OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 26 November 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 26 November 2025

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RURAL AFFAIRS AND ISLANDS COMMITTEE

33rd Meeting 2025, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)
*Ariane Burgess (Highlands and Islands) (Green)
*Tim Eagle (Highlands and Islands) (Con)
*Rhoda Grant (Highlands and Islands) (Lab)
*Emma Harper (South Scotland) (SNP)
Emma Roddick (Highlands and Islands) (SNP)
*Evelyn Tweed (Stirling) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

John Armour (Scottish Government)
Sarah Boyack (Lothian) (Lab)
Jim Fairlie (Minister for Agriculture and Connectivity)
Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP) (Committee Substitute)
Gillian Martin (Cabinet Secretary for Climate Action and Energy)
Paul Neison (Scottish Government)
Mark Ruskell (Mid Scotland and Fife) (Green)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 26 November 2025

[The Convener opened the meeting in private at 08:55]

09:21

Meeting continued in public.

Subordinate Legislation

Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) (No 2) Regulations 2025 [Draft]

The Convener (Finlay Carson): Good morning, and welcome to the 33rd meeting in 2025 of the Rural Affairs and Islands Committee. Before we begin, I ask everyone to ensure that their electronic devices are switched to silent.

The first item on our agenda is consideration of the draft Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) (No 2) Regulations 2025.

I welcome to the meeting Jim Fairlie, the Minister for Agriculture and Connectivity, and his officials: John Armour, branch head, livestock production policy; Emily Williams Boylston, solicitor; Alan Elder, principal agricultural officer; and Paul Neison, head of mapping and land services.

I invite the minister to make a short opening statement.

The Minister for Agriculture and Connectivity (Jim Fairlie): I first give apologies for Alan Elder, who is unable to make this morning's meeting due to a family incident.

I thank the committee for taking the time to consider the draft regulations. It is proposed that the regulations be made using the modified powers conferred by the Agriculture (Retained EU Law and Data) (Scotland) Act 2020, which enable us to improve the operation of the assimilated European Union law underpinning our common agricultural policy schemes, and powers under the direct payments EU regulation 1307/2013, which permit amendments to the requirements for ecological focus areas.

They will improve the provisions for ecological focus areas by requiring more businesses to undertake EFA activities as a condition of their greening payment, increasing the area of land managed for EFA and widening the options and choices available for those undertaking those activities.

We have committed to providing a replacement legacy Scottish rural development programme scheme, as is set out in the vision for agriculture and the agricultural reform route map and in the Agriculture and Rural Communities (Scotland) Act 2024. Greening support is required to be modified in order to align with the route map phased transition from legacy common agricultural policy schemes into the proposed new support framework. Without the changes made by the regulations, greening payments would be unable to support the commitment to tier 2 support that is set out in the route map.

The regulations will also improve the operation of the provisions for the Scottish suckler beef support scheme by introducing a derogation from the calving interval requirements for smaller businesses, in response to concerns raised by smaller producers and the Scottish Crofting Federation. They will also extend the end of the application submission period, to allow submissions to be made up to 14 January following the end of the relevant calendar year, which will make it easier for applications to be submitted in time.

The regulations mark a significant point in our progress towards our aim of becoming a world leader in sustainable and regenerative agriculture, and they deliver on our previous commitments. We got here by co-developing in detail with partners, and I fully endorse that approach. The Government, this Parliament and rural partners all support the vision for agriculture. Getting there means working together and agreeing together to longer-term planning and development.

Failure to bring the regulations into force would undermine progress and the efforts and work of many of our farmers and crofters who are already committed to making those improvements.

I am happy to take any questions.

The Convener: Thank you, minister.

The policy note states that, with the passing of the Agriculture and Rural Communities (Scotland) Act 2024 and the publication of the vision for Scottish agriculture and the agricultural reform route map,

"the timeline for establishing a new Scottish agricultural policy is now clear".

However, in my view, it is less clear; in fact, it is not clear at all. In 2023, the route map clearly set out that there would be a launch of enhanced payment structures, but we still do not know what that will look like. What is the status of the list of

measures, and what progress has been made towards full, enhanced tier 2 schemes? They do not match the ambitions that were set out in 2023.

Jim Fairlie: I will let Paul Neison answer that question.

Paul Neison (Scottish Government): The list of measures that the convener is referring to were co-developed with stakeholders and others, with a view to establishing a list of measures that could be utilised across all the delivery mechanisms and schemes. Effectively, they sit in isolation as part of the wider programme, and they are not specifically part of the enhanced payment structure. We are using some of those measures and drawing them down for the purpose of consistency. The idea is that, as we move into the development and evolution of the new schemes under tiers 1, 2, 3 and 4, we will have a consistent approach to individual measures. We will not have the scenario that we have had in the past with, for example, field margins having a different definition depending on the scheme under which they were delivered. That is where we are going with the measures. They have been developed on that basis by a combination of policy officers, operational delivery people, including their officers, and some of our research scientists and nature conservation advisers.

I hope that that gives you a clear understanding of where the measures have come from.

The Convener: It does not really. Stakeholders have said that very little progress has been made over the past few years. I am sure that the minister will recall that, when we were looking at the Agriculture and Rural Communities (Scotland) Bill, and prior to that, there was a list of improvements that were proposed by climate change groups. There is frustration that it appears that none of the measures that were proposed are being introduced.

At the start of the year, the committee was concerned about its ability to deal with all the secondary legislation that was going to be lodged in order to put some meat on the bones of the Agriculture and Rural Communities (Scotland) Act 2024. However, it is only skimming the surface. The 2020 act is being used to further progress greening rather than to develop new policies. What have been the barriers to introducing measures for the new tier 2 schemes? Why have we not seen that work develop at pace?

Jim Fairlie: From day 1, we have always said that we will try to do this with the industry at a pace that suits it and that will allow it and those who are farming on the ground to come with us. You will be well aware that the NFU has already written to the committee to say that increasing the EFA level to 7 per cent would be going too fast, but others are telling us that we are going too slowly. We are trying to have deep and meaningful conversations about what we are trying to achieve. Everyone knows what we are trying to achieve and what we would like to deliver: our vision is for sustainable, regenerative agriculture that allows farmers to continue to produce food and rural communities to thrive, while, at the same time, enhancing nature, protecting our biodiversity and reducing our emissions. Everyone has that vision in their heads. However, getting there with everyone on board is difficult, because there will always be pushback.

I ask the committee to clear the SSI that we are discussing today on the basis that it proposes increasing the requirement so that EFAs will cover 5 per cent of land for more people in 2026 and moving that to 7 per cent in 2027, so that we bring more people into the scheme. The committee will be aware that some people are saying, “Hold on—that’s too much and too fast,” but for others it is not going fast enough.

It will take time to deliver those changes at a pace that allows the farming community, which we are asking so much of, to keep up. I am not trying to dodge the question; we just need to ensure that the industry comes with us.

The Convener: At some point, you have to jump off and actually put the policies in place. As I understand it, back in August 2024, you asked Scotland’s farm advisory service for feedback—not co-development, but feedback—on your policies. It provided evidence, or feedback, but, since then, there has been no formal engagement with FAS on where we are. I know that, previously, the Government’s commitment to co-design has not been delivered and that the relationship between industry and the Government at policy or ministerial level does not exist.

09:30

Jim Fairlie: I dispute that. FAS recently met with senior Government officials and policy advisers. There has been engagement. There has not always been agreement on what we are trying to do, but there has been that conversation.

I go back to the fact that the SSI includes the calving scheme, for which we have provided the derogation. Committee members will all be very clear on that issue, as you were here when we discussed it before. I had been under the impression that everything was fine with the 410-day calving interval, but it was not. We took that conversation away and introduced the derogation scheme, which we are trying to get cleared here today.

The Convener: That was a failure, because we heard from the Crofting Commission that it had not been consulted on it.

Jim Fairlie: That is not the case, convener. I get where you are trying to go with this. We had this conversation when I introduced the SSI with the 410 days scheme. In my understanding, it was very clear that everyone who required to be consulted at that point was on board. At the last minute, however, it became quite clear that they were not.

That goes back to my first point, about always making sure that the industry is coming with us. To me, that is vital if we are going to be successful.

We got to a point, at the very last minute, where we were not going to get that SSI through until I gave a commitment that we would go away and have a look at the issue, because something had clearly gone wrong. Since then, there has been extensive consultation and communication between all the various groups. If people are telling you that they have not been consulted, I dispute that—I just do not buy it.

The Convener: Okay. What part does the information technology system play in the slow progress in developing the new tier 2 options?

Jim Fairlie: That is not part of what I am thinking about right now at all. I am thinking about how we can move from a very limited number of people carrying out the EFA greening on only 5 per cent of land to bringing in other people—

The Convener: I ask the question because we were expecting more policies that would be moving towards a new tier 2 system. That is what the route map suggested would happen, but we have not seen that. My question is not about the greening, because that is a continuation of what was, in effect, the CAP policy of 2020. How has the IT system been a barrier to developing the ambitions for the new tier 2?

Jim Fairlie: I would say that the biggest barrier to our making progress is the need to get agreement across the industry and the sectors.

The Convener: So, the IT system is not a barrier.

Jim Fairlie: The IT system is not in my consideration at the moment. The biggest consideration in my thinking now is how we get policies that the industry will buy into, come with us on and deliver.

We are using the legacy IT system that is in place.

The Convener: So, your ambition for a brand-new tier 2 scheme still remains.

Jim Fairlie: Our ambition is to create the system that allows tier 1, tier 2, tier 3 and tier 4, which will take us to a point where Scotland becomes a world leader in regenerative agriculture.

The Convener: Thank you.

Tim Eagle (Highlands and Islands) (Con): Minister, there are a few things in what you have just said, and I do not think that we got any answers, to be frank. This has been your programme and your route map since 2023—you have been working on it for ages. I have spoken to several members of the agriculture reform implementation oversight board, as well as to some other key stakeholders, and I do not think that you are taking people on a journey with you on this.

Let us touch on the IT system. Saying that the "IT system is not in my wording just now" is an interesting choice of words.

Jim Fairlie: I said that it is not in my thinking.

Tim Eagle: Okay. It is not in your thinking just now.

What do you mean by that statement? Let us talk about the list of options that were going to be available, which would have been a bit like the old LMOs—the land management options. There was an understanding among various stakeholders, both within and outwith ARIOB, that, under tier 2, there would be a much greater list of options that would allow Scotland to become, as you said, "a world leader in sustainable and regenerative agriculture". What we have is 11 to 12 options, which does not seem very many. Are you giving me an absolute guarantee that it was not the IT system that limited your ability to provide a greater list of options at this point?

Jim Fairlie: I am giving you the clear message that my thinking right now is about how we take the sector with us by delivering policies that it will buy into. As I said to the convener, we are asking people to meet a 5 per cent EFA requirement in 2026, which will go up to 7 per cent in 2027, and we are already getting pushback. You have seen NFU Scotland's letter to the committee. Despite the fact that NFUS has been in the meeting rooms, in ARIOB and in more discussions than any other stakeholder, we are still getting pushback from it on the increase to 7 per cent. My biggest consideration right now, Mr Eagle, is making sure that we take the industry with us on any new policy that we introduce.

Tim Eagle: Which stakeholder is saying that you cannot have an enhanced list of options under tier 2? Why have you put in only another four options, instead of providing the originally proposed much wider list?

Jim Fairlie: We have put in four options for enhanced screening because they are the options that people will be able to buy into and with which people will come with us on that journey.

Tim Eagle: But which stakeholder is it? My understanding is that most stakeholders originally thought that there would be a much greater list of options.

Jim Fairlie: There are not just four options.

Tim Eagle: We have been talking about this for years, minister, and there are four options a few months before we are going to put this into place.

Jim Fairlie: There are four extra options—in addition to all the other ones. There are farmers who have been doing this since 2015. Some farmers pushed back on doing anything in 2015. Then, when they got their heads around it and started to implement it, it became much easier and the pushback became zero. We are in the same position again, because we are asking farmers to do things that they have not done before. We are asking them to change. We have added the additional four options to take into account some of the issues around islands, for instance. We are listening to what stakeholders are telling us, including about where the issues are. Not everybody is going to get everything they want out of this—that is just the way it goes. I can assure you that plenty of environmental non-governmental organisations would tell us that we have not gone nearly far enough. We are bringing in policies that will allow us to take the industry with us and get us on the journey to deliver the outcomes that we want.

