



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Rural Affairs and Islands Committee

Wednesday 3 December 2025

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 3 December 2025

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RURAL AFFAIRS AND ISLANDS COMMITTEE

34th 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:

Sarah Boyack (Lothian) (Lab)
Ashley Cooke (Scottish Government)
Jim Fairlie (Minister for Agriculture and Connectivity)
Mairi Gougeon (Cabinet Secretary for Rural Affairs, Land Reform and Islands)
James Hamilton (Scottish Government)
Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
Gillian Martin (Cabinet Secretary for Climate Action and Energy)
Tracy McCollin (Scottish Government)
Edward Mountain (Highlands and Islands) (Con)
Mark Ruskell (Mid Scotland and Fife) (Green) (Committee Substitute)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 3 December 2025

[The Convener opened the meeting at 08:36]

Subordinate Legislation

Good Food Nation (Specified Functions and Descriptions) (Scottish Ministers) Regulations 2025 [Draft]

The Convener (Finlay Carson): Good morning, and welcome to the 34th 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. We have received apologies from Ariane Burgess, and we welcome to the meeting Mark Ruskell, who is attending as her substitute.

Agenda item 1 is consideration of subordinate legislation. I welcome to the meeting Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands, and the following Scottish Government officials: Ashley Cook, deputy director for food and drink; Tracy McCollin, head of the good food nation team; Lisa Nowak, policy officer, good food nation team; and James Hamilton, lawyer.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): Thank you, convener. I am delighted to be here to introduce this Scottish statutory instrument on specified functions. A key piece of the good food nation puzzle, it identifies when regard must be had to the national good food nation plan. It is a new and innovative approach that is designed to target the need to have regard to the national plan, where that is most relevant.

The overall concept is quite straightforward: Scottish ministers must have regard to the national plan when carrying out specified functions or a function that falls within a specified description. The detail is very technical, but I should say that this is the result of extensive collaboration with other policy areas right across the Scottish Government to work through the complexities of the legislative duties.

Our aim is to ensure that the legislative duty is effective and focused. This innovative approach avoids the imposition of a blanket legislative duty,

which would create unnecessary bureaucracy and have no meaningful impact. The SSI's content is intended to provide a focus for better, more joined-up policy making in relation to food. We are going to assess, monitor and, no doubt, adjust the policy areas in the SSI to ensure that the national plan is making the greatest possible impact.

The SSI sets out where Scottish ministers have the power to carry out a function in relation to food. That power takes two forms. First, there is schedule 1, which sets out specific legislative provisions that contain functions of Scottish ministers in relation to food. Secondly, in order to catch non-statutory functions, schedule 2 sets out the specified descriptions. With such an approach, we are signalling when regard must be had to the national good food nation plan and providing a targeted and focused approach to the development of food policy.

Because this is a new approach, this draft SSI is very different from the consultation draft, which I know the committee had some questions about. The changes, ultimately, are reflective of our evolving understanding of how specified functions and descriptions can be set out to ensure that they relate to the legislative powers and functions of Scottish ministers in relation to food. We have analysed and considered every suggestion that we received during the consultation for input into the SSI, but, in the approach that we have taken, policy areas that are mentioned in the national good food nation plan are reflected, where possible, in the instrument.

You might have noticed what appear to be gaps in some instances. They have arisen because other legislation already provides what is, in essence, a specified function outside the instrument. In other cases, it is because a general duty to have regard to a broad policy area already exists, so it was felt unnecessary to duplicate that in the SSI. I should say that identifying the correct level of specificity has involved a careful balancing act.

The SSI has also been developed in close collaboration with policy officials across the Scottish Government and with input from ministerial colleagues to ensure not only that there is awareness of the have-regard duty from the get-go but that we have the required buy-in for effective cross-Government working.

The functions and descriptions that are currently captured under the SSI cover a broad range of issues that are relevant to food policy. That provides a good starting point, which can and will be built upon as we go forward.

I am happy to take questions.

The Convener: Thank you, cabinet secretary.

This has been a long process. The good food nation has been talked about for more than a decade. This committee did a huge amount of work right at the beginning of the parliamentary session, but, sadly, we were unable to properly scrutinise the plan, given the lack of time.

In their responses to our call for views, stakeholders, including the Scottish Food Commission, have been highly critical of the SSI. There has been lots of concern around governance and accountability. Indeed, the Scottish Food Commission suggested that the SSI has

“conflated the desire for specificity with that of being narrow.”

There is, therefore, some confusion about how we have arrived where we are. Will you explain what your approach has been and, given that some functions or descriptions—for example, crofting—appear in one schedule but not in the other, is there a risk that, by including some functions but not others, there may be omissions in practice?

Mairi Gurgeon: There is quite a lot to pick up on in that question. I will work through it as best I can.

I absolutely appreciate your points about the amount of work that has gone into the good food nation plan, as well as the legislation, which started at the beginning of this session, with the Good Food Nation (Scotland) Act 2022 following soon after. I appreciate that the committee took evidence in relation to the publication of the draft good food nation plan, but I assure you that I and officials have appeared in front of two other committees of the Scottish Parliament. It was welcome to see other areas having that interest in the good food nation work and to go through that scrutiny process in detail. I will, of course, keep the committee updated when we publish the final version of the plan, based on the recommendations that came out of that scrutiny, including from other committees.

I reiterate that the specified functions and descriptions can appear quite technical or difficult to understand, but what we are doing involves a quite exciting and innovative approach. There are have-regard duties in other pieces of legislation; this is about putting the have-regard duty into practice to make sure that we have joined-up policy working across the piece and across Government and that the good food nation plan and its outcomes are being considered in the development of policies.

The functions and descriptions have been set out between the two schedules. Schedule 1 covers the specified functions—that is, where there is a specific legislative power or regulation-making duty, in the exercise of which ministers

would be expected to have regard to the good food nation plan. However, there are of course a number of non-statutory areas in which we would want to consider the good food nation plan, and those are covered by the descriptions.

As I set out in my opening remarks, we have tried to be comprehensive. That has involved extensive working across Government. We have listened to what came through the consultation and have had engagement with stakeholders. However, it was important to get a balance. If a duty is too broad, the concern is that it will become more of a tick-box exercise, rather than addressing and considering the issue in a meaningful way. That is why we have taken the approach that I have outlined.

However, I emphasise again that this is the starting point, not the finishing point. If, as the work develops, it emerges that areas have been missed, we will look to add those to further legislation, through another SSI.

The Convener: You say that you tried to be comprehensive. However, one damning feature of the SSI is the policy note, which runs to just one and a half pages. I have seen SSIs that were considerably less impactful on food production but had more explanation about how the Government had arrived at its policies. Why does so little information surround this SSI, given how broad it is? One and a half pages is probably the smallest policy note that we have had in any of the legislation that the committee has considered over the past four years.

08:45

Mairi Gurgeon: The schedules set out quite clearly the functions and descriptions that we intend to be considered. I have also written to the committee to address some of the committee's questions and provide some more information, and I hope that that letter answered some of those questions.

Emma Harper (South Scotland) (SNP): I want to build on what you said in your opening statement about how comprehensive the list of what needs to be contained is. The letter that you wrote to the committee says that some functions are included, but not others. It says:

“In relation to agriculture and planning, for example, the Scottish Government said that these are covered by a specified function on the National Planning Framework”.

I understand that some of the other legislation that you have mentioned will also cover some of the items. It is good that we are working across portfolios.

Last night, I hosted an event for the 10-year anniversary of Food Standards Scotland, and

loads of different stakeholders were in the room. Dennis Overton from the Scottish Food Commission was there, as well as others from the Food Foundation. The event was very wide ranging.

Taking agricultural planning as an example, is it sufficient to have regard to the good food nation plan only when producing another high-level plan, as opposed to when exercising other functions that have practical effect, such as issuing guidance, setting eligibility criteria and so on?

Mairi Gougeon: It might look as though that is a glaring omission in the SSI, but, as I tried to outline in my opening comments, what can appear to be omissions in some areas are covered in other pieces of legislation. If we take agriculture as an example, specific reference to the good food nation plan was made as an amendment to the Good Food Nation (Scotland) Act 2002 in relation to the rural support plan. It does not necessarily make sense to duplicate references that exist elsewhere, and because that duty already exists in the 2002 act, it is not replicated in the SSI. The good food nation plan and its outcomes will still have to be considered.

You have outlined a few other areas that I hope are addressed in the tables and other information that were provided to the committee. They could look like omissions but the specific duties are covered elsewhere. The specified descriptions can cover a broad range of areas, including the development of policy and legislation. I think that we have captured the majority of areas that are specifically referenced in the good food nation plan, and some of the omissions are covered elsewhere.

Emma Harper: The population health framework is also mentioned in the good food nation plan as being part of our ability to address our food system, for example, and to support improved population health. I am just looking at the good food nation plan language within the population health framework.

Mairi Gougeon: Yes, you are absolutely right. That important points about the population food framework and the work that is being done in that regard were raised when I was giving evidence to the Health, Social Care and Sport Committee. The good food nation team and teams in health policy have been working closely together to ensure that there is cross-portfolio working in those areas.

The Convener: The instrument appears not to cover issues such as food insecurity and diet-related illness, which, according to the evidence that we took four years ago, are central to the idea of a good food nation. Why have they been excluded?

Mairi Gougeon: They have not been excluded, as you can see through the list of specified functions and the tables that I provided to the committee. The specified functions relate to the exercise of very specific powers, but the descriptions capture some of the broad areas that impact on food policy.

The Convener: On the agricultural side, again, several respondents, including the Food Coalition and NFU Scotland, highlighted that agriculture is not referred to as a policy area under specific descriptions. Why would it be excluded?

Mairi Gougeon: Again, that is because there is already reference to the good food nation plan and how we give consideration to that in the Agriculture and Rural Communities (Scotland) Act 2024. It is just that the reference has not been duplicated.

The Convener: The rural support plan does not cover everything. It does not cover a lot of the things that you would expect the good food nation plan to cover. Does that not create a gap?

Mairi Gougeon: I do not believe so. First, that will be the key strategic document. Given section 2 of the 2024 act, what the rural support plan has to give consideration to and set out is, I believe, quite comprehensive. It is also important that, in its development, that key strategic document is judged and assessed against, and has regard to, the good food nation plan and the outcomes. That means that it is built into the development of the areas that the rural support plan has to cover.

An important point is that if, in our development of policy in those areas, it is apparent that there is a gap, we will look to pick that up through our monitoring. It is in nobody's interest for there to be any key missing areas in the legislation, so the monitoring and how we assess impact will be important.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): In responding to the committee on this issue, as you have just mentioned, you highlighted areas that are not specified in the SSI because they are already specified elsewhere—in other legislation. How do you ensure clarity, given that things are specified in different pieces of legislation?

Mairi Gougeon: As I have talked about, the monitoring and how we look at that will be critical to ensuring that the have-regard duty has effect in the way that is intended. I will hand over to officials, who will be able to say a bit more about that. Through the development of the SSI and the plan, there has been key working across Government to build relationships with different policy teams. That is how the schedules of functions and descriptions have been collated, which I think has already developed that wider understanding.

I do not know whether Tracy McCollin wants to say a bit more about the monitoring work—which will, I hope, provide more reassurance on that front.

Tracy McCollin (Scottish Government): The work to develop the SSI has already started that process. There has been a lot of cross-policy and cross-portfolio working, so there is really good awareness of the way in which the national good food nation plan will take legal effect through the specified functions and descriptions.

As we have been having those conversations with colleagues, we have also been testing how best to monitor, because we do not want an additional bureaucratic burden but, rather, something that is effective and takes account of the fact that policies can take time to develop. Through having check-in points with the good food nation team at the beginning of policy work on anything that is related to food; offering help through the team by putting policy colleagues in touch with other areas that might be relevant to the development of the new policy or legislation, guidance or whatever it is that they are working on; and, at the end of the process, recording how regard has been had and which specified functions and descriptions have been used, we will be able to understand which are being used on a regular basis, which may not have been used, whether there are gaps and whether our policy colleagues are highlighting something that should be added.

Throughout that process, the good food nation team will act as a central point, so that people always know whom to get in touch with, and we can put them in touch with other policy areas across the Scottish Government.

Alasdair Allan: Given what you have said about the conversations with the sector, what would be the implications for the wider good food agenda if the Parliament were not to approve the instrument?

Mairi Gougeon: If the instrument is not approved by the Parliament, the have-regard duty will not have an effect in those policy areas. I want to make the point that we are trying to develop an innovative approach. I understand that it might not be perfect to start off with, and it might appear that there are gaps as we look to develop the work further. The approach is new, so the monitoring will be important. However, I think that the instrument provides a strong starting point. If gaps emerge, we can always bring forward another instrument to add to those areas, but I believe that we have a strong starting point for the different policy areas across Government that are of relevance to the plan.

I hope that the committee feels in a position to support the instrument today, so that we can look to build on it in the future.

The Convener: On that, although the instrument is subject to the affirmative procedure, thereafter the procedure to be followed would be the negative procedure, so the Parliament's ability to scrutinise any further instrument is somewhat limited.

Have you felt under pressure, given that the act specifies that you need to publish the plan before the end of December? The instrument is part and parcel of that. You said that you have taken time to do this, but given that and given that the feedback on the instrument has been critical, have you considered withdrawing and reviewing it and then bringing back an instrument that a lot of stakeholders would suggest is more fit for purpose?

Mairi Gougeon: I do not think that more time would necessarily have assisted in that. We have also faced criticism in relation to the time taken to develop the plan, but, since the consultation that we undertook on the specified functions last year, our understanding of how it would work in practice has been evolving.

Ultimately, this is about how we put the good food nation plan and its outcomes into practical effect across different policy areas, and it is about how we work within Government to ensure that it has the necessary impact.

When we look through all the comments that have come from different stakeholders, we see that some stakeholders wanted a broader duty to apply. We tried to get the balance right between it not being too broad and becoming a tick-box exercise, and identifying areas that people felt might otherwise be excluded. We have tried to strike the right balance.

As I outlined in my response to Alasdair Allan, the instrument provides a strong starting point for us, because we can only build on it from here.

The Convener: Rhoda Grant, do you have a supplementary question on this matter?

Rhoda Grant (Highlands and Islands) (Lab): No.

The Convener: I call Tim Eagle.

Tim Eagle (Highlands and Islands) (Con): I think that I understand what you are trying to say, cabinet secretary. Even in my short time in Parliament, I have heard various ministers and cabinet secretaries say that an SSI is a strong starting point, but I agree with what the convener just said: the risk is that, once the instrument leaves the committee, it is really difficult for us, in the Parliament, to have a say on where it goes.

Quite a broad range of stakeholders have raised concerns about this. Although I accept that you are right about having a starting point, how can those stakeholders be made to feel comfortable? How can I be reassured that their views will be taken into account as soon as possible, so that the lists can be amended?

Mairi Gougeon: A number of different things can be done in that regard. First, we will be open to any further suggestions for additions that people feel might be required in the future. Given that this is a novel approach, we need to embed it and see how it is working. The good food nation team will undertake monitoring, and the mechanisms that are established for that will be important.

There will be review points for the 2022 act, when issues can be picked up through evidence taking or scrutiny of the plan, or through committee recommendations. If any suggestions emerge from the committee, stakeholders or the Scottish Food Commission at any point, we will be open to considering them.

In our engagement, a good piece of work has been done explaining to stakeholders a bit more about how we work in Government and how the specified functions and the have-regard duty are intended to work in practice.

We are open to that consideration and scrutiny in the future, and to any recommendations that might be made.

As I say, we have covered the most critical areas in the good food nation plan as it stands, and we have captured the critical functions as well as the wider description. I am more than happy to keep the committee engaged on how the monitoring is progressing in addition to at the specific review points that are set out in the legislation.

Tim Eagle: It is up to the convener, but I would be happy to hear more as this progresses, given the concerns.

Just out of interest, do you have any meetings arranged with stakeholders to discuss how they feel there should be change moving forward?

09:00

Mairi Gougeon: There is already that engagement—

Tim Eagle: You are already having that dialogue.

Mairi Gougeon: There is engagement between the good food nation team and our wider stakeholders. That has been taking place throughout the development of the SSI—

Tim Eagle: But that is aside from the fact that we have concerns in the committee.

Mairi Gougeon: I absolutely appreciate that. Those discussions have been held with my team, and I do not know whether any of them would like to add anything. I think that that has been covered.

Tim Eagle: Your response to the committee's letter states that there is a plan to introduce a reporting mechanism for the have-regard duty and that that will be done by the good food nation team. How will that team oversee the duty? Will decision-making processes around the duty be publicly communicated to ensure transparency?

Mairi Gougeon: I will hand over to Tracy McCollin, who can give a bit more information about how that will work in practice and some of the plans that are being developed.

Tracy McCollin: I said earlier that the good food nation team will act as a central point, and this is still under discussion with our policy colleagues. As I said, we do not want to put extra bureaucracy in the SSI, but there will likely be some form of tracker that will enable us to keep a record of which specified functions are being used and how they had regard during the development of the policy. Because it is a new approach, we are not entirely sure how that information will be provided and how it can be recorded, so we are keeping an open mind as to how best to do that.

On how that information will become available, at the reporting points and the review and revision, we hope to look at how the specified functions are working in practice. Again, I am not sure how that will be put into the two-year reports that are required by the 2022 act, but we are discussing with colleagues the best way to do that, partly because policy development will vary across different policy areas. In some, it will take a short time; in some, it will take a long time; and in others it will change depending on what happens during the development of the policy.

It will be quite a task to track everything, and we want to be able to do that efficiently so that, when we come to our two-year reports and the review and revision of the national good food nation plan, we have the information to hand to inform decisions and changes that might be needed in the most effective way possible.

Tim Eagle: Have you had ideas about that during the build-up to the good food nation plan and all the work that has gone on for years? The term "have regard" is pretty common nowadays, is it not? Are there other methods that are used in other laws that you can use in this one?

Mairi Gougeon: No, because it is the first time that this approach has been taken. You are right that a have-regard duty is not new to legislation. I

appreciate that we have discussed that when I have been at the committee to discuss other legislation, but the way in which this approach will operate is new, and that is why it is different.

I completely understand that the committee and wider stakeholders will have an interest in how it will operate in practice, but that is where I think what Tracy McCollin has outlined and how we report on this will be important. We want to be transparent about it.

Evelyn Tweed (Stirling) (SNP): Good morning, and thank you for your answers so far. Can you set out for us the role of the Scottish Food Commission in monitoring the duty to have regard to the good food nation plan?

Mairi Gougeon: Yes. The Scottish Food Commission has a specific role, which is set out in the legislation but it has no specific role in relation to the have-regard duty. As I outlined earlier, if the commission wants to do any work on that or if it has any suggestions about areas that we should consider in the future, we would be open to any of those recommendations, but its specific duties and functions do not relate specifically to that area.

Evelyn Tweed: Do you see there being an on-going dialogue about what its role might be?

Mairi Gougeon: I expect us to have a close working relationship with the Scottish Food Commission, because, given its role in scrutinising the plan, it makes absolute sense for us to have that. The commission is independent and can look at its own work, but I expect to have close engagement and discussion.

Ashley Cooke wants to come in at this point.

Ashley Cooke (Scottish Government): I emphasise that I regularly meet with Dennis Overton, who was referred to earlier and is the chair of the Scottish Food Commission.

The legislation sets out where the Food Commission will be issuing public progress reports—if you want to call them that—on the Government's performance on the good food nation and our targets. Although it is for the commission to decide how to conduct that work, I expect that it will look at how interaction between the plan and the specified functions is working and at whether anything needs to change. I imagine that there will be a moment when a conversation will happen, possibly at committee, about the mechanisms for reporting from the commission, and I expect that the Government at the time will want to respond to that and to set out its experience of how the specified functions are working in practice.

Evelyn Tweed: Do you see that as being a positive future relationship? Depending on what

happens and how the legislation is rolled out, will the commission be able to influence its role?

Mairi Gougeon: Yes, absolutely. As Ash Cooke outlined, there will be engagement throughout.

This is not a case of the plan being published and that being it. So much work will continue in the background and so many pieces of work are on-going. We are already looking ahead to future iterations of the plan and to reporting and reviews. The plan is the starting point for a new area, but there will be engagement and we will work closely with the Scottish Food Commission when we get any recommendations from it.

Evelyn Tweed: There is also a question about schedules being kept up to date. Is that something that the commission would have a role in?

Mairi Gougeon: Its duties do not specifically relate to that area, but Tracy McCollin outlined the monitoring work that we will do to ensure that we are capturing some of those duties.

If we look ahead to the next few months and the amount of legislation that Parliament will be dealing with, we can see that there is a risk that we might miss some duties that we might need to bring back or to consider in the future. That is why the specified descriptions are important, because they are broader, all-encompassing areas, which means that any legislation would also be covered by the broad descriptions set out in that list. We will keep a close eye on that to ensure that we capture any new duties or powers.

The Convener: Can you give us an indication of how often the update reports will be published? That is not set out anywhere in the legislation or the guidance notes.

Mairi Gougeon: There are specific review points for the good food nation plan within the legislation, and those could act as points where we could also report on how the powers have been exercised. There is also the engagement work that Tracy McCollin and the good food nation team are taking forward, so it is not necessarily a case of waiting for that specific review point. If it transpired that there was another area where it would be appropriate for us to add to that list, we would bring forward another instrument at that point rather than wait for the review period. I hope that that makes sense.

Rhoda Grant: The Scottish Food Coalition said that, as you mentioned, some bills that are going through Parliament now will not be included in the instrument, which means that it will be out of date almost as soon as we approve it. We will discuss the Natural Environment (Scotland) Bill later this morning. Should we add a provision to that bill so that its functions will have to have regard to the good food nation plan? Should we be updating all

the legislation? How often do you expect to bring forward new SSIs?

Mairi Gougeon: Again, it is not possible for me to set out a timeframe, because it will depend very much on how the situation evolves. As I outlined, we hope that the regulations will future proof things to a certain extent, given that the descriptions cover a broader area that will include the development of future policy. Although the SSI has not yet been approved, there has been on-going engagement and dialogue with the good food nation team and other policy areas across the Government in relation to the development of some key areas, in order to ensure that the plan and its outcomes are given that consideration.

Rhoda Grant: I do not think that we have a stakeholder who is really happy with the approach of the SSI. The disappointment comes from the fact that the Good Food Nation (Scotland) Act 2022 and the plan were supposed to be overarching. We understand that food is of interest to everybody because of health, the economy and so on—it touches so many aspects of life. The SSI seems to narrow the whole process by mentioning some things specifically. It does not provide a full picture, because there are different bits of legislation. Unless someone is totally immersed in legislation, they will pick up on the SSI and miss half of what the good food nation plan is supposed to be doing, and they will see a narrowing of where the plan is relevant. I wonder whether you would have taken a different approach if you had consulted on the draft, because it seems that the SSI pleases nobody and does not meet the aspirations of the bill.

