow their registration to lapse, potentially up to three years later. The concern is that there might be compliance gaps lasting up to three years, and the burden of annual registration needs to be balanced against the live information that could be gathered annually.

My amendments in the group are data driven, and I am reassured by the cabinet secretary's comment that there will be a separate engagement exercise on data that we will be able to lean on for policy making. I still think that there is a potential gap with regard to the rights of a prospective tenant compared with the rights of a prospective house buyer, who will have far more information at their fingertips to allow them to assess decisions, so I might well come back to that issue at stage 3.

*Amendment 417, by agreement, withdrawn.*

15:30

*Amendments 418 and 488 not moved.*

*Amendment 454 moved—[Ross Greer].*

**The Convener:** The question is, that amendment 454 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 454 disagreed to.*

*Amendments 419, 455, 503, 420 and 421 not moved.*

**The Convener:** At this point, we will take a five-minute break.

15:31

*Meeting suspended.*

15:38

*On resuming—*

## Section 38—Private residential tenancies: ending a joint tenancy

**The Convener:** Welcome back. The next group is on joint tenancies. Amendment 408, in the name of Katy Clark, is grouped with amendments 378 to 382, 403 and 405. I believe that Mark Griffin will move amendment 408 on Katy Clark's behalf.

**Mark Griffin:** Amendment 408 would allow for

"the interest of the joint tenant"

under a private residential tenancy to

"be assigned to another joint tenant"

before the day on which they provide the landlord a notice outlining that they wish the tenancy to come to an end. However, under those circumstances, the tenancy

"must remain on the same terms as the existing tenancy",

which would, I hope, allow for more flexibility for people in shared tenancies and, potentially, for easier and smoother transitions between tenancies.

I move amendment 408.

**Shirley-Anne Somerville:** Amendment 408, in the name of Katy Clark, would mean that a new tenant could replace the tenant who had started the process of ending the tenancy and would compel the landlord to enter the tenancy on the same terms as the previous tenancy. Assigning the tenancy on the same terms as the departing tenant, with the landlord's consent, is the current legal position, and the amendment would not change that. I fully understand the concerns about the impact on other joint tenants who do not wish the tenancy to come to an end, and I, too, want to limit the negative impact on other joint tenants as far as possible. The measures in the bill have been designed to help to do that.

It is very important that people in those circumstances speak to their landlord as soon as possible about their options, which include assigning the tenancy to another person or remaining in the property under a new tenancy. The pre-notice period ensures that there is time for those discussions to take place, and, if it is not possible for tenants to stay, that period enables them to access independent housing support and advice to help them to find suitable alternative accommodation.

I ask Mark Griffin not to press amendment 408 on Katy Clark's behalf. However, I would welcome further discussions with her on the issue ahead of stage 3 to see whether more needs to be done.

Amendments 378 to 382, in Paul McLennan's name, will support the operation of the measures in section 38, which will ensure that no joint tenant can be trapped in a tenancy against their will. Amendments 378 and 379 ensure that two months is the minimum pre-notice period and that three months is the maximum pre-notice period. That approach does not change the overall intent, but it is easier to understand than requiring that a 28-day notice to leave be served within a period of 28 days after the expiry of the two-month notice.

The pre-notice period aims to encourage tenants to consider their circumstances and, when possible, discuss their options—assigning the tenancy to another person or remaining in the property—with their landlord. If the final notice was not given within three months and the tenant still wanted to end their tenancy, they would need to start the process again from the beginning.

**Maggie Chapman:** I have a quick question on amendment 378. Can you explain the rationale for having a maximum pre-notice period of three months? I completely get the two-month minimum, but why have a three-month maximum?

**Shirley-Anne Somerville:** If Maggie Chapman will allow me to further reflect on that, I will come back to her.

Amendment 382 and consequential amendment 403 provide the necessary powers to make regulations subject to the affirmative procedure. That aims at allowing flexibility for the Scottish ministers to amend the pre-notice period, should monitoring indicate that a longer notice period is required.

Under current tenancy provisions, there is no requirement on a joint tenant to inform other joint tenants when they serve the 28-day notice period to their landlord. That means that there is the potential for other joint tenants to be unaware of the exact date on which the tenancy is due to come to an end, which could cause problems for tenants and their landlord. We think that there is a higher risk of that occurring when tenant relationships have broken down. That is the most likely reason why that new mechanism will be used, which is why we have lodged amendment 380 and consequential amendments 381 and 405.

Amendment 380 provides that, following service of the notice to leave, the departing tenant has seven days to provide a copy of the notice to the remaining tenants and a statement to the landlord saying that that has been done.

The Government amendments will provide further security that the process has been followed correctly and that all parties are fully informed of the on-going process and of the date on which the tenancy comes to an end. I therefore ask members to support the amendments in Paul McLennan's name.

My reflection on Maggie Chapman's question is that, in essence, the provision in amendment 378 comes down to trying to provide simplicity and clarity on the minimum and maximum periods. It is an attempt to make the position clear for both landlords and tenants.