Tim Eagle: Do you agree that an expanded list of options under tier 2 would do the following two things? First, it would allow farmers, crofters, smallholders and everybody across Scotland to maximise benefits to the environment and biodiversity by pooling what really works on their farms—including in Orkney, which will suffer quite significantly under the changes, because lots of new farmers and crofters are coming in. Secondly, it would meet your targets. An expanded list of options would meet your need to deliver sustainable and regenerative agriculture for the future.

I want to go back to the IT system. Are you saying that your plan is still to have an expanded list of options under tier 2? Is the IT system capable of delivering that in the near future?

Jim Fairlie: The first thing I will say is that you keep saying “your”. I hoped that what we had was ours. This is supposed to be across all parties. We have all agreed that we are looking to ensure that Scotland can deliver the right outcomes. I presume that, by saying “your”, you mean that you are not on board with that. If you have an expanded list that you would like to put to us, by all means, please send it to me, Mr Eagle. I am more than happy to meet you.

Tim Eagle: You have it. It is on your website. You have an expanded list that, I think, ARIOB members proposed to you.

Jim Fairlie: If you have options that you think should be included in that list, please put them to us.

John Armour (Scottish Government): It is important to clarify that the list of measures is not a list of options. We did not publish something similar to the LMOs and say that there was going to be an LMO scheme. It is a list of evidence-based measures—practices that we know can, if undertaken by farmers, help to reduce emissions intensity and improve biodiversity. They are measures that we can wrap into the policy development process, and we can consider whether they require new schemes or whether they can be part of evolved schemes to help farmers to deliver the things that the vision says we want to see them deliver.

Tim Eagle: I get your point. I think, and past ARIOB minutes show, that stakeholders expected an expanded list of options under tier 2. Apart from the additional four, we have not got that.

Emma Harper (South Scotland) (SNP): Good morning, minister. I have been listening to the conversation about bringing the industry, the farmers and everybody else along with us, so that we can achieve the ecological focus areas in a way that works for everybody.

Our briefing papers refer to the fact that the Soil Association, the Scottish Wildlife Trust and RSPB Scotland mentioned that discussions had taken place on extending the greening requirements to permanent grassland. Scotland’s Rural College offered a practical view. It suggested that a delay in EFA-type measures for permanent grassland

“would seem prudent ... enabling focused implementation of the new arable EFA requirements”.

The pace of change is such that permanent grassland has not been progressed as part of the enhanced greening. Is the Scottish Government planning to progress further measures for businesses that remain outwith the current scope of greening?

Jim Fairlie: Permanent grassland does not form part of the current thinking on the greening options, but we will develop schemes as the years go on. I go back to the point that I made to Mr Eagle and the convener. As part of that process, there will be intensive discussions with stakeholders to ensure that what we do is welcomed by them.

Emma Harper: There are a lot of big dairy farms in Dumfries and Galloway—48 per cent of Scotland's dairy herd is in the south-west of Scotland. Those farms need grass for their dairy cattle. What work is being done to engage with the dairy sector to support it with the measures that it needs to take for EFAs?

Jim Fairlie: I think that I am right in saying that the dairy sector is already looking at EFAs for its grasslands—it is already doing that. There are options available for the dairy sector, but anyone who puts anything into the ground has the option of adding additional plants and legumes into their mix, which will allow them to adopt the policies that we are looking to develop.

Paul Neison: It is absolutely the case that we have undertaken co-development. In the time that I have been involved in things, we have never engaged so heavily with farmers and crofters on such a change. A number of us were involved in 2015, when greening was first introduced. As some members will remember, it was a really difficult transition. The guidance was issued very late in the day, on the basis that we got clarity from Europe only at a late stage, and there were many concerns. For example, many people jumped to take up the easiest option that was available to them at the time, which was fallow. That meant that we ended up with lots of land being put into fallow, which was not necessarily the right option for individual farmers.

We have learned a lot of lessons from that period. In the past 18 months, we have worked very closely with farmers, crofters, agents and, indeed, many of our agricultural officers from the Ayr offices to look at what changes we could make to the existing measures, to make them more applicable to Scottish conditions. We have changed a number of the measures to make them more Scotland-centric, and we have identified individual measures that will help farmers and crofters to deliver. As has been said, we have introduced four new measures for farms that have specific requirements, with a view to giving them more scope so that they can come in.

In recent months, we have spent a significant amount of time working directly with agents, many of whom are involved in dealing directly with farmers, to make sure that they understand what the changes are and how they can help with them. We have spent time in Orkney, which Tim Eagle mentioned, explaining the measures. The reaction from farmers—"Greening? I've never done that before. What do I do? This is going to be really difficult"—has been understandable, so we have made a point of going out to people to speak to them directly, so that they are aware in good time of what the requirements are and of the flexibilities that we have built into the system so that they can accommodate the changes within their businesses.

Emma Harper: Thank you.

09:45

Beatrice Wishart (Shetland Islands) (LD): You mentioned Orkney. Could you expand on what arrangements you have come to with people on the islands?

Paul Neison: One of the key things is that, exactly as we have said, a very small number of people in Orkney were required to participate in EFAs. The greening payments are paid to everybody who is in receipt of the basic payment as a supplement. To date, there has not been a significant number of people in Orkney who have been required to participate in EFAs, because of the exemption that was applied previously. The exemption has been removed, with the consequence that there has been a significant increase in the number of people in Orkney who are required to participate in EFAs.

First, we tried to identify the type of farmer in Orkney who would be subject to EFAs. We worked with agents and others in Orkney to identify the people who would be impacted, and then we explained to them what options were available to them. At the beginning of the process, there was a bit of misunderstanding as to how those options would work in an Orkney context. One of the measures that we have changed to allow more flexibility is the undersowing of grass within an arable crop, which allows people to graze it off or maintain it for winter forage, which is a common practice in Orkney. There was not an understanding or a realisation that that option was available to them.

As we have worked with individuals in Orkney and explained the requirements to them, I am not saying that there has been a light-bulb moment, but there has certainly been an understanding of the requirements. We have worked very closely with them. Members of the local area office have been at a number of events to help farmers and crofters to understand the requirements. There have also been a number of public meetings across the islands in Orkney to help people to understand them as part of the transition to the new arrangement.

A lesson learned from 2015 is that, if you have not been involved in EFAs before, this will come potentially as a new requirement. It is about getting the people on the ground to understand the commitments that they are required to undertake.

We have worked very heavily with people in Orkney, and—from the feedback that I have had—with a lot of good will, to help them to understand

the requirements and to get them into a position in which they are ready to implement.

From the cropping requirements from the local office, we know that people are already taking significant steps to prepare themselves for the 2026 requirements.

Beatrice Wishart: The SRUC pointed out that the changes will be felt differently in different parts of Scotland. Orkney and Shetland are two separate groups of islands. I notice that Shetland Islands Council raised concerns about a lack of regard for the Islands (Scotland) Act 2018. Could you address those points?

Paul Neison: I can give you an example. I worked in Shetland and the northern isles for a number of years. I was there for 11 years as an agricultural officer, so I am very familiar with working on the islands. A practical example is our work with people in Benbecula, in the Western Isles. As you will be aware, a lot of arable cropping goes on in the machairs. We are extremely keen to make sure that practices that are unique to the islands are not disrupted. We have specifically made reference to EFAs on the machairs to allow flexibility, recognising that the practice that is undertaken there is unique to the islands, so the EFA requirements can be addressed in a particular way.

I hope that that gives you assurance that we are listening to the needs of island communities and are working with them to implement measures that are practical and pertinent to their specific circumstances.

Beatrice Wishart: Thank you.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Minister, you mentioned—or alluded to—some of the expected benefits of including additional EFA options or EFA measures when making changes to the requirements. Will you say a bit more about the Government's purpose in that regard and the outcomes that it is looking for?

Jim Fairlie: The purpose is to achieve the vision for agriculture that we want in Scotland. Specifically, if you plant legumes in your grass, that is a nitrogen-fixing crop, so you will be fixing nitrogen and you should be using less nitrogen. I particularly like the idea of small-scale tree planting, to try to get away from the narrative that trees are bad on farms. Integrated tree planting on farms is also an option. Planting herbaceous and mixed crops and getting away from monoculture will benefit biodiversity. In the summer, a field of clover is generally buzzing with bees and other pollinators all over it. However, there are very few bees on fields with a monocrop of ryegrass.

That sounds simplistic, but such things will help us to enhance biodiversity and get us back to where we were in the past. A lot of the things that we are doing now used to be done. For example, wintering stock on arable places was done previously, but it stopped happening. In a sense, it is a case of going back to the future.

Alasdair Allan: To achieve biodiversity and a lack of monoculture, is the Government considering removing dates before which crops must not be harvested or increasing field margins? What other measures is the Government promoting to achieve that end?

Jim Fairlie: We are asking farmers to consider their particular circumstances—how their farm works, how it functions and what they need to do with it—and look at all the options that are available to them, which include increased field margins, tree planting, adding nitrogen-fixing crops and green cover.

It goes back to what I said at the start, which is that we need the farming community to say, "Okay, I'm going to buy into this. How am I going to make it work for me?" If we need to add to the list of options that are available to people, we are more than happy to look at that, because we want people to get behind this and work with us.

Alasdair Allan: The machair landscape, which is present in my constituency and in other places, has been mentioned. Through these measures, what is being done or what will be done to recognise existing practices that involve low-impact or low-intensity agriculture in such areas and in other parts of the country? How flexible is your proposal in recognising the good practice that already exists in that area?

Paul Neison: The new measure that we have introduced for extensive grassland addresses that issue specifically. That measure will help some of your constituents and will be really attractive to them.

I will add to the minister's comments in response to the earlier point that you made. We have been very conscious of the fact that, during the past number of years, a lot of criticism has been laid on us for the measures on seeds that can be used in some seed mixtures, for example, because they have not been pertinent to Scotland. We were constrained by the regulations that we were working under previously, so we could not introduce some of them. We have worked with a lot of seed suppliers and agents across Scotland to review the measures and options that are available, and we have introduced flexibility as to which seeds can be included in seed mixtures. The measures that people were asked to carry out previously will still be carried out, but the benefit will be the flexibility in that the productivity from the mixtures will be more suitable for Scottish conditions.

The impact of providing EFAs in Scotland will be less on business, and the biodiversity benefit will be better, so it will be a win-win situation—the impact on business will be less and the outcomes from the policy objectives will increase. It is a moving target.

We are very much in listening mode. We have done a lot of co-development, but we are also conscious that things might come out of the woodwork during the next two or three years, and we are happy to look at such things in relation to the measures and options that we are implementing. If there is more that we can learn and more that we can do, we will certainly review the guidance as we go along, to make sure that we work with farmers to get the best outcome.

Alasdair Allan: Thank you.

The Convener: We briefly touched on field margins. What was the basis for moving them from 1m to 3m? Was that based on scientific research?

Paul Neison: That was based on strong advice from our colleagues in NatureScot that expanding the field margins will add value in significantly increasing biodiversity benefits.

The Convener: Was any consideration given to the huge variation in field sizes? A 25-acre field is considered quite big down in my patch, but it would be considered very small on the east coast, and the impact of a 3m margin is more significant for a smaller field than it is for a big one. Was any consideration given to other mechanisms to ensure that we get the benefits of the field margin without taking away what could be a significant part of a productive piece of land?

Paul Neison: I want to be clear on two things. There is a requirement to have a field margin next to hedges and other living features as part of good agricultural and environmental conditions—GAEC—and cross-compliance. The EFA requirement for a field margin is calculated on the basis of area. If the farmer chooses to use that option—it is optional; they do not have to—the margins do not have to have the same linear length; it is the total area that is important. From our perspective, having a wider margin will not have an adverse impact on farmers, because the margins do not have to have the same linear length.

The Convener: That is helpful.

Tim Eagle: I will talk about the increase in EFA coverage up to 7 per cent. Next year, 5 per cent of arable areas must be maintained as EFAs—for which there are four new options—and, from 2027, that will go up to 7 per cent. NFUS has raised significant concerns about that. It thinks that there needs to be a review of whether that will result in a fully proportionate environmental benefit, although I recognise that some environmental groups have suggested that, actually, there should be a further increase. How did you decide on that 7 per cent level from 2027, and why did you choose that timeline?

Jim Fairlie: It is very much a compromise. We are being pushed to go a lot further, but it is a compromise, following these conversations. I have read the NFUS letter and understand its concerns, but I disagree. As long as this committee is in agreement, we are pushing ahead with the 7 per cent in order to reach the targets that we are trying to achieve. We have to aim for regenerative agriculture.