Mairi Gougeon: In some ways, I do not think that the instrument could do that. Some people would be looking to broaden the power. In many ways, it is a very technical instrument. Ultimately, it is about trying to change how we work across the Government. The SSI could appear to be too narrow, but we are looking at a very specific exercise of powers to ensure that it has a meaningful impact. We could broadly reference other pieces of legislation, but the fear would be that that approach to consideration of the good food nation plan would become so broad as to be almost meaningless or a tick-box exercise, which we are really keen to avoid.

In the exercise of specific functions that are relevant to the good food nation plan, we want to show how the outcomes in the plan are being considered and then see a practical effect from that. This is about fundamentally changing how we work across the Government, and it is a new and innovative approach. I disagree that it is too narrow. It is about achieving balance, and I hope that the table that I have set out for the committee explains some of that. There are areas in which

people would like to see a whole piece of legislation covered. We have outlined the reason for the specific powers in each of those areas, but there are other areas that are very broad that do not necessarily relate to food. Procurement is an example. We could take a broad-brush approach, but food procurement is more specific, which is why we have taken the approach that we have.

I think that we have struck the right balance, but the danger is that we end up not making anybody happy. We can only look to monitor the approach and add to it in the future to ensure that we cover all the bases once we have seen how it is working in practice. Ultimately, we are trying to ensure that the good food nation plan has a practical impact. That is what we are trying to implement through the instrument.

Rhoda Grant: Being so narrow might mean that you miss crucial aspects, such as planning. We all know that, if someone lives in a deprived area, the chances are that they will have an expensive corner shop rather than a more affordable supermarket. Planning is crucial to how we implement all of this, and it feels as though an awful lot is missing from the plan. We are not taking the holistic approach that we hoped would come forward from the act and the plan.

Mairi Gougeon: I agree about the impact of planning, but we are trying to ensure that we address some of those issues in the most specific way whereby it will have an impact on what we set out in the good food nation plan. I can only repeat what I said about trying to strike that balance. If, in practice, it turned out that we had missed something in the development of our policy on a specific area, we would bring forward another instrument to try to address that. The monitoring and the work that is taking place across the Government will be really important in picking that up.

Rhoda Grant: Given that that is the case, would it not be better to withdraw the regulations and come back with something more overarching?

Mairi Gougeon: I would not agree with that. The approach that we have taken is not so broad stroke that implementation of the plan would not mean anything and would not work in practice.

This has been a long process—we first consulted on the measures early last year—so I would not want to withdraw the regulations and delay any further. We can only look to improve the process from here. I believe that we have covered all the key bases that are set out in the good food nation plan, and we can only look to add to that in the future. I would be concerned if the regulations were not approved, because I think that we have a strong basis here, and not approving the

regulations would delay the plan being brought into consideration.

09:15

The Convener: Are there any other considerations as to why the regulations need to be approved today? Is it because of the constraints in the act that you need to publish the plan within three months of the consultation?

Mairi Gougeon: I do not believe so. We consulted on the measures a long time ago, and so much work has gone on in both developing the plan and considering the matters that we have been discussing. It is important that we brought forward the draft regulations when we did. I can only repeat what I said about the approach that we have taken and about striking the balance.

The Convener: So, there is no legal rush to pass the SSI now.

Mairi Gougeon: I would have to look for advice on what is set out in the legislation on our bringing the regulations forward.

James Hamilton (Scottish Government): The legislation sets out a timetable for laying of the good food nation plan, which ministers have complied with. It does not set out a specific timetable for laying the regulations. Nothing in the act requires that to happen now, and that is not the reason for the regulations being brought forward now.

The Convener: Thank you.

Emma Roddick (Highlands and Islands) (SNP): I want to ask about future edits of the SSI. What triggers will the Government keep an eye on to decide whether to produce any revisions or additions to the regulations?

Mairi Gougeon: There will be the monitoring work that Tracy McCollin and her team are looking to establish in relation to the reporting mechanisms, first on how the specified functions and descriptions in the regulations are being applied. There will be on-going consideration and discussion between teams to see whether anything could be flagged as an omission. If we discover an omission, we would then make an instrument. As we have already outlined in relation to the review periods that are set out for the good food nation plan and the reporting that we would have to do, it may make sense to consider acting at that point, when more evidence could be available.

Mark Ruskell (Mid Scotland and Fife) (Green): The whole Parliament is currently considering a draft climate change plan. It seems odd that ministers will not have regard to climate change or social security under the SSI that is

before us. I wonder why there are such big omissions at this point. If the whole point is to have policy coherence and draw all the important threads together, now is surely the time, particularly with regard to climate change, when we should be considering what a good food nation is. Ministers should be thinking across portfolios in such areas. I am not sure why there are such big omissions at this point.

Mairi Gougeon: In some areas, such considerations are already picked up in specified functions elsewhere. I outlined that in my letter in response to the committee, specifically on climate change and some areas of social security. We have picked up the areas where there is a direct link to food. We did not want to duplicate what exists elsewhere, but we have picked up on the key areas that are referenced in the plan, and I believe that we have covered them through the descriptions and functions that we have set out.

I am not saying that those areas are not important; they are all completely interlinked, and we reference that in the good food nation plan. There is wider engagement between teams in recognition of the interlinked nature of those various policies.

Mark Ruskell: If the schedules were updated at some point in the future, including under a future Government, would they potentially include climate change and social security, or is it job done for those areas?

Mairi Gougeon: It is not the case that we have drawn a line and that nothing else will be considered in the future. I hope that I have been clear in making that point today. The key consideration would be what specified power needed to be exercised that we could consider adding to the specified functions and descriptions or dealing with in a non-statutory way. We are talking about very broad-brush areas in which not every specific policy is linked directly to food. Again, we would give consideration to all such matters.

I come back to the issue of monitoring. If we felt that there were any specific omissions or any exercises of power that had been missed or that we needed to pick up, we would look to address those.

Mark Ruskell: Were those aspects considered in the development of the draft climate change plan?

Mairi Gougeon: With regard to the overall approach that we have taken, I have highlighted the engagement that has taken place so far and the consultation that we have had in those areas. When it comes to the policies that we have taken forward in the draft climate change plan, I can say in relation to my ministerial portfolio that there are

strong links to all the key policy areas that we have covered in that plan. I want to make sure that the good food nation outcomes are considered in relation to the development of the policies that we have put forward.

There is nothing specific listed here. I appreciate that there might appear to be omissions, but that does not mean that discussions have not taken place on such matters or that they have not been considered.

Mark Ruskell: Okay. Thank you.

Tim Eagle: I might be going back a wee bit here. I do not know about you, cabinet secretary, but my head has been so full of the Land Reform (Scotland) Bill and the Natural Environment (Scotland) Bill that I have found it hard to come back to the subject of the good food nation.

Mr Hamilton spoke about timescales. You laid the draft plan, which we had 60 sitting days to review. You must lay the final plan within three months, but I note that there is no timescale attached to the “have regard to” duty. Is my understanding of that correct? Am I right in thinking that nothing prohibits you from taking the SSI away, holding a bit more discussion with some of the stakeholders who have raised concerns and then relaying the instrument? That would not cause problems for any of the timescales in the 2022 act.

James Hamilton: It would not cause us any legal issues under the act in the sense that there would be a legal duty that we were not complying with, but we would be left in a position where we would have a national good food nation plan that we had no legal obligation to have regard to in the context of specified functions or descriptions of functions. I would not say that that would be without problems, even though it would not involve a breach of a legal duty.

Tim Eagle: That is true, but that is the important point. It is not ideal, but it is possible that that could happen without any parts of the 2022 act being broken. The 2022 act takes quite a novel approach; it is cross-cutting legislation. I sympathise with some of the points that have been made about the practicality of implementing the provisions across loads of Government departments in different ways. That said, however, we must take into account the concerns that have been raised by stakeholders.

Would it not be sensible, therefore, to get round the table with stakeholders and thrash this out? You could tell them all the stuff that you have told us this morning to get them on board and make sure that we are all heading in the same direction, rather than pulling in two directions.

Mairi Gougeon: I appreciate the concern that has been raised, but if the regulations were withdrawn and we went back and had those conversations, I do not think that I would be able to say categorically that 100 per cent of people were 100 per cent happy with everything that we had set out in the SSI. We have tried to strike a balance.

The instrument is about the technical aspects of how we put the plan into effect in working across Government. That is why it has been designed in such a way that it relates to the exercise of very specific powers. It represents a strong starting point.

I am concerned about the gap that would exist if the instrument was withdrawn. As has been outlined, we would have a plan, but no regard would need to be had to it when it came to practical implementation. All that we can look to do is to ensure that we monitor the situation and that we can build on the instrument in future if we feel that any key areas are missing in the exercise of the powers in question.

We consulted a couple of years ago, and we have on-going dialogue with stakeholders. We have tried to strike a balance in what we have brought forward.

Tim Eagle: I accept that, but the duty to have regard to the good food nation plan would not apply only for as long as it took you to relay the SSI. There might be a short period of time in which the final plan was in place but the duty to have regard to it did not apply, but as soon as you brought the SSI back, we approved it and it went through Parliament, that duty would kick in, would it not?

Mairi Gougeon: That presumes that we could take it away and do that work before the end of the parliamentary session. I do not think that that is a given, due to the amount of legislation that we have to deal with.

I stress once more that there has been a lot of on-going dialogue. I acknowledge the concerns that stakeholders expressed during the consultation and engagement, but we would not be able to satisfy some of those concerns, because doing so in some areas would require there to be a far broader duty, which could mean that the implementation of the have-regard duty would have less effect.

I believe that we have struck the right balance, and I hope that the committee feels that it is able to support the regulations today. Of course, we welcome any scrutiny and any recommendations on how we can build on the instrument, but I am concerned about the gap that could exist. I think that we have a strong foundation to build on, and we can only look to improve it.

Emma Harper: The Health, Social Care and Sport Committee, of which I am a member, has discussed non-communicable diseases. Some 32 per cent of people in Scotland are obese, we have challenges with type 2 diabetes and we have kids who are not as tall as kids in other European countries because of malnourishment. If we approve the regulations today, that will allow the necessary cross-Government portfolio working to take place, given that the issues around addressing the food system and supporting a healthier nation are complex. Is it the case that the purpose of the regulations is to enable the cross-portfolio work in Government that is required to tackle the issues that I have listed?

Mairi Gougeon: Yes. There are some broader areas that you could say are not covered, but if you look at the specified descriptions, you will see that the regulations pick up some of the key areas, such as how policies, strategies or any legislation that is developed will have to consider the good food nation plan. Issues such as nutritional recommendations, information requirements and diet-related health conditions will be picked up as part of the specified descriptions. The regulations will ensure that we give the plan due consideration.

I can only reiterate what I said about the strong relationships that exist between health and food policy and the amount of work that has been going on between policy teams to make sure that there is collaboration across the piece and that the plan is given due consideration in those policy areas.

The Convener: I am a bit confused by Emma Harper's question. I can understand why she has taken that line, but the Scottish Food Commission expressed concern that the plan is weak with regard to the integration of environmental and health aspects. It suggested that the Government cannot deliver the good food nation policy while, in effect, ignoring climate obligations and public health outcomes, and that there are failings or shortcomings in how the public health outcomes and climate issues in the schedules tie into the have-regard duty. That is almost contrary to what we have just heard from the cabinet secretary.

Mairi Gougeon: I would not necessarily agree with that, because, if you look at some of the areas that are captured by the specified descriptions, you will see that they include areas that have a direct link to those issues in relation to which there will be the greatest effect. I outlined some of that in response to Emma Harper's question. In relation to some of the other areas, we are simply not duplicating functions or descriptions that exist elsewhere in legislation.

Beatrice Wishart (Shetland Islands) (LD): You said that there are still on-going discussions with

stakeholders. What engagement have you had with the seafood industry?

Mairi Gougeon: I had engagement with the seafood industry fairly recently in relation to an issue that was raised by an MSP, but that was about a more specific matter. Officials in the good food nation team and across other policy areas regularly engage with our seafood stakeholders. Those meetings cover a wide variety of matters, as well as the issues that we are discussing today.

Beatrice Wishart: In response to our call for views, the Shetland Fishermen's Association said:

"the Good Food Nation framework is only meaningful if it recognises seafood as a pillar of Scotland's food production".

Is seafood recognised as a pillar of Scottish food production?

Mairi Gougeon: Absolutely. The good food nation plan recognises the importance of our marine environment and our marine industries. Of course, seafood is a low-carbon source of protein. The role that our fishermen play in seafood production is critical, and that is recognised in the good food nation plan.

Beatrice Wishart: The seafood sector also includes the aquaculture industry, but it feels like aquaculture has been left off the list.

Mairi Gougeon: If you are talking specifically about the list of specified functions in schedule 1, we have tried to capture the issue at a strategic level through the national marine plan. The issue is referenced in the specified functions and descriptions, and there is a wider recognition of the issue in the plan itself.

The Convener: As there are no further questions, we move to agenda item 2, which is formal consideration of the motion to approve the instrument. I invite the cabinet secretary to speak to and move motion S6M-19472.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Good Food Nation (Specified Functions and Descriptions) (Scottish Ministers) Regulations 2025 [draft] be approved.—[*Mairi Gougeon*]

The Convener: As members do not wish to debate the motion, is the committee content to recommend approval of the instrument?

Members: No.

The Convener: There will be a division.

For

Alasdair Allan (Na h-Eileanan an Iar) (SNP)
Emma Harper (South Scotland) (SNP)
Emma Roddick (Highlands and Islands) (SNP)
Evelyn Tweed (Stirling) (SNP)

Against

Finlay Carson (Galloway and West Dumfries) (Con)
 Tim Eagle (Highlands and Islands) (Con)
 Rhoda Grant (Highlands and Islands) (Lab)
 Mark Ruskell (Mid Scotland and Fife) (Green)
 Beatrice Wishart (Shetland Islands) (LD)

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

Motion disagreed to.

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

Members indicated agreement.

The Convener: That completes our consideration of the instrument. I thank the cabinet secretary for attending. I will suspend the meeting for 10 minutes to allow a changeover of witnesses.

09:32

Meeting suspended.

09:42

On resuming—

Natural Environment (Scotland) Bill: Stage 2

The Convener: Our remaining agenda item is consideration of the Natural Environment (Scotland) Bill at stage 2. As we have quite a few groups to get through, I ask everyone to be as succinct as possible when speaking to their amendments. I welcome back Mairi Gougeon, Cabinet Secretary for Rural Affairs, Land Reform and Islands, who is supported by Scottish Government officials, and I welcome other members who are participating in stage 2. Officials seated at the table are here to support the cabinet secretary but are not permitted to speak in the debates on amendments.

As we have a member participating remotely, I will briefly explain the procedure for hybrid stage 2 proceedings. If at any stage we lose connection, we will suspend proceedings. Emma Roddick's camera will be kept on at all times, and she should raise her hand at the appropriate point for each vote.

Section 5—Aims of National Parks

The Convener: Amendment 201, in the name of Ross Greer, is grouped with amendments 122, 314, 61, 123, 202 to 204, 62, 124, 206, 63, 315, 64, 65, 207, 208, 316, 126, 127, 317, 128, 129, 209, 125, 211, 130, 318, 319, 66, 212, 213, 320, 27 and 214. I draw members' attention to the procedural information on the group as shown in the groupings. I invite Mark Ruskell to speak to amendment 201 and all other amendments in the group.

Mark Ruskell: As members know, I am standing in for Ariane Burgess, so I will speak to her amendments, Ross Greer's amendments—because he is at the Education, Children and Young People Committee—and my amendments. I will try to get through them succinctly.

Amendment 201, in the name of Ross Greer, would specify

“protecting and enhancing the special quality of the area's landscapes”

as one of the national park sub-aims. The bill will remove the term “special qualities” from the third aim in the National Parks (Scotland) Act 2000. Amendment 201 is intended to add balance back into the aims, recognising the importance of landscape and visual impacts. The amendment is backed by Action to Protect Rural Scotland and the Scottish Campaign for National Parks. It builds on the Scottish Government's work to recognise and promote special landscapes.

Amendment 206 would extend the Sandford principle beyond national park authorities and apply it to other public bodies. Currently, under the Sandford principle, a national park authority must prioritise nature conservation when it comes into conflict with other subordinate national park aims. That is an important principle that delivers conservation.

The bill as introduced imposes a duty on ministers, councils and other public bodies to

“have regard to the National Park aims”,

so it is a logical extension that, when we impose that duty, we also extend the prioritisation of the aims within the Sandford principle. For example, it would make no sense if a planning decision was considered by a park authority and refused on the basis of the Sandford principle—if, in other words, priority was given to conservation above other interests—but that ministers, when considering a planning appeal, did not also have to have regard to nature as the top priority.

09:45

Amendment 207 would require a public hearing when a planning application in a national park is appealed. That reflects the special nature of planning decisions in national parks, with hearings acting as an opportunity for ministers and reporters to hear directly from experts. They could be local residents who are experts in the national park, as well as subject-specific experts who can advise on the potential impact of development proposals.

Amendment 208 would require national park board members to have “public-facing contact information”. That is a small step, but it would improve transparency and trust in national parks. It is odd that Loch Lomond and the Trossachs National Park Authority is the only planning authority anywhere in the UK where members, including those who have been directly elected, are not directly contactable by those they represent.

As a matter of good governance, it should be possible for people to be able to contact board members directly without authority staff acting as a filter. There might be issues that are directly related to the staff, about which residents would need to get in touch directly with board members to raise a concern. I live in Loch Lomond and the Trossachs national park. It seems odd that, a couple of years ago, I was asked to vote to elect my directly elected board member for the local area but their contact details are not available if I want to make a representation to them.

Amendments 212 and 213 seek to impose a multiplier regime for fixed-penalty notices that are

issued for byelaw violations in national parks, reflecting that repeated offences ought to carry increased penalties. That is in line with other multiplier fining regimes that we have in low-emission zones, for example.

I will move on to my amendments in the group. The introduction of the proposed new duty in section 5 relating to national park aims is welcome. However, the form of words that is proposed is “have regard to”. Amendment 62 would strengthen the duty on ministers, park authorities and public bodies so that they would have to “actively further” national park aims, which is a more action-focused form of words. There would be an active duty on public bodies to take all reasonable steps to further national park aims. That underlines the importance of avoiding harm, which is a statutory aim of the national parks, and of seeking to further conservation and enhancement of the natural and cultural heritage of an area. A stronger duty could help to improve progress in delivering the aims and help to deliver new statutory biodiversity targets.

National parks have a major role to play in addressing the climate and nature crises. It has been suggested by stakeholders that any area that is proposed as a new national park should demonstrate how the designation would contribute to meeting nature recovery or climate targets. Amendment 64 proposes to do that by adding a new fourth condition for designating a national park area.

Amendment 65 would specify the nature and role of the reporter for a new national park proposal. The National Parks (Scotland) Act 2000 sets out that the reporter is a role for NatureScot, but ministers should have the flexibility to appoint whichever person or body they believe to be the most appropriate. It might be appropriate to choose a reporter who is skilled in conducting inquiries and public processes, with NatureScot taking a slightly different role. For example, it could feed in its expertise on the natural environment at an earlier stage when the proposals are being drawn up, rather than being the reporter, which would allow NatureScot to promote its expert view on nature conservation, access and landscape and, if appropriate, to support the benefits of a national park in a specific area during the debate with local communities. NatureScot could become a statutory consultee should ministers see fit.

Whichever body or individual takes on the reporting role, the 2000 act currently sets out procedures but very few exceptions as to how a reporter should conduct its work. Reporters should be required to produce recommendations independently, and those recommendations should be evidence based and developed for the

benefits of the people of Scotland, both current and future generations.

Amendment 27 would require ministers to review the potential of expanding the boundaries of the two existing national parks. The current boundaries of Loch Lomond and the Trossachs national park arguably do not follow the natural geography of the surrounding areas and landscapes. Loch Tay and Loch Earn are bisected by park boundaries that follow old council lines. National scenic area landscape protections around Strathearn sit outside the park, and the park board has no responsibility for planning decisions. It seems odd that towns such as Comrie and Kenmore are not gateways to the Loch Lomond and the Trossachs park from the east. A boundary review would provide an opportunity to build on the success of our two existing national parks and to see whether there are opportunities to expand them.

I move amendment 201.

Sarah Boyack (Lothian) (Lab): Part 3 of the bill provides a welcome opportunity for us to update Scotland's national parks so that they can better respond to our nature and climate crises. The timing is really good. The National Parks (Scotland) Act 2000 was one of the first pieces of legislation that our Parliament supported in 2000. I am personally engaged in making sure that we learn lessons from the 25 years since that legislation was introduced and our parks were subsequently created.

I have nine amendments in the group. I thank Scottish Environment LINK, Scottish Land & Estates and the Scottish Rewilding Alliance for helping me to craft my amendments. We need clearer criteria and greater transparency to ensure that national parks can deliver on their purpose. We also need clearer, more accountable processes for creating new parks, supported by defined criteria, an improved national policy framework and independent expert reporting.

My amendments aim to expand the statutory aims to include the promotion of sustainable development, affordable housing and employment and to ensure that national parks contribute to community prosperity. My amendments also tighten the obligations on public authorities by replacing weaker duties that use wording such as “have regard to” and “facilitate implementation” with stronger requirements that seek to further and actively implement national park objectives. I note that, in his opening remarks, Mark Ruskell has suggested that we should act to “actively further” the national park aims.

The Convener: We will support Sarah Boyack's amendments. Does she agree that, had those aims been in the original act, the issues and

concerns—about housing, employment and whatever—that were highlighted in relation to the potential designation of a new national park in Galloway might have been addressed?

Sarah Boyack: That is the point that I was making in relation to lessons to be learned. When we established the first national parks, making sure that people could afford to live in those areas was critical. As a former planner in the central region, I knew that the cost of housing was an issue for people. It is important that we have a joined-up approach. The issues about the phrases “have regard to” and “facilitate implementation” come up regularly when legislation is being discussed, so it is important to find a better, stronger way to frame them, and I am glad that the committee has options in front of it to look at.

To pick up on the convener's point, my amendment 122 would broaden national park authorities' responsibilities to include sustainable development—that means having joined-up thinking so that we are not just doing one thing without thinking about the wider issues—affordable housing, employment and ensuring that local communities benefit alongside visitors.

National parks are wonderful places for people to visit, but we also have to think about the communities that live within them and make sure that their lives are successful. Therefore, amendment 123 would shift the focus from individual prosperity to community prosperity, aligning park aims with collective social and environmental goals.