**The Convener:** I call Mark Griffin to wind up and to press or withdraw amendment 408.

15:45

**Mark Griffin:** I appreciate the cabinet secretary's comments. I am sure that my colleague Katy Clark will take up her offer to

discuss the issue ahead of stage 3. I seek permission to withdraw amendment 408.

*Amendment 408, by agreement, withdrawn.*

*Amendments 378 to 382 moved—[Shirley-Anne Somerville].*

**The Convener:** I am required to ask whether any member objects to a single question being put on amendments 378 to 382, and I object.

The question is, that amendment 378 be agreed to. Are we agreed?

**Members:** No.

**The 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**

Burgess, Ariane (Highlands and Islands) (Green)

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

*Amendment 378 agreed to.*

*Amendments 379 to 381 agreed to.*

**The Convener:** The question is, that amendment 382 be agreed to. Are we agreed?

**Members:** No.

**The 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)

**Abstentions**

Burgess, Ariane (Highlands and Islands) (Green)

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

*Amendment 382 agreed to.*

*Section 38, as amended, agreed to.*

**After section 38**

*Amendment 231 moved—[Shirley-Anne Somerville].*

*Amendments 231A and 231B not moved.*

*Amendment 231 agreed to.*

*Amendments 443, 221, 222, 444 and 249 not moved.*

*Amendment 385 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 385 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

**Against**

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

**Abstentions**

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

**The Convener:** The result of the division is: For 2, Against 3, Abstentions 2.

*Amendment 385 disagreed to.*

*Amendment 489 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 489 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 489 disagreed to.*

*Amendment 538 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 538 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 538 disagreed to.*

*Amendment 539 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 539 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 539 disagreed to.*

*Amendments 540 and 541 not moved.*

**The Convener:** The next group is on succession to tenancies. Amendment 383, in the name of the minister, is grouped with amendments 384, 520 and 521.

**Shirley-Anne Somerville:** I am grateful for the discussions that I have had with members, particularly Mark Griffin and Meghan Gallacher, on the issues raised by the amendments in this group. I also thank Marie Curie for the meetings that we have had to discuss the issues for tenants who are terminally ill and their families that have prompted the amendments in this group. Those issues include concerns about the length of time for which a person must currently have lived in a let property before they can succeed to a tenancy, which is 12 months in both the social and private rented sectors, and the time by which an occupier has to leave a let property after the tenant's death.

I turn first to amendments 520 and 521, in the name of Meghan Gallacher. Amendment 520 would remove the current 12-month qualifying residence period before partners, members of a tenant's family or carers are entitled to succeed to a Scottish secure tenancy following the death of the tenant. Amendment 521 would make the same change in relation to private residential tenancies under the Private Housing (Tenancies) (Scotland) Act 2016. Those amendments would remove the qualifying period and would require only that the house must be that person's only or principal home at the time of the tenant's death.

In addition, amendments 520 and 521 seek to change the amount of time that a person who could succeed to the tenancy but does not wish to do so must be given before they must leave the property. There is currently a process for that in the social rented sector. Amendment 520 would change the period of time that a tenant in such circumstances has before they must leave the property, raising it from three months to six months. I see the benefits for tenants but would like to further consider the impact of that change in relation to the duty on social landlords to make the best use of their housing stock. Initial discussions with some social landlords have raised some concerns and, in a housing emergency, any delay in being able to allocate a property when an individual has indicated that they do not wish to remain there must be carefully considered. However, I am happy to commit to further exploring that aspect of the amendment with Meghan Gallacher and Marie Curie ahead of stage 3. Should social landlords not make a substantive case, I am content to work with Meghan Gallacher on that area, and I particularly thank her for the conversations that we have had in the past few weeks and for her commitment to moving forward on the issue.

Amendment 521 would make changes to the 2016 act to introduce a similar mechanism for qualifying private tenants who do not wish to succeed to a tenancy. That would mean that private landlords would have to give a tenant who has already automatically succeeded to a private residential tenancy six months' notice to leave that tenancy if they write to the landlord to say that they do not wish to become the tenant. Existing legislation already provides greater protection for tenants in those circumstances, because qualifying tenants automatically succeed to the tenancy and can stay for as long as they choose. The change is, therefore, unnecessary and would actually reduce existing rights.

Amendments 520 and 521 would also introduce a new mandatory requirement on landlords to give reasonable assistance to the tenant to find alternative accommodation, and I recognise the positive intent behind that. Social landlords are already required to provide housing options advice for those at risk of becoming homeless, so that homelessness is prevented as early as possible, which means that the new requirement is therefore not necessary. Private landlords will not usually have the necessary training or resources to provide housing options advice and assistance to tenants, so I do not think that they are best placed to support a tenant who needs or wishes to move to alternative accommodation. A more effective approach would be to work with Marie Curie and other relevant stakeholders to develop a practice note that would support private landlords whose tenant has a terminal illness or dies. That would be the appropriate resource to encourage landlords to provide tenants with signposting to the organisations that are best placed to provide support and advice in those circumstances.