I go back to the point that I made at the start: people say, “Yes, we want to do this—but not now and not by that amount, and let’s not do this.” It is a bit frustrating that we have had that pushback from NFUS, but we are committed to moving forward with our plans. We have asked people and have told them that we will listen to them and hear their concerns. However, we are moving forward with the vision for agriculture that we have all signed up to, and this is part of that journey.

The concerns are indicative of the fact that we will have difficulties in getting people to where we want everyone to be. The 7 per cent figure is a compromise.

Tim Eagle: The figure is not based on any rigorous science or advice. Is it purely a compromise figure?

Jim Fairlie: It is purely a compromise, on the basis that 5 per cent was doing a decent job and 7 per cent will improve things even more. Depending on the objectives, 10 per cent would go even further towards meeting them. We thought that the 7 per cent figure was a stable and suitable compromise to reach at this stage.

Tim Eagle: In fairness to NFUS, it is generally farmers, crofters and smallholders who are delivering on the ground, and there is a risk to the viability of their farms in relation to how the requirements fit in with livestock production and so on.

Nobody is questioning the need for environmental benefits from farming—we all get that. In fact, I agree with you on the point about having fields of red and white clover that have butterflies in the summer. However, we need to make sure that we do this in a way that does not risk farms. If NFUS is saying, “Pause this for a year, maybe do a review, double-check that it is actually proportionate and it works, and then we can come back to that figure,” why would you not take that option?

Jim Fairlie: Because we know that it works. We can see that the enhancements are having an effect. I spend a lot of my time going around farms that are already employing those enhancements at the current levels, and there is massive biodiversity gain. We want everybody to get on board with that and start pushing towards it.

As I said, the pushback is indicative of the fact that, although everybody is agreeing, they are saying, "Just not me and just not now." We are having to make some tough decisions. This is not a massive change; it is a moderate change. We are asking farmers to get behind it and look at the options.

I hear the point that you made about farm viability. That is why we have included other options and are talking about undersowing and adding legumes to the grass mixture. We are giving people alternatives and options so that they can get behind the change.

Given that we are putting £142 million of public money into the greening system, I do not think that it is unreasonable that we are asking people to do a little bit more. That is a huge amount of public money. In Orkney, for example, only 11 farmers are currently using that system, but the new change will increase that number by 200. It is about fairness, too, because a lot of people are already doing it.

In addition, to give a crude example, two farmers might be sitting side by side with 500 acres of land—one has permanent grassland so does not have to provide an EFA, but the other, next door, does because they do not have a large hectarage of permanent grassland. That is simply not fair. We need everybody to carry the weight. Pushing the figure to 7 per cent after 2026 is not unreasonable, given the amount of money that is being provided.

10:00

Tim Eagle: Is it not quite crude to look at farms in that way? Not only do we have enhanced greening under tier 2, but many farms are also in the Scottish rural development programme, the agri-environment climate scheme and so on, and some farms are organic. Every farm will be doing its own environmental work, and I think that many farmers, crofters and smallholders are doing a lot of good environmental work out there.

This goes back to my earlier frustration. If there had been an expanded options list under tier 2, farmers might have been able to pick exactly what worked on their farm, to the benefit of the nature on that farm, rather than having a smaller group of options, which might restrict them.

When it comes to farm viability, I have two questions. First, are you looking to go above the 7 per cent figure at any point in the future? Secondly, do you foresee introducing more and different options before the 7 per cent requirement comes into effect in 2027?

Jim Fairlie: Our current target is to introduce the 7 per cent requirement in 2027. That is where things sit, and that will be developed as we move forward. There will have to be a lot of discussion if we are ever to move that percentage upwards.

We feel that there are enough options to allow farmers to reach that 7 per cent. However, as we said, this is an on-going process. The more conversation we have, the more options we can bring forward for farmers to tap into. I am more than happy to have a look at all that.

Tim Eagle: I have a question about how the system will work on the ground, in practice. You carry out inspections every year. To what extent will you relax the rigour with which you apply any penalties as farmers and crofters adapt over the next couple of years? Are you prepared to be a little more lenient as farmers transition?

Paul Neison: If farmers breach the regulations, we will not have introduced the regulations properly. Our intention is to avoid breaches and anomalies by delivering guidance early to ensure that farmers and crofters are aware of the requirements. We will work with them to make sure that they understand the rules and regulations.

There are no specific arrangements for diminishing the consequences of breaching the regulations. Our target is to make sure that people are aware and sufficiently notified of the changes so that they can make the right choices in the first place, and we are spending significant time in doing that.

Farmers and crofters have a number of sources of information. Often, they will go to their agents, so we have done a lot of work with land agents to make sure that they understand the requirements and that people are aware of those beforehand. At local area offices and by going to shows and markets, we explain to people what the rules and requirements are.

I mentioned that, in 2015, the guidance was very late in going out. What will be a real success this time around is that we provided the guidance in June this year—six months before the requirements air. We have spent a lot of time explaining things to people. When they have read the guidance, if there are things that they are not sure of, we have engaged with them to help them to understand. We do not want them to fall into the scenario of saying, as they did last time, "What's the easiest thing to do?" and then just putting in

"EFA: fallow". We want them to consider the options for their farm and which of those will work best for them. We think that the options that we have provided offer lots of scope for individual farms to make choices that are pertinent to their individual circumstances.

Ariane Burgess (Highlands and Islands) (Green): I am certainly aware of great examples of farmers and crofters who are already leading the way on ecological restoration work, such as the Moray Farm Cluster, up by me. Paul Neison, you have described your thinking on how farmers can engage with ecological focus areas and so on, but how will farmers be supported to get going with the establishment of an EFA?

Paul Neison: Apologies for repeating myself, but a lot of that involves early engagement and making farmers aware of the opportunities. We have offered the facility for people from area offices to do practical demonstrations on farms, and we have engaged with agents. Alan Elder is, unfortunately, not with us today, but he is one of the team and has led more than half a dozen meetings of agents to explain the new requirements and to help them to understand the details of the new arrangements.

Early in the process, we spent a lot of time with some of the seed providers, to ensure that the seed mixtures that we were going to implement this year were more workable in a Scottish context, so that, when we present them to farmers, they have more affinity for them. Previously, there was a sense that establishing EFAs was the easy option, but we want to get to a point where the other EFA options are more attractive to farmers and they can use them. We think that relaxing or amending some of the rules will make those options far more practical for farmers in Scotland.

Ariane Burgess: What are you doing to reassure farmers who have concerns about making the changes?

Paul Neison: The first point is always to make reference to the guidance. We are really keen for farmers and crofters to read the guidance, so that they understand what options are available to them. We are always available in our network of 16 area offices around the countryside, which are all open, and we would encourage people who have any doubts or concerns to come and speak to us. We have a very good relationship with farmers and crofters on the ground, particularly through the area office network. They are often more comfortable coming and speaking to a local agricultural officer to get an understanding of what is going on. We would very much wish to continue with that approach, and we emphasise that people should come in and speak to us face to face.

Ariane Burgess: Are you facilitating any peer-to-peer exchange?

Paul Neison: There is some work going on, particularly in Orkney, where we have put people out on the ground and have funded a number of public meetings so that people can see what is happening on the ground. We have made other arrangements whereby we could potentially host open days or do practical things, as we did in 2015, if there was a demand for that.

Ariane Burgess: That sounds good. So, once all those things get going, what will the Government do to monitor the impacts in terms of the environmental or ecological changes and any business challenges that might arise?

Paul Neison: There are two separate elements to that. There is the monitoring and evaluation of the whole programme, with separate work going on with a number of experts in the field to monitor and evaluate all the key deliverables and outcomes, including those relating to biodiversity. That is being done on a wider basis.

On the matter of a specific EFA type, from this point on, we will engage with stakeholders, agents and others to identify lessons learned from any difficulties and from how people are implementing things. We will send people out, not just as part of inspections but to get feedback on how people implement the schemes next summer and beyond, with a view to ascertaining, specifically, whether we need to refine the guidance or elements that go with it to ensure that it is understandable.

Ariane Burgess: I have a question on the fertiliser and lime plan requirements. Why are you bringing in those plans and those changes?

Paul Neison: We are trying to align things, so we have made some amendments to the fertiliser and lime provisions, the mapping requirements and other elements. The key aim is to avoid bureaucracy, to be honest. We want the farmers to have a one-stop shop. We do not want them to have multiple versions of maps or plans. It would be good to align them as the programme moves forward, so that farmers only have to produce one version at a time. The lime and fertiliser that a farmer has on their farm are really important, but we do not think it appropriate to have three versions of the same thing in different formats; it is important to align them. I am not sure about the specific point that you mention, but that is the overarching policy driver.

Ariane Burgess: Will the whole-farm plans be taken forward as part of that process?

Paul Neison: Absolutely. I can give you an example in relation to the mapping requirement for EFAs. In the whole-farm plan, we are looking for people to do mapping of habitats and other things.

They are still required to retain a map of their EFAs on the farm, so that we can clearly identify where all the bits are in a field if we go out and do an inspection. However, we do not think that there is a requirement for people to produce multiple maps that show us the same information.

Ariane Burgess: So, between now and 2028—when whole-farm plans will be fully required—there will still be mapping requirements for fertiliser and lime plans, but they will need to be produced in only one way. You are talking about coherence.

Paul Neison: As I understand it, the requirements will not be compulsory in relation to all elements. However, those people who are already mapping have reaped the benefits—many people are now doing that along with their carbon audits, their soil sampling and so on. Real momentum exists now behind understanding how the soil analysis on your farm fits in with your lime and fertiliser plan, for example. That will transition to a point where it is all structured in the whole-farm plan.

Alasdair Allan: I want to return to some of the previous discussion. Minister, you mentioned earlier that some of this will be new to some farmers and crofters. What will you do to make the process as simple and as lacking in burden as possible, particularly for smaller farm units and crofts?

Jim Fairlie: The point that Paul Neison has just made relates to exactly that. Extensive engagement has taken place right across the country. Our rural payments and inspections division colleagues have worked at all the shows across the country, asking people to engage with the process, so that they understand what is coming. The Government has been very clear. I have said many times in the committee and other public forums that people need to get themselves into the mindset that those changes are coming and to start being aware of what those changes are.

The rural payments and inspections division and other Scottish Government teams have been available. Extensive consultation has taken place and people have had extensive ability to find out the information. We are making the process as simple as possible but, ultimately, the farmers must engage. They have to decide that they will get that information, because it is part of what they will have to do.

Tim Eagle: I have a few more questions, minister. I have a fundamental concern. The Government has been talking about this with stakeholders for years and I still feel that it is a bit of smoke and mirrors. We are going around in circles and not getting the options out there. My understanding is that the original ambition was for there to be a whole new tier 2—not enhanced greening as it is now. Is it still your ambition to deliver that? If so, on what timeline?

Jim Fairlie: The ambition is to deliver the whole-farm plan and sustainable regenerative agriculture. That is the vision. What we will do with tier 2 is being worked on. We have kept the basic payments, as you know, and we are adding things such as the calving interval, the work on peatlands and the EFAs. We are developing things as we go along.

I am not quite sure what the problem is in relation to letting people know what we are doing. Paul Neison has just outlined how much engagement has taken place in that regard. We are moving our farming community to a place where they can actually be part of this whole process.

We have seen what happened down south. The decisions were made—they said, “This is what we’re gonna do”—and there was a cliff edge. Numerous people fell out of that system completely because it did not align with how they could farm. What we are doing seems staged—I absolutely accept that it is staged—but it should be staged to allow people time to adapt and come to it in a way that allows them to develop their own processes.

Tim Eagle: The Scottish National Party Government has this sort of rule whereby you follow the European Union legislation that comes into place. Is that holding us back with regard to how we will move forward with our agricultural policy?

Jim Fairlie: No.

Tim Eagle: But we are keeping in step with the EU at every turn, are we not?

Jim Fairlie: There is a policy of alignment but that is not a problem with regard to our moving forward.

Tim Eagle: So, you are 100 per cent confident that you can target your agricultural policy specifically at the needs of Scottish farmers, crofters and smallholders without risk by following EU legislation and rules.

Jim Fairlie: This has nothing to do with EU legislation.

Tim Eagle: It has, because the Scottish Government has a policy of following EU rules and legislation.