Amendment 124 would strengthen the duty on public bodies by requiring them to “seek to further” national park aims, rather than simply “have regard to” them, as I mentioned earlier. I note that the cabinet secretary has an alternative amendment, amendment 61—it is good that we are broadly in the same place, so I will listen to what she has to say.

It is vital that the community prosperity issue is formally included in the legislation, because communities need to be listened to and respected, and that must be acted on. Accountability is crucial in that respect. My amendment 126 proposes to insert a new subsection to add safeguards and accountability when designating parks. That picks up on the points that the convener made. Lessons need to be learned.

My amendment 127 would include a clear definition of “cultural development” to ensure that arts, heritage, the Gaelic language and creative industries are considered in park planning. That is important, because we think about national parks in terms of nature and beautiful landscapes, but we also need to think about cultural heritage and history, which are important.

Amendment 128 would require ministers to publish a national parks policy statement every 10 years, with consultation and parliamentary approval, to improve transparency and long-term planning. I thank all the organisations that have written in to support the amendment. There is a huge appetite to push our national parks up the agenda, while recognising the work that is being done, and to enable more transparency, long-term planning and support for the work that is carried out. I note that Tim Eagle has a similar amendment, but I prefer mine, because I think that it is stronger. Again, that is for the committee to decide.

Amendment 129 would remove vague wording and require draft designation orders with full documentation, to strengthen clarity and public confidence in new park proposals. There are lessons to be learned on how we build support for our existing and new national parks.

Finally, amendments 125 and 130 would strengthen obligations on public bodies so that they would have to “actively implement” national park plans, rather than just facilitate them. I mentioned the principles behind that.

My amendments in this group would introduce safeguards by inserting new subsections to limit ministerial discretion, and would provide a clear statutory definition of “cultural development” to encompass art, heritage, creativity, the Gaelic language and the creative industries, to give us consistency in policy making.

I argue that, taken together, my amendments would embed sustainability, community benefits, cultural recognition and accountability at the heart of Scotland’s national parks, thereby creating a more robust, transparent and socially grounded framework for their future management and future designations. It is about learning lessons but also about looking to the future to see what we can do in Scotland to take us beyond where we are at the moment.

Tim Eagle: I now have to try to argue that my amendment is stronger—we will see how we get on.

Part 3 of the bill outlines the aims of national parks. My amendments 314 and 202, 203 and 204 seek to add further aims for national parks, focusing on “strengthening the local economy”. For me, the bill’s proposed changes fail to take the opportunity to deal with issues that really affect rural Scotland, such as housing and the local economy. There seems to be a focus on priorities such as tourism and visitor access over issues such as local farming businesses, to the detriment of the rural economy and the natural environment.

Food production and farming are core to Scotland’s rural economy. They are also key

drivers of the local community and landscape management. My amendments 314, 202, 203 and 204 seek to address some of the issues by strengthening the local economy. I would be happy to work with the cabinet secretary prior to stage 3 to get that point across in the amendments.

My amendment 315 works alongside my amendments 317, 318, 319 and 201, which, together, would remove almost all of part 3. Part 3 makes various amendments to the National Parks (Scotland) Act 2000. Stakeholders have said that part 3 of the bill does very little. The proposed new section 1 of the 2000 act introduces some new language that, at best, is clarifying. The so-called reform of the national park aims also makes very limited change.

I have already mentioned key local concerns around housing and the local economy. Importantly, the Government has not taken the opportunity to establish a review of the existing national parks. The parks have been in existence for some time, and it is fair to say that many have raised concerns. A review would allow a full understanding of how the parks have performed, what value they bring to the taxpayer and how we can ensure that they work for the people who live in them and the country. With that in mind, I cannot support making changes to national parks without having that full picture of how they have been working.

10:00

My amendment 316 seeks to add a new section to the bill, after section 5, to require a policy statement on national parks. The amendment would require Scottish ministers to publish and review at least every 10 years a Scottish national parks policy statement to be approved by the Scottish Parliament. The policy statement should set out broad policy direction in relation to national parks, including a vision and the outcomes that are sought. The framework would ensure transparency and require consideration of local support and public engagement.

My amendments 209 and 211 seek to reverse the change that the bill will make to how the national parks and other bodies are to interact with national park plans. Currently, under the National Parks (Scotland) Act 2000, bodies are required to “have regard to” the plans. My amendments seek to maintain proportionality and flexibility in public bodies’ obligations by continuing to require them to “have regard to”, rather than “facilitate”, national park plans.

I seek to ensure that there will be evidence-based policy development through an independent review of existing national parks before any new

designation is made, and that review would be established via my amendment 214. The amendment seeks to add a section to require a review of the effectiveness of the existing national parks to be carried out before any designation is made for the creation of any new national park.

The Convener: I call the cabinet secretary to speak to amendment 61 and other amendments in the group.

Mairi Gurgeon: There are a number of amendments in the group, and I will work through them as best I can.

Although I understand the rationale for Ross Greer's amendment 201, I believe that its aim is already covered by the first aim, which is

"to conserve and enhance the area's natural and cultural heritage".

There is also an issue with the amendment's use of the term "landscapes", because it is a subjective concept that does not have a legal definition in Scotland. If we introduced an undefined term to the national park aims, it could lead to uncertainty for decision makers in the parks. For those reasons, I cannot support amendment 201.

Tim Eagle's amendments 202 to 204 and 314 relate to the promotion of employment, job creation, business development, sustainable development, the availability of affordable housing and the strengthening of the economy in our national parks, and Sarah Boyack's amendment 122 relates to similar areas. Those are really important elements of ensuring that we have thriving communities in our national parks. I think that they are already encapsulated in the fourth aim, which is

"to promote sustainable economic, social and cultural development of the area's communities",

but I understand why Tim Eagle and Sarah Boyack seek to modify proposed new section 1(2) of the 2000 act, which elaborates on the aims. If they are content not to press their amendments today, I will be happy to work with them both ahead of stage 3.

My amendment 61 and Sarah Boyack's amendment 123 are very similar in nature. They relate to the final provision in proposed new section 1(2) of the 2000 act, which elaborates on the aims. I have listened to the views of stakeholders who questioned the way that the provision has been drafted, particularly the reference to the "prosperity of individuals". My amendment 61 clarifies that the policy intention is to promote people's health and wellbeing and community prosperity. Given that the wording in my amendment will ensure that the health and wellbeing of individuals is still included in the aims and that the amendment has been drafted in

keeping with the language that is used throughout the bill, I ask the committee to support my amendment 61 and I ask Sarah Boyack not to move amendment 123.

The purpose of my amendment 63, which is a minor consequential amendment, is to provide consistency between paragraph 3 of schedule 3 of the National Parks (Scotland) Act 2000 and amended section 5(2) of that act. I hope that members will support it.

As Tim Eagle outlined, his amendments 315 and 317 to 320 collectively seek to remove part 3 from the bill, so I ask members not to support those amendments.

I now turn to amendments 62 and 124. Through the new duty in section 5 of the bill, public bodies will be required to "have regard to" the national park aims when exercising functions that affect a national park. However, it is recognised that public bodies will need to balance those aims with their other statutory duties and considerations. We consulted widely on the "have regard to" duty, and respondents to the consultation were supportive of the proposal that we put forward. My concern is that, if amendments 62 and 124 strengthened the duties so that public bodies that operate in national park areas were required to "seek to further" or "actively further" the national park aims, there is a risk that that would affect how public bodies balanced consideration of the national park aims with their other statutory duties and considerations. That could open the bodies up to legal challenge when they are trying to fulfil their statutory responsibilities. For those reasons, I cannot support the amendments, and I also ask members not to support them.

Sarah Boyack: Could you give us an example of the kind of problem that you think might be created? We are looking for joined-up thinking that supports communities, individuals and our fantastic natural environment.

Mairi Gurgeon: I absolutely agree with that. I will have to follow up with a specific example of what that could look like. We have tried to strike the right balance in the wording that we have proposed, which is based on consultation that received a lot of support. We want to ensure that there is no potential for legal risk further down the line.

Mark Ruskell: I am thinking about the primacy of the national park plan. If public bodies are engaging in the national park plan, surely they are actively furthering that plan through operating in that park and supporting its aims. I am trying to imagine a situation in which a public body would be operating in the opposite direction to a national park plan. That would be concerning. It could have regard to the park plan, but there is no

commitment for it to work with the park plan that it would have been part of by putting its views in.

Mairi Gougeon: However, there could be conflict in the future. I agree with what you say about how public bodies interact with the parks and park plans, and there is close engagement as those plans are developed, but it is about striking a balance and minimising any risks that there could be in the future. That is why we have used the wording that we have used.

Ross Greer's amendment 206 would require public bodies to give greater weight to the first national park aim when having regard to the aims and circumstances in which it appears that the aims are in conflict with one another. There is a risk with that amendment that the primary duties and functions of public bodies could be qualified or imbalanced when they are trying to fulfil their own statutory responsibilities. For that reason, I do not support amendment 206, and I ask members not to support it.

Tim Eagle's amendments 209 and 211 would reverse the changes that are proposed in the bill as drafted, while Sarah Boyack's amendments 125 and 130 would change the duty from facilitating the implementation of national park plans to actively implementing the plans. The policy intention behind Sarah Boyack's amendments is perhaps similar to our policy intention in the bill, but the language that is used in the bill provides a balance between the requirement to implement actions that are within the national park plans and other duties and considerations that public bodies might have. Taking all of that into consideration, I ask Tim Eagle not to move amendments 209 and 211 and Sarah Boyack not to move amendments 125 and 130.

On Mark Ruskell's amendment 64, it is important to note that climate change and nature conservation duties already apply to national park authorities. Additionally, one of the existing conditions for designating a new national park is that it would meet the special needs of the area and would be the best means of ensuring that the national park aims are achieved. Through the amendments to the aims in the bill, biodiversity and climate change are two elements that should be considered in achieving the aims. It therefore seems likely that any area that might be considered for future designation would also need to consider nature restoration and climate action. It is not necessary to introduce a separate condition that focuses on an area's potential contribution to nature recovery targets. Therefore, I ask the committee not to support amendment 64.

I have carefully considered amendment 65 and the choice of reporter, particularly in the light of the recent experience in Galloway and Ayrshire,

where NatureScot was appointed to consider and consult on a national park proposal and prepare a report for ministers. I appreciate the concerns that were raised during the consultation and reporting process. It is important that we learn lessons from that experience.

Ministers might wish to have the flexibility to appoint someone other than a public body as a reporter if they consider that to be the most appropriate course of action in certain circumstances. I therefore ask Mark Ruskell not to move amendment 65 today, so that we can have further discussions and work on it ahead of stage 3.

Ross Greer's amendment 207 seeks to make it a statutory requirement to hold a public hearing for any appeal against a planning decision that has been made by a national park authority. That would undermine the established principle of taking a proportionate approach to the appeals process. It is currently for the reporter to determine the most appropriate approach to obtaining the evidence that they need to determine the appeal. Amendment 207 would mean that a hearing would be required for all appeals, even for minor changes of use and smaller-scale proposals that might have limited bearing on the aims of the national park. Ultimately, that would increase the timescale and the costs involved with the planning appeals process for all parties involved. It would also cut across planning appeals regulations that apply across the country. For those reasons, I cannot support the amendment, and I ask the committee not to support it.

Amendment 208 relates to the public accountability of national park authorities and would ensure that each member provides public-facing contact information. I want to assure members that both of our national park authorities take public accountability and transparency extremely seriously. The name, role and register of interests entry for each board member is publicly available on the park authorities' websites, along with a phone number and a central email address for board members. Correspondence received in the central mailboxes is transferred by the authorities' governance teams to the relevant board member. That is not only an efficient way of dealing with correspondence; it is a way to reduce cybersecurity risks. Ross Greer's amendment would suggest the need for the national park authorities to set up and regularly monitor an individual email account for each board member. That would be 17 accounts for Loch Lomond and the Trossachs and 19 accounts for Cairngorms, which I believe would be unwieldy and an inefficient use of public resources. For those reasons, I hope that Mark Ruskell will not move the amendment on Ross Greer's behalf. If it is moved, I ask members not to support it.

Rhoda Grant: I understand the point about security issues, but it seems a bit strange that there is not at least an email address from which board members could pick up their own emails, aside from a standard national park email address.

Mairi Gougeon: Again, all that that would do is add more pressure to the way that the system is handled. Potentially, those addresses would still be centrally monitored, which would mean that, whoever was monitoring them would have to monitor 17 different accounts in Loch Lomond and the Trossachs, for example, and then pass emails on to members, rather than monitoring one account. That would be unwieldy and an inefficient use of resources.

Rhoda Grant: I am not suggesting that it would be an official park email address. It would be an individual email address in the same way as we all have email addresses in the Parliament. It is not for the Parliament to check whether we are reading and responding to our emails; that is down to the individual whose email address it is.

Mairi Gougeon: I have not heard from the boards that they would seek to have that arrangement. I believe that the parks are broadly content with how correspondence is managed at the moment. They might still consider handling those accounts in the same way, which would be unwieldy. I can only reiterate my points on that.

Amendments 126 and 127, in the name of Sarah Boyack, seek to insert a definition of cultural development into the 2000 act. If a definition of cultural development is to be included, it is important that we get the drafting right, to avoid unintended consequences. I would just like a bit more time to consider that; but, to be clear, I agree with what Sarah Boyack is trying to do. I would be happy to work with her on the definition ahead of stage 3, so that it is clear and comprehensive. Therefore, I ask her not to move her amendments today, to allow that conversation to take place.

Amendments 128 and 316 seek a national parks policy statement. Having reflected on the recent process that we have been through to look at the proposal for a new national park, I appreciate that some people said that they would have found it helpful to have a clear understanding of the Scottish Government's vision for national parks and the role that they play. I have concerns about the resource implications of Sarah Boyack's amendment 128 and cannot support it on that basis, but I am happy to support Tim Eagle's amendment 316.

I understand the rationale for amendment 129, in the name of Sarah Boyack. During the recent consultation process on the designation of a new national park, some parties said that they would have liked greater clarity on what national park

designation would mean in practice. A major concern about amendment 129 is that a blueprint for a new national park, including the boundary, functions and governance structure, would have to be presented without the benefit of consultation and co-design with local communities and stakeholders. Many people would be likely to criticise the Scottish Government for imposing what would then be considered to be its view of a national park on their area without proper consultation. If Sarah Boyack is willing not to move her amendment today, I am willing to work with her ahead of stage 3 to discuss a possible alternative, such as a requirement for ministers to seek expert advice on the rationale for designating a national park in an area before a formal proposal is made by ministers. On that basis, I hope that Sarah Boyack is content not to move amendment 129, to allow time for that conversation to take place.

Amendment 66 modifies the fixed penalty notice provisions in the bill to include the ability to confer powers to enter the land for, or in connection with, the issuing of fixed-penalty notices. I ask the committee to support amendment 66.

10:15

Ross Greer's amendments 212 and 213 also seek to modify the fixed-penalty notice provisions. I have sympathy for Ross Greer's rationale for these amendments, but I do not think that the provision that they would make is necessary, because proposed new section 26A of the 2000 act already provides for the amount of the fixed penalty to be discounted or increased by an amount or a percentage in circumstances specified by the regulations. I agree that repeat offenders should be dealt with more severely, but, in some cases, a report to the Crown Office and Procurator Fiscal Service would be the most appropriate next step. It is also worth noting that ministers will be required to consult stakeholders and interested parties before making the regulations that set out the detailed regime. For those reasons, I hope that Mark Ruskell, on behalf of Ross Greer, will not press amendments 212 and 213.

On amendments 27 and 214, from Mark Ruskell and Tim Eagle respectively, I appreciate that some members have called for a review of national parks, following the recent process in Galloway and Ayrshire, and I have therefore given these amendments very careful consideration. Amendment 27, in the name of Mark Ruskell, would place a duty on ministers to prepare a report on the benefits of expanding the existing national parks. Again, that has not been raised with me or put forward for ministers to consider. A report of that kind would require significant time

and resource from the Scottish Government, the two national park authorities and other public bodies and organisations operating in the area. The preparation of a report within 12 months of the bill's achieving royal assent would also be extremely difficult to achieve, given the forthcoming Scottish parliamentary election and the time that would be required to consult local communities and businesses. The requirement for the report to assess the potential impact of expanding the boundaries of the existing parks on meeting the biodiversity targets proposed in the bill does not seem realistic, given that the bill provides a framework for targets and the actual targets are not known at this stage. For those reasons, I cannot support amendment 27.

Mark Ruskell: These are not new issues. The cabinet secretary might recall that there was much debate about setting the boundary of the Cairngorms national park. In fact, John Swinney had to introduce a member's bill to change the boundary. In the recent campaigns and public consultation around the designation of a new national park in Scotland, there was considerable interest in, public support for and engagement on a Tay forest national park, which would, in effect, by default, have expanded the coverage of national parks in Highland Perthshire. The essence of expanding what national parks do in Perthshire has been consulted on, there is considerable public support for it, and there is an appetite for considering it. If that is not done through this amendment or by putting something in the bill, how would the cabinet secretary see the public interest continuing and, if there is support for it, potentially leading to a boundary change in the future?

Mairi Gougeon: I appreciate what you set out and the genesis of the amendment, but I have to be clear that this just has not featured among the issues that have been raised with me in relation to national parks. On the overall priorities that have been raised with me in relation to national parks, I have not had a call for us to reconsider the boundaries. Notwithstanding that, there are significant issues in relation to the timing and the resource set out in the amendment, which means that I am unable to support amendment 27.

Amendment 214, in the name of Tim Eagle, would also require time and resource, which could impact on the important delivery priorities of our national park authorities. In responding to the Citizen Participation and Public Petitions Committee, I made it clear that our national parks are accountable and transparent and deliver on their objectives. There is already oversight of their performance by ministers, and their annual accounts are laid before the Parliament, which also has the ability to scrutinise the performance of our parks if it wishes to do so. Therefore, an

independent review is not necessary. For those reasons, I do not support amendment 214, and I ask members not to support it.

The Convener: I call Mark Ruskell, on behalf of Ross Greer, to wind up and to press or withdraw amendment 201.

Mark Ruskell: This is a huge group of amendments that cover so many different issues, and it is very difficult to unpack them all in a single debate. Sarah Boyack perhaps summed it up when she said that we need to learn lessons and look to the future.

There are a number of strands here. There are the learnings around the recent designation—or lack of designation—of Galloway national park, and there are learnings around the debacle over the Loch Lomond Flamingo Land application. There are serious concerns that the national park plan has been undermined, and there is a lot of learning there about the primacy of the park plan and the accessibility of park board members.

That is just one area of consideration. There is also a debate about landscape, and there is a debate around the purpose of national parks. Cabinet secretary, you have made a number of commitments to a number of members to have further conversations between stage 2 and stage 3. The conversation around the primacy of park plans, ensuring that all public authorities do not dismiss the park plans but work to further the aims of the parks and the aspirations in the plans, is a really important one. The committee has had evidence that there are public authorities, including Forestry and Land Scotland, that have—in some cases—actively undermined some of the objectives of park plans. On Flamingo Land, there are learnings about the role of Scottish Enterprise in relation to the promotion of a site for a development that was hugely unpopular and was in contravention of the park plan.

Within the nugget of some of the amendments in this group, there is concern about democracy and about the accessibility of park authorities. There is also a desire for the democratically agreed park plan to be delivered, with everybody pulling in the same direction. I hope that, if we can take some of the essence of those concerns into conversations with you between stage 2 and stage 3, cabinet secretary, we can find a form of words that reflects the aspirations of the communities.

Sarah Boyack: That is a really important issue. We do not want public bodies cutting across national park plans. We want the national park plans to reflect the views of other public bodies as well as those of the public. I agree with Mark Ruskell that it is critical to get that right in the wording of the bill. We need the engagement of the cabinet secretary to ensure that we get it right,

given the evidence that the committee has considered over the past few weeks and months, which we cannot ignore.

Mark Ruskell: That was very well put. It cuts both ways: the park plans need to reflect the wider public objectives that public authorities are working towards, but they also need to reflect the views of communities, as well as considering the biodiversity targets that will be set under part 1 of the bill.

I will leave my comments there. I hope that we can get into some meaningful discussions with you, cabinet secretary, and that we can come to stage 3 with a tighter grouping of amendments that drills down into what we can do now. Perhaps we can have conversations with you about what happens after the national parks designation process. Where do we take the aspirations of communities, and where do we take the debates? If it is not in part 3 of the bill, where should it be for the next Scottish Government and for the local authorities, which have invested a lot of time and effort in getting the debate about national parks going? They have nowhere to go with that now, to the point that it is not showing up in your inbox, apparently. There is nowhere to take it now, and that is a shame, because national parks are working and are achieving things. We need a clear vision of where they will go in the future.

I will end there, and I will press amendment 201.

The Convener: The question is, that amendment 201 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)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 201 disagreed to.

Amendments 122 and 314 not moved.

The Convener: I remind members that, if amendment 61 is agreed to, I cannot call amendment 123 due to pre-emption.

Amendment 61 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 61 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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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.

Amendment 61 agreed to.

Amendments 202 to 204 not moved.

Amendment 205 moved—[Tim Eagle].

The Convener: The question is, that amendment 205 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 205 disagreed to.

The Convener: Amendments 62 and 124 are direct alternatives—that is, they can both be moved and agreed to. The text of whichever is the last amendment agreed to is what will appear in the bill.

Amendment 62 moved—[Mark Ruskell].

The Convener: The question is, that amendment 62 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)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 62 disagreed to.

Amendment 124 moved—[Sarah Boyack].

The Convener: The question is, that amendment 124 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)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 124 disagreed to.

Amendment 206 moved—[Mark Ruskell].

The Convener: The question is, that amendment 206 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (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 206 disagreed to.

Amendment 63 moved—[Mairi Gougeon]—and agreed to.

Amendment 315 moved—[Tim Eagle].

The Convener: The question is, that amendment 315 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 315 disagreed to.

Section 5, as amended, agreed to.

After section 5

Amendment 64 moved—[Mark Ruskell].

The Convener: The question is, that amendment 64 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (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 64 disagreed to.

10:30

Amendment 65 moved—[Tim Eagle].

The Convener: The question is, that amendment 65 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)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Harper, Emma (South Scotland) (SNP)

Roddick, Emma (Highlands and Islands) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 65 disagreed to.

Amendment 207 moved—[Mark Ruskell].

The Convener: The question is, that amendment 207 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)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

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

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

Amendment 207 disagreed to.

Amendment 208 moved—[Mark Ruskell].

The Convener: The question is, that amendment 208 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (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 208 disagreed to.

Amendment 316 moved—[Tim Eagle].

The Convener: The question is, that amendment 316 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)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Grant, Rhoda (Highlands and Islands) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 316 agreed to.

Section 6—Definition of biodiversity

Amendments 126, 127 and 317 not moved.

Section 6 agreed to.