I understand the concerns raised by the member and Marie Curie that the current qualifying period contributes to housing insecurity and increases distress and trauma for terminally ill people, their families and carers, which can cause profound emotional and practical disruption when they are at their most vulnerable. I have also reflected on previous consideration of the issue, which resulted in the extension, through the Housing (Scotland) Act 2014, of the qualifying period from six to 12 months—a position also taken in the 2016 act. The qualifying residence period for succession must be balanced with the need to make best use of the limited social housing that is available and with the property rights of landlords. On balance, I think that the 12-month qualifying period should be changed and, therefore, ask members to support amendments 383 and 384, in the name of Paul McLennan, which would reduce that qualifying period from 12 to six months.

I ask Meghan Gallacher not to move amendments 520 and 521, in light of Government amendments 383 and 384 and my commitment to explore, at stage 3, a change to the timescale for leaving a property where a succeeding tenant declines the tenancy.

I also reiterate my commitment to progress the development of guidance for private landlords to help them to support terminally ill tenants and their families.

I move amendment 383.

16:00

**Meghan Gallacher:** I care really deeply about this issue. The cabinet secretary and I have had many a conversation about it, and I think that we stand in the same place on succession to secure tenancies. The families of terminally ill people are often their full-time carers and live in the same property to enable them to fulfil their caring duties.

I am in two minds about moving my amendments 520 and 521. I know that I seek to do the right thing. I know, too, that Marie Curie really wants to see this issue resolved in the bill, and that is what we need to move towards. Given the cabinet secretary's comment that amendment 521 could bring about a reduction in rights, I am concerned that my moving it might lead to potential tenants not being afforded the opportunity to access the relevant support networks.

However, my question for the cabinet secretary would be, why have those rights not been exercised to their full potential? That has perhaps led to the situation in which we find ourselves, where stakeholders do not feel that the right support networks are in place and therefore have to work alongside MSPs to put legislation in place. We have discussed that problem throughout the bill process. I know that the cabinet secretary is keen to work on that aspect, but in my view we must address why that is not already common practice for people who need help and support.

I turn to the social rented sector issues covered in my amendment 520. I might be able to pre-empt members' concerns, given my experience as a councillor who sat on housing committees in North Lanarkshire. I will not apologise for highlighting that families need adequate time to get themselves together after they lose a loved one. The general point that I seek to make through these amendments is that, although social landlords might be within their rights to reuse properties and allocate them to other tenants, that is usually not done in the right way, and it often happens within a short period of time. I have certainly had casework where tenants have been expected to move out of a property a matter of weeks after the death of their loved one, a period in which not only must they start to move through the grieving period but they must box up the deceased person's possessions and ensure that they themselves have somewhere to go. That is the reason for my lodging these amendments.

**Shirley-Anne Somerville:** I thank Meghan Gallacher for the conversations that we have had, in particular in the past couple of days but also prior to that. As I said earlier, the only reason for my not supporting amendment 520 at this point is that, as a Government minister, I feel that it is important to give landlords the opportunity to come forward, should they have grave concerns about the proposals. If they do not, or do not do so in a way that convinces me or Ms Gallacher, I will be happy to support her amendment at stage 3. I have my own views about whether I will be convinced, but I want to give people the opportunity to come forward and express their concerns. However, I am very sympathetic to where Meghan Gallacher is coming from with her amendments.

**Meghan Gallacher:** I fully understand that. What the cabinet secretary has said reflects our conversations on these issues.

I feel that if I do not move my amendments now, that would represent a missed opportunity. However, at the same time, I understand the need for consultation—I have called on the Scottish Government to do that many times myself, and it needs to happen before important decisions are taken. I have a difficult choice to make, but I also understand where the cabinet secretary is coming from.

Convener, I might take a minute or two to reflect on my amendments so that when you call them I will be able to say whether I wish to move them.

**The Convener:** As no other members wish to speak, I invite the cabinet secretary to wind up.

**Shirley-Anne Somerville:** I again thank all the members with whom I have had discussions about the amendments in this group. Those discussions have been a good example of the kind of discussions that we can have on exceptionally sensitive issues. We all come from the same starting point, which is that we want to be able to support people with a terminal illness and their loved ones in the most difficult of circumstances.

This group of amendments is an example of our ability to make a real difference to people, which does not arise in many cases. I thank Marie Curie for the intensive work that it has done directly with my officials to provide case studies for me to examine to enable me to identify where there are flaws or gaps in the law, or where there is an issue with tenants not understanding their rights or landlords not understanding their obligations. That has been very helpful as we have sought to make progress on the issue.

I believe that changes need to be made to the amendments that Meghan Gallacher has lodged, for the reasons that I have explained, but I share her intent of providing the best possible assistance to people who, along with their loved ones, might be in the worst of circumstances.