Jim Fairlie: We are developing a Scotland-based agricultural support system. That is what we are delivering.

10:15

Tim Eagle: I have not been here that long, and you can correct me if I am wrong, but I have a final question about respecting Parliament. You set out these proposals to farmers months ago. I know that because a letter came through my door—which reminds me that I should declare a registered interest as a small farmer. However, we are only debating this now and the implementation for fallow, for example, comes in on 1 January, as it does for all EFAs. Is that fair? Is it right that the committee and the Parliament should get to discuss the regulations only one month before they are implemented, although you told everybody else months ago? Do you think that that shows Parliament respect?

Jim Fairlie: Yes, I think that it shows Parliament respect. We have delivered the regulations within the timescale in which we are required to deliver them. It is more important that the farming community has the time that it needs to do the work that we are asking it to do.

Tim Eagle: If we were to vote against it today, that could be a problem.

Jim Fairlie: It could be.

Tim Eagle: You have just made the assumption that you will get the regulations through.

Jim Fairlie: It is entirely up to the committee to decide whether it wants to vote against the regulations. That is your decision, and you will have to answer for it yourself.

The Convener: Before we move on to address the suckler beef support system, I have a final question on this issue. Your policy note says:

> "To deliver on the Route Map commitments, which include the phased approach to transitioning between the SRDP and new support, it is necessary to introduce changes to Greening as a proxy for Tier 2 enhanced support."

I am going to ask the question again because I am still not clear. Are you still committed to a new tier 2 scheme?

Jim Fairlie: We are already starting to develop the tier 2 scheme, and this is part of that scheme.

The Convener: What we are looking at today is just sorting some things out in relation to greening. It is not new policy.

Jim Fairlie: It also brings in the derogation for the calving interval for small producers.

The Convener: We are looking at a situation in which land managers and farmers have no idea about what will happen after 2027, which is in one year's time.

Jim Fairlie: Could you repeat that, convener?

The Convener: What is in the pipeline? What are you developing, and when will the direction of travel become clear? We are focusing on 2027 for some of those policies to come in for the 7 per cent of land that will be subject to EFA at that point, but there is nothing else—the proposals are completely void of other options or whatever. What do you expect to deliver in 2027, which is in a year's time?

Jim Fairlie: What we are delivering is exactly what we are debating today, which is the enhanced greening proposals. You say that there is a void, but we have made substantial changes, including the requirements for the whole-farm plan, the calving interval and the peatlands changes. If you are the farmer who is going to be delivering all of that on the ground, it will feel a little bit different to what it might feel like to someone who is sitting on the committee.

I go back to the point that I made right at the start. We are asking our farming community to come with us on this journey. We are making it as simple as we possibly can and giving them as much support as we possibly can, and we will keep on delivering the changes that we are asking them to make as time progresses, in conjunction with the conversations that we are having with the sector.

The Convener: If I am not mistaken, all of that is being delivered under the 2020 act but we are yet to see new policies being developed under subsequent legislation, and we can only see as far as 2027, which is in one year's time. What else is in development to be delivered after 2027?

Jim Fairlie: We will be taking forward considerations with ARIOB and stakeholders on how we will increase the biodiversity and carbon emissions gains through farming.

The Convener: When are we likely to get an idea of what that might look like? Again, we have one year, and that is not a lot of time.

Jim Fairlie: That will be delivered as we develop it.

The Convener: So, you do not have any indication of what is being developed now that could come in after 2027.

Jim Fairlie: No. What we are debating today is the requirement to bring more people into greening on the 5 per cent of land that is currently subject to EFA and then deliver the increase to 7 per cent in 2027.

The Convener: That is in isolation from anything else that you are developing.

Jim Fairlie: At this moment in time, that is what I am discussing, yes.

The Convener: At one year out.

Jim Fairlie: Yes.

Rhoda Grant (Highlands and Islands) (Lab): We welcome the derogations with the calving interval conditionality, but did you consider further derogations for herds with just one bull, those that are dependent on the crofting cattle improvement scheme, or those on islands that are dependent on weather and ferries to get bulls across?

Jim Fairlie: We considered all those things, including ferries, and had extensive discussions about them. We looked at a couple of different options, and we looked at front loading, but we came to the conclusion that the derogation was the best way to go, as it was the least threatening approach, particularly for island communities. We want to ensure that our island communities continue to produce calves, particularly given the fact that we have a Scottish bull stud. I have visited it and there are some absolutely cracking bulls in there, so there are some tremendous calves coming from small herds on the islands, and we want that to continue. These cattle are delivering biodiversity gain at the same time. Having looked at the options that were available to us—John Armour can talk about what front loading would have looked like—we took the decision that the derogation was the best way to go.

John Armour: On the question about herds with only one bull, some people will know that a relatively large herd could have only one bull. It is up to the producer how many bulls it has to service its herd. The impetus for our introduction of the calving interval conditionality was recognition of those who were taking steps to mitigate excess emissions in their livestock systems. This is all driven by the climate emergency and the impetus to reduce carbon emissions intensity from livestock systems.

We view the ability to get bulls from the bull stud through the crofting cattle improvement scheme as a support to help farmers to improve their systems and ensure that, as far as possible, every cow is having a calf every year. Again, that is linked to the conditionality.

We developed the options following discussions that we had along the way with the Scottish Crofting Federation. The main solutions that it talked about were around derogation and front loading, particularly in relation to the number of cows or the number of calves. We went for the 10-calf derogation option, which means that there is a guaranteed level of support for smaller producers, even if none of their cows are able to meet the calving interval conditionality. A front-loading option would have given a higher rate for the first number of calves, but, if a crofter could not produce a calf within the 410 days due to, for example, a ferry issue or a bull issue, they would still be able to get a level of support, based on those 10 calves, under the derogation. They would still be able to apply for those 10 calves and get support in that way.

Rhoda Grant: I am sorry, but I am getting a wee bit concerned now. I thought that there would still be a derogation if something went wrong—for example, if there was an issue with a ferry for a larger herd—simply because that was the explanation that we were given when this provision first came out. I understood that people could apply for a derogation if their bull was sterile or the ferry did not run at the right time, for example. Are you saying that, for people who find themselves in a situation in which something totally unplanned happens, the only provision for them is a claim for only 10 calves?

John Armour: Force majeure exceptional circumstances criteria would apply. In that case, people could contact the department and say that something outside their control had impacted their ability to meet the eligibility criteria. That would be looked at on a case-by-case basis.

Rhoda Grant: That is reassuring.

Beatrice Wishart: In its response, Shetland Islands Council welcomed the derogation for small herds but flagged up its concern that the limit of 10 calves would lead to a general herd reduction in the islands, which would obviously have an on-going impact on the wider supply chain. I also note that an impact assessment was done. Can you expand on that?

Jim Fairlie: I am not sure why Shetland Islands Council thinks that the derogation would lead to—sorry, can you repeat what you said?

Beatrice Wishart: It is about whether the derogation would lead to general herd reduction and people having smaller herds, and the cumulative effect of multiple herds being reduced.

Jim Fairlie: John, do you have any indication as to why that would be the case?

John Armour: No, I do not understand why that would be the case. In particular, the change that we implemented this year will result in a higher payment rate for calves, so there is actually an impetus for producers to get more calves born per year, so that they do not have excess emissions from barren cows.

In addition, the analysis that was carried out in 2023, which was published to support the initial calving interval reform, indicates that Shetland has quite a high proportion of cows meeting the calving interval that we set, which was a threshold of 410 days. That would suggest that producers on Shetland may be in a position to receive more money than they were receiving under the previous scheme, if they have more calves meeting that calving interval condition.

Beatrice Wishart: Did the impact assessment come out with that information?

John Armour: The impact assessment was based on the 10-calf derogation, and we considered that the impact of that was more favourable to smaller and island producers, because—as we have said—it provides protection against some of the things that might mean that producers would not have been eligible for support when we only had the 410-day calving interval threshold, without the derogation being in place.

Tim Eagle: I suspect, minister, that your answer to this will be yes, but I want to express the seriousness of the issue. It is about monitoring the impact of the scheme, particularly on those small producers that may be just over the 10-cow limit. I expect that you will monitor the impact, but, in all seriousness, once the policy leaves the committee and Parliament, you are charged with full responsibility for it. Can we get a guarantee that you will monitor it carefully and that, if problems come up—as Beatrice Wishart just suggested—you will bring it back to Parliament or give us an update via letter or something, to say what could be done to change it in the future?

Jim Fairlie: We always monitor the schemes that we are running, so yes, there will be monitoring of the effects of the scheme on the national herd and on individual producers. That will be done.

Ariane Burgess: I will be brief, minister. We were talking about this SSI around a year ago, and you made a commitment to bring in the scheme. It is great to see that that has happened, but it has taken a long time and I have a bit of a concern.

I hear, in a lot of what has been said this morning, that we are taking the community, and farmers and crofters, with us. However, my concern is that, if something is overlooked, it takes a long time to sort the situation out. People—crofters, in this case—are concerned that they have been waiting for quite a long time to see this happen. I remember when you made a commitment in the chamber to do it.

I am flagging that up as a concern. As we make these changes, we need to ensure that we have everybody covered, otherwise it could take a while to pick up people who have been forgotten.

Jim Fairlie: That is duly noted. As far as I can tell, the announcement that we would bring in the derogation gave the community comfort that we had taken on board their concerns, but I take on board the point that you have made.

Ariane Burgess: Thank you.

The Convener: I have a question about mapping. The SSI suggests that people just need to have a map—they do not have to provide it. However, we have, in the past, seen issues whereby satellite imaging or whatever has been interpreted wrongly and some farmers have lost a significant percentage of their single farm payment because, for example, tractor tracks through a wet field mean that it has been taken out of the claim. Has consideration been given to potential retrospective penalties on maps that are not up to date and the issues that might surround that?

Jim Fairlie: I will hand that over to Paul Neison.

Paul Neison: The key issue there is to address exactly that point, convener. Prior to the changes that we have made, if the farmer failed to provide an EFA map, they were subject to penalties under the European regulations that we were part of before. When we looked at the requirements and the benefits, we concluded that two things are important. First, the farmer needs to have the information, so that they can have it for themselves and demonstrate where they are when they are there. Secondly, we can capture the information where it is appropriate, and we do not think that what you describe has been a useful way of using the reductions and exclusions. We have therefore removed that requirement, so that we avoid a scenario in which a farmer has done their two, three or four hectares of EFA and loses a proportion of the money just because they have not submitted a map.

10:30

The idea now is that if our inspector, for example, goes out and wishes to see the information, we expect the farmer to be able to provide it; however, if they do not submit the map with the single application form and the other documents, they will not be subject to a penalty. That change is to address the exact issue that you raise.

I take slight issue with one point. I have responsibility for the mapping services and so on in the rural payments and inspections division, and I am aware that there is a common myth that significant issues around the mapping result in large penalties. That is very rarely the case.

We absolutely update and maintain our maps—one of the mechanisms that we have used in recent years to reduce our running costs is to maintain and update the maps more regularly. We run an annual LPIS—land parcel identification system—quality assurance assessment of the mapping system that can demonstrate that our maps are accurate within a certain tolerance. That allows us to reduce the number of farm visits that we undertake on the ground. We are using modern technology such as satellite imagery, and we are using algorithms to check the satellite

imagery against existing mapping in order to ensure that our maps are accurate.

We hope that, if we can provide the farmer with accurate information in the first place, they will avoid making a mistake. It is about trying to get the correct information to the farmer in the first place, so that they do not make a mistake and there are no reductions and exclusions that apply.

The Convener: From the committee's point of view, as the convener, I still have issues with the fact that we have before us an SSI that covers more than one issue. We absolutely welcome the derogation. I remember that the issue was quite controversial when you were in front of us last year, minister, and we called for derogations to be looked at, given the concerns from crofters and small-scale cattle managers. However, we are left in a situation today in which there will be universal support for part of the instrument but there are other parts around which significant concerns have been brought to us by stakeholders. Was no consideration given to splitting the issues over more than one statutory instrument, so that committee members would be able to approve them on the basis of whether they thought that they were proportionate?

Jim Fairlie: Not as far as I am aware.

Tim Eagle: I have one final question. I was trying to find my notes, but I cannot find them.

Back in March—I think it was—we had a round table with various members of the agricultural industry, including some members of ARIOB. There were some positive remarks, but there were some pretty scathing remarks, too, about how they felt they had been treated in the process.