After section 6

Amendments 128 and 129 not moved.

Section 7—Duty to facilitate implementation of National Park Plans

The Convener: I remind members that, if amendment 209 is agreed to, I cannot call amendment 125 due to pre-emption.

Amendment 209 moved—[Tim Eagle].

The Convener: The question is, that amendment 209 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 209 disagreed to.

Amendment 125 not moved.

Amendment 210 moved—[Tim Eagle].

The Convener: The question is, that amendment 210 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 210 disagreed to.

Amendments 211, 130 and 318 not moved.

Section 7 agreed to.

Section 8—Meaning of local authority for the purpose of access rights

Amendment 319 not moved.

Section 8 agreed to.

Section 9—Power to make regulations for the issuing of fixed penalty notices

Amendment 66 moved—[Mairi Gougeon].

The Convener: The question is, that amendment 66 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)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 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.

Amendment 66 agreed to.

Amendment 212 moved—[Mark Ruskell].

The Convener: The question is, that amendment 212 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)

Roddick, Emma (Highlands and Islands) (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 212 disagreed to.

Amendment 213 moved—[Mark Ruskell].

The Convener: The question is, that amendment 213 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (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 213 disagreed to.

Amendment 320 not moved.

Section 9, as amended, agreed to.

After section 9

Amendment 27 moved—[Mark Ruskell].

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

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Eagle, Tim (Highlands and Islands) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (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 27 disagreed to.

Amendment 214 not moved.

The Convener: I will now suspend the meeting for five minutes, to allow for a changeover of ministers.

10:39

Meeting suspended.

10:45

On resuming—

The Convener: Amendment 67, in the name of Ariane Burgess, is grouped with amendments 67, 67A, 288, 303 and 334.

Mark Ruskell: Members will be aware that we have so many amazing rewilding nature restoration projects under way across Scotland, many of which have been funded by the nature restoration fund, and communities and non-governmental organisations are often involved in managing those sites. However, no current level of protection is given to those undesignated sites, such as community-owned woodlands, where considerable amounts of time, effort and money have been spent. If the ownership of those sites was to change hands in the future, little would prevent a new owner from undoing the restoration that has taken place.

Amendment 67, in the name of Ariane Burgess, requires ministers to review existing measures to protect sites where restoration and rewilding are under way and consider whether new protection or designation might be required to ensure that the gains for biodiversity can be retained in the future. Amendment 67A makes a small change to wording to clarify that restoration and rewilding are on-going processes.

Amendment 303, in the name of Ariane Burgess, picks up on an issue that was included in the Government's initial public consultation on the bill. The Government proposed including new measures to increase the proactive management of protected areas. The bill consultation noted:

"Under the current legislative regime there is no general obligation on land managers to improve or restore features in unfavourable condition or to take action to prevent them from deteriorating to unfavourable condition."

We can all think of examples in our regions and constituencies where protected areas are clearly not protected and continue to degrade.

At the time, the Government reflected on that and proposed a solution to amend the existing land management orders and nature conservation orders to clarify that provisions are to enforce active management of nature features in protected areas and to tackle issues such as invasive non-native species, which are absolutely degrading many of the sites. That issue cuts to the heart of what the bill is trying to achieve, because this is a nature emergency bill. Despite having protected areas, we see such degradation and loss continue.

Eighty-six per cent of respondents to the Government's consultation supported proposals to address that. This morning, we have already heard about the importance of consultation and going with the grain of that. Measures to increase the proactive management of protected areas were not included in the bill despite public support. Amendment 303 seeks to add them in. Although I acknowledge that some revisions to the wording of the amendment might be required before stage 3, I hope that the cabinet secretary can give support to the policy in principle today, given that the Government consulted on it and found strong stakeholder and public support. I am interested to hear what the cabinet secretary says.

I move amendments 67 and 67A.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Amendment 288 requires Scottish ministers to produce a report on moorland, which must include specifying what proportion of land in Scotland is moorland, the rate of moorland habitat loss broken down by region, the land uses that are replacing moorland and the consequences of that. This amendment was previously lodged to the Land Reform (Scotland) Bill but fell, and, to address the criticism of that specific amendment, amendment 288 includes a definition of moorland.

The amendment is drawn from a study that was produced by the Heather Trust, which I hope the minister has been able to look at. It found that, overall, heather moorland the size of Birmingham is lost every year in the UK. The research shows that nearly 6,700km² of moorland in Scotland was lost between 1990 and 2023, compared to just over 600km² in the same period in England, which is quite a stark comparison.

The study also highlights that moorland is being replaced by grassland and woodland, particularly woodland in Scotland, or tree planting—however you want to describe it—and that there is likely to be an additional pressure on moorland habitats from further expansion of woodland in the future. Crucially, the report found that there is a lack of data about what is replacing moorland, which is what amendment 288 is all about.

Amendment 334 would amend the Nature Conservation (Scotland) Act 2004 to prohibit energy developments in sites of special scientific interest. NatureScot says that SSIs are

"those areas of land and water that we consider best represent our natural heritage"

and they include flora, fauna, geology and geomorphology. There are more than 1,422 SSIs covering around 1 million hectares of land in Scotland.

Rural areas such as my constituency in the Scottish Borders are facing the brunt of energy developments, including battery energy, energy storage systems, wind farms and, most recently, proposals for 75km of megapylons. Those proposed developments can be huge and they include some that would be as big as villages or even towns. Their impact is equally large, as they risk harming the countryside in the Borders and other areas of Scotland and causing natural habitats to be lost for good. Local communities already understand those risks and have been working hard to highlight them to Government ministers, planning officials, and energy companies.

Groups such as Action Against Pylons: Scottish Borders Alliance, which is formed of nine local community action groups, have done brilliant work to highlight the impact that the proposals for pylons would have on the environment, including concerns about landscape integrity, wildlife disturbance and the cumulative impact of energy developments. Sadly, however, the groups and residents in the Borders feel as though their concerns are being ignored by the Scottish Government. Amendment 334 would ensure that Scotland's much-loved natural heritage remains protected against the out-of-control energy development proposals in the Borders and across Scotland.

I want to make a couple of comments about Ariane Burgess's amendments. I am not clear about the definition of rewilding in amendment 67. Land is managed for more reasons than just rewilding, and designating land as being for rewilding would preclude multipurpose management of that land.

I am sympathetic to amendment 303, because it is important that we tackle non-native species. However, allowing NatureScot to have access to the land would be fraught with operational challenges and difficulties, and it might erode the collaborative approach to land management. In the past, when I was on this committee and working on land use legislation, that was a huge concern.

The Cabinet Secretary for Climate Action and Energy (Gillian Martin): Good morning. It is not entirely clear to me what Ariane Burgess is seeking to achieve with amendments 67 and 67A. The scope of the review that is being proposed is unclear. There is no agreed or statutory definition of nature restoration or rewilding, which makes it difficult to understand how such a review would align with our existing suite of protected areas legislation.

In addition, a wide range of land types and activities could fall within the scope of any such review, as the amendments do not set any limits

on the extent of areas to be restored or rewilded to improve biodiversity. It could capture everything from creating a native wildlife area in an urban garden to landscape-scale nature restoration projects such as Cairngorms Connect.

I am not certain that such a review would necessarily help us to improve or drive forward our biodiversity ambitions. It is better to focus on delivering for nature restoration and taking the action that we know will achieve the outcomes that we need to see. A plethora of additional reviews, reports and additional labour-intensive requirements of that type will stretch the capacity that we want to use for targeted action.

Reviews have their place in some circumstances, but we need to ensure that they are targeted, focused and necessary or they risk diverting resources from taking action that helps us to tackle the nature crisis and reduce biodiversity loss.

For those reasons, I encourage members not to support amendments 67 and 67A.

I now turn to Rachael Hamilton's amendment 288. As she mentioned, it is similar to an amendment that she lodged during stage 3 of the Land Reform (Scotland) Bill last month—an amendment that the Parliament did not support. I have no doubt that all committee members appreciate, as I do, the importance of moorland habitats. However, I agree with what the Cabinet Secretary for Rural Affairs, Land Reform and Islands said when speaking to that amendment, which was that it is

“not helpful for moorlands to be considered in isolation from other ecosystems”.—[Official Report, 4 November 2025; c 246.]

It is clear to me that the restoration and regeneration of Scotland's ecosystems, including but not limited to moorlands, are at the heart of the Scottish biodiversity strategy, given that that is one of the six key objectives within the strategy and a number of the actions within it are targeted at ensuring that the management of moorland helps to sustain healthy biodiversity. Therefore, I do not believe that the amendment is necessary. It calls for another review, and I, again, question whether resources should be diverted for that purpose. Instead, we should be focusing on strategic actions for all ecosystems that will help to secure the biggest biodiversity benefits and help us to tackle the nature crisis.

Rachael Hamilton: I tried to work in a way that would—I will not say “please” the Government— attract the Government to the amendment. As I said in my opening remarks, it was noted that there was no definition of moorland. Moorland is a hugely significant land type in Scotland. At the moment, I am being told by people who do not

own land and who live in villages that enjoy moorland that there is no management of moorland. The Government owns lots of moorland. It is specific and unique. Gillian Martin, the minister, will know that, because she will have enjoyed walking over moorland. The definition provided in my amendment sets out why such moorland habitats should have a specific strategy. The Government could benefit from the amendment in a way, because it would allow the Government to set out its intention for a land type that is hugely important to environmental benefits in Scotland.

Gillian Martin: I do not see the rationale for singling out that particular type of land as opposed to other types of land, given that it is already included in the biodiversity strategy. From a policy perspective, I do not think that there is a clear rationale for undertaking a review that solely concentrates on moorland. It goes back to what I said about Ariane Burgess's amendments and the many other amendments that ask for reviews and reports. The resources that would be associated with all that would take resources away from action.

Rachael Hamilton says that she wants to help the Government, but we could have had a conversation about the amendment before stage 2, instead of its being played out here. I could then have explained all my rationale in relation to it, and we could have saved ourselves from this. I am someone who has to make sure that all the Government bodies under my remit, which have to manage their resources and capacity to do things, are not overstretched by onerous reports and reviews being added to their remit when such work would take away from the action that we all want. So many pieces of legislation are inserting reviews and reports that it is genuinely getting to the point of becoming an encumbrance. On many occasions, I question whether such work adds to the action that we all want. For those reasons, I encourage members not to support amendment 288.

Turning to Ariane Burgess's amendment 303, although I recognise that effective management of protected areas is essential in tackling the biodiversity crisis, I am not persuaded that nature conservation orders and land management orders are the best way to tackle long-term deterioration of sites that is caused by under or overgrazing or the spread of invasive non-native species. I am conscious of the complexity of the current legal framework that governs protected areas and nature conservation in general.

I would be wary of adding additional complexity, given the considerable risk of unintended consequences that that could bring. For example, amendment 303 inserts a definition of damage into

section 23 of the 2004 act, which deals with nature conservation orders. It is unclear what the purpose of that definition is, as the term is not otherwise reflected in section 23 of the act.

11:00

The purpose of nature conservation orders is to prohibit operations on land, to ensure the conservation of any natural feature of the land that ministers consider to be of special interest. Changing that purpose so that orders could require active management of the land is not what the orders were intended or designed to do.

Land management orders can be applied to land that forms part of an SSSI or is contiguous to that land. Orders are already able to set out operations that should be carried out on the land for the purposes of conserving, restoring or otherwise enhancing the natural features of the land. Amendment 303 is unnecessary, because there is already provision in place. Land management orders can already be made to tackle issues such as undergrazing or overgrazing, or invasive non-native species. For those reasons I encourage members not to support amendment 303.

Amendment 334, in the name of Rachael Hamilton, seeks to amend the Nature Conservation (Scotland) Act 2004 by inserting a new section 11A that would create an absolute prohibition on energy developments within sites of special scientific interest. The amendment appears to have the intention of providing enhanced protection for SSSIs by preventing any energy infrastructure, including renewable energy installations, from being constructed within their boundaries. That is not legally competent, and it therefore would not achieve its express purposes. The generation, transmission, distribution and supply of electricity are reserved to the UK Government under the Scotland Act 1998. The 1998 act is the very foundation of the Parliament, and I would expect everyone to have a working knowledge of it.

Edward Mountain (Highlands and Islands) (Con): Before we go any further, I will make a brief declaration, which is that I am a partner in a farm in Moray. I will give a fuller declaration when we come on to discuss deer management.

I am interested in the point that the cabinet secretary makes. The cabinet secretary well knows that, while some matters are reserved, the Scottish Government controls the development of power distribution, as it holds the levers of planning.

The cabinet secretary said previously that she is not prepared to separate out individual items, because she cannot see the rationale for it. SSSIs

are the underpinning of the legislation that protects Ramsar sites, special protection areas and special areas of conservation. That is fundamental for Scotland, and Scotland does have control over it. The problem is that, if we continue to develop in SSSIs, which are frighteningly small in Scotland, we will probably affect birds and other nature matters in those critical areas. I am unclear in my mind why the cabinet secretary is not prepared to give SSSIs greater protection. They underpin everything that the Government does and can do in Scotland when it comes to nature conservation. Perhaps she could explain that to me.

Gillian Martin: Yes, I can explain it. I want to separate out the desire to give greater protection to SSSIs. Fundamentally, I agree that they should be protected. It is untrue to say that a Scottish Government minister has the ability to control what happens in energy developments because they have the final consent. The associated regulations and the consenting powers under sections 36 and 37 of the Electricity Act 1989 operate by executive devolution, to the final consent. They do not—*[Interruption.]* You have asked for an explanation, and I would like to give a full explanation.

Therefore, the regulations are set at UK level and must be acted under in giving that consent.

Rachael Hamilton's amendment 334 seeks to change what is in reserved law, fundamentally. That means that it is not legislatively competent. That was the case with previous amendments from Douglas Lumsden, where I was able to set out the same argument.

If Conservative members want me to have the powers that are associated with energy infrastructure, there is a simple answer to that: you devolve the powers to the Scottish Parliament and Government. They are not devolved, and, therefore, I cannot act in that way. That would be an infringement of the law and not legally competent.

Edward Mountain: I am always happy to come to the committee and be patronised about my knowledge of the Electricity Act 1989, which I know in quite great detail, having been a surveyor and having worked for Scottish and Southern Electricity Networks on power lines across Scotland, but what I will not take from you, cabinet secretary, is the idea that you do not have control. If you are saying that the amendment is incompetent, it is incompetent for you to say that you will not accept nuclear power in Scotland, because it is a totally reserved matter. You are doing it because you have control of the planning levers to stop it. You cannot argue one thing one way and another thing another way. Can you explain how it is possible to pick and choose, as you are doing?

Gillian Martin: I have to say that I have taken legal advice on every single one of the amendments, and this amendment is simply not legally competent. We could get into a big debate about energy and energy infrastructure. I know that people want to do that in the wider space of the Parliament, but I am talking to this amendment, which is not legally competent. Therefore, I would—

Rachael Hamilton: Will the member taken intervention?

Gillian Martin: Yes, and then I am going to conclude.

Rachael Hamilton: Will the cabinet secretary work with me to make the amendment competent?

Gillian Martin: I do not see how it can be made competent, Ms Hamilton, because, in effect, it asks the Scottish Government to prohibit something around which there are already reserved powers, regulation, and environmental assessment requirements, which are probably some of the strongest in the whole of the UK. We can talk about whether those requirements are robust enough, and we can talk about whether we have all the levers that Ms Hamilton would want me to use but, as it stands, I cannot see how the amendment could be made legally competent. By all means, if you want to come to see me about any of your amendments, my door is always open—it was open before stage 2. I will close my remarks there. I have been accused of patronising people. I am simply stating facts about the separation of powers. For those reasons, I encourage members not to support amendment 334.

The Convener: I call Mark Ruskell to wind up and to press or withdraw amendment 67A, in the name of Ariane Burgess.

Mark Ruskell: I am reflecting on what the cabinet secretary said about the need to move from reviews into action and delivery. That is the essence of Ariane Burgess's amendment 303; it is about saying that the existing system of land management orders is not delivering the action that we need to restore nature. When people look around their communities, they can see SSSIs degrading in plain sight, so it is clear that the system is not working. I recognise the on-going invitation to discuss the matter ahead of stage 3, so I think that Ariane Burgess and I will take you up on that, cabinet secretary, and we will want to explore with you the provisions that the Government brought forward in the initial consultation and whether there is something either in the bill or outside it that we could take forward to improve that, because delivery is not happening.

I will not press amendments 67 and 67A today, but it is clear that Ariane Burgess is hearing about

these concerns from the communities themselves, so it would be good to relate them to you directly, cabinet secretary.

On the other amendments in the group, it is not entirely clear what Rachael Hamilton is trying to achieve. She talks about tree planting and woodland, so I am not sure whether that relates to commercial trees or woodland restoration.

Rachael Hamilton: Will Mark Ruskell take an intervention?

Mark Ruskell: I want to continue my point. From discussions with estate owners who are developing land management plans at the moment, I know that there is not a hard line between moorland and woodland, for example. The best place to talk about the future of the planning of an estate and where the balance of conservation and different habitats lies is in a land management plan. We agreed provisions on land management plans in the Land Reform (Scotland) Bill. Those did not go as far as I would have liked, but I am quite hopeful that, in the land management plans, moorland will have its voice, and communities that have an interest in and a love of moorlands will be able to influence those plans in a way that recognises the importance of the future of that landscape. I understand the essence of what the member is trying to achieve, but I think that we got to where we got to at the end of the process of the Land Reform (Scotland) Bill, and I would like to see that being rolled out.

On energy infrastructure, I know that there is a campaign, but I go back to our discussions last week about part 2 of the bill: our system of environmental assessment is working and it is robust. I see communities using the concerns that ecologists are raising in environmental assessments to build the case for considering the refusal of renewable energy developments, to assuage concerns, or to focus concerns on areas where there might be an impact and to enter into discussions with developers at the pre-application stage on the siting of turbines and other matters. It offers a window on the potential impact of renewable energy development. If there is not an impact of renewable energy development, I do not see why it cannot go ahead, but that is for the energy consents unit to discuss. The more that communities can engage with the environmental assessment process and reveal that impact, the better, so I do not see the necessity for amendment 334.

The Convener: Thank you. May I confirm whether you seek to withdraw amendment 67A?

Mark Ruskell: I wish to withdraw the amendment.

Amendment 67A, by agreement, withdrawn.

The Convener: Do you wish to press amendment 67.

Mark Ruskell: No.

Amendment 67, by agreement, withdrawn.

The Convener: Given that there is not a natural break for quite some time, I am minded to have a slightly extended comfort break now, so I will suspend the meeting until 11:20.

11:11

Meeting suspended.

11:20

On resuming—

Section 10—Aims and purposes of deer management

The Convener: Amendment 215, in the name of Tim Eagle, is grouped with amendments 216, 131, 217, 28 and 218.

Tim Eagle: Before I start on my notes, I make a quick apology. First, as there is quite a lot of detail in sections 10 and 11 around deer management, I will try to get through that as quickly as possible. For brevity, I will not spend too long on amendments. Given that level of detail and the work that I have done with stakeholders, regardless of what happens today, I will seek a meeting with the minister—I know that his door is normally always open—before stage 3, just to express some of those points of detail, if that is okay.

Secondly, I want to highlight one point quickly. I was a little bit worried when I saw a press release yesterday, which was put out by some rural stakeholders and highlighted in *FarmingUK*, regarding the results of a freedom of information request. It said that a briefing to ministers in June 2023 had stated:

“To go beyond preventing damage is a significant shift in balance between public and private interests and we could expect challenges to this proposal on European Convention on Human Rights ... grounds, with particular reference to A1P1 (protection of property).”

That alarmed me when I saw it yesterday; we will come on to consider these issues. My colleague, Edward Mountain, has lodged various amendments regarding the bill's proposed new section 6ZB of the 1996 act. I am worried—if officials are saying that there is potential for legal challenges, we need to pick up on that, and I hope that the minister might address it in his remarks today.

I now turn to my amendments, starting with amendment 215. The bill sets out the aims and purposes of deer management, making changes

to the Deer (Scotland) Act 1996. It currently includes a purpose

“to promote the sustainable management of deer”.

My amendment 215 would exchange the word “promote” for the word “further”, meaning that the aim would read “to further the sustainable management of deer”. I believe that that change will strengthen the Scottish Government’s role from merely promoting to actively furthering sustainable deer management, which I believe will be critical to the medium-term to long-term delivery of biodiversity and climate change actions.

The bill also includes the aim:

“to safeguard the public interest in so far as it relates to the management and control of deer”.

My amendment 216 seeks to delete that. The decision by Scottish ministers to adopt that broad and highly subjective aim is not consistent with the deer working group’s recommendations. Safeguarding the public interest is not a policy objective in its own right, but the outcome that clear and specific objectives are meant to deliver. The deletion of that provision would remove uncertainty from the legislation. I believe that the term “public interest” has no fixed meaning and introduces a subjective element into the law.

The bill modifies section 1 of the 1996 act, which deals with the Deer Commission for Scotland’s general functions. Under the 1996 act, the commission, while exercising its functions, is to consider factors such as

“the size and density of the deer population and its impact on the natural heritage”.

Section 10(4)(a) of the bill seeks to insert “and environment” at the end of that wording. My amendment 217 seeks to delete that addition. I am concerned that the term “environment” introduces broad overarching objectives that reflect national, rather than local, priorities.

The explanatory notes to the bill justify the insertion of that wording on the basis that NatureScot must consider

“the cumulative impact of deer across Scotland”

when shaping management policy. However, NatureScot itself acknowledges that national deer numbers are less important than the local and regional environmental impacts. If, as NatureScot asserts, the cumulative national impact is of limited relevance, the justification for expanding the statutory language of the 1996 act to include “the environment” is weak and open to challenge.

With regard to other amendments in the group, I will be supporting my colleague Edward Mountain’s amendment, and I look forward to hearing from him today. I will also be supporting

the amendments on deer from my colleague Douglas Ross.

I will speak to Douglas Ross’s amendment 218. Section 11 will allow NatureScot to take an active part in proceedings for advisory panels on deer management. Currently, the organisation is able only to attend panels and act as an observer. Amendment 218 would delete that section entirely.

NatureScot has the function of acting as a regulator responsible for supporting deer management measures, but the ability to also sit on the management panels raises concerns about a conflict of interest. Section 11 appears to be little short of further overreach by a Government quango, and it is another example of where NatureScot’s functions, or proposed functions, collide. In the interests of preventing such overreach and reducing further conflicting powers, amendment 218 would delete the extended functions from the bill.

I cannot support Mark Ruskell’s amendment 28, because I have concerns about the uncertainty around who can take on the powers over deer functions that Mr Ruskell’s amendment seeks to transfer.

I move amendment 215.