*Amendment 383 agreed to.*

*Amendment 384 moved—[Shirley-Anne Somerville]—and agreed to.*

*Amendments 520 and 521 not moved.*

### Section 39—Social landlords: delivery of notices etc

*Amendments 456 and 423 not moved.*

*Section 39 agreed to.*

*Section 40 agreed to.*

### After section 40

*Amendments 422 and 247 not moved.*

*Amendment 273 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 273 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 273 disagreed to.*

*Amendment 248 not moved.*

*Amendment 274 moved—[Maggie Chapman].*

**The Convener:** The question is, that amendment 274 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**
Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 274 disagreed to.*

*Amendment 457 not moved.*

**The Convener:** The next group of amendments is on long leases. Amendment 232, in the name of Ross Greer, is grouped with amendments 232A and 234 to 236.

**Ross Greer:** I lodged amendments 232 and 232A and the other amendments in this group because long leases are a matter of unfinished business for the Parliament. Long leases are leases that, at their start, were of more than 175 years and where the rent is nominal, at £100 or less per year, which is sometimes known as peppercorn rent. Long leases put tenants in a position of de facto ownership, despite not having the status of legal ownership over the property or the rights that flow from that. Therefore, long lease tenants are deprived of the full enjoyment of the property through an ability to sell it or pass it on to a loved one, for example.

This set of amendments on long lease reforms has arisen from casework, because, due to a historical anomaly, the remaining long leases in Scotland are heavily concentrated in the three towns area of North Ayrshire in my region—the towns being Ardrossan, Saltcoats and Stevenston. The situation remains even after the Long Leases (Scotland) Act 2012 of this Parliament sought to address the issue. The 2012 act converted some but not all residential long leases into ownership. My amendments in this group seek to extend the ability to obtain ownership rights to long lease tenants who did not benefit from the 2012 act,

which is those whose long lease had less than a century to run, as of 2015.

Amendments 232, 232A, 234, 235 and 236 would establish a scheme by which qualifying long lease rights can be converted into ownership rights. The amendments seek to address the comparative disadvantage that is currently faced by long lease tenants whose tenancies were not covered under the 2012 act because there was less than a century until their expiration—we can all acknowledge that a century is an awfully long time to deprive somebody of such rights.

Amendment 232 sets out a definition for a qualifying lease along the lines of the 2012 act. However, in this case, it would be a lease that has more than 50 years before it expires. Amendment 232A would give the committee and the Parliament the opportunity to go further and to define it as a lease that has more than five years before it expires. If amendment 232A was agreed to, we would, by and large, finally get rid of long leases in Scotland—I say "by and large" because there is no element of compulsion in here, which is worth emphasising.

Amendment 234 would establish long lease tenants' rights to apply for the conversion of lease rights into ownership rights, and it would give ministers the power to regulate for the criteria on which an application should be accepted or refused. Again, the provisions are all very similar to the 2012 act but would be extended further to the group who were not covered at that time.

Amendment 235 would establish the process for long lease rights to be converted into ownership rights, and amendment 236 would establish the process for the former landlord to request a compensation payment, with ministers regulating for the specifics of that process as well.

By and large, the amendments simply replicate the 2012 act to cover the group of long lease tenants who were not covered at that point because their leases still had a century left to run. If members agree to that in principle, which I hope they do, I would be keen for us to go as far as possible and to apply the provisions to all long leases that have more than five years left. That would get us pretty close to the point of getting rid of this very odd historical anachronism. However, by default, voting for amendment 232 would agree to the measure in principle and allow us to make progress and, I believe, cover the majority of those who still have a long lease in Scotland by applying the provisions to all those who have more than 50 years before their lease expires.

I move amendments 232 and 232A.

**Shirley-Anne Somerville:** Amendments 232 to 236 aim to allow tenants to apply to their landlord to have the long lease of their rented property converted to ownership. Long leases in this context are leases that have been granted over property for more than 175 years.

The Scottish Parliament considered the issue in 2012 and passed legislation that converted long leases into outright ownership, where the remaining term of the lease was at least 100 years on a specified date. Amendments 232 to 236 would capture long leases that were not automatically converted into ownership by that legislation, provided that there are at least 50 years left to run on the lease. There is a separate amendment to reduce that to five years.

16:15

The issue was not discussed during stage 1 evidence or with stakeholders more widely. The 2012 legislation followed from a Scottish Law Commission report on the conversion of long leases. Research undertaken by the SLC, the views of stakeholders and human rights considerations all played an important part in the decision to choose the 100-year period. It was concluded that, when the remaining term of the lease drops below 100 years, the landlord can be considered to have an economic interest in the property, with such interest becoming more significant the nearer the lease is to its termination.

Accordingly, the then Scottish Government took the view that converting a long lease to ownership where there was a minimum of 100 years left to run in the lease would strike the right balance and ensure that everyone's interests were protected, including the property rights of landlords under article 1, protocol 1 of the European convention on human rights. I note that no new research or evidence has been presented to the Parliament or the Scottish Government to justify the changes that Mr Greer has proposed.