You have made a lot of comments today about moving at a pace that suits farmers and taking people with you. I just want to double-check, however, because I am concerned that this is quite late in the day and the reform route map that was set out is not really coming to pass in quite the way we all imagined that it would. How can you give me certainty, given what I heard back in March, that ARIOB is working and that stakeholders feel included in the process?

Jim Fairlie: All that I can tell you is that if they do not feel included, I do not know what conversations they have been having. They are in the room—they are talking to us and giving us their information, and they are giving us their views very strongly.

Tim Eagle: But are you listening?

Jim Fairlie: Given the fact that we are moving to 7 per cent, not 10 or 20 per cent, I would say that, yes, we are listening. Given the fact that we are putting in place a derogation for calves, I would say that we are listening. I cannot give you any more of a demonstration than I have already given you, Mr Eagle.

The Convener: Finally, minister, I refer to the policy note, which states:

"Greening support is required to be modified to align with the route map phased transition from legacy CAP schemes into the proposed new support framework."

The note also states:

"the timeline for establishing a new Scottish agricultural policy is now clear",

but it is not—that is the point. It is clear only up to 2027, and that is only to do with greening. When will we see that clear timeline, which has changed significantly from 2023, in order to get some clarification on where we are likely to be at the end of 2027?

Jim Fairlie: You have to look at that in the context of the whole programme. We are developing policies that we are delivering, stage by stage, in order to bring the community with us. That is what we are doing today. We are delivering policies as we go forward, and in that context we know what we are doing up to 2027. Farmers know that things will develop as we go forward up to 2030.

The Convener: As there are no further questions, we move to formal consideration of the motion to approve the instrument. I invite the minister to speak to and move motion S6M-19325.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) (No. 2) Regulations 2025 (2025/draft) be approved.—[*Jim Fairlie*]

The Convener: Is the committee content to recommend approval of the instrument?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

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

Motion agreed to.

The Convener: Finally, is the committee content to delegate to me the authority to sign off the report on the instrument?

Members *indicated agreement.*

The Convener: That completes our consideration of the instrument. I suspend the meeting to allow for a changeover of witnesses.

10:36

Meeting suspended.

10:42

On resuming—

Sheep Carcase (Classification and Price Reporting) (Scotland) Regulations 2025 [Draft]

The Convener: The next item on our agenda is consideration of the draft Sheep Carcase (Classification and Price Reporting) (Scotland) Regulations 2025. I welcome Jim Fairlie, the Minister for Agriculture and Connectivity, back to the meeting. I also welcome his officials: Michelle Colquhoun, head of livestock products policy, and Mairead McCrossan, a lawyer. I invite the minister to make a short opening statement.

Jim Fairlie: Good morning again, and thank you for inviting me to speak about the Sheep Carcase (Classification and Price Reporting) (Scotland) Regulations 2025. The draft instrument seeks to introduce mandatory sheep carcase classification and price reporting for abattoirs that process above the threshold of 500 sheep per week on a rolling annual average.

The regulations will align sheep with cattle and pigs as well as aligning with EU regulations, including the use of the EUROP grid, which is the system that licensed classifiers use to grade carcases and which underpins payments to farmers. The regulations have been drafted in response to an industry review, and subsequent consultation has shown that producers and processors are supportive of the move to align sheep classification rules with those for beef and pigs.

I want there to be a more transparent, productive and efficient sheep market, and these regulations will ensure that farmers are paid a fair price that is based on the quality of their sheep, with prices reported and made publicly available. The standardisation of classification rules will then help producers to rear lambs that will fit market specifications and consumer demand.

Many plants across the United Kingdom, including those that are likely to meet the threshold figure in Scotland, already carry out sheep classification on a voluntary basis. The regulations will therefore result in little or no cost to business, and the licensing of classifiers by Government inspectors is free of charge.

The dates on which regulations will come into force across the UK are aligned, with the exception of the date for the regulations for Northern Ireland, which will commence one month later. The main point that was highlighted in responses to the consultation was that, to operate sensibly, the system must be implemented simultaneously across the UK.

Classification machines are already operating for cattle, and a further aligned date of February 2027 will provide for the introduction of automated classification methods for sheep. In the year leading up to February 2027, data will be collected from a large sample, to support the formula or algorithms that will be used in setting up any new automated grading equipment before the technology is then authorised for use.

The regulations also mean that any infringements will lead to enforcement procedures. Scottish Government meat and livestock inspectors will carry out unannounced inspections on behalf of the Scottish ministers, record their findings and operate a risk-based approach. Although operators will be supported in relation to classification, reporting and the required presentation specifications, any operator that is found to have committed an offence will ultimately be liable for a fine, as is laid out in the regulations.

I hope that those remarks are helpful in setting out the rationale for the instrument. I am happy to answer any questions that members may have.

The Convener: As there are no questions from members, we move to formal consideration of motion S6M-19530, on approving the draft regulations.

Motion moved,

That the Rural Affairs and islands Committee recommends that the Sheep Carcase (Classification and Price Reporting) (Scotland) Regulations 2025 (2025/draft) be approved.—[*Jim Fairlie*]

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off the report on the instrument?

Members *indicated agreement.*

The Convener: That completes our consideration of the instrument. I thank the minister and the officials for attending the meeting this morning. I will now suspend the meeting for five minutes.

10:46

Meeting suspended.

10:50

On resuming—

Natural Environment (Scotland) Bill: Stage 2

The Convener: The final item on the agenda is our consideration of the Natural Environment (Scotland) Bill at stage 2. I welcome to the meeting Gillian Martin, the Cabinet Secretary for Climate Action and Energy, who is supported by Scottish Government officials. I also welcome other members who are participating in this morning's stage 2 consideration. The officials seated at the table are here to support the cabinet secretary, but they are not permitted to speak in the debate.

Before section 2

The Convener: Amendment 115, in the name of Alasdair Allan, is grouped with amendments 26, 5, 116, 6, 196, 117, 7, 57, 8, 1, 58, 59, 118 to 120, 9, 10, 121, 313, 2, 60 and 3. I draw members' attention to the pre-emptions in the group, which are shown in the groupings paper.

Alasdair Allan: I will move amendment 115, and I will also speak to the other amendments in the group. Forgive me if I do so a little comprehensively.

I believe that the power in part 2 of the bill is essential to ensure that Scotland can continue to meet its environmental obligations in a way that is fit for purpose, particularly in the context of our net zero and nature restoration ambitions. I am aware of the committee's interest in those subjects, and I am particularly aware that Sarah Boyack has proposed a non-regression provision under amendments 5 and 6, while Beatrice Wishart has proposed a non-regression provision under amendment 196. Their amendments respond directly to the concerns, and they reflect the strong and consistent calls from stakeholders, particularly environmental non-governmental organisations, and from the committee itself, following the stage 1 debate, for a non-regression provision. I am keen to ensure that any non-regression provision offers a clear and practical safeguard that supports our shared ambitions of nature restoration and tackling climate change.

The use of a non-regression provision, if it is not appropriately drafted, might stifle the delivery of those ambitions, and I believe that my amendments achieve the right balance when compared with other non-regression provisions that have been proposed. A non-regression provision will introduce a legal obligation, and I know that the Government and others believe that there needs to be a proportionate and workable safeguard that strikes a balance between maintaining flexibility and ensuring accountability. I urge the committee to support my amendments in the group.

Amendments 115 to 117 all respond directly to concerns raised regarding the power in part 2 of the bill. The amendments would introduce a non-regression provision to ensure that, crucially, any future use of the power under part 2 would not reduce the overall standards of environmental protection while having explicit regard to the twin crises of climate change and biodiversity loss—recognising that progress in one of those areas cannot be achieved without progress in the other. I hope that we can all agree on those points.

In addition, the power proposed in part 2 is required to support broader aims and cross-cutting work, particularly in relation to net zero, energy security and climate change. In order to provide further reassurance, my amendment 117 would add a safeguard by requiring Scottish ministers to

"lay before the Scottish Parliament a statement confirming that they consider that the environmental protection requirement"—

under amendment 115—

"has been met."

I respectfully ask the committee to oppose amendments 5, 6, 196 and 313, and I urge the committee to support my amendments 115 to 117. Those amendments are part of a suite of amendments with the collective purpose of enhancing safeguards around the exercise of the power in section 2(1), which directly responds to the committee's concerns as outlined in the stage 1 debate. My environmental protection requirement should not be considered in isolation from Ms Harper's amendment 57.

Part 2 of the bill contains a power that can be exercised only if any changes align with one or more of the purposes that are set out in sections 3(a) to 3(f). Amendment 120 specifies that, in that respect, other legal regimes must be pertinent to the effective operation of the relevant environmental impact assessment or habitats legislation, or must be otherwise desirable for such legislation to interact with. I believe that amendment 120 represents a proportionate and practical improvement to the bill, and I encourage members to support it.

Similarly, my amendment 121 refines the purpose in section 3(f) of the bill. As originally drafted, that purpose allows changes

"to improve or simplify the operation of the law."

Amendment 121 makes that more precise by clarifying that the specified purpose is intended to enable administrative changes or adjustments to regulatory processes that

"reduce the administrative burden of complying with a condition, standard or requirement".

That would ensure that the power is used solely for administrative and procedural improvements, such as streamlining processes—for example, updating the EIA regime to remove the need for paper copies of applications when electronic versions are already provided. I hope that members will agree that that is a sensible and reasonable approach.

I move amendment 115.

Mark Ruskell (Mid Scotland and Fife) (Green): I appreciate the comments made by Alasdair Allan and the amendments in this group that have been lodged by others to make sense of part 2 of the bill. As a committee, we have struggled to understand what the purpose of part 2 is. We had evidence that flexibility is required to enable the submission of PDF copies of environmental assessments, and we had debates and discussion about the need for flexibility around environmental assessments and habitats regulations in relation to renewable energy. It has unfolded, in the course of the evidence, that we already have that flexibility in both the environmental assessment and the habitats regulations regimes. There are improvements in the Planning and Infrastructure Bill that can facilitate the development of renewable electricity, which the cabinet secretary has reflected on. At this point, I am still struggling to understand what the point of part 2 is.

The Convener: In your recollection, did you hear anybody supporting part 2, other than Government organisations?

Mark Ruskell: I did not, and that is why I have lodged amendments 1 to 3, which would delete part 2. Putting that proposal on the table enables the Government to think again, between stage 2 and stage 3, about the purpose of the bill and about where we need flexibility.

I do not think that giving ministers an indefinite power effectively to rewrite environmental assessment and habitats regulations provisions is appropriate for a bill that is primarily about tackling the nature emergency. In theory, that could allow the watering down of 40 years' worth of European Union environmental legislation, and it would ignore the Parliament's desire to keep pace with EU legislation. Given the evidence, I am struggling to see what the case is for that flexibility. We are still struggling to understand how sites are already designated under the habitats regulations, what the process is for that and why there is no flexibility to make adjustments that could assist with nature restoration.

I will listen to the arguments. I have heard the arguments from Alasdair Allan, and later I would like to hear the cabinet secretary's reflections on where she is in relation to part 2, but I think that it is important to have the option that I have presented on the table. I will push it to the vote, because we need to know where we stand, at least at stage 2. We will see which amendments get passed in this group, but I would like there to be further discussion between stage 2 and stage 3, because I do not feel that we will have concluded our thinking on the matter by the end of our consideration today.

Amendment 26 picks up on the committee's recommendation at stage 1 to revisit the sunset clause on the keeping-pace power in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. That power is due to expire in 2027, but the Parliament has the option to extend it to 2031. This is an area where the ability to adjust habitats regulations and environmental assessment will be needed in the future if we are to remain broadly in line with the European legislation framework that has protected the environment across Europe—nature knows no boundaries.

11:00

The committee's stage 1 report said:

"the Committee does not expect these suggestions to have significant policy implications. They would also give the Scottish Government the opportunity to undertake a thorough review of the operation of the EIA legislation and Habitats Regulations, as suggested by some stakeholders",

but not to break out of the European policy framework. That is the context for amendment 26. Obviously, we cannot fix environmental legislation in a moment in time, but the stakeholders who gave evidence seem to believe that the existing system provides flexibility, and we need flexibility in relation to alignment with future EU laws. Amendment 26 would give that flexibility.

That is my starting point for discussion. Let us see where we get to.

Sarah Boyack (Lothian) (Lab): Like the previous two speakers, I want to respond to the concerns that the committee raised at stage 1 but also those that were raised by a raft of stakeholders who got in touch because they were worried about unintended consequences from this section of the bill, which provides ministers with the wide-ranging power to modify key environmental protections. I want to try to reintroduce protections into the bill.