Edward Mountain: As I alluded to when speaking to the previous group, I will make a slightly fuller declaration of interests than I did the last time. I remind members of my entry in the register of members’ interests, which says that I own and manage approximately 500 acres of farmland in Moray. I have been involved in deer management for more than 50 years. I have written deer management plans for various deer management groups across Scotland, some of which—I am pleased to say—still remain in force; they have stood the test of time.

My amendment 131 would place a duty on ministers to ensure that rural employment associated with deer management is not just protected but promoted in the bill. Organisations such as the British Association for Shooting and Conservation, Scottish Land & Estates and the Scottish Gamekeepers Association have shared with me their concerns about the lack of safeguarding of jobs and livelihoods relating to deer management. Those jobs and livelihoods must never be sacrificed to meet the aim of the Government, and of some other people, to turbocharge deer reduction.

I will talk about that when we come to the next section, but—to be frank—a lot of full-time jobs are being pushed sideways on to contract killers who are brought in to kill deer. Deer managers and gamekeepers have real concerns about the fact that the bill does not recognise the invaluable work that they do. Not only is shooting worth about

£760 million to the Scottish economy; the bill risks undermining the very jobs on which we rely.

Minister, the other day, you chaired a meeting—kindly and with skill—of a group that was set up as a result of the Dava fires to discuss the importance of ensuring that such fires are controlled. To me, it was clear that it was a lot of gamekeepers and deer managers who actually stopped those fires spreading beyond where they did and prevented damage from being incurred across a wider area. In fact, I believe that the selfless action of those people prevented the loss of life. It seems only right, therefore, that we should be protecting those jobs and ensuring that, when it comes to deer management, we give them due consideration.

I could speak to Tim Eagle's amendments, but I am not going to do so. I am interested specifically in Mark Ruskell's amendment 28, and I want to hear what he says, because it would appear that he proposes to shift deer control out of the control of NatureScot or Scottish Natural Heritage—whatever it is now.

Perhaps that is a reversion to the good old days, when deer management was done by an organisation called the Deer Commission for Scotland. It was a Government organisation—perhaps the minister will remember it—that drew everyone together, helped to set cull targets and worked extremely well in the field of deer management. It was collaborative and wide ranging, and everyone felt that they had a say. There was some stick behind its powers, but it was unfortunately dissolved by the Government in 2010 and subsumed within Scottish Natural Heritage—something that has, I think, been to the detriment of deer management.

If Mark Ruskell's amendment 28 seeks to bring back the Deer Commission for Scotland into a separate organisation, I will be bound to support it—which might be the kiss of death to it, Mr Ruskell. We will wait and see, convener. I have nothing further to add on that matter.

11:30

Mark Ruskell: Gosh, that got interesting. Amendment 28 would allow ministers to transfer NatureScot's deer function to another public body that might be better equipped in the future to discharge those duties. Other public bodies currently in existence, such as Forestry and Land Scotland, already have significant engagement with sustainable deer management over a large part of Scotland. The intention of the amendment is not to transfer those duties right now, but to future proof the governance of deer management in Scotland by providing the minister with that flexibility in the future. That is all that I have to say.

The Minister for Agriculture and Connectivity

(Jim Fairlie): I will start with Tim Eagle's amendments 215 to 217. I am not sure that I understand why Tim Eagle is seeking to amend the bill in that way. At various points in the stage 1 debate, Mr Eagle outlined that he thought that the powers that NatureScot had were broad and too vague. His amendments do not seem to add any clarity to NatureScot's aims, purposes and functions under the Deer (Scotland) Act 1996 but rather seek to limit the functions of NatureScot in achieving the sustainable deer management that we are all looking for.

We have seen significant expansion of deer and growth in their number since the late 1950s, and changes need to be made if we are going to make an impact on their populations. The changes to NatureScot's aims, purposes and functions under the 1996 act were recommended by the deer working group.

Furthermore, the committee's stage 1 report agreed with the changes to section 1 of the 1996 act that add

"to safeguard the public interest so far as it relates to the management and control of deer"

to the statutory aims and purposes of deer management for NatureScot. I am not sure why Mr Eagle is seeking to undermine those positive changes. For the reasons that I have outlined, I will not support amendments 215 to 217, and I ask members not to vote for them.

I am supportive of what Mr Mountain's amendment 131 is aiming to achieve, but I cannot support it. We have excellent deer managers up and down the country, and I want to ensure that they know, as I do, that we will always need skilled people on the ground to manage our deer populations. As drafted, amendment 131 would require NatureScot to consider protection and promotion of deer management employment in carrying out any of its deer functions, which is impractical for the bill.

Through the bill, we have amended the general aims and purposes of NatureScot under the Deer (Scotland) Act 1996. It will have a duty to take into account, if appropriate, the public interest as it relates to deer management in carrying out its deer functions. That will include issues such as the impact on employment in rural communities, which is an important point that has been missed so far. We are also working outwith the bill to provide financial support for deer management, including incentive pilots in the Cairngorms national park and south Loch Ness, and funding for venison larders. Our deer populations are, without doubt, a fantastic asset to Scotland, and I intend to continue to work with deer managers across the country to consider what better support they might

need. For those reasons, I do not think that the amendment is necessary, and I ask members not to support it.

Regarding Mark Ruskell's amendment 28, I understand the intention to provide flexibility in transferring deer management functions, but I highlight to members that the current framework already allows Scottish ministers to direct NatureScot and set priorities without removing its statutory role.

Edward Mountain: My point about going back to the days of the DCS is that people who were managing deer felt then that they had a specific organisation that could listen to them and that heard and related to their views. A lot of the members of the Deer Commission for Scotland were stalkers whom the DCS employed. The problem is that that experience has gone since the function has moved to NatureScot or Scottish Natural Heritage. My experience, and the experience of many people across deer management in Scotland, is that NatureScot does not understand the problem.

On that basis, if the minister is not prepared to support the amendment, would he at least support the fact that deer management in NatureScot must be done by people who have taken part in deer management? They must have walked the miles in the boots to be able to tell the boots which direction to go in. Is that not fair?

Jim Fairlie: I like your analogy, Mr Mountain, but I disagree with you. I think that NatureScot has the functions and the capability to do its job properly; however, that must be in conjunction with deer stalkers and managers on the ground. That is why I actively encourage NatureScot to have regular contact with deer management groups.

As we start to talk about deer management, I would like us to get to the position where we stop having a polarised debate. We are trying to recognise the asset that venison and deer are to Scotland across all sectors, but that does not mean that we will not have to manage issues as we go along.

I take the point that Mr Ruskell makes, but I disagree with it, so I will not accept his amendment 28. The amendment would add complexity without clear evidence of need. If circumstances require a change in responsibilities, that can be addressed through existing mechanisms, where possible, or through primary legislation, if required, to ensure full parliamentary scrutiny. We already have all the tools that we need. I would be happy to meet Mr Ruskell to discuss any of the specific concerns that he has. For the reasons that I have set out, I ask Mr Ruskell not to move amendment 28. If he does move it, I ask members to oppose it.

On amendment 218, in the name of Douglas Ross, spoken to by Mr Eagle, section 11 simply amends the 1996 act to allow NatureScot to sit on a panel as a member. It will not require NatureScot to do so, and it is not our intention that it will sit on every panel. We can foresee circumstances in the future where it would be beneficial for a relevant expert from NatureScot to sit on a panel, and we would not want NatureScot to be prohibited from doing so in those circumstances.

Tim Eagle: Will the minister take an intervention?

Jim Fairlie: Allow me to finish my point, and then I will come back to you. Panels must be approved by Scottish ministers, so I do not agree that there is any risk of a conflict of interest. For those reasons, I urge the committee to vote against the amendments in this group.

Tim Eagle: As I understand it, you are not saying that NatureScot should have an involvement. It is about whether NatureScot sits on the panel or acts as an observer to it. As things stand, it can always feed in its information, can it not? It just does not have powers beyond that, given that it is a regulatory body. To stop any risk of a conflict of interest, why not keep that section as it is?

Jim Fairlie: It goes back to the point that Mr Mountain just made. He quite clearly indicated that he did not think that NatureScot had the ability to walk the miles that a deer stalker might have walked. I disagree. There will be expertise in NatureScot; it is a very good organisation with expertise across multiple sectors. If experts in that organisation will add value to any panel that has been set up, it is only right that they have the ability to do so. I do not see any conflict, because the panel would have to be set up by a minister in the first place.

The deer working group report recommended that the 1996 act should be amended to allow a member of NatureScot to be a member of a panel in order to reflect NatureScot's functions under the Natural Heritage (Scotland) Act 1991. There is a good rationale for allowing that to happen, and I urge members to oppose amendment 218, which would remove section 11.

The Convener: I call Tim Eagle to wind up and to press or withdraw amendment 215.

Tim Eagle: I have no further comments, convener. I press amendment 215.

The Convener: The question is, that amendment 215 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 215 disagreed to.

Amendment 216 moved—[Tim Eagle].

The Convener: The question is, that amendment 216 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 216 disagreed to.

Amendment 131 moved—[Edward Mountain].

The Convener: The question is, that amendment 131 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 131 disagreed to.

Amendment 217 moved—[Tim Eagle].

The Convener: The question is, that amendment 217 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 217 disagreed to.

Section 10 agreed to.

After section 10

Amendment 28 moved—[Mark Ruskell].

The Convener: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (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 28 disagreed to.

Section 11—Scottish Natural Heritage representation on advisory panels

Amendment 218 moved—[Tim Eagle].

The Convener: The question is, that amendment 218 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Tweed, Evelyn (Stirling) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 218 disagreed to.

Section 11 agreed to.

After section 11

The Convener: Amendment 132, in the name of Edward Mountain, is grouped with amendments 219, 220, 329, 222 to 224, 133, 330, 225 to 230, 134, 68, 231, 232, 69, 233, 331, 135, 136, 234, 137, 138, 235, 236, 29, 30, 139, 140, 237 to 241, 141 to 143, 242, 243, 145 to 147, 244, 245, 70, 246, 148 to 151, 71, 39, 332, 251, 333, 310 and 311.

I point out that, if amendment 133 is agreed to, I cannot call amendments 330 and 225 to 230 due to pre-emption. Also, amendments 228 and 229 are direct alternatives, which means that they can both be moved and decided on, and the text of whichever amendment is the last agreed to is what will appear in the bill.

Edward Mountain: You will be pleased to know, convener, that, considering the size of the group, I will try to limit my remarks to my own amendments.

Amendment 132 seeks to reinstate the stag season, or close season, for male deer in Scotland, following its removal by the Deer (Close Seasons) (Scotland) Amendment Order 2023, which came into force on 21 October 2023. The committee will remember that I spoke on the subject and drew up a large petition, which more than 2,000 people signed. It was then effectively ignored, which meant that not only could Bambi be shot with its mother, but every male deer would be shot whenever it was seen during the course of the year, if that were the decision of the landowner.

I have done a bit of research on the matter with Forestry and Land Scotland, which proves that, as a result of its use of what I call “deer mercenaries”—a subject that I will come back to—25,673 male deer have been shot out of season in Scotland since the removal of the close season, with 6,643 shot in the north region or the Highlands alone. That is a huge number.

11:45

Just to be clear, I point out that Forestry and Land Scotland spent £4.86 million on deer management control in 2023-24, and that money is being used to pay contractors, some of whom are being paid more than £100,000 a year to kill deer. On the basis of the figures used by Forestry and Land Scotland, that means that they are killing more than 800 deer per contractor, and some contractors are using subcontractors and paying them a proportion of what they get.

The figure equates to roughly 6 per cent of FLS's total expenditure being spent on deer management control. The removal of the close season enticed people to go into contract deer killing. I made the point in relation to the previous amendment, which, sadly, was rejected, that it is important to keep people on the ground and not use travelling contractors from outwith the area to come in and kill deer.

Jim Fairlie: I am curious to understand whether your objection to the close season relates to bringing contractors in, or are you objecting because you want a provision for a close season rather than the current open season? What is the particular issue?

Edward Mountain: I thank the minister for that very pertinent question. As I have said, I have been involved for more than 50 years, now, in deer management and in the selective culling of deer to ensure that deer populations are maintained at an acceptable level and that we do not just have the mass extermination of deer.

What the 2023 order said was that you could kill deer at any time. There was provision under the Deer (Scotland) Act 1996 for the killing of deer outwith the close season, but you had to apply for a licence and it could be done only in specific areas. Now, it is being done randomly across Scotland. In fact, I have seen advertisements for stag shooting at Christmas, which is the time when stags are at their lowest ebb and should not be chased around the hill, as they are probably at the limits of their reserves before they go into the spring. I think that that is wrong.

I am all for the management of deer, but I am all for doing it as carefully and kindly as possible, and in a way that ensures that we keep a balanced population. What I am suggesting is that we go back to the previous situation of people having to apply for licences, instead of their just carrying out night shooting with thermal sights, with deer being harried from dawn to dusk.

Minister, a further example is the deer management groups in the Highlands. They have been ferried around at NatureScot's expense, with helicopters being taken to the most far-off parts of estates for deer to be shot and left there. They

were culling calves only at a rate of 1 per cent, which is completely against normal deer management. We know that calving percentages are around 20 to 25 per cent, which means that 19-odd per cent of the calves were being left to starve as a result of the actions of NatureScot, which I find unacceptable.

Jim Fairlie: I take your point about calves, but what effect would shooting male deer out of season or at any time of the year have on calves? Is your specific point not so much about close seasons or open seasons as about this not being good for animal welfare overall?

Edward Mountain: I am making both points. The ethics of deer control should be such that there should be a close season.

I am trying to prove to you, minister, and to the members of the public who are listening to this, that this Government has lost its way and its direction on the ethics of deer control and that there is now a mass rush to kill as many deer as possible. If you do not believe me, minister, you could speak to many of the game dealers in Scotland who are already saying that they are no longer prepared to take deer in the run-up to Christmas, because there is no market, their larders are full and they cannot sell them. Deer will now either not be shot, simply because they cannot be taken in by game dealers, or, if they are shot, they might be left on the hill. Indeed, they might be put into chills, never to be used, or, in fact, destroyed.

Having pushed as hard as I can on that, convener, I will move on to amendment 133, which seeks to remove from the bill proposed new section 6ZB—or 6 Zulu Bravo, as I would say in the army—of the 1996 act. The proposed section will extend a power to NatureScot to intervene in deer management on the grounds of nature restoration—and I should say that amendments 134, 135, 138, 139 and 148 to 151 are consequential to this amendment. I believe that section 6ZB's unchecked intervention power will destabilise the current voluntary system, which accounts for 80 per cent of Scotland's annual cull, and will lead to job sectors being destabilised. It will effectively give NatureScot the ability to order culls and just send the bill to landowners.

We know, minister, that deer are not the only animals that cause damage on hills. Sheep, hares and even cows cause damage, too, but SNH will now concentrate purely on deer and will have no control of those other species. That approach has been questioned to such an extent that I believe that the minister's predecessor was told that just to concentrate on deer would make for bad legislation. Just this morning, I have seen in the press that some other people are controlling other animals—Oxygen Conservation, for example, is

killing goats on a whim because it does not want any goats. However, what this legislation does is allow SNH to concentrate on just deer. That is a waste of time if you are not going to take a holistic view of managing the whole catchment.

Mark Ruskell: Just to be clear, are you arguing that NatureScot should have a role in determining the level of livestock in a particular strath or area?

Edward Mountain: I am saying that concentrating on one species and not having a holistic approach will not achieve much. Therefore, I would rather go back to a holistic approach—as you suggested with your previous amendment, Mr Ruskell, which I supported and moved to ensure was agreed to. That kind of holistic approach is what the Deer Commission for Scotland had in the past, and it is what I am trying to achieve by removing the proposed new section 6ZB of the 1996 act from the bill.

Amendment 142 would oblige Scottish ministers to consult experts when planning objections to a control scheme. My amendment 143 would further qualify that provision by stipulating that such experts should be “recognised in the industry” as having a relevant amount of expertise, rather than people who consider themselves fit by reading books or scientific papers. I want the people who consider and make judgments on this issue to have dirt under their fingernails from managing deer, instead of just having read about it.

Amendments 145 and 146 would offer two approaches to the scrutiny of deer control agreements and control schemes. Amendment 145 would require NatureScot to conduct a full financial and socioeconomic impact assessment before exercising the relevant functions. It would also require that a move towards a control agreement be informed by robust analysis. That is surely the right way of moving forward—making sure that control plans and agreements are economically viable, instead of causing a desert and having no one there as a result.

That impact assessment would report on the “cost of enhanced deer management”

and the burden on neighbouring landowners, and it would ensure that the impact on deer management jobs in neighbouring properties would be considered in the control order. It would be part of a holistic approach—the deer management plan approach—that considers the whole catchment, rather than one catchment in particular. Introducing statutory requirements for socioeconomic assessments would ensure that decisions were made with the full knowledge of the consequences for those who would be affected.

Amendment 146 would go further than amendment 145 by inserting two new sections—8A and 8B—after section 8 of the 1996 act. Those sections would create a statutory requirement for financial and socioeconomic impact assessments, as in amendment 145, and they would also establish independent scrutiny of control agreements and control schemes by an independent panel of experts. That has to be good, because we should be bringing in the experts. After all, they are the people who know about, and have done, deer management.

Currently, SNH has authority to implement control agreements or schemes to manage deer populations. However, the impacts of those decisions and measures on local economies and employment, and the cost to landowners and businesses, are often—symptomatically—not addressed or effectively scrutinised. The panel would do that scrutiny. I do not see why the minister would not support such a move, as it would protect him, and the Scottish Government, from any legal actions in the future, if they had not considered everything.

All of these amendments are vital in ensuring that control schemes are appropriately scrutinised and that the welfare of our deer is something that we are proud of, instead of its being a matter of simply going out to machine-gun deer at the expense of everything else, which would be wrong.

I move amendment 132.

Tim Eagle: In the previous group, the minister queried my questioning of the vagueness in relation to NatureScot. I do not think that I did that. Also, there has been a hell of a lot of discussion with stakeholders as we have moved into stage 2, which is why I put on record my desire to meet the minister to go through that. Words and language are important in the bill, because they will make all the difference in its practical application later on. I am about to talk about that now—I am sorry, but it will be at some length, because I have quite a lot of amendments in this group.

My amendment 219 is a drafting amendment relating to amendment 329, which I will come to.

I will turn to amendment 220. As drafted, section 12 of the bill will replace the existing code of practice under the Deer (Scotland) Act 1996 with a new code of practice. The current purpose of the code, under the 1996 act, is to provide

“practical guidance in respect of deer management.”

The bill will add to that, making it also involve the circumstances in which NatureScot

“will intervene in the management or control of deer”.

My amendment 220 seeks to replace “will” with “may”, which feels more in keeping with the purpose and intent of the deer code, which was intended to help land managers understand what they must, should and could do to manage deer sustainably, and to encourage collaboration between them.

At present, the wording of the bill is prescriptive, direct and objective: the code will set out the circumstances in which NatureScot must intervene. That leaves no room for manoeuvre—if the code says it, NatureScot must do it. Such wording would expose NatureScot to lobbying and litigation, particularly from landholders who consider that their neighbours are not doing enough to manage deer. That will, in turn, undermine the voluntary principle that underpins collaborative deer management.

The effect of my amendment 220 would be to maintain the discretionary character of NatureScot’s powers of intervention under the 1996 act, ensuring that the bill does not introduce an unintended obligation to act in every qualifying case.

The committee’s stage 1 report states:

“the Committee recognises the concerns from the deer management sector about the lack of detail around how the new ground for intervention would be used. It is critical that the Scottish Government does not erode the trust and consensus that has been carefully built within the deer management sector in recent years.”

Alasdair Allan: You mentioned that you are keen to maintain a voluntary approach, but you also acknowledge that that does not always work in every community when it comes to controlling deer numbers. Is the voluntary approach, as it has operated up to now, adequate to deal with the problem?

Tim Eagle: My understanding is that deer practitioners across Scotland are keen to continue to work with NatureScot to meet objectives. During discussions on stage 2, I heard very clearly, I think, from stakeholders that they recognise some of the concerns and are willing to work on those; however, prescriptive amendments to primary legislation reduce the ability to have that proactive discussion in the background about how the Government takes things forward.

I will turn to amendment 329. In the Deer (Scotland) Act 1996, NatureScot is required to “have regard to” the code of practice on deer management. My amendment 329 would require it instead to

“comply with”

the code

“so far as is reasonably practicable”.

The code of practice will play a central role in defining the circumstances in which intervention will take place. The current wording may provide NatureScot with discretion to act in contravention of the code. In its stage 1 report, the committee recognised the

“concerns from the deer management sector about the lack of detail around how the new ground for intervention would be used.”

My amendment seeks to provide greater clarity to deer managers about the circumstances in which NatureScot will intervene.

Jim Fairlie: Does the member accept that the code of practice is an on-going process that is delivered and developed closely with NatureScot in conjunction with the Association of Deer Management Groups?

The member made the point that language is important. I absolutely agree. Language is incredibly important in how we take forward the bill. However, without doubt, there is a shared purpose among all the stakeholders, including NatureScot. That collaboration is already working. That is the kind of thing that we want to continue with, and it is already happening.

Tim Eagle: I am not sure that I disagree with much of that. What I am arguing—which is why it would be nice to have a discussion behind the scenes afterwards—is that, if loads of stakeholders are putting a lot of effort into working with NatureScot and the Government to produce a code but NatureScot has only to “have regard to” the code, there is a concern that it might do something that stakeholders have not felt that they are part of. Does that make sense?

12:00

Jim Fairlie: I understand the member’s point, but only one control order has been brought into place since 1996.

Tim Eagle: True.

Jim Fairlie: That is not something that NatureScot could do on a whim—it must go through a whole process in order to get to that position in the first place.

Section 12(2) merely adds an additional part that NatureScot can then intervene in. However, that would not take away from all the things that NatureScot has to do in order to get to a control order, if it ever gets to that stage. My hope and expectation would be that NatureScot would work with the land managers and the deer managers to find solutions to issues as and when they arise. Surely that is something that the member would agree with.

Tim Eagle: I do agree with that. In some ways, that is what I wanted to probe the minister on. I think that I will still move my amendment, but I will discuss the matter with the minister separately, too. The crux of the issue is that there is a lot of wording and new stuff coming forward that stakeholders are really concerned about. This is about making sure that the triangular relationship between the Government, NatureScot—as the regulator—and the stakeholders works in practice. I imagine that we will come back to that as we move forward.

I will turn to my amendment 223. The bill sets out changes to the Deer (Scotland) Act 1996, including grounds for intervention relating to damage by deer. It sets out the conditions that NatureScot will have to believe are satisfied before intervention can take place. It then uses the wording

“This ground is met if, in relation to a particular area of land”.