**Ross Greer:** I understand entirely the A1P1 considerations, which come up an awful lot in the Parliament, and rightly so. However, I am interested to understand the considerations that led to 100 years being set as the threshold—I presume that the decision was based on case law. However, my understanding is that it was a somewhat arbitrary number on the basis of taking a very cautious approach, given that the 2012 act was the first time that the inequality of long leases had been addressed. Given that there have been no court proceedings that have challenged the act—or any individual cases that were successful—my suggestion is that the Government's position that 100 years is necessary to maintain the A1P1 rights of landlords is based on an incredibly risk-averse assumption rather than on case law from elsewhere, for example.

**Shirley-Anne Somerville:** I appreciate that the member's position is based on constituency cases, which he mentioned in his opening remarks. As I have stated, which I think is exceptionally important, the work that was undertaken by the SLC and the views of stakeholders, as well as the human rights considerations, led to the 100-year period being chosen. I am afraid that, despite the constituency cases that Mr Greer raised with me in the run-up to today's meeting, I still feel that the correct balance was reached as a result of the work that was undertaken for the 2012 legislation.

There are a number of policy gaps in the amendments and a lot of the detail about how the provisions that they would introduce would work would be left to regulations. Leaving aside the fact that the regulation-making powers are unlikely to be sufficient in that regard, I wish to make a point about the level of compensatory payments to be made to the landlord by the tenant. The calculation to determine the amount to be paid would be set out in regulations but, given what I have said about human rights considerations, the level of the payments is likely to be high, and it would be significantly higher the closer the lease is to the termination date. That might deter tenants from applying to convert their lease, thereby undermining what appears to be the principal aim of Mr Greer's amendments.

Finally, I point out that there is currently nothing in law that prevents a tenant from approaching their landlord to privately arrange the conversion of their lease to ownership in the circumstances that the amendments seek to address. I therefore urge the member not to press the amendments, and, should he do so, I ask the committee not to support them.

**Ross Greer:** I understand entirely the cabinet secretary's position, although I suggest that the Scottish Government often takes a risk-averse approach to the extreme in A1P1 cases. I am happy not to press the amendments, if the Government can commit to some kind of consideration and review of whether there is justification for expanding the provisions of the 2012 act to those whose leases were not covered at the time—those whose lease was more than a century at the time and is over 50 years at this point. Does the Government have any interest in considering the situation of those who were missed by the 2012 act, or is that not an area that it wishes to explore?

**Shirley-Anne Somerville:** As I have said to committee members and other interested parties, I am always happy to have another meeting so that members can try to persuade me further, even though they have not managed to get Government support in the run-up to stage 3. If Mr Greer would like one more try at that in the run-up to stage 3, we can do that, but I suggest that his chances of success are low. However, I will never say never and, if he would like to take me up on the invitation, I would be happy to have that discussion.

Based on the work that I have undertaken for the bill, I am content with the Government's current position, and I do not feel that we will change our mind on that in the run-up to stage 3. I must be honest with Mr Greer. I promise to meet many people and I genuinely want to work with him, but it is important that I am realistic about his chances of persuading the Government, although I do not know about his chances of persuading other members.

**The Convener:** I call Ross Greer to wind up and press or withdraw amendment 232A.

**Ross Greer:** I have pretty much covered the issue already. Although I understand the Government's reticence around issues relating to A1P1 rights, I emphasise that my understanding is that the threshold of a century that was set by the 2012 act was, ultimately, an arbitrary one that was based on a particularly cautious interpretation of the legal challenges that might arise. Those legal challenges did not arise, and so the threshold is one of those odd historical anomalies and injustices that needs to be rectified. It particularly affects my constituents in the three towns in North Ayrshire, but it also affects a scattering of people elsewhere in Scotland.

Although I entirely understand the Government's approach, and I am therefore happy not to press amendment 232A, I will press amendment 232, because I think that the 50-year threshold is entirely defensible on the basis of balancing the landlord's A1P1 rights with the rights of the long-lease renter or tenant.

**The Convener:** To clarify, do you want to withdraw amendment 232A?

**Ross Greer:** That is correct.

*Amendment 232A, by agreement, withdrawn.*

**The Convener:** The question is, that amendment 232 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 232 disagreed to.*

*Amendments 234 to 236 not moved.*

**Section 46—New pitch fees: considerations**

**The Convener:** The next grouping is on mobile homes. Amendment 386, in the name of the minister, is grouped with amendments 21 to 23.

**Shirley-Anne Somerville:** We are committed to making progress on the issues that have been raised by mobile home site residents, and I support the work that Murdo Fraser has been undertaking with them. The Minister for Housing has taken action following Mr Fraser's members' business debate in February, including by writing to Ofgem, to the UK Minister for Services, Small Business and Exports, and to local authorities. I hope that the post-implementation review of mobile home site licensing that is to be carried out before the end of this parliamentary session will address some systemic issues.