First, I thank the Chartered Institute of Ecology and Environmental Management for its support in crafting the amendments, which have four clear aims for improving the bill: greater clarity and precision in drafting, ensuring that the legislation is easier to interpret and aligned with the structure

elsewhere in the bill; a clear non-regression guarantee that requires ministers to confirm that any changes do not weaken existing environmental protections, a safeguard that is in line with Scottish environmental ambitions and international obligations; stronger alignment with our duties under the Conservation (Natural Habitats, &c) Regulations 1994; and ensuring that modifications respect the management objectives of the UK site network and the conservation needs of environmentally important habitats.

The key issue of enhanced parliamentary oversight has already been mentioned this morning, and I noticed reference to a ministerial statement being required. My ambition is to strengthen the bill, and there are different ways of doing that.

My amendment 5 is about clarity and precision, strengthening accountability and improving the consistency of drafting across the bill.

My amendment 6 is a generic non-regression safeguard for any regulations that are made under part 2. As has already been said, we have nature and climate crises and we need to address them both, but we also need safeguarding standards, and amendment 6 seeks to close a loophole and reinforce public trust. Environmental law should be thinking ahead, not looking backwards. We need the bill to align with Scotland's wider commitments on climate and environmental ambitions and not to erode them by making technical changes.

My amendment 7 would make sure that, when the Scottish ministers were considering regulations, they would think about how any modification or restatement conformed with their duties in relation to the UK site network, under the habitats regulations. Again, I want to make sure that there is consistent application in line with existing statutory duties when looking at the conservation of European sites in Scotland and no undermining of the management and protection of those critical habitats. Amendment 7 is therefore about protecting the integrity of the UK site network by not allowing minor technical changes to have a big impact, as well as about strengthening environmental leadership and embedding accountability in the bill.

It was interesting to hear Alasdair Allan's speech in favour of his amendments. My version, which is set out in my amendment 8, is about limiting ministerial discretion, enhancing democratic oversight and preventing ministers from bypassing proper parliamentary scrutiny. As drafted, the bill definitely risks allowing significant changes to be made with only procedural approval. My amendment would ensure that powers could not be exercised without a full, proper legislative debate and would avoid authority being expanded without accountability. The list of provisions that my amendment 8 would remove includes serious matters such as arrest powers, search powers and fees, which should not slide through under secondary legislation. Again, it is a matter of power.

My amendment 9 would remove section 3(e)—stakeholders raised many concerns about it at stage 1—in order to tighten the scope of ministerial powers, prevent overreach, focus on genuine policy purposes and prevent technical tidying up being done by the back door to weaken or dilute environmental standards and safeguards.

My amendment 10 is, again, about narrowing ministerial powers. The phrase

"to improve or simplify the operation of the law"

is vague and could lead to wide-ranging changes.

The Convener: I have a question that is in the same vein as my question for Mark Ruskell. We heard no evidence that the current legislation on environmental impact assessments and designations was weak or needed strengthened. The provisions almost reinvent the wheel, and the Parliament is trying to ensure that there are no loopholes. I am sure that you have made a good job of closing the loopholes that you have identified. Other than allowing the submission of evidence through PDF or other electronic methods, there is very little evidence that anything would be gained by giving the Government such powers. Did you consider whether part 2 might be unnecessary and could introduce problems through loopholes?

Sarah Boyack: The purpose of my amendments is to fix those problems in the legislation, and I engaged with stakeholders to see how we could do that. It is up to committee members to decide which options they want to support. I was trying to be constructive by increasing accountability and avoiding that non-regression challenge by preventing environmental regulations being inadvertently reduced. I was trying to come up with amendments that would help and strengthen the bill, because, as you suggested, the current wording significantly weakens environmental protections. It is about getting that joined-up thinking and accountability.

My amendment 10 would ensure that changes are substantive and accountable, that we debate such issues openly in the Parliament and that they do not just slip under people's notice. Accountability cannot be left only to ministerial discretion through secondary legislation. I was trying to drive joined-up thinking and action on the climate and nature crises that we face and that will only get worse. What a minister sees as simplification might weaken environmental protections, so I wanted to include protections in

the bill. It is up to the committee members to decide how to vote.

I have listened to Alasdair Allan's suggestions about what his amendments would do, and I will listen to the rest of the debate.

Beatrice Wishart: Part 2 of the bill introduces a new regulatory power relating to nature restoration. Without a non-regression clause, there is a risk that regulations could be weakened by future Governments, standards could be lowered through secondary legislation and the overall environmental protection regime could become less robust over time. That is particularly important because, although nature targets are long term, regulations might change more frequently.

My amendment 196 seeks to address that by ensuring that any regulations that are made under part 2 can only maintain or improve existing environmental standards. That non-regression safeguard ensures continuity and prevents backsliding at the implementation stage.

I note that other members have also lodged non-regression amendments. That reflects the concerns that others have alluded to and the need for such amendments. My amendment uses the phrase "maintain or improve", which reflects the standard that is used in other major environmental statutes and provides a clear, legally recognisable threshold.

Emma Harper: I will speak to my amendment 57. I believe that the cabinet secretary has always been clear that if the power in section 2(1) were used to make significant changes, the affirmative procedure should apply. I recognise that concerns were raised during the stage 1 debate about the lack of clarity on when the affirmative procedure would apply in respect of regulations made under section 2(1). My amendment has been developed with input from the cabinet secretary to ensure that it reflects the views that were expressed during the scrutiny of part 2 of the bill.

Sarah Boyack's amendment 8 would introduce the affirmative procedure to cover the power that is provided in part 2 of the bill. However, such a blanket provision requiring the affirmative procedure would not be proportionate or an efficient use of public resources or the Parliament's time.

I therefore seek support from the committee for my amendment 57, which strikes the right balance, as it would ensure that the affirmative procedure was used for substantive changes while allowing the negative procedure to be used only for clearly minor technical or administrative updates. That approach would maintain robust scrutiny where it was needed without creating unnecessary delays. My amendment reflects the most efficient use of the Parliament's role in scrutinising legislation.

I therefore ask Sarah Boyack not to move amendment 8, and I ask members to support my amendment 57, which clarifies the procedure in sections 2, 6 and 7 of part 2 of the bill.

Ariane Burgess: If we keep part 2 of the bill, I will move my amendments, but my concerns about part 2 align with those of Mark Ruskell and Sarah Boyack.

My amendments 58 and 60 pick up an issue that was raised in evidence by the Royal Society of Edinburgh. I have a strong vision for Scotland being a forest nation, but that must be ensured in a way that recognises the very challenging context that we face, which is a severely depleted natural environment.

Amendment 58 proposes that new commercial forestry plantations over 50 hectares in size be required to carry out an environmental impact assessment. I lodged a similar amendment to the Agriculture and Rural Communities (Scotland) Bill. We need further scrutiny to ensure that trees are planted in the right places and that the creation of new commercial plantations is weighed against alternative activities such as natural woodland creation.

My amendment would also ensure that public consultation as part of the EIA process was widespread, structured and transparent. Tree planting, for whatever purpose, needs to consider the wellbeing of Scotland and all its living inhabitants. Formal consultation allows all interests to be considered and helps to legitimise the outcomes of the application process. I had lengthy discussions with the Cabinet Secretary for Rural Affairs, Land Reform and Islands about the issue during scrutiny of the Agriculture and Rural Communities (Scotland) Bill, and I believe that the Natural Environment (Scotland) Bill is an appropriate place to include such an amendment.

My amendment 59 would give statutory protection to Ramsar sites, which are designated under the Ramsar convention as wetlands of international importance. In Scotland, the sites are currently protected by a policy that treats them as if they were European sites for the purpose of land use planning and environmental assessment. However, that protection is not enshrined in law, which creates potential uncertainty—having heard from stakeholders, I think that it is more than just potential—and an inconsistency in decision making. Putting Ramsar protection in law would give legal certainty and ensure consistent application across Scotland. It would strengthen our compliance with international environmental obligations to keep pace with environmental standards now that we are outwith the European

Union. I appreciate the work that RSPB Scotland has done to support the amendment.

11:15

Rhoda Grant: We can all agree that part 2 of the bill causes most concern, and my amendments 118 and 119 are designed to improve it.

My amendment 118 aims to ensure that there is a balance between climate and nature targets. My amendment would delete the words

"(including, in particular, the net zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009)".

Those words are unnecessary, because part 2 of the bill gives ministers wide powers to amend environmental law to facilitate progress towards any statutory target. As drafted, the bill would allow changes in support of unrelated targets—such as those related to energy, waste and transport—that risk weakening nature protection.

Specifically referring to climate targets risks creating a hierarchy in which nature protections are weakened in order to facilitate energy infrastructure and other decarbonisation efforts. Powers under part 2 should support nature recovery as well as climate targets and ensure that one is not pursued at the other's expense. My amendment would remove the implication that climate targets have priority over nature recovery targets.

My amendment 119 would delete section 3(c), which provides a purpose that is intended to ensure consistency and compatibility with other domestic and international legal regimes. That purpose is too broad, it is unclear under which circumstances such a power would be necessary, and it has the potential to be misused.

Tim Eagle: First, I will talk about Mark Ruskell's amendments. He lodged them very quickly, but they exactly represent the concerns about part 2 of the bill that we heard. It is not often that we hear such uniform concern from various stakeholders, but it is what was apparent.

I like what Mark Ruskell has done. My personal preference—I urge any Opposition member in the committee to consider this—is that we should say at stage 2, "Delete this, go back and think again." The cabinet secretary and the civil servants behind the scenes should go back, because there is clearly a problem here. Various amendments are floating around, some of which I agree with and some of which I do not. Fundamentally, Mark Ruskell is right to push to delete part 2 of the bill at stage 2. Rather than amending part 2 in a piecemeal way, let us have a proper debate on its provisions once the Government has taken more advice from stakeholders ahead of stage 3.

My amendment 313 is effectively a non-regression clause that would retain the protections that are currently in place, should we choose not to delete part 2 today. However, as I said, my preference is that we delete part 2 at this point, so I fully support Mark Ruskell's amendments 1, 2 and 3.

The Cabinet Secretary for Climate Action and Energy (Gillian Martin): I will start by expressing my agreement with Dr Allan's earlier remarks and urging the committee to support his amendments, which we worked on together.

Dr Allan's amendments 115 to 117 are designed to alleviate concerns by including an environmental protection requirement in part 2 of the bill and narrowing the scope of the purpose set out in section 3(c). His amendment 121 seeks to narrow the scope of the purpose set out in section 3(f).

I put on record—I think that I also reflected this in the evidence at stage 1—that I agree that we need to ensure that any legislation is not vulnerable to being misused by any future Government that does not have biodiversity or climate goals in its sights or that does not agree with them. I am happy to see that a lot of work has been done by various members on that. I do not agree with deleting part 2 of the bill, but I am absolutely convinced that Dr Allan's amendments are a significant step towards having a safeguard put in place, and Scottish Environment LINK has expressed that they are a significant step forward.

I will now turn to other amendments in the group. Although I recognise the attempts that members have made to introduce non-regression clauses and agree with the intention behind that, the amendments that Dr Allan has lodged are those that I feel achieve the objectives in a way that I can stand beside.

Ms Boyack's amendments 5 and 6, Ms Wishart's amendment 196 and Mr Eagle's amendment 313 all seek to introduce a non-regression provision to part 2 of the bill. They respond directly to the understandable concerns that stakeholders and the committee raised about the need for a non-regression provision. Of course, we need to decide which non-regression provision members might want to get behind and support.

The breadth of the power and the absence of safeguards in part 2 of the bill were mentioned in the stage 1 debate. We need safeguards—I hope that members recognise that I agree with everyone on that. The Government shares the ambition to uphold high environmental standards. However, a non-regression provision amendment needs to offer a clearer, more workable safeguard that supports our ambitions for both nature

restoration and climate change. I do not agree that one has priority over the other—they are inextricably linked and have parity, as far as I am concerned.

As a non-regression provision would introduce legal obligation, the Government believes that any provision needs to be proportionate and a workable safeguard that strikes a balance between maintaining flexibility and ensuring accountability.

Mark Ruskell: Do you see that there is already a balance in the habitats regulations? There is the overriding public interest test, and it is possible to make decisions that strike a balance between climate and nature—indeed, Governments do so all the time. What is wrong with our current system?