My amendment 223 seeks to change “in relation to” to “on”. At the moment, the bill uses both terms. I believe that my amendment would introduce better consistency to the drafting of the bill and that use of the word “on” would narrow the reference.

My amendment 224 is similar to amendment 223. It seeks to introduce better consistency to the bill.

My amendment 330 is consequential to my amendments 223 and 224.

Section 13 of the bill adds to the Deer (Scotland) Act 1996 grounds for intervention due to nature restoration. It states:

“This ground is met if, in relation to a particular area of land, deer or steps taken or not taken ... are likely to, prevent or reduce the effectiveness of work, a project or natural process”.

My amendment 226 seeks to delete

“, a project or natural process”

and replace it with the words “or project”. As far as I am aware, “natural process” has not been defined in previous legislation, and I therefore do not believe that it would add anything beyond what would already be covered under “work or project”. Again, I am trying to make sense of the wording for practical application of the law.

My amendment 227 is a consequential to my amendment 228.

As I have mentioned, section 13 of the bill adds to the Deer (Scotland) Act 1996 grounds for intervention due to nature restoration. More fully, it states:

“This ground is met if, in relation to a particular area of land, deer or steps taken or not taken for the purposes of

deer management are, or are likely to, prevent or reduce the effectiveness of work, a project or natural process that ... preserves, protects, restores, enhances or otherwise improves the natural heritage or environment”.

My amendment 228 seeks to replace “enhances or otherwise improves” with the words “and enhances”. I am concerned that allowing intervention on the basis of improving the natural heritage or environment is problematic as there is no clear baseline against which such improvements can be measured. Removing the phrase “or otherwise improves” would ensure that deer management remained aligned with the established purposes of preserving, protecting, restoring and enhancing the environment, while avoiding ambiguity over what constitutes environmental improvement.

The Convener: Will you take an intervention?

Tim Eagle: Certainly. I need a break.

The Convener: I have a fairly straightforward question. There is some dubiety, and I know that you are trying to bring in a level of certainty about some of the decisions that NatureScot might make. Is it your understanding that, under the bill, there will be an obligation on NatureScot to work with landowners before potentially bringing in a control order?

Tim Eagle: Yes—that is my understanding.

My amendment 229 is similar to amendment 228. It seeks to change “, enhances or otherwise improves” to “or enhances”, for the same reason.

I apologise that some of my amendments might sound confusing. I am trying to get across the wording changes that I propose, the purpose of which is to bring to light the practical importance of the bill.

My amendment 230 seeks to remove the words “or environment” to avoid duplication and ensure clarity of purpose. The bill focuses on safeguarding Scotland’s natural heritage, which already encompasses the ecological landscape and biodiversity aspects that would otherwise be captured by the broader term “environment”. My amendment would streamline the provision without altering its substantive effect or limiting the scope of protections.

I will turn to amendment 231. Section 14 of the bill deals with deer management plans and it outlines what such plans should set out. That includes the measures that relevant owners and occupiers of the land consider should be taken in relation to the management of deer on the land. My amendment 231 seeks to replace the word “the land” with

“a particular area of the land”

to ensure that wording is consistent across sections 13 to 15 of the bill.

My amendment 331 seeks to add to the bill a new section, which would establish a community-integrated deer management model. The provision would place a responsibility on a public authority that is

“responsible for publicly owned land”

to consider the possibility of introducing such a model when

“preparing or reviewing any deer management plan”.

Functions of the public authority would include having to

“identify publicly owned land”

where the model

“may be appropriate”

and having to

“engage with local community groups”.

I think that we all agree that the management of wild deer is essential. Ideas vary on how deer management can be conducted. However, support is growing for the idea of integrating communities into that management.

Amendment 331 would lead to trained stalkers managing deer in their local area and mean that more locals from the community are involved in the provision of training. That means that knowledge of deer, their impacts and their benefits would be more widely known in a community. Many benefits could come from that, because it would build resilience into the management framework; support the harvesting, processing and local consumption of a sustainable food source; assist in protecting the environment; and help the rural economy.

Amendments 234 and 235 seek to deal with the control agreements that are set out in section 15, which states that NatureScot “must” carry out functions after it has formed a view. These amendments would simply replace the word “must” with the word “may” in order to maintain the discretionary character of NatureScot’s intervention powers under the Deer (Scotland) Act 1996, ensuring that the bill does not introduce an unintended obligation for NatureScot to act in every qualifying case. It would also address the concerns that we raised in our stage 1 report, in which the committee agreed to recognise

“the concerns from the deer management sector about the lack of detail around how the new ground for intervention would be used.”

It is critical that the Scottish Government does not erode the trust and consensus that has been carefully built.

NatureScot is required to give notice relating to control schemes, which were established by the Deer (Scotland) Act 1996. My amendment 236 seeks to add a new reasoning:

“a control scheme independent advisory panel has ... decided that a control scheme must be implemented”.

The broad powers of the proposed new section 6ZB of the 1996 act as set out in section 13 of the Natural Environment (Scotland) Bill, and the potentially significant implications of the use of regulatory intervention, should require a panel of independent advisers—similar in composition to the previous Deer Commission for Scotland—to be appointed to provide advice to SNH and the minister and to provide oversight of the process.

My amendment 237 seeks to remove NatureScot’s ability to extend the time limit of the control scheme. As currently drafted, the bill gives NatureScot too much power in that regard, which will have significant downstream economic consequences.

Jim Fairlie: Does the member accept that extending the timing of a control scheme gives the land manager time to achieve the objectives in the first place? It helps the landowner to achieve the aims.

Tim Eagle: I did not read it as that, but I am happy to take that point.

Jim Fairlie: There would be much value in our having an extensive conversation after this session, because we could get some agreement on an awful lot of things, but that is how I would describe my approach to amendment 237.

Tim Eagle: I completely agree that our speaking after this session would be hugely valuable, minister. I am raising the points now, as is normally the case, because they are very technical, but I would welcome that discussion.

My amendments 238 and 244 seek to remove the requirement for a control scheme to

“register in the Land Register of Scotland or (as the case may be) record in the General Register of Sasines”

and replace it with a requirement to “publish on SNH’s”—NatureScot’s—“website”. That change would ensure increased public accessibility. Furthermore, removing the scheme from the title sheet would ensure that it is not legally tied to the land—I raised a concern about that at stage 1—and bring it into line with other parts of the control scheme’s operation, which are also set out on NatureScot’s website. The amendment simplifies the process by making information more accessible and transparent.

Section 19 amends section 10 of the Deer (Scotland) Act 1996, on “Emergency measures to

prevent damage by deer”. The ability to undertake such measures currently applies when deer are

“causing damage to woodland or to agricultural production, including any crops or foodstuffs”.

The bill proposes to add “natural heritage” and the “environment” to that list. My amendment 245 seeks to delete the word “environment”, which introduces broad, overarching objectives that reflect national rather than local priorities.

My amendment 232 acts as a replacement for Alasdair Allan MSP’s amendment 39, which seeks to expand the rights of occupiers to “prevent damage by deer”. In doing so, amendment 39 would create a significant safety issue for the landlord and the occupier, as well as any employees of either party.

The issue—

Alasdair Allan: Will the member give way?

Tim Eagle: Yes, certainly.

Alasdair Allan: I am sure that the member is about to explain this, but I am unclear as to why tenants would not have to live by all the same safety rules and expectations as their landlords.

Tim Eagle: I will explain that in what I am about to say, I hope—but I can come back to the member on that.

The issue stems from the fact that the occupier can kill deer without notifying the landlord, provided that they have reasonable grounds to believe that the killing of deer is necessary to prevent damage. That could conceivably lead to a situation in which agents of the landlord and of the occupier are undertaking deer management or other land management activities on the same piece of land at the same time, at significant risk to the safety of both parties. My amendment 332 seeks to retain the expanded rights to kill deer on

“arable land, improved permanent pasture ... and land which has been regenerated so as to be able to make a significant contribution to the productivity of a holding which forms part of that agricultural land, or enclosed woodland”.

However, for other types of land, the amendment would make the exercising of such expanded rights conditional on authorisation from NatureScot. NatureScot would give notice of the authorisation to the landlord, and the occupier would thereafter be subject to standard authorisation conditions, including notification requirements, which I believe occupiers carry out at present.

My amendment 333 would add a new section to the bill and to the Deer (Scotland) Act 1996. It would require ministers to establish a financial assistance scheme for deer management activities. My amendment seeks to underscore the importance of providing meaningful incentives in

support of sustainable deer management. It is widely considered by stakeholders from across the deer sector and beyond that financial incentives are essential, particularly in a lowland context. My amendment builds on existing pilot schemes in the central belt, Loch Ness and the Cairngorm national park and would put in place a statutory duty to incentivise sustainable deer management.

Finally, I turn to amendments 310 and 311. As currently drafted, the bill will establish a new code of practice on deer management, which we discussed widely during stage 1. However, we have no idea at present what will be in the code, and it will not be made clear until after the passing of the bill. My amendments 310 and 311 would mean that all parts of the bill relating to deer could not come into force until the new code has been publicised.

The Convener: I call Beatrice Wishart to speak to amendment 222 and other amendments in the group.

Beatrice Wishart: I thank the minister and his officials for making time to discuss with me some of what I am about to speak about.

Amendment 222 seeks to reduce the time period in which compliance with the deer management code of practice will be reviewed from 10 years to five. Given the expanded role of the code in setting out the circumstances in which NatureScot will intervene in the management and control of deer, it would seem appropriate to ensure that a review of compliance is conducted earlier than at the 10-year backstop that is prescribed in section 12 of the bill. I understand that the most recent review of compliance was conducted in 2019.

NatureScot must carry out a review, if required to do so by ministers,

“within such period as it considers appropriate”.

However, to ensure that the code is fulfilling the functions agreed by Parliament, it does not seem unreasonable to mandate that a review of compliance be completed once every five, as opposed to once every 10, years. If there are problems with the code and ministers or NatureScot choose not to conduct a review, deer managers could be left operating under a deficient code until 2035.

Amendment 225 relates to the new ground for NatureScot to intervene in the management and control of deer. During stage 1, the committee heard concerns from the deer sector about the uncertainty surrounding the new ground for intervention based on nature restoration. It was underlined in the committee’s stage 1 report that ministers must ensure

“that the Scottish Government does not erode the trust and consensus”

that have paved the way for voluntary and collaborative deer management.

Amendment 225 is designed to help to alleviate some of the uncertainty that is inherent in the new ground for intervention by clarifying that intervention would be permissible only where there had been a material reduction in the effectiveness of works, projects or natural processes as a consequence of deer impacts or a lack of deer management. The amendment would ensure that NatureScot focused on situations in which the impact of deer is material and tangible. The use of the word “reduce” in section 13 is unqualified, which I recognise is generating concern in the deer sector. My intention is to provide clarity on when NatureScot will step in.

Amendment 232 seeks to increase the timescale for submitting a deer management plan from three months to six months. The bill proposes a three-month timescale for deer management plans to be submitted. Members will be aware that such plans are generally created at the landscape scale and that they cover the entirety of the landmass in a given deer management group area.

12:15

The amendment is based on information from Scottish Land & Estates and the Association of Deer Management Groups. Both organisations have confirmed that, for some deer management groups, the three-month period is not achievable. Some deer management groups have as many as 40 landholdings, with multiple objections. Both organisations note that six months constitutes half the time that is currently available to create and submit a deer management plan. My amendment would, therefore, still result in a meaningful reduction in the time available, but it would do so in a way that would be workable and reasonable for the deer sector.

Jim Fairlie: I appreciate that the member already knows this, because of our previous engagement on the matter, but I want to put this point on the record.

NatureScot has the ability to set a three-month timescale, on the basis that some land managers will simply not engage and will have nothing to do with any kind of deer management plan being put in place. The vast majority of deer managers, however, will actively engage and will get the extension of time that they need. That could be up to six months, or up to nine months, as long as NatureScot knows that it is getting engagement.

The three-month timescale is for those landowners and land managers who simply refuse

to engage, as it will allow NatureScot to take action more promptly. I know that the member understands that, but I wanted to put it on the record to give land managers a clear understanding of the purpose of the three-month timescale.

Beatrice Wishart: Thank you, minister.

Amendment 239 relates to the application and interpretation of control schemes, which constitute the highest tier of regulatory intervention relating to deer management. The significant and wide-ranging implications of a control scheme mean that careful consideration must be given to what constitutes a “relevant person”.

Relevant persons, first and foremost, receive notice of the proposal and then notice of confirmation of the proposal. Relevant persons are also entitled to a right of appeal against the terms and conditions of a control scheme or decisions to make, vary or revoke a control scheme.

The bill’s current definition of “relevant person” in the context of a control scheme is deficient. It covers the owner or occupier of land on whom a control scheme proposes to impose actions or on whom, where a scheme is already in place, it imposes actions.

The implications of a control scheme will not be confined to the owner or occupier of land where the control scheme applies. As deer are not confined to land ownership boundaries, it is reasonable to expect that other landholdings and businesses will be implicated as a consequence of a control scheme being imposed.

The committee has heard that deer stalking is an important income generator for rural businesses. An absence of deer that curtails stalking may, in many cases, result in a loss of jobs. Amendment 239 proposes to add

“an owner or occupier for the time being of land reasonably expected to be affected by the terms of the scheme”

to the definition of “relevant person”. It has been drafted with input from senior legal counsel and Scottish Land & Estates to ensure that all holdings that are reasonably expected to be impacted receive notice and appeal rights.

Amendments 242 and 243 relate to the consideration by experts of objections in relation to control schemes. The objection process is important in ensuring that any compliance issues with the processes that are followed by NatureScot or with the substantive content of a control scheme are addressed before the right to appeal to the Scottish Land Court is engaged. Substantive objections may be referred to experts who are appointed by the Scottish ministers. My amendments would mean that the Scottish ministers would need to consult NatureScot and

such other persons as they consider appropriate before appointing experts, as well as

“such persons as the Scottish Ministers consider to represent the interests of relevant persons”.

The amendments are designed to promote trust and confidence in the objection process by ensuring that representatives of relevant persons are consulted on any appointment of experts to consider an objection.

Amendment 251 would establish a single deer management data dashboard for Scotland as a means

“to record, collate and publish data”

relating to deer management in Scotland. Good monitoring of data and other relevant information is the bedrock of informing and delivering sustainable deer management and appropriate cull levels. In most other European countries, such data is readily available to wildlife management practitioners in a fully open and transparent way.

The intention with amendment 251 is to create a means of bringing together data on deer and deer management in one format, so that it can be widely shared. I think that having a unified process of data management and presentation that engages everyone with an interest in deer management would also help to address the polarisation issue that the minister mentioned earlier.

The Convener: I call Rhoda Grant to speak to amendment 68 and other amendments in the group.

Rhoda Grant: I will speak to my amendments 68, 69, 136, 137, 140, 141, 147 and 70.

Amendment 69 seeks to provide for the creation of a lowland deer management plan. The species in lowland Scotland and the way in which deer are managed there are very different from the situation in highland Scotland, and land ownership patterns are different, too. Responsibility for deer is therefore different. Stakeholders have told me that they are concerned that the bill appears to be focused on highland deer management and that it will do little to control increasing numbers of lowland deer. We need to have a lowland deer management plan to keep deer numbers in check.

Amendments 136, 137, 140 and 141 seek to introduce clear timescales for different stages of the processes under sections 7 and 8 of the 1996 act to add transparency in that regard. Currently, NatureScot’s use of the statutory intervention powers in sections 7 and 8 lacks transparency and is, therefore, not in line with its own shared principles for wildlife management.

The section 7 voluntary control intervention by NatureScot at Caenlochan in the Cairngorms

national park has lasted for more than 25 years, and it has not delivered the required reduction in deer densities on the ground. Only one out of 11 section 7 agreements has concluded successfully.

This set of amendments would set clear timescales for NatureScot to consider use of its statutory intervention powers around deer management and to publish its views, which would encourage swifter decision making and would enable interested parties and the public to keep better track of progress with action by NatureScot.

Amendment 147 would create a new section in the bill that would allow any concerned person to ask SNH or NatureScot to intervene or reduce deer numbers. High levels of deer browsing and trampling can cause significant damage to gardens, crops, woodlands and land management for nature restoration, because deer—as we know—do not respect property boundaries. The amendment would give those who are impacted by deer a formal process for asking NatureScot to help to resolve concerns by using its statutory powers to reduce deer numbers. NatureScot would not necessarily have to intervene; however, it must give a good reason for not doing so.

The confidentiality that is specified in subsection (3) of the proposed new section has been included to cover circumstances that involve a community or estate whistleblower. It would not normally apply to a local authority, community council, non-governmental organisation or other formal body, should they make such a request. The amendment would allow an appeal to the Scottish Land Court if action was not taken.

Amendments 68 and 76 seek to do something similar but specifically for farmers and crofters, by extending their current powers to allow them to take problem deer on land other than their cultivated land. If they are not able, or do not wish, to do that, they can ask SNH to take action to prevent damage to their crops and livelihood.

Alasdair Allan's amendment 39 would do something similar. I will listen to the debate, but I think that there are two things missing from his amendment. First, not everybody who is concerned or impacted might be able to take action themselves, and they would need a route for asking NatureScot to intervene. It is not always crofters and farmers who are impacted by problem deer—for example, someone who has a market garden might need to take steps to intervene and take deer but might not be confident about doing so themselves.

The Convener: I call Rachael Hamilton to speak to amendment 233 and other amendments in the group.

Rachael Hamilton: Amendment 233 would introduce a requirement for local authorities to

manage deer on their land, as part of which they would have to consult Transport Scotland and BEAR Scotland regarding safety on roads. They would also have to publish a report on the number of road traffic accidents involving deer, which would, I believe, answer the question as to whether the current interventions—for example, warning signs—work, and how effective such interventions are in reducing collisions.

An estimated 1,850 collisions involving traffic and deer have occurred every year in Scotland since 2016, and NatureScot highlights that May and June are the highest-risk months for collisions. I declare an interest in respect of this amendment, because, in October 2021, my daughter had a very bad car accident involving a deer. The car was a write-off and she had significant injuries. NatureScot admits that recorded deer-vehicle collisions are likely to be underestimated, as they are underreported. I know that, too, because a friend of mine had a collision that was equally distressing but he did not report it, because there were no significant injuries.

It has been estimated that more than £17 million is spent in the UK every year on vehicle repairs because of deer collisions. My amendment would improve road safety and save money for the national health service, but it would also improve workforce productivity because it would ensure that people did not take time off work. As I said, it would help local authorities to respond with appropriate measures.

Edward Mountain: One of the issues with deer is that, in the winter—especially along the A9, for example—they move down to the road to eat the lush grass on the edges of the roadside and to scavenge for the salt that is there. In addition to controlling deer, therefore, we could identify areas that need additional fencing in order to improve road safety, in the same way that we identify where crash barriers are needed in areas where people could move from one side of the road to the other. Does the member think that that should be considered as well?

Rachael Hamilton: My amendment would ask local authorities to work with other bodies to produce a report on the number of road traffic accidents, which would ultimately result in local authorities understanding where best to put in place interventions and safety measures.

We are here to debate deer; the number of deer is increasing, and they are going on to roads—that has become a wider problem. The figures show that the numbers are increasing, and it is important that we understand how we can best intervene effectively to improve road safety.

Mark Ruskell: I am very sympathetic to Rachael Hamilton's amendment, as I face the

daily challenge of looking to see where a deer is going to head out of the forest next when I am driving home, but I am wondering where local deer management groups and NatureScot would sit under her proposed approach. I could see a conversation taking place between BEAR Scotland and local authorities, but I am interested in where the provision of advice around wider deer management would come in and how we could knit all that together. Putting up signs is one thing, but measures such as fencing, which Mr Mountain suggested, culling in particular areas and the management of deer throughout the year are more technical; they are more about land managers and the wider efforts to manage deer populations in an area.

Rachael Hamilton: BEAR Scotland, Transport Scotland, NatureScot and local authorities all work collaboratively at the moment. I do not believe that all local authorities have deer management plans in place. Some have such plans—I believe that East Ayrshire Council has one, for example—but not all of them do.

The data that is collected from NatureScot is important, but that data is not overlaid. My amendment could broaden the ability of local authorities to understand where the problem is. At the moment, we are going in blind, and we need to improve road safety.

I thank Mark Ruskell for being sympathetic to my amendment. It is really important to me, because I have seen the effects that the collision has had on my daughter. She had weeks off work and had anxiety, and she had to seek counselling. Ultimately, she left her job because she was not confident in driving. Many people wrote to me after that incident, and I believe that we need to have measures in place to improve the current situation. Even though data is being collected, it is not being used effectively.

The Convener: I am aware that five members have spoken on this group of amendments and we have another five to go. Given that it is 12:30, I seek members' approval to suspend the meeting until 6 o'clock. It is unlikely that we would get through the group until well after 1, and that does not take into consideration the voting. Unless there are any dissenting voices, I will suspend the meeting until 6 o'clock this evening.

12:30

Meeting suspended.

18:00

On resuming—

The Convener: Welcome back to the 34th meeting of the Rural Affairs and Islands

Committee. Before we begin, I remind everyone to ensure that their electronic devices are turned to silent. To give members a heads up, I do not intend to continue much beyond 9 o'clock this evening—not because “I’m a Celebrity...Get Me Out of Here” is on, but because I think that that is probably an appropriate point at which to stop.

We pick up stage 2 proceedings of the Natural Environment (Scotland) Bill midway through the management and control of deer grouping. I call Mark Ruskell to speak to amendment 29 and other amendments in the group.

Mark Ruskell: The bill largely fixes what has been, up to this point, a pretty broken system of voluntary control, and that is good. However, it strikes me that there will still be a limited number of urgent circumstances in which NatureScot will need the ability to immediately control deer in order to protect nature and the public interest. In those quite limited circumstances, going through what could be quite a protracted section 7 voluntary control agreement process might take too long to prevent damage to a site. Let us imagine a situation where a particular species was found and the deer were causing damage—it would be too late to go through that kind of process in order to protect that feature of interest.

Amendments 29 and 30 would allow NatureScot to undertake deer control with the necessary speed, allowing it to undertake control measures directly or through its contractors without first agreeing voluntary intervention with the landowner. Although it would be the exception to normal practice, it is important to empower NatureScot by defining clear and specific scenarios where it might need to intervene, which would help to avoid prolonged delays or loopholes that allow persistent inaction.

I turn to amendment 246, which would require ministers to implement

“a national deer management programme”.

Specifically, it would require ministers to publish a national strategy, identify priority areas, set clear expectations for landowners and provide strategic direction for sustainable deer management. That was one of the independent deer working group's key recommendations, and the Government accepted it. The convener might remember that it was also a recommendation of the Environment, Climate Change and Land Reform Committee in the previous parliamentary session, which the convener was deputy convener of, and of the Rural Affairs, Climate Change and Environment Committee in session 4—we are delving into the annals of the Scottish Parliament here. The recommendation has been there for a very long time and it really needs action.