Amendment 386, in the name of Paul McLennan, will align the definition of the consumer prices index that is used in the mobile homes provisions in the bill with that used in the rent control provisions. The new definition does not change the substance of what was in the previous definition.

I fully support the principle of amendments 21 and 23 on adaptations, that disabled people should be supported regardless of their housing circumstances. However, the amendments are not necessary, as there is already provision in law for that purpose. The Housing (Scotland) Act 2006 established arrangements for the delivery of support for disabled people who require adaptations and who either own or privately rent their homes. Mobile homes, caravans and park homes are not covered by that legislation, but all local authorities have a duty to ensure that the needs of disabled or chronically ill residents are met, whatever their housing circumstances, and to offer support under the provisions of the Chronically Sick And Disabled Persons (Scotland) Act 1972 and the Equality Act 2010.

Since the members' business debate, my officials have had further engagement with some local authorities that shows that there are differing levels of understanding of the basis of supporting park home residents. The Minister for Housing wrote to council leaders and heads of housing on 22 April to confirm the basis for adaptation of mobile homes in housing legislation and the other legislation that I have mentioned.

Furthermore, we plan to undertake a review of the current housing adaptation system that will make recommendations on how best to improve and streamline the system and better target resources. The scope of the Housing (Scotland) Act 2006 will be part of the review, so issues relating to adaptations to park and mobile homes will be considered. I have already referred to the review in previous groups.

Amendment 22 is intended to improve access to justice for residents of mobile homes by moving cases from the courts to the First-tier Tribunal. I support the principle of the amendment, but lodging it at this point is premature. The Mobile Homes Act 1983 is complex. It covers Gypsy Traveller sites, so there are equality considerations. Time is needed for effective consultation and policy making to identify how the rights and responsibilities of residents and site owners can best be upheld. After discussion with Mr Fraser, the Minister for Housing and I are therefore committing to consult on the policy that amendment 22 would implement, and we aim to do so before the end of the current parliamentary session, resources permitting.

I ask Murdo Fraser not to move his amendments in this group. If amendments 21 to 23 are moved, I urge the committee not to support them.

I move amendment 386.

**Murdo Fraser (Mid Scotland and Fife) (Con):** As this is the first time that I have spoken on the bill, I remind members of my entry in the register of members' interests. I own a private rented property in Edinburgh, from which I get some rental income, although that is not particularly relevant to this group of amendments. I am also a member of the Law Society of Scotland, although I am not currently practising.

The cabinet secretary referred to the background in relation to park homes. In February, I hosted a members' business debate on that issue, which I know is of interest to a wide range of members. Indeed, in a previous parliamentary session, Colin Beattie MSP chaired a cross-party group on park homes that identified some of the issues.

Park homes are a popular and growing segment of housing, in particular for retirees and people who are looking to downsize. However, it is clear that the legislative framework around park homes is not fit for purpose. We have too many examples, which I, and others, highlighted in the members' business debate, of park home residents being at the mercy of unscrupulous owners of park home developments. Much more needs to be done to improve the legislative framework.

As the cabinet secretary said, I have had good engagement with the Minister for Housing on the

issue. I am not seeking for my amendments to provide a comprehensive package of reform—that will take a lot longer—but to deal with some of the more egregious issues that have arisen that could be resolved a lot more quickly.

As the cabinet secretary said, amendment 21 deals with adaptations. Park home residents, many of whom might be elderly or disabled, are not eligible—or, in many cases, they are being told that they are not eligible—for grants for adaptations to put in such things as ramps for wheelchairs, wet rooms or to make other changes to their property that would normally be funded through local authority grants if they were living in what is deemed to be a permanent home. However, even though park homes might be permanent residences, because they do not meet the definition of a permanent structure, councils are telling people who live in them that they are not eligible for assistance.

16:30

I understand what the cabinet secretary said about the rights of councils; the issue is that, although that might be what the Government says, it is not what some councils are telling us. In fact, I can cite a very recent example. A segment on STV News at the beginning of this month highlighted concerns in the Perth and Kinross area around park homes, in response to which Perth and Kinross Council issued a statement that it was very sympathetic to the demand for the installation of ramps or wet rooms as adaptations; however, and this is a direct quote:

> "under the terms of the Housing (Scotland) Act 2006 grants can only be awarded to permanent structures so, unfortunately, even when residents have permission to stay in a park home all year round they are not eligible for this funding. We appreciate how frustrating this situation is for homeowners but there is no scope for us to award discretionary grants under current legislation."

The Government might be saying that local authorities can give that money, but that is not what local authorities are saying, so we have a problem.

My amendment 21 is not intended to be prescriptive in its form. It simply requires ministers to bring forward regulations that would require assistance to be offered to people living in park homes or similar properties in the same fashion as would be offered to someone living in a more permanent structure. It strikes me as a very reasonable amendment, given what the cabinet secretary has said.

I might be minded not to move it, if we could get some reassurance before stage 3 that local authorities are doing what the Government is telling them to do. Does the cabinet secretary want to intervene?