Gillian Martin: I am aware that regulation 9D was mentioned in stage 1 of the debate and that there were calls to amend the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. Let us consider regulation 9D. I will outline why I do not believe that it provides the safeguards that people have mentioned. It includes an obligation on the Scottish ministers to

"manage, and where necessary adapt, the UK site network ... with a view to contributing to the achievement of the management objectives".

It has not been used in practice so far. There is an implied power to comply with that duty, despite the lack of specific legal provision in the habitats regulations. However, regulation 9D applies only to the UK site network—it does not allow ministers to amend the broader habitats regulations or the EIA regime in the way that we have set out in the policy memorandum to the bill.

If one of the amendments that puts a non-regression provision in the bill is passed, I hope that it will effectively ensure that members are happier with part 2 and that it will protect against future Governments that do not have environmental protection as a priority—

Mark Ruskell: Will the cabinet secretary give way?

Gillian Martin: I have not finished.

The continuity act was also mentioned as a way of keeping pace with EU law, but it provides for a narrower power that does not give us the flexibility to respond to the wider international obligations or domestic needs. I believe that we need to put something in the bill that puts those protections in place. That is why I am happy with Alasdair Allan's amendments, which I think do that. We must recognise that some of the existing regulations do not quite hit the mark.

Mark Ruskell: I am sorry to have cut across you, cabinet secretary. I was listening to what you said about regulation 9D and the need for perhaps more flexibility around site designations. If that is the only purpose of part 2 of the bill, why was that not brought forward in it? Why is the purpose of this so narrowly defined that we are only really talking about site designations and flexibility rather than the raft of other ways in which that section of the bill could be used to amend both habitats regulations and environmental impact assessments?

Gillian Martin: I am not entirely sure that I understand the question. I have just set out how regulation 9D does not give us the flexibility to adapt to situations that require that flexibility and fleet-of-foot reaction. I am confident that the adoption of Alasdair Allan's amendments would allay any concerns about not having non-regression safeguards in the bill.

I set out at stage 1 many of the reasons why we could not have a static situation. For example, we could have protected areas that no longer protect the species that they were originally set up to protect, because of the effects of climate change on that species. We need to have a more fleet-of-foot response available. I also point to Emma Harper's amendment in relation to the affirmative procedure being used for substantive amendments and changes, which is also right.

The suite of amendments from Alasdair Allan and Emma Harper should allay a lot of the difficulties that people had at stage 1.

Sarah Boyack: The concerns are that part 2 goes far too far and is not proportionate. That is why quite a few of us have lodged amendments. It is about the issue of ministerial accountability and getting that balance right. The idea behind the affirmative procedure is about making sure that the Parliament gets to formally approve any regulations, so that they do not simply slide through. It is absolutely crucial that we do not weaken protections by accident. That is why we are all trying to test the purpose and impact in terms of future decisions.

Gillian Martin: Sarah Boyack has set out why the affirmative procedure is extremely important for the parliamentary scrutiny of anything that future ministers might want to do that entails substantive changes. That is proportionate.

Of course, if we were to have affirmative procedures for all the minor and technical things that might be put through, which do not entail particular policy or material changes, that would be disproportionate. That is why I am supportive of what Emma Harper came to discuss with me.

I will move on and talk about the other amendments.

Rhoda Grant: I would like to make an intervention before you do, because we all have real concerns about part 2.

We are trying to amend part 2 in order to strengthen it and make it less open to abuse, but we will need to take stock between stages 2 and 3. If we do not amend that part at stage 2, there will be the option to remove it at stage 3. Would the cabinet secretary be open to having discussions about concerns that might arise if we do not think that the amendments made at stage 2 actually work?

Gillian Martin: Absolutely—I am always open to having discussions with members.

I feel fairly confident that the amendments lodged by Dr Allan and Emma Harper will put scrutiny in there. Dr Allan's amendments, in particular, include provisions to make sure that no future Government could weaken environmental protections. That is what we all want, because we do not know what will happen in the future.

The very legitimate argument was made by some members at stage 1 that, although we might trust the Government, and even the parties that sit in the Parliament, right now with regard to environmental protections, we do not know what will happen or who will be in government in the future, and we would not want to leave the bill open to misuse.

I therefore commend the members who have said that we need to put in place provisions such that any future Government could not use anything in part 2 to weaken environmental protections. The strength of feeling on that has been demonstrated by the amendments that have been lodged.

The Convener: Will the cabinet secretary take an intervention?

Gillian Martin: I want to finish my point first.

Specifically in recognition of those concerns, I have worked with Dr Allan on amendments that will strengthen the provisions. We have tested some of those amendments with ENGOs. That is why I mentioned Scottish Environment LINK's comments in that regard.

The Convener: These amendments address what are seen as failures or weaknesses in this part of the bill. However, I am still lost as to the strengths of this part of the bill. What does it bring that will improve what we have at the moment? I am still unclear about that. As you touched on, at stage 1, not one stakeholder could identify any positives about this part. Amendments are all very well—they address weaknesses and potential failures and loopholes in the bill—but what are the strengths of this part of the bill? What positives will it bring?

11:30

Gillian Martin: At stage 1, I set out why we included part 2, which was to address some of the gaps that had been left in the legislation as a result of EU exit. We need to fill in those gaps as much as possible, because they leave us with an inability to adapt to any impacts or changes to particular areas as a result of climate change—or anything—in a fleet-of-foot manner. There might be times when ministers have to act very quickly to align with evolving global climate and biodiversity standards.

There are various examples. On the biodiversity beyond national jurisdiction agreement, we have to rely on the UK Government to provide a power for Scottish ministers to amend our EIA regulations. I would much rather that that was already within the Scottish Government's competence than our having to wait on another Government to give us the powers.

The loophole has been created as a result of EU exit. That was the main reason for part 2 of the bill, and the main concerns about part 2 were about non-regression rather than the existence of that part. I certainly did not hear anything compelling, outwith what politicians were saying, to suggest that it should be removed wholesale. The concerns that I heard—my adviser and I had discussions with Scottish Environment LINK—were about non-regression and the potential for the lack of parliamentary scrutiny if the affirmative procedure was not required for substantive changes.

The Convener: There certainly were calls for the whole of part 2 to be removed. This is probably an extreme example of using a sledgehammer to crack a nut. The committee heard that this part of the bill allows the Government to legislate in lots of areas that are yet to be defined and that it provides far too much power for ministers. Why did the Government decide to deal with the issue in that manner rather than by addressing the particular issues that you have highlighted? This is absolutely an example of using a sledgehammer to crack a nut.

Gillian Martin: I do not agree with the phraseology of sledgehammers and nuts. I have explained the reasoning behind the provisions in part 2, which was to do with closing the gap that was caused by EU exit and giving Scottish ministers the power to act in an adaptive and swift way, should they have to, without waiting for an agreement with the UK Government. It has not, and has never been, the policy of this Government to dismantle Scotland's environmental protections, but one area on which I agree with members is that, if we did not include safeguards, we would leave that possibility open to future Governments. Convener, you and I are not going to agree on

this, because, as you made very clear at stage 1, you have already made up your mind that you want part 2 to be removed—the same goes for Mark Ruskell.

I have worked with Alasdair Allan and Emma Harper to allay stakeholders' concerns so that, we hope, people will be able to support part 2 in its entirety, as amended. Part 2 introduces the bespoke power to modify the 1994 habitats regulations and legislation on the environmental impact assessment regime. It plugs the legislative gap that exists as a result of EU exit. The power is essential to ensure that we continue to meet our environmental obligations in a way that is fit for purpose, particularly in the context of net zero and nature restoration ambitions.

I understand that, as drafted, part 2 does not include safeguards. Having worked with Dr Allan and Emma Harper, I am confident that we have allayed those concerns and that, if their amendments are agreed to, we will have a much stronger part 2 that will protect against future Governments being able to abuse the provisions. If the amendments are agreed to, future Governments will simply not be able to do that.

I recognise that amendment 7 was lodged due to the concerns that we have heard from other committee members, and from stakeholders in their evidence, about the scope of the proposed powers to modify the environmental impact assessment legislation and habitats regulations. I recognise the concerns, but I cannot support amendment 7, because there is already a duty on Scottish ministers to manage and, where necessary, adapt the UK site network, as is specified in regulation 9D of the habitats regulations. That is where regulation 9D is strong. Therefore, when considering the use of the power to amend the habitats regulations, ministers must already have regard to regulation 9D and any potential implications for the UK site network. I ask the member not to move amendment 7, failing which, I ask the committee to reject it.

Amendment 8 would introduce the affirmative procedure to cover the power provided in part 2. I absolutely recognise the concerns that were raised in the stage 1 debate about the lack of clarity as to when the affirmative procedure should apply. I have always been clear that, if the power were to be used to make significant changes, the affirmative procedure should apply. Ms Boyack's amendment 8 reflects the desire for stronger safeguards, but I would argue that a blanket requirement for the affirmative procedure is not proportionate and would not be an efficient use of the public resource of the Parliament's time, as that would also cover all the minor and technical changes that might be made over time.

There is a judgment call to be made. Emma Harper's amendment 57 offers a more balanced approach, but both amendments have the affirmative procedure in their sights; it is just a case of whether the committee wants to have the affirmative procedure for every minor and technical amendment that we might make. It is the committee's judgment call.

Emma Harper: I appreciate the cabinet secretary giving way and describing this in a lot of detail. However, my whole intention was to implement a more proportionate approach. I appreciate the feedback on my amendment. Does she agree that the approach set out in my amendment would allow for more intensive scrutiny, if required?

Gillian Martin: If I may, I will give an example, because this is why I think that your amendment would create a proportionate approach. We heard the example of changing the requirement for EIA reports to be electronic only, rather than on paper, for reasons of efficiency. That would be an administrative change, but I think that using the affirmative procedure for that change would be disproportionate. I do not run the committee, and the committee might believe that it is appropriate for all minor and technical changes to be subject to the affirmative procedure and, therefore, scrutiny in committee. That is entirely up to the committee. Personally, as a parliamentarian and a former convener, I would see that as taking up an awful lot of time, and the committee's time could be better spent. It is up to the committee to decide whether it wants that.

Sarah Boyack: One of the issues that I mentioned was new criminal offences or charges that could be created through secondary legislation. Can you confirm whether the affirmative procedure would be required for such a change? It is about being proportionate in using that opportunity.

Gillian Martin: The example that you have just given is a substantive change—a quite hefty substantive change—and, of course, you would expect the Parliament to have the affirmative procedure in place to scrutinise anything in relation to criminality.

On Mark Ruskell's amendments 1 to 3, as I said, part 2 introduces a bespoke power to modify the 1994 habitats regulations and the legislation that forms the environmental impact assessment regime, and it plugs the legislative gap arising from EU exit. The powers are essential in order for Scotland to continue to meet its environmental obligations in a way that is fit for purpose, particularly in the context of our nature restoration and net zero targets. Removing part 2 of the bill entirely would undermine our ability to take a fast and flexible approach to tackling the twin crises of

climate change and nature loss in the face of evolving circumstances. It is appropriate to put in safeguards, but it would be a misstep to remove the ability to adapt flexibly and to be fleet of foot in changing circumstances.

I recognise and accept the concerns that have been raised by the committee and a range of stakeholders. The power in part 2 of the bill is too broad—I accept that—and it could potentially be used to dilute environmental protection, which I want to avoid. Such is the beauty of parliamentary scrutiny and the committee process that concerns can be raised and the Government can reflect on them and work with members to put in safeguards. That is exactly what we have done.

We are unequivocally committed to protecting the environment. The bill has not been designed to dilute environmental protection, but I fully accept that, without the changes in the amendments that have been lodged by Dr Allan and Emma Harper, it could be misused by future Governments. We all want to avoid that happening.

Amendments 58 and 60 seek to place a hard limit on triggering an EIA for the creation of any new conifer woodland schemes. Ariane Burgess has said that those amendments are a continuation of amendments that were lodged but not agreed to for the Agriculture and Rural Communities (Scotland) Bill.

My colleague Mairi Gougeon explained then why such a limit would not be appropriate. However, I will reiterate some of the reasoning now in relation to this bill. All new planting schemes in Scotland that exceed 20 hectares are already subject to a screening assessment under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017. There are also strict thresholds in regulations that set out where, in particularly sensitive areas, EIA screening is always required. If the outcome of a screening assessment is that a project is likely to have a significant effect on the environment, it should be subject to an EIA.