The proposed national deer management programme that amendment 246 sets out is effectively a modernised form of cull approval scheme. It is in line with what is in the most recent programme for government, which committed to having sustainable deer management pilots that would then be rolled out on a national scale. I think that amendment 246 would achieve that.

The Convener: I call Emma Harper to speak to amendment 240 and other amendments in the group.

Emma Harper: It is good to be here this evening. There are lots of amendments in the group, so I will focus on amendments 240 and 241, and I will perhaps mention another couple of amendments regarding lowland deer management.

Amendment 240 relates to the procedure for making, varying and revoking control schemes, which, as members will be aware, is the highest tier of regulatory action that NatureScot can impose in relation to its deer management interventionist powers. The amendment would make it clear that it would always be appropriate to provide relevant persons with a copy of the draft control scheme or, as the case may be, a control scheme as it was proposed to be varied. This is a technical amendment that is designed to ensure that relevant persons receive the salient details in relation to the making, varying or revoking of a control scheme. In turn, that would allow relevant persons to assess what the intervention would mean for them and respond accordingly.

Amendment 241 also relates to the procedure for making, varying and revoking control schemes. It is a technical amendment that seeks to ensure that every control scheme notification clearly states the date of first publication. That date is important, because the deadline for objections is 28 days after the date of first publication of the notice. Therefore, it is important that any notice clearly expresses the date of first publication so as to ensure clarity on the timeline for objections.

On lowland deer management plans, I will focus my comments on Rhoda Grant's amendment 69. I appreciate the intention behind the amendment, which seeks to provide for a statutory lowland deer management plan. I wanted to speak on the amendment to flesh out further information and to voice concerns that have been raised with me since the stage 1 report and debate and ahead of stage 2 by various stakeholders whom I know or who have contacted me.

Lowland deer management is complex. During stage 1, I sought to clarify what "lowlands" means when it comes to deer management. It includes the central belt, Dumfries and Galloway, the Borders and Perthshire. The land is urban, peri-

urban and rural. Land ownership patterns differ significantly from upland areas; there is publicly owned land, tenant farms and smaller holdings. Any plan for lowland deer management must reflect those realities.

Roe deer numbers are increasing in Scotland, including in peri-urban areas. A recent check on NatureScot's website showed that there are estimated to be 300,000 roe deer, 25,000 sika and at least 8,000 fallow deer—and I know that, if people search, they might find the numbers reflected differently in other documentation. All deer cause damage to woodlands and farmland—and, of course, they cause road traffic collisions.

Management solutions must be flexible and locally driven, not part of a one-size-fits-all national plan. Many deer managers are volunteers or recreational shooters who can and do contribute significantly to control efforts. Forestry and Land Scotland has permanent and contracted approaches and is Scotland's biggest venison supplier.

It has been raised with me that the requirement for equipment and other associated costs to be self-funded may be a barrier to engagement in lowland deer management. One comment that was made to me was that we need to turn around the perception of deer, so that they are seen as a product—a healthy substitute protein—and not just as a pest.

I want to ensure that if qualified, competent people want to participate in the essential management of Scotland's deer numbers, they can do so using processes that are as navigable and accessible as possible and that, where barriers exist, we commit to looking at ways in which we can remove them.

I will wait to hear what the minister has to say in response to this big group of amendments and on lowland deer management. I will leave it there.

The Convener: I call the minister to speak to amendment 71 and other amendments in the group.

Jim Fairlie: I apologise in advance, because there are a considerable number of amendments to get through in this group, which may take more than a couple of minutes.

On amendment 132, it is unfortunate that Edward Mountain has decided to bring this issue back again and to try disrupt proceedings relating to the close seasons of deer. We have a serious climate and biodiversity challenge in this country, and the advice from a huge range of experts from academic and practical backgrounds has been clear: if we are serious about protecting our environment and allowing natural regeneration, we must reduce deer impacts.

The only effective way to do that is to bring down deer populations and reduce deer densities. There is no evidence that shooting male deer during the previously set close season is detrimental to their welfare, which is the point that I made to the member earlier. There is nothing to prevent land managers who wish to observe a close season for deer on their land, for the traditional reasons, from doing so. Skilled practitioners, using best practice and local knowledge and expertise, are best placed to make decisions about which deer to shoot and under which circumstances. The Parliament voted on the matter very recently, in 2023. For those reasons, I ask the committee not to support amendment 132.

On amendments 133 to 135, 138, 139 and 148 to 151, the changes that the bill makes to introduce a ground for intervention for nature restoration purposes stem from a recommendation made by the Parliament in 2017, as has just been referenced by Mark Ruskell. At that time, the ECCLR Committee made the following recommendation:

“The Committee is not convinced the currently available suite of powers are adequate ... The Committee recommends the Scottish Government now take urgent action to devise alternative measures and simple provisions that lead to action to protect and restore habitats and sites impacted by deer.”

We are eight years down the line and the urgency around effective deer management for the purpose of nature restoration has only increased.

The provisions set out in section 13 of the bill to introduce a new ground for intervention for the purposes of nature restoration aim to achieve that. The new ground for intervention is not limitless and will be able to be used by NatureScot only when certain tests have been met. To help owners and occupiers of land to understand and anticipate when NatureScot may decide to intervene, NatureScot will be required to include the circumstances in which it will intervene in the management and control of deer in the code of practice on deer management. It has begun work on updating that code with stakeholders already.

Tim Eagle: I accept that, but I want to go back to an earlier point regarding the press statements that came out yesterday. You have been advised by officials that there is a serious risk that the new power undermines certain human rights. What are you saying in response to that? We do not want the Scottish Government to have to pay a significant amount of money if a case gets taken to court.

Jim Fairlie: First, I presume that you are talking about—I do not know how we should address one another in this committee, convener, so I apologise if it was wrong to say “you”. I presume

that the member is talking about the press release relating to advice in 2023.

Tim Eagle: The freedom of information request—yes.

Jim Fairlie: That related to 2023.

Tim Eagle: I do not have the date in front of me, but it was in the press: it was widely—

Jim Fairlie: If we are talking about the same thing, it was a press release that was put out about guidance or advice that was given to ministers in 2023. I was not the minister then; I am a different minister, and this is a different Government.

Tim Eagle: But surely it still stands.

Jim Fairlie: No, it doesn't.

Tim Eagle: If there is a genuine risk of the potential for a legal challenge to proposed new section 6ZB of the 1996 act, it would be nice to know that before we vote on it.

Jim Fairlie: We are content that we are compliant with the requirements of the law as it currently stands. I should also make the point that the protection of property rights under protocol 1 of article 1 of the European convention on human rights is not absolute. However, I am content that we are more than covered with regard to the information that you are talking about, which came out in the press release.

Tim Eagle: Okay.

Jim Fairlie: I cannot remember where I had got to.

There is nothing to prevent land managers who wish to observe a close season for deer on their land, for traditional reasons, from doing so. Skilled practitioners, using best practice—I have read all that. The Parliament voted on that matter very recently.

I will go back to amendments 133, 134, 138, 139 and 148 to 151.

The new ground for intervention is not limitless, and it will be used by NatureScot only when certain tests are met. To help owners and occupiers of land to understand and anticipate when NatureScot may decide to intervene, NatureScot will be required to include the circumstances in which it will intervene in the management and control of deer in the code of practice on deer management. It has begun work on updating that code already.

A fair balance is struck between those whose land and possessions are affected by the provisions of the bill and the wider general interest of the protection of the natural environment, as well as ensuring that deer management is

undertaken in an environmentally sustainable and welfare-conscious manner.

If we are serious about meeting our climate and biodiversity aims, we must take action now to address our deer populations. I want deer to be part of our functioning ecosystem, and for us to maximise the benefits that they provide as one of our great resources. However, that cannot be at the cost of our environment.

For those reasons I urge the committee not to support amendments 133 to 135, 138, 139 and 148 to 151.

I do not think that amendment 140 has the effects that Rhoda Grant thinks that it has. Under section 8(A1) of the 1996 act, NatureScot can already proceed with a control scheme if it

“is satisfied that it is not possible to secure a control agreement or that a control agreement is not being carried out; or ... 6 months have elapsed since SNH”—

now NatureScot—

“gave the notice and no agreement has been reached”.

Ultimately, whether NatureScot proceeds with a control scheme requires the tests in section 8(A1) to be met. I therefore ask Rhoda Grant not to move amendment 140. If it is moved, I ask the committee not to support it.

18:15

On amendment 141, in the name of Rhoda Grant, the process for control schemes requires the Scottish ministers to consider any objections made to a proposed control scheme. The objection period is 28 days, but the legislation does not set out any deadline by which ministers must confirm or reject that proposal. In practice, we would always work to respond as soon as possible, balancing that with the need to give careful consideration to the objections raised and all the relevant evidence. I can see, however, that it would be useful to set out a general expectation in legislation around the timescale within which the minister will respond. The amendment allows enough flexibility where circumstances might require a longer period of consideration. I support amendment 141 and I encourage the committee to vote in favour of it.

Mr Mountain’s amendments 142 and 143 would require all objections to a control scheme to be considered by a group of experts who

“are recognised in the industry”

as being experts. Although I understand and appreciate the aim that Mr Mountain is trying to achieve, the amendments are impractical. It is not the intention that all objections to control schemes made under section 8 of the 1996 act should be subject to advice from one or more experts

appointed by Scottish ministers for that purpose. Instead, the intention is that, where ministers feel that there is a need to seek advice from experts, we do so.

Objections can be made on any grounds, and it would not be reasonable to expect that ministers must convene a group of experts to consider objections made on, for example, procedural grounds. There is also the potential for a very high volume of objections to be received, or for objections to be made that are not based on evidence. To be required to have a group of experts to consider those objections would not be beneficial.

There could be differences of opinion in the deer management industry as to who is recognised as having the expertise that is relevant to the objection or the scheme. The amendment does not set out how such differences could be dealt with. Indeed, it is likely that all that it would do is slow down the process. Instead, the current drafting allows Scottish ministers to reach a view on who has the expertise to provide the advice. I ask the committee not to support amendments 142 and 143.

In regard to amendments 145 and 146, the deer working group conducted a comprehensive review of deer legislation and did not recommend increasing scrutiny of control agreements or schemes. The amendments therefore go beyond what the group considered necessary. Section 1 of the 1996 act, as amended by the bill, states that one of NatureScot’s aims and purposes is

“to safeguard the public interest in relation to the management and control of deer.”

Although the bill does not define public interest, the provision is widely understood to include both socio-economic and ecological impacts. That means that the intent of the amendments is already embedded in the 1996 act through the amendments that we are making in the bill.

The current legislation also already requires consultation and proportionality. Rather than improving the outcomes, the amendments duplicate existing safeguards. Introducing mandatory socio-economic assessments and an independent panel would add complexity and slow down urgent control measures, risking ecological harm and public safety. For those reasons, I encourage members to oppose amendments 145 and 146.

The Convener: I am still a bit concerned. You mentioned the advice that was given in relation to the submission in 2023. Proposed new section 6BZ is all about intervening for nature and climate objectives—surely that is exactly what that provision is about. The advice that the then minister received suggested that

“To go beyond preventing damage is a significant shift in balance between public and private interests and we could expect challenges to this proposal on European Convention on Human Rights grounds”.

Is that advice not absolutely applicable to proposed new section 6ZB, as it was to the submission back in 2023?

Jim Fairlie: The whole point of this is that we are still looking for voluntary agreements when there is an intervention to be made. It is about going through the whole process before we get to an enforcement order, which is what I presume that you are asking about.

The Convener: Yes.

Jim Fairlie: We would expect NatureScot to still go through the entire voluntary process in the first place before it ever got to that point.

The Convener: You are confident that, even if it did reach that stage because of a lack of engagement, the powers would be deemed to be legal under the European convention on human rights?

Jim Fairlie: Yes, I am.

The Convener: Thank you.

Jim Fairlie: On amendments 219 and 329, making compliance with the deer code mandatory, even if only when that is reasonably practicable, could prevent NatureScot from exercising its professional judgment in complex or urgent situations such as disease outbreaks or severe weather impacts. Wildlife management often requires adaptive responses to ecological conditions, emergencies or local stakeholder needs.

Although the suggested new wording would allow NatureScot to depart from the code when compliance is not reasonably practicable, framing that as a duty to comply could unnecessarily slow down intervention and increase the administrative burden. The deer code was designed as guidance to promote best practice; it is not a rigid statutory rulebook. Turning it into something that must be complied with—albeit only when that is reasonably practicable—would change its nature and risk prioritising procedure over the outcomes that we seek. For those reasons, I encourage members to oppose amendments 219 and 329.

Section 12 amends the 1996 act to require NatureScot to include in the code of practice the circumstances in which it will intervene in the management or control of deer. Amendment 220 would make a small but important change by replacing “will” with “may”. That would ensure that NatureScot has the flexibility to act when intervention is necessary, rather than being obliged to do so in every case. Environmental management requires judgment and

proportionality, and amendment 220 would allow decisions to be based on evidence and priorities. For those reasons, I encourage members to support amendment 220.

I understand the intention behind amendment 222, in the name of Beatrice Wishart, which would increase the frequency of reviews from at least every 10 years to at least every five years. It is important to note that section 12 already provides that flexibility. Under the proposed new subsection (1A) in section 5B of the 1996 act, NatureScot will be able to carry out a review at any time, including when it is required by ministers, following a significant revision of the code and otherwise not less than every 10 years. That means that the reviews are not restricted to the statutory cycle but can be undertaken whenever circumstances demand. I have set out previously that I would expect the review to be carried out within a few years of the bill being enacted.

Reducing the review period from 10 years to five years would create unnecessary administrative pressure without delivering any additional benefits, given that the legislation already allows for timely reviews outside the standard period. The current 10-year period provides a backstop, because it ensures that there is regular oversight if no changes have occurred to the code or otherwise. I do not expect it to become the default that the review is undertaken every 10 years. For those reasons, I encourage members to vote against amendment 222.

Amendments 223, 224 and 330, in the name of Tim Eagle, appear to be technical changes that would change “in relation to” to “on”, which would narrow the scope of intervention powers. The current wording allows NatureScot to act when deer activity or management decisions are causing or are likely to cause damage to an area of land, even indirectly. Limiting that to damage “on” the land could create unintended consequences and make it harder to address cumulative or cross-boundary impacts. Deer do not respect property lines, and our legislation should reflect that reality. For example, deer could be on a particular area of land but wander on to roads and cause road traffic accidents. The public safety issue would not be “on” the particular area of land but rather “in relation” to that land. The existing wording provides the flexibility that is needed to protect public interests and the environment. For those reasons, I encourage members to oppose amendments 223, 224 and 330.

I support the aim that Rhoda Grant is trying to achieve with amendment 68, which would clarify that NatureScot can seek a control agreement from a landowner where the land is tenanted and where damage is occurring on the tenanted land.

She is trying to ensure that, in those circumstances, the tenant can ask NatureScot to provide support via an intervention. I support the premise, but the amendment needs some clarification. I am happy to work with Ms Grant to lodge an amendment at stage 3, if she does not move amendment 68 today, but I ask members not to support it if it is moved.

I cannot support amendment 231, because it is unnecessary. The words “the land” in paragraph (a) of proposed new section 6A(2) of the 1996 act must be read in the light of the opening wording of new section 6A(2). Therefore, the words “the land” refer back to the particular area of land previously referred to. For those reasons, I urge members to reject amendment 231.

On amendment 232, in the name of Beatrice Wishart, the bill makes a change to allow NatureScot to request that a deer management plan be submitted in a shorter timeframe, with a minimum of three months’ notice. That is only a minimum timeframe, which is the point that I was trying to make earlier. We consulted on the change, but I appreciate that concerns have been raised since by stakeholders, and I want to use this opportunity to set out my expectations very clearly.

NatureScot will be able to set a deadline that is beyond three months or extend a deadline, where appropriate, as it does now. Where owners or occupiers are working to develop a plan or to address gaps in data or information that relate to developing the plan, NatureScot will work with them to agree an appropriate timescale for delivering the plan.

The Convener: In the long run, do you think that it will be proportionate and reasonable for an intervention to take place on one landowner’s land to deliver nature restoration on another piece of land? Would consideration have to be given to the impact on jobs or businesses at that point?

Jim Fairlie: I absolutely accept stakeholders’ concerns on the issue, but let us be absolutely clear: such an intervention will happen only after NatureScot has gone through a considerable period of asking for voluntary agreements to get to a collective agreement. The role of deer management groups will be very important, but when a specific and targeted plan is being introduced on a piece of land or an estate and a very high density of deer is preventing the development, restoration or whatever it is from being done on the piece of land, then, yes, it is appropriate to ask the neighbours to play their part. The intervention will come in when a neighbour simply refuses to take part in the conversation.

We need to get to a position at which deer numbers come down to allow the peatland or forestry restoration, or whatever is in the specific plan that has been laid out, to happen. The plan cannot just be someone saying, “I want to rewild that.” The action must be part of a particular plan, such as a biodiversity or climate plan—we have a range of plans in place—that is set out, that is deliverable and that people have been consulted on. It is reasonable to ask people to get deer numbers down to allow the specific restoration event to happen.

That does not mean that those deer numbers cannot go back up. I absolutely accept how some people feel, and I have heard the phrase, “We’ll be shooting ourselves out of a job.” However, I do not believe that that will be the case. We have massive numbers of deer. Edward Mountain spoke earlier about deer having to come down from the hill to get the better grass at the bottom of the road. There is scope to allow us to ensure that we can require a landowner to cut their deer numbers to allow a particular piece of work to happen.

Mr Ruskell asks us to go even further and not to even have voluntary engagement. I think that the current provision is absolutely reasonable, because we have a very high deer population. I take the point that was made this morning that we have a national vision and a local vision, and I understand all that, but, if something needs to happen in a local area, then, yes, an intervention is appropriate. That does not mean that the population of deer would necessarily have to be the same in five or 10 years.

Rachael Hamilton: If the control scheme is, as you say, voluntary and somebody is being asked to carry out control because of a land management plan to protect the environment or biodiversity, does the minister not believe that that will lead to conflict, rather than the current way of working, which is collaborative?

18:30

Jim Fairlie: I am glad that you mentioned the collaborative approach that is currently being taken. I have had extensive engagement with land managers since I was given the responsibility of taking this part of the bill through, and not one deer manager or land manager that I have had a conversation with is not on board with having a deer management system that actually works. Yes, there will be discussions, but deer management is already in a much better place than before, when it comes to how people are co-operating. Through the Common Ground Forum, there is much better interaction and engagement.

Where the provision will come into play is if somebody simply refuses to engage. That has happened only once; one control order has been brought into play. NatureScot and the Government are within their rights to say, "If you are not prepared to be part of this community and allow us to achieve the objectives that we are trying to achieve, we should have the ability to take control." That may well cause conflict with an individual landowner or landholder who is not prepared to take part.

However, one thing that I would like to get across, as I think I have said, is that we have good relations with our deer managers now—they are way better than previously—and I want that to continue. Voluntary engagement with NatureScot is absolutely the way that it has to be done to begin with. However, if somebody refuses to engage, there has to be an ability to make them engage.

Edward Mountain: I want to make a brief intervention. I am not trying to disrupt.

Jim Fairlie: That is absolutely fine. We have all night.

Edward Mountain: The reason that I have come to the committee is because I would like to add to it, and I feel passionately about the subject.

The next-door neighbour who has too many deer is being asked to control them to allow somebody else to achieve an end. What about the next-door neighbour who has far too many sheep, which come across because there is no boundary fence? Will you ask them to remove the sheep from the hill and destroy their farming enterprise? Are you happy to do it just on deer?

Jim Fairlie: Mr Mountain, I find it incredible that a man of your experience would try to pit one traditional land manager against another in such a situation.

Edward Mountain: I am not doing that.

Jim Fairlie: That is exactly what Ross Ewing did in the press release that he put out. I find it astounding that you are prepared to go down that road.

First, you know as well as I do that you can go out with 10 bikes and 50 dogs but you will not round up deer and manage them in the same way as you can manage sheep; whereas you can certainly manage sheep with a couple of shepherds and dogs and get them off that land. I am astounded that you are taking that position of pitting one land manager against another. Deer are a naturally roving and marauding animal. Sheep can be managed as livestock. I find it unbelievable that you could go down that road. However, that is entirely up to you.

The Convener: I would like to intervene. I am finding it difficult to understand how we can avoid potential conflict. For example, there might be multiple land users, and one land manager decides to have a land management plan that requires a very low density of deer. If that land management plan is accepted, do all the surrounding landowners have to control their deer as a result? Who decides, before enforcement comes in, whether that land management plan is reasonable? It is all very well to say that we can sit round the table, but, if one land management plan suggests that the maximum density is one deer per hectare, based on restoring some type of habitat, who decides whether that is reasonable or whether the impact on adjacent landowners is reasonable?

Jim Fairlie: We already do that for deer damage. We already have that ability in place. We are looking to create more biodiversity.

I absolutely get the nervousness among deer managers as to what "restoration" means. It is not something that can be plucked out of the air; someone cannot suddenly say, "I am going to restore that," and it has to happen. There are examples of relevant strategies and plans. It would have to be something out of the Scottish biodiversity strategy, the Scottish climate change plan or the forestry plan, for instance.

There are a number of different schemes that somebody would have to sign up to. In the process of delivering that scheme, if the neighbouring community is asked to bring down its deer numbers, that is acceptable. However, as I said in response to a previous intervention, that does not mean that things will have to be like that for the next five, 10 or 20 years. If there is an allowance for bringing down the numbers and people do that work, that allows the restoration to happen, whether it is peatland, forestry or any other kind of restoration. That does not mean that the deer numbers cannot go back up, however.

If the concern is that people will lose their jobs as a result of deer numbers being brought down, I would say that I do not think that that is the case. I think that there will be a huge demand for shooters to control deer for many years to come. I have no concerns about deerstalkers losing their livelihoods. That may happen in a different way, but I do not believe that that is what is going to happen.

I see that Mr Eagle wishes to make an intervention.

Tim Eagle: There is a real concern here. If I got you right, you have just said that a person A can come in and buy a 15,000-hectare plot of land and then decide that they want to do peatland restoration, woodland planting and all manner of

different things on that land that meet the Scottish biodiversity strategy or whatever it might be, and person B or C, or however many people there are around the outside, regardless of what they want to do on their land, might then have to face the consequences or have certain controls because of what person A has decided to do on their land. Is that what you are saying?

Jim Fairlie: We should bear in mind that there is the public interest test, which also takes into account employability and the local economy. In the scenario that you have just given me, where eight people want to do something and one person wants to do something different, NatureScot would have to consider not just that person's point of view but everybody's point of view. That is where you have to have deer management groups, with the local community working and talking together, so that they come to a reasonable compromise to ensure that the restoration can happen—but not to the point where it is completely detrimental to everybody else.