**Shirley-Anne Somerville:** I thank Mr Fraser for giving me the opportunity to come back in. The case that he raises is a concern. Members who have sat through numerous groups of amendments to the bill know that we have had several discussions about the current law, but my speaking notes have never just said that the current law is there and therefore there is not a problem. The current law is there, but it is not working for the residents, which is clearly an issue in this area.

I mentioned that the Minister for Housing had written to all councils, but it is important that we seek further reassurance—both for Mr Fraser and, importantly, for the residents who have raised these issues—hear the feedback on the minister's letter and see whether further work is being done on the matter. I recognise the concern that Murdo Fraser rightly raises, and the quote from the council shows, if it needed to be shown, that more work needs to be done.

**Murdo Fraser:** I thank the cabinet secretary for that intervention and for that clarification.

Amendment 23 is consequential to amendment 21. Amendment 22 deals with a separate issue, which is the resolution of disputes. Again, I have had a great deal of correspondence on the issue from park home owners. At the present time, the only way that they can resolve a dispute with the owner of the park is by resort to the sheriff court, which is extremely unsatisfactory for a number of reasons. The cost of going to the sheriff court is substantial. Legal advice is absolutely essential. It is extremely difficult to find any lawyer anywhere in Scotland with the required degree of expertise in the law around park homes. As I am sure that members of the committee are aware from work elsewhere, it is extremely difficult, if not impossible, to obtain civil legal aid to pursue such cases. Therefore, although the remedy might be to go to the sheriff court, in practice that remedy is almost worthless because of the barriers that are put in the way.

Amendment 22 proposes, as an alternative route, to shift the resolution of disputes from the sheriff court to the First-tier Tribunal, bringing it into line with other issues that are dealt with in the housing arena, including the regulation of the private rented sector, which was moved to the housing tribunal in 2017, if I recall correctly. That would provide a much lower-cost and quicker resolution route, without the need to involve lawyers or apply for legal aid.

I listened with great interest to what the cabinet secretary had to say about the process of consultation. My concern is that that will take a substantial period. Even if the consultation proceeds by the end of this parliamentary session, we will need to look for a new legislative vehicle in

the next session for it to be done. With the best will in the world, it would take a minimum of three years, whereas we have an alternative approach now.

I appreciate that there is more work to be done, but I hope that the committee will consider supporting my amendments, which would give the Government some opportunity to come back before stage 3, perhaps with amended wording. That would get the message across that time is of the essence. Many of the people about whom we are talking are elderly. A period of three years to try to reach a resolution might be more time than they have left on this planet. It is very unfair to leave them without effective remedies for the situation that they are in.

**The Convener:** As no other members wish to speak, I call the cabinet secretary to wind up.

**Shirley-Anne Somerville:** I will not say any more about Murdo Fraser's amendments that I spoke about earlier, but on amendment 22, I appreciate his point about the time that it might take if the issue moves forward to further consultation, further work and a new legislative vehicle. I cannot deny any of that.

On two issues, specialist work needs to be done. The Mobile Homes Act 1983 covers Gypsy Traveller sites. In particular, where those are socially provided, we will want to consider what is best to ensure that the rights of that community are upheld and strengthened as appropriate. I appreciate that Mr Fraser comes with particular cases from his constituency work, but that other aspect is important to recognise.

Furthermore, it might not be appropriate for all case types under the 1983 act to move to the tribunal. For example, cases that relate to evictions from social housing are dealt with by the courts, so we will need to consider whether the same should apply to evictions under the 1983 act.

As I said, I am very sympathetic to where Murdo Fraser is coming from, but it is a complex area of legislation, particularly because of the equalities issues and the read-across to other housing legislation. Therefore, I am still unable to support amendment 22.

*Amendment 386 agreed to.*

*Section 46, as amended, agreed to.*

*Section 47 agreed to.*

**After section 47**

*Amendment 21 not moved.*

*Amendment 22 moved—[Murdo Fraser].*

**The Convener:** The question is, that amendment 22 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
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)

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

*Amendment 22 agreed to.*

*Amendment 254 moved—[Ariane Burgess].*

**The Convener:** The question is, that amendment 254 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Burgess, Ariane (Highlands and Islands) (Green)
Griffin, Mark (Central Scotland) (Lab)

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

*Amendment 254 disagreed to.*

**The Convener:** The next group is on social housing regulation. Amendment 458, in the name of Evelyn Tweed, is grouped with amendments 271 and 272.

**Evelyn Tweed (Stirling) (SNP):** I declare that I am a member of Loreburn Housing Association and a former housing professional.

My amendment 458 introduces a clear and independent right of appeal against decisions made by the Scottish Housing Regulator. It builds on the current appeals process and brings fairness, transparency and accountability to housing regulation in Scotland. It moves the existing right of appeal for some decisions from the Court of Session to the First-tier Tribunal and introduces a new right of appeal to the tribunal on a range of decisions that were previously considered internally by the regulator.