For comparison—Mairi Gougeon alluded to this in her response to the member—Ireland introduced a mandatory 50 hectare limit back in 2001. What has happened since then provides a sobering reality. In the past 22 years, there has not been a single forestry application in Ireland to establish a forest that is greater than 50 hectares in size, because it would be too administratively onerous to do so.

We have tree-planting targets, and the climate change plan has tree-planting targets in it for the sequestration of carbon. As everyone around this table knows, tree planting is particularly important in protecting and enhancing biodiversity and providing habitats for species that would otherwise be under threat. I am sticking with Ms Gougeon's approach to this issue.

Ariane Burgess: Will the minister take an intervention?

Gillian Martin: I will take it in a second. The wording of the definition that is provided in amendment 60 is also problematic because it would apply to native and non-native conifers. It would also apply not only in commercial contexts but to any "other purposes". That means that the definition could apply to projects that seek to restore fragile Caledonian pinewoods. Therefore, the amendment is disproportionate and the definition too broad. There could be unintended consequences, which, as I have just outlined, was the result in Ireland.

Ariane Burgess: I hear the cabinet secretary's point about what has happened in Ireland, but I do not know the broader context. It is difficult to mix apples and bananas and say that they are the same thing, so I would be interested in knowing more about the context.

I brought the proposed provision back because I am working with stakeholders who have raised a concern about the environmental impacts of large-scale conifer plantations. I started my contribution to today's stage 2 proceedings by saying that I want Scotland to be a forest nation. However, we need to achieve that in a way that ensures that conifer plantations do not have a detrimental impact on all the other things that you just listed.

I would appreciate having a conversation with you, and maybe we can consider doing something. That might not be for this bill, but I am keen to take the issue forward and ensure that the environmental impacts are taken into consideration, because they are considerable.

At the root of what I am trying to do are the facts that we have a limited public purse and there are climate and nature emergencies. The question is where we deploy the funding. I would like the public sector to be much more supportive of what we are trying to do regarding the climate and nature.

11:45

Gillian Martin: I absolutely understand the concerns around the right type of planting happening in the right types of places. As I was able to outline, all new planting schemes that exceed 20 hectares are already subject to a screening assessment under the forestry regulations. There are strict thresholds there. We do not believe that amendment 60 as drafted would have the intended effect.

Our officials have considered the implications of what was agreed in Ireland. They have done the

work in assessing the impact that a similar piece of legislation—a similar amendment to the law—had there. We need to bear in mind the consequences of making it too onerous for projects to continue. We do not want to stop tree planting, which has all the positive effects that we have just mentioned.

I have better news for Ariane Burgess, however, in relation to amendment 59. Ramsar sites are recognised as internationally important areas for wetland habitats and the water birds that they support under the Ramsar convention. It is important that we do all that we can to ensure that they are protected from damaging activity. It is the Scottish Government's policy that listed Ramsar sites in Scotland should be treated as if they were European sites for the purposes of land-use-change decision making. I am delighted to support Ariane Burgess's amendment 59. I hope that the committee gets behind her.

However, ahead of stage 3, we would need to revise some of the wording in the amendment, if Ariane Burgess would be happy to work with me on that. It is almost there, but it requires a couple of little tweaks. I am absolutely supportive of the intent behind the amendment—it is a good amendment in its intent—but the wording needs a little bit of looking at. I therefore ask Ariane Burgess not to move amendment 59 today, and we can work on something that she can bring back at stage 3 that we can all get behind and feel confident in. I would be very pleased if we could do that.

Turning to amendments 118 to 120, section 3 of the bill sets out the purposes for which Scottish ministers may exercise the power to make regulations under section 2(1). Those purposes are essential to ensure that our environmental assessment frameworks remain robust, aligned with obligations and adaptable to future needs. The powers in part 2 can be exercised only if the changes align with one or more of the purposes set out in section 3. However, we have heard calls from stakeholders and the committee that those purposes are viewed as too broad. Rhoda Grant's amendments 118 and 119 would significantly narrow those purposes. Amendment 118 would remove the reference to the net zero emissions target from purpose (b) in section 3. That reference was included as an illustrative example to underline the importance of climate considerations in decision making, alongside other environmental and biodiversity considerations. Taking that reference out would weaken the clear link between environmental regulation and Scotland's climate commitments. They have absolute parity with one another; one does not supersede the other.

Amendment 119 would go further by removing purpose (c) entirely. Purpose (c) was originally drafted to allow ministers to ensure consistency or compatibility with other relevant legal regimes. Removing it would undermine the ability to maintain alignment with international obligations and future proof our environmental assessment system—which is particularly important post-Brexit, hence the reasoning that I gave earlier.

I am of the view that Dr Allan's amendment 120 is a targeted and proportionate response to legitimate concerns that have been expressed. It would effectively narrow the scope to the relevant EIA legislation and habitats regulations, which are pertinent, and that is why I believe that the committee should support that amendment.

For the reasons that I have set out, I would ask Rhoda Grant not to move amendments 118 and 119. Instead, I strongly urge members to support amendment 120.

Sarah Boyack's amendments 9 and 10 would reduce the scope of part 2 of the bill by removing two purposes for which the power may be used from section 3. As I have already stated, I recognise the concerns that have been raised.

The amendments in the name of Sarah Boyack respond directly to those concerns; we have had conversation about the amendments, and I completely understand the intention behind them. However, I have also talked to Sarah Boyack about Dr Allan's amendments, on which I have worked with him. I hope that Ms Boyack's Labour colleagues can agree that Dr Allan has lodged amendments that also address those concerns, and we have worked with him to ensure that we can support the wording in them.

Retaining purposes (e) and (f) will maintain flexibility in how the power in section 2(1) is used. However, recognising the concerns, Dr Allan's amendment 121 would refine the scope of purpose (f) to make it clear that it is to enable administrative changes or to alter aspects of regulatory processes, rather than to make changes to core assessment requirements or substantive environmental standards or protections.

That means that the power can be utilised for streamlining processes and for modernising any procedural or administrative aspects within the EIA and habitats regimes, such as updating the EIA regime to enable the removal of requirements to submit paper copies of applications or other documents alongside electronic versions of the same documents. Purpose (f) will not allow for changes to core assessment requirements or to substantive environmental protections.

I acknowledge that stakeholders have expressed their desire to see the removal of

purpose (f) entirely, citing that purpose (a) could capture such a requirement. However, it is unlikely that we could rely on purpose (a) to simplify processes or reduce administrative burdens. I think that we all want the unnecessary red tape to be stripped away to ensure that our agencies, and those who have to apply for any kind of permissions, are not overburdened by unnecessary administration.

I therefore ask Sarah Boyack not to move amendments 9 and 10, and I urge the committee to support Dr Allan's amendment 121.

The Convener: I call Alasdair Allan to wind up and say whether he wishes to press or withdraw amendment 115.

Alasdair Allan: I have nothing further to say other than that I will press amendment 115.

The Convener: I am a bit concerned about your amendment 115, which pertains to providing extra safeguards. It is quite clear that it is only Scottish ministers who have to be satisfied that the overall environmental protection is not reduced.

Can you set out what parliamentary oversight or safeguards there are, given that one of the powers to be exercised is

"to address the challenges posed by climate change"?

That could refer to large-scale wind farms or power transmission upgrades, including pylons. It would suggest that that power can be exercised as long as the Scottish ministers are satisfied that they can prioritise that aspect. The amendment would provide no safeguards at all other than the ministers being satisfied, and there would be no parliamentary oversight or scrutiny.

Alasdair Allan: One of the concerns that has been expressed about part 2 of the bill is that it might allow ministers to take Scotland's environmental policy in the opposite direction from the one in which we all want to take it. Amendments 115 to 117 would introduce a non-regression provision.

I accept that ministers have to make judgments about that, but what will be done will be done in the sight of Parliament. It is clearly essential that we have an explanation of the Government's position at the time, and I am sure that that will be forthcoming.

I strongly believe that the amendments are the only proposed approach to a non-regression provision that is likely to strike the right balance, and—in my view, from working with the Government—they are the only amendments that are likely to be drafted in a way that is workable.

Mark Ruskell: I have listened carefully to what the cabinet secretary said, and it is clear that you believe that your amendments would effectively make part 2 watertight. I have my doubts, and I believe that a number of stakeholders will have their doubts about that, too.

I guess that what I am asking is, would you be prepared to have further conversations between stage 2 and stage 3 if your amendments go through? I should say that I am going to move my amendment to delete the whole section, because I think that it would be very easy to rebuild it in a way that is proportionate. Nevertheless, would you be open to conversation around potential unintended consequences that may emerge, even though you have attempted to bring in some safeguards through working with the cabinet secretary around the non-regression provision?

Alasdair Allan: I am happy to speak to you and other members about this as the bill progresses, but if you are minded to remove section 2 from the bill, I urge you instead to vote for things that would improve it. In my view—and I have been working with the Government—I believe that the amendments that have been lodged would increase scrutiny and increase pressure on the Government to move environmental policy in the right direction.

The Convener: The question is, that amendment 115 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 115 agreed to.

Amendment 26 moved—[Mark Ruskell].

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

Members: No.

The Convener: There will be a division. [*Interruption*.]

I am sorry, but I am going to have to run that vote again. It was not quite clear.

I will suspend the meeting for a second.

11:56

Meeting suspended.

11:58

On resuming—

The Convener: There was some confusion about the vote on amendment 26, so I will run it again.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 26 disagreed to.

Section 2—Power to modify or restate EIA legislation and habitats regulations

Amendment 5 not moved.

Amendment 116 moved—[Alasdair Allan].

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

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 116 agreed to.

Amendment 6 not moved.

Amendment 196 moved—[Beatrice Wishart].

12:00

The Convener: The question is, that amendment 196 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

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

As convener, I will use my casting vote for the amendment.

Amendment 196 agreed to.

Amendment 197 not moved.

Amendment 117 moved—[Alasdair Allan].

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

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 117 agreed to.

Amendment 7 not moved.

The Convener: I remind members that, if amendment 57 in the name of Emma Harper, which has already been debated with amendment 115, is agreed to, I cannot call amendment 8, due to pre-emption.

Amendment 57 moved—[Emma Harper].

The Convener: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Grant, Rhoda (Highlands and Islands) (Lab)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 7, Against 1, Abstentions 1.

Amendment 57 agreed to.

Amendment 1 moved—[Mark Ruskell].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

Abstentions

Grant, Rhoda (Highlands and Islands) (Lab)

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

As convener, I will use my casting vote for the amendment.

Amendment 1 agreed to.

After section 2

Amendment 58 moved—[Ariane Burgess].

The Convener: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 58 disagreed to.

Amendment 59 not moved.

Section 3—Purposes for modification or restatement of EIA legislation and habitats regulations

Amendment 118 not moved.

Amendment 198 moved—[Tim Eagle].

The Convener: The question is, that amendment 198 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 198 disagreed to.

The Convener: I remind members that, if amendment 119, in the name of Rhoda Grant, which has already been debated with amendment 115, is agreed to, I cannot call amendment 120, due to pre-emption.

Amendment 119 not moved.

Amendment 120 moved—[Alasdair Allan].

The Convener: The question is, that amendment 120 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 120 agreed to.

Amendments 9 and 199 not moved.

The Convener: I remind members that, if amendment 10, in the name of Sarah Boyack, which has already been debated with amendment 115, is agreed to, I cannot call amendment 121, due to pre-emption.

Amendment 10 not moved.

Amendment 121 moved—[Alasdair Allan].

The Convener: The question is, that amendment 121 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 6, Against 2, Abstentions 1.

Amendment 121 agreed to.

Amendment 313 moved—[Tim Eagle].

The Convener: The question is, that amendment 313 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

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

As the outcome of the division is a tie, as convener I will use my casting vote for the amendment.

Amendment 313 agreed to.

Amendment 2 moved—[Mark Ruskell].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 2 agreed to.

Section 4—Interpretation of Part

Amendments 60 and 200 not moved.

Amendment 3 moved—[Mark Ruskell].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harper, Emma (South Scotland) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 3 agreed to.

The Convener: I suspend the meeting for a couple of minutes.

12:10

Meeting suspended.

12:14

On resuming—

The Convener: Welcome back. As convener, I have decided to bring a halt to the proceedings. The next part of the bill that we will consider is a stand-alone part on national parks. I do not want to curtail any debate that might take place, so I will close the meeting now and we will resume our stage 2 consideration next week.

Meeting closed at 12:14.

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