Tim Eagle: But is that not just the Scottish Government taking a massive leap into people's personal choice in what they do with their land across Scotland? Is there a risk that NatureScot might say that person A is doing everything it wants and saying all the right things, therefore all the traditional land management around them must comply?

Jim Fairlie: No. I do not accept that. NatureScot has a duty to apply the public interest test, which includes the people who have traditional stalking or deer management on their estates. The two things have to sit side by side, one way or another, and NatureScot has to do that.

Rachael Hamilton: I appreciate the minister taking this intervention to chat this through. My colleague Edward Mountain's amendments 145 and 146 would require NatureScot to conduct a full financial and socioeconomic assessment to get a full analysis of the impact of control orders. I do not believe that the Government has accepted those proposals. I did not plan to get involved in this conversation, and I am not a member of the committee, but, from what I am hearing, it seems very serious.

An individual will be expected to adhere to something in relation to A, B, C, D or E, as we are putting it, but they are going to be out of pocket. Whether or not they could keep the jobs going, there is no understanding of the impact of the financial hardship that will be experienced through the weeks or months. What does the minister have to say about that? It seems unfair to make people go into financial hardship to benefit the land management plan of a neighbouring person.

Jim Fairlie: We already do that for nature damage, so we are adding restoration to that requirement. That can already be done. The amendment that Mr Mountain has lodged would put in statute that there has to be an economic impact assessment. That is my understanding of what his amendment would do. However, we already have the public interest test, which I just explained to Mr Eagle. Therefore, NatureScot cannot dismiss the fact that neighbouring estates have employees who require deer to make a living. That has to be part of its consideration.

It is a voluntary agreement to begin with, and it would only ever become a statutory agreement if NatureScot could not get agreement through a voluntary process. I am trusting that NatureScot, the landowners and the stalkers will be able to find proportionate responses to requirements in order to allow us to get restoration done in Scotland—which this committee has always agreed to. Every time that I have listened to this committee, everyone has agreed to that, and this is the method by which we are doing it.

We could have made it a lot harder and simply said, "We're going to legislate and this is what will be done," but that is not what we are doing. We are trying to get people to work together, as communities, to deliver the nature restoration that we are looking for while maintaining the ability for people to make a living out of stalking deer. I do not know how to put that any more clearly. People may disagree with me, but that is as clear as I can make it. I hope that that gives comfort to the people who are actually shooting deer.

Although we will come on to this point later, I want to address another part of the issue just now. When we talk about financial hardship, we also have to talk about how we make venison worth money and valuable. We have to get it up the pecking order in terms of its ability to be part of our heritage and culture, so that people will look to Scotland and say, "They have fantastic wild deer and we're going to eat it." There are things that we would very much like to do to bring that forward.

I get that this can be difficult and that it will feel like a change and a threat to people—I absolutely understand that—but we are doing this in a very proportionate way. There are policy objectives that we will try to achieve, but we want to take people with us, and I think that we are doing that with the bill that is in front of us.

Unless anyone else has any more comments or questions on that issue, I will go straight to the end of my notes on it, because we have exhausted everything through that little interaction. I ask Beatrice Wishart not to press amendment 232. If it is pressed, I ask members not to support it.

Let me turn to amendment 69 in the name of Rhoda Grant. Good deer management is about achieving balance, which is exactly what we have just discussed at some length. What that looks like in different local areas will very much vary depending on the immediate environment and the impact that deer may be having. I take the member's points about the complexity of managing deer on the lowlands, and I agree that there are very different circumstances and barriers to be addressed.

However, there will be more benefit in establishing a national deer management plan that brings together all those strands to ensure that we are not working in silos. That national deer management plan could certainly have a specific section on lowland deer management that addresses issues such as the different approaches to collaborative deer management and NatureScot resources, on which I am very happy to work with the member.

As a result, I would like to suggest working together with Mark Ruskell on his amendment 246 ahead of stage 3 of the bill, so that we can develop a national deer management plan—*[Interruption.]* Give me two seconds until I finish this point.

That plan will be capable of addressing the issues that are raised by amendment 69. On that basis, I ask Rhoda Grant not to move amendment 69.

I will take that intervention. Was it from Emma Harper?

Emma Harper: Thank you, minister.

I did not lodge amendments about lowland deer management. However, so many people have come to me recently about urban and peri-urban issues, including around the M8 and Glasgow, and about the differences in areas, where we have a big mix of rural, urban and peri-urban. I am therefore also interested in gathering more information and engaging with the minister ahead of stage 3 to look at what we can do to ensure that people are aware of the different approaches to deer management. Is the minister open to further discussions on that?

Jim Fairlie: The more the merrier—absolutely.

On Mark Ruskell's amendment 246, I appreciate the member's intention to create a national deer management plan. Although we share the ambition to address rising populations, the amendment as drafted would lock us into a rigid five-year programme with fixed cull targets. A statutory plan with predetermined numbers would risk reducing flexibility and could undermine adaptive management approaches. In addition, taking resource to draft such a convoluted plan

would prevent us from taking tangible action on the ground. For those reasons, we cannot support amendment 246 at this stage, but I would very much like to work with Mr Ruskell and stakeholders ahead of stage 3, to ensure that any proposals are fit for purpose.

18:45

I oppose Beatrice Wishart's amendment 225 because it risks weakening the effectiveness of the bill's nature restoration objectives. By inserting the word "materially," we would raise the threshold for intervention, meaning that NatureScot could act only when deer prevent or materially reduce the effectiveness of work, a project or natural process. Although that sounds reasonable, it would create problems in practice.

The amendment would delay action, as many environmental impacts start small and accumulate over time; it would introduce ambiguity, because the term "materially" is subjective; and it would invite disputes over what qualifies as material harm, adding complexity and slowing enforcement—instead of having clarity, we risk having uncertainty and challenge. It would also reduce flexibility. NatureScot needs to have the ability to act proactively, especially where cumulative minor impacts undermine biodiversity targets. The amendment would limit that discretion and could compromise Scotland's climate and nature commitments.

For those reasons, I urge members to reject amendment 225.

I cannot support Tim Eagle's amendments 226 to 230 as they would collectively weaken the bill's ability to deliver effective nature restoration. Amendment 226 would remove the phrase "natural processes," meaning that NatureScot could not act where deer are preventing or reducing, or are likely to prevent or reduce, the effectiveness of a natural process that protects the natural heritage or environment and is for, or contributes to, a climate change, biodiversity or environmental target, strategy or plan that applies in Scotland.

Amendments 227, 228 and 229 would change the wording relating to preserving, protecting, restoring and enhancing, which would create unnecessary complexity in an attempt to narrow the scope of the grounds for intervention, and, in doing so, it would potentially exclude projects that focus on only one objective. Amendment 230 would remove the phrase "or environment," narrowing the scope to natural heritage alone and undermining integrated outcomes such as soil health, water quality and climate resilience. Those changes might seem technical, but together they would reduce flexibility, create ambiguity and limit

the bill's reach, when the original wording is clear and comprehensive. For those reasons, I encourage members to oppose amendments 226 to 230.

Although Rachael Hamilton's amendment 233 is well intentioned, it would introduce a significant policy and practical challenge that would risk undermining effective deer management. The amendment would also impose a statutory duty on local authorities to require them to manage deer on all land that they own or control, including roads.

First, it is not clear what is meant by the wording, "otherwise under its control". I am not sure what specific land would be covered by the proposed duty. In practice, amendment 233 would create an unfunded mandate. Many councils, particularly in urban and lowland areas, lack the expertise, resources and infrastructure to deliver safe and sustainable deer management. Without dedicated funding or training, the duty would be unrealistic and unevenly applied across Scotland.

Secondly, the requirement to prepare and publish a deer management plan would add administrative complexity. Councils already face severe budget pressures, and the amendment would divert resources from core services and risk creating plans that look good on paper but cannot be implemented effectively.

Finally, although the amendment rightly links deer management to road safety, it would not address the underlying problem—councils often lack access to reliable collision data and have limited capacity to act on it. Simply mandating consultation and reporting would not resolve those systemic gaps.

In short, the amendment would risk creating obligations without the means to fulfil them, leading to patchy implementation and potential liability for councils. The bill already provides mechanisms for co-ordinated deer management through NatureScot and voluntary partnerships. Adding that duty now would overcomplicate the system and strain local government capacity.

For those reasons, I encourage members to oppose amendment 233.

Tim Eagle's amendment 331 is well intentioned. However, in seeking greater community involvement in deer management, it would introduce significant challenges that risk undermining effective deer management. It would impose a statutory obligation on public authorities to consider and potentially implement "community-integrated deer management models" on publicly owned land. In practice, that would create complex engagement requirements that could delay decision making, particularly when communities disagree with proposed plans.

The amendment would require public authorities to consider a number of complex elements when exercising their functions, which would significantly increase workload and administrative burdens on them. Such a requirement should not be progressed without careful consideration and consultation with the public authorities that might be subject to that new duty.

Deer management can be an emotive subject, and there are many views on the best way to manage deer in different areas. I do not think that the member has considered the potential implications in peri-urban areas, where some members of the public who rarely see deer do not understand the impact that deer have on the environment if their population is left unchecked.

For those reasons, I ask the member not to move amendment 331. If he does, I ask members not to support it.

Although I appreciate the intention behind Rhoda Grant's amendment 136, which is to ensure timely action on the notification of control agreements, I remind her that section 7 control agreements are voluntary. NatureScot will look to secure voluntary deer management and work with landowners and occupiers to reach agreement on what it will look like. That can take time, because collaboration and the process are not linear. Therefore, it is not practical to oblige NatureScot to give notice within three months. For those reasons, I recommend that members oppose amendment 136.

Rhoda Grant: Regarding intervention, it is clear that the systems are not working. Where is the fallback to ensure that, when there is an issue with deer, intervention can take place?

Jim Fairlie: I am not sure that the systems are not working. There are good examples of the systems working right across the country. The deer management groups work regularly to manage their deer effectively. That work is already being done.

Rhoda Grant: Not all of them are working well; some of them are not working. Some of them have been in place for many years and have still not concluded agreements.

Jim Fairlie: Some voluntary agreements take time, because NatureScot has to work with people to find satisfactory solutions.

Rhoda Grant: I apologise, because I do not want to get into a conversation about this, but it feels to me that, if something has been on-going for years, it has not really achieved its goal.

Jim Fairlie: NatureScot has to report to ministers on any issues as well. If a particular issue is of concern, it can come back to ministers.

On amendments 234 and 235, I am not sure why Tim Eagle wants to amend the bill in that way. At various points in the stage 1 debate, the member outlined that he thought that NatureScot's powers were broad and too vague. I have been clear that we want voluntary deer management to be the focus of our deer management efforts. We want the good collaboration that we have seen until now to continue. However, when NatureScot forms a view that the tests and the grounds for intervention have been met, we want to ensure that it is clear what action will be taken. Changing "must" to "may" would undermine clarity and certainty about what steps will be taken after NatureScot has formed the view that some form of intervention, whether that be a voluntary control agreement or a control scheme, is required. The lack of certainty about the process that would follow would not benefit anyone. For that reason, I recommend that members reject amendments 234 and 235.

On Rhoda Grant's amendment 137, as I have set out previously, control agreements are voluntary. Publishing all the information related to section 7 control agreements, which are part of an iterative and collaborative process, including all the evidence that led NatureScot to form a view that intervention was necessary, would be preemptive and detrimental to everyone involved. It would place a significant administrative burden on NatureScot. The section 8 provisions are the end of the process in which deer control schemes become compulsory, and it is at that stage that the schemes are published by NatureScot. For those reasons, I encourage members to oppose amendment 137.

Tim Eagle's amendment 236 would add an unnecessary layer of bureaucracy to the process for proposing a control scheme. NatureScot must publish a notice when issuing a control scheme. That notice must include a copy of the scheme itself as well as details of how relevant owners and occupiers can object. As I set out a moment ago, control schemes are the end of the process and, by that point, NatureScot will have been engaging or attempting to engage the owner or occupier on the deer management issues that the scheme seeks to address. Throughout the process, NatureScot will have gathered evidence and outlined its assessment of the situation on the ground, and the rationale for the intervention. Where an owner or occupier disagrees with NatureScot's assessment, or the actions that are required by the scheme, they can object to the Scottish ministers. If the Scottish ministers then, having considered the evidence and any objections, confirm the scheme, the owner or occupier may appeal to the Land Court.

There is no rationale for introducing an additional step involving an independent panel to

review control schemes. At best, that will result in the work that NatureScot has already undertaken being carried out twice, and, at worst, it will be a waste of time and money for everyone involved. We already have sufficient checks and balances in place, and a process that is well understood by all. I therefore urge the committee to oppose amendment 236.

On Mark Ruskell's amendments 29 and 30, the changes that we are making to NatureScot's powers under the bill are intended to support voluntary deer management and ensure that, in situations where those voluntary agreements break down, NatureScot can take enforcement action to ensure effective deer management. It is of the utmost importance to me that we do as much as we can to support the good deer management that is happening across Scotland and ensure that it can continue. At the moment, the process requires NatureScot to make the meaningful attempts that I have already spoken about to secure agreement on voluntary deer management. I fear that these amendments would undermine that aim entirely.

We want voluntary deer management to be the focus of our deer management efforts, and we want the good collaboration that we have seen until now to continue. That includes taking proactive action for environmental purposes while maintaining those appropriate checks and balances. It is not our intention, nor is it either practical or feasible, to demand compulsory deer management everywhere.

Mark Ruskell: I agree with most of what the minister has just set out—I think that that should be the process going forward. However, I invite him to consider the quite rare circumstances in which it would make sense to bypass the voluntary control agreement process and allow NatureScot to take action. If the minister is confident that there could not be any circumstance at all where urgent action would need to be taken, I accept his argument. However, if there is any doubt about that, I ask him to have a conversation with me between stage 2 and stage 3 and to think about lodging an amendment in that space that could be better than mine and could leave it open for urgent action to be taken without undermining the important voluntary agreement approach that has been established. We are all behind that approach and wish the minister well with it, but we have concerns in relation to exceptional circumstances.

Jim Fairlie: I am not minded to change my position on that, because, as far as I am concerned, we have to have that voluntary conversation. I cannot see any rationale for not asking NatureScot to find a voluntary agreement before we go for a control scheme. However, I am

happy to have a conversation with Mark Ruskell after this meeting.

The Convener: Is “voluntary control scheme” not a bit of an oxymoron? The word “control” says it all. There will be points where the voluntary part of it disappears and it is about control. My question is along similar lines to Mark Ruskell’s: what safeguards are there when those controls, rather than voluntary methods, come in?

Jim Fairlie: Safeguards for whom?

The Convener: For the land managers who are being controlled by legislation rather than entering into a voluntary scheme.

19:00

Jim Fairlie: There will have to be a control scheme only if we cannot find a voluntary scheme that will reduce deer numbers. It goes back to the point that I made earlier: we have developed very good working relationships with deer managers across the country through the deer management groups. I am confident that, particularly given the fact that only one enforced control scheme has been put in place, NatureScot will be able to find those voluntary agreements in the vast majority of cases. However, I am not prepared to go for a position where we go straight to a control scheme without seeking that voluntary agreement in the first place.

I do not want to alienate landowners, and I want sustainable deer management to be a common goal. Therefore, I cannot in good faith support Mr Ruskell’s amendments 29 and 30, and I ask members to oppose them, for all the reasons that we have just discussed.

Tim Eagle’s amendment 237 would reduce the flexibility for NatureScot to be able to make accommodations for the delivery of actions required as part of a control scheme. The provision in the bill that Mr Eagle’s amendment would remove allows NatureScot to extend the timeline for the delivery of actions under a control scheme. That provision currently exists in the 1996 act and is simply being replicated in the bill. It is right that NatureScot can extend the timeline where there are mitigating circumstances that might hinder delivery. I urge members to oppose amendment 237.

Amendment 239, in the name of Beatrice Wishart, would require NatureScot to publish a copy of a control scheme and to give notice to any owners or occupiers on the land on which the control scheme imposes requirements. I understand that the rationale behind Ms Wishart’s amendment is to ensure that owners or occupiers who are likely to be affected by the scheme should be notified, too. I think that that would provide

additional certainty for those with concerns about the impact of deer management in their area. However, the amendment goes much further than that. The current drafting would enable those neighbours who might reasonably be expected to be affected by the scheme to object to a control scheme or to appeal once one is confirmed. It is not our intention that that should be the case. We think that it is appropriate that owners and occupiers who must take action under the control scheme are the group to whom objections and appeals should be available.

If the member is content not to move amendment 239, I will be happy to work with her ahead of stage 3 to return with an alternative amendment. However, if the amendment is moved, I ask that the committee reject it.

I understand the rationale for Emma Harper’s amendment 240 and agree that, on reading the provisions, there may be a question about the circumstances in which it would not be appropriate to provide a copy of the draft control scheme to relevant persons. Therefore, for the sake of clarity, I support Ms Harper’s amendment and ask the committee to do the same.

I am also happy to support amendment 241, which would require NatureScot to include the date on which a section 8 notice is first published as part of the publication. I think that that will add clarity for those viewing the notice, and I urge the committee to support the amendment.

Amendments 242 and 243, in the name of Beatrice Wishart, would not have a meaningful impact on those who are required to be consulted by NatureScot. The people in Ms Wishart’s amendment could already be covered if the Scottish ministers considered that it was appropriate to consult representatives of relevant persons. Ultimately, it is important that there is discretion about who should be consulted, so that Scottish ministers do not require to contact organisations unnecessarily. Instead, that can be considered on a case-by-case basis. If Ms Wishart has another intention, I would be happy to discuss it further ahead of stage 3. I urge her not to move amendments 242 and 243, and, if she does, I ask the committee not to support them.

On Tim Eagle’s amendments 238 and 244, the bill introduces a requirement for NatureScot to register any control scheme made under section 8 of the 1996 act against the land to which it applies. It does so in order to ensure that, should land ownership change while a control scheme is in place, there is continuity in the deer management. That is in recognition of the significant investment of public resources and of the necessity of achieving deer management in that place.

Tim Eagle: Will you take an intervention?

Jim Fairlie: If you allow me to finish the next two paragraphs, I will come back to you.

That will not only ensure continuity but provide potential purchasers of land with prior notice of the deer management that they would be expected to undertake. Where land ownership changes, NatureScot will work with the new landowner to achieve the voluntary agreement and to look to de-escalate from a compulsory control scheme wherever possible.

I will take that intervention now.

Tim Eagle: You might partly have answered, minister. My concern is that this might undermine land value and might also discourage a buyer who would absolutely want to reduce deer or meet whatever requirements there were for the land. I suggest that, instead of tying that to land, which seems quite final, we just have a website that lists all those things.

Jim Fairlie: It is not uncommon for such obligations to be registered against land. The Forestry and Land Management (Scotland) Act 2018 enables ministers to register certain notices on the land register or on the register of sasines, and nature conservation orders can be registered in that way, too.

Mr Eagle proposes that, instead, NatureScot publish details of the control scheme on its website. However, NatureScot is already required to publish details of all control schemes, which means that the amendment would duplicate that requirement. It would also not provide continuity of deer management or ensure the transparency in relation to the presence of a control scheme that is intended by the provisions in the bill. For that reason, I encourage the committee to oppose amendments 238 and 244.

Amendment 245, in the name of Tim Eagle, seeks to amend section 10 of the 1996 act, which contains measures that can be taken in emergency situations. In all circumstances, NatureScot will ask the landlord or occupier to undertake the emergency measures themselves and will make use of the power only in cases where the landowner or occupier is unwilling or unable to take appropriate emergency action to halt deer damage.

I should say that NatureScot has used section 10 powers in circumstances that are not connected with the carrying out of culling. At Flanders Moss, for example, NatureScot uses section 10 powers as an enabling, not regulatory, tool to allow cross-boundary deer control. That intervention was requested by deer controllers themselves, to allow them to follow and kill deer across boundaries within a defined and agreed area.

By introducing the prevention of damage to the natural heritage and environment as a purpose for which that power can be used, we are increasing the tools available to land managers across Scotland. Deer are, as we know, highly mobile and, although they are a great resource, they can also cause great damage, so we must have the appropriate tools available to us if we are to achieve our climate and biodiversity aims. For those reasons, I ask the committee to oppose amendment 245.

Turning to amendment 70, in the name of Rhoda Grant, and amendment 332, in the name of Tim Eagle, I have heard from tenant farmers and crofters about their concerns regarding deer damage on unimproved land and common grazings. The issue of occupiers' rights was raised by the deer working group, and I know that it was also highlighted in the committee's stage 1 report. Although I support the intention behind both amendments, I want to ensure that we strike the right balance between protecting occupiers' interests and protecting the right of landowners to take deer.

When I speak to Dr Allan's amendment 39, I will set out my intention to work with him on tweaking that amendment ahead of stage 3, but I would also be pleased to work with Ms Grant and Mr Eagle on the matters that they have raised. I therefore ask them both not to move their amendments but instead to work with me to improve Dr Allan's amendment. If their amendments are moved, I encourage members to vote against them.

Turning to amendment 39, in the name of Dr Allan, I accept that he has not spoken to it yet, but I have to say that it represents a vital step towards sustainable land management and biodiversity recovery. It will empower occupiers of agricultural land or woodland, and grazings committees, to act swiftly to prevent both injury to livestock and the damage that deer cause not only to crops and woodlands but to the natural heritage in our environment.

That change supports Scotland's biodiversity and climate targets by helping to reduce deer densities, which is essential for woodland regeneration and tackling tick-borne diseases that harm livestock and human health. It is a simple, low-cost measure that strengthens local capacity while maintaining safeguards through NatureScot competency approval and close-season restrictions. By enabling timely and responsible action, the amendment protects rural livelihoods, improves habitat resilience and ensures that communities can contribute to national nature restoration goals. For those reasons, I encourage members to support amendment 39.

My amendment 71 seeks to address concerns raised by NatureScot regarding the definition of

“shotgun” that the bill inserts into the Deer (Scotland) Act 1996. The current definition, which is drawn from the Firearms Act 1968, may inadvertently allow the use of certain firearms to shoot deer without authorisation, despite their being shotguns in practice.

Amendment 71 will introduce a regulation-making power to enable Scottish ministers to define “shotgun” for the purposes of the 1996 act. That ensures flexibility to include weapons that function as shotguns but which fall outside the definition of “shotgun” found in the 1968 act. The amendment includes a requirement for ministers to consult relevant stakeholders before making any regulations, including those with expertise in the area of firearms, to ensure that we define shotguns in a way that captures all relevant weapons.

On amendment 251, in the name of Beatrice Wishart, although we fully support the principle of transparency in