The new appeal process will cover a wide range of decisions, including those on registration,

enforcement notices, financial management directions and the appointment or removal of individuals in key roles. Affected parties will be entitled to request an internal review and, if necessary, to escalate their case to the First-tier Tribunal, adding independent oversight.

The amendment has received strong backing from sector bodies, including the Scottish Federation of Housing Associations, the Glasgow and West of Scotland Forum of Housing Associations and Share. The regulator has welcomed the development of an appeals process that is appropriate, objective and independent. I urge members to support the amendment.

I move amendment 458.

**Mark Griffin:** Amendment 271 would require the Scottish Housing Regulator to publish a monthly dashboard of information about social housing tenants in Scotland—which means continuing to publish the information that it has previously made available as its quarterly Covid-19 dashboard. The information that was contained in that dashboard was incredibly useful during the emergency conditions of the pandemic. As we are now a year into a housing emergency, having up-to-date information on progress and on the effects on tenants in the social sector would be similarly invaluable.

From the Government's biannual reporting on the emergency rent control legislation, and from the extensive discussions that we have had at committee on the adequacy of the data provided by the private rental sector and the landlord register, it is clear that, in order to take action to keep rent affordable, we must have access to up-to-date and accurate data. While we improve the depth and breadth of the information that is available on the private sector, it is important that the quality and amount of information on the social sector cannot be allowed to slip below what is necessary and what we have previously had access to.

I note that the SFHA has highlighted a couple of concerns with the amendment, and I acknowledge its point that monthly updates would place a high burden of resource on smaller housing associations. For that reason, I am content not to move it at this time and to work with the sector and the Government to ensure the quality and depth of data required for the social housing sector at future stages of the bill. It would be unfortunate if we lost the level of information that we had during the pandemic and no longer collected or published it.

Amendment 272 is designed to allow for an opportunity to push for a more robust approach from the Scottish Housing Regulator on social housing providers setting out and measuring standards. It would strengthen the regulator's role in providing guidance; it would require the regulator to issue guidance on the competence and conduct of individuals involved in the provision of services in connection with the management of social housing.

The Scottish Housing Regulator can already set out standards that housing organisations need to achieve. In the existing regulatory framework, standard 6 states:

"The governing body and senior officers have the skills and knowledge they need to be effective."

That is a fairly vague statement, and there is little guidance on how that should be measured. Further, it applies only to RSLs, not to local authority staff. The guidance required by my amendment 272 would be much more robust and could include provisions around the knowledge, skills, experience and conduct of people holding certain positions within the social housing sector. The amendment includes a requirement to review the guidance at least once every five years and a requirement for the regulator to consult whoever they consider appropriate when developing or revising the guidance.

16:45

**Shirley-Anne Somerville:** I support amendment 458 in the name of Evelyn Tweed, which creates an independent appeals process for decisions by the Scottish Housing Regulator. Although the Housing (Scotland) Act 2010 established a statutory right of appeal to the Court of Session for specific decisions of the regulator, it did not establish any wider specific statutory right of appeal against its regulatory decisions. The current non-statutory appeals process that the regulator developed therefore goes as far as the regulator can legally go. Evelyn Tweed's amendment establishes an effective framework for the review and independent appeal of regulatory decisions, and I welcome that it has received support from the sector.

I understand the intentions behind Mark Griffin's amendment 271, which would require the Scottish Housing Regulator to collect and publish information. However, the regulator already collects that information for all social landlords in its annual return on the charter. The regulator is required to report annually on performance against the charter and does so as part of its national report on the charter. The regulator also has on its website a facility where landlord performance can be compared and data tables that make all the information publicly accessible.

Asking social landlords to provide information to the regulator monthly and for the regulator to publish that information in addition to what it

already does would be highly demanding with regard to time and resource and would impact on both social landlords and the regulator. As that information is already collected and published annually, I ask Mark Griffin not to move the amendment.

I understand Mark Griffin's intention in amendment 272 to introduce a requirement on the Scottish Housing Regulator to publish

"guidance on the competence and conduct of individuals involved in the provision of services in connection with the management of social housing."

However, work by the Chartered Institute for Housing in Scotland—the professional body for housing—is already under way, which demonstrates that it should be a matter for the sector itself to determine. The CIH should lead the work, with input from other sector organisations such as the Scottish Federation of Housing Associations, the Association for Local Authority Chief Housing Officers, the wider sector and, of course, the Government.

For transparency, I note that, albeit some time ago, I worked for the CIH and was a member of it for many years. I commit the Scottish Government to being an active partner in that work and therefore ask Mr Griffin not to move amendment 272.

**The Convener:** I call Evelyn Tweed to wind up and press or withdraw amendment 458.

**Evelyn Tweed:** I will just press the amendment.

*Amendment 458 agreed to.*

**The Convener:** That brings us nicely to the end of our work for today. I thank members, the cabinet secretary and her officials. We will continue our consideration of the Housing (Scotland) Bill at stage 2 on Thursday afternoon at 1 pm.

*Meeting closed at 16:47.*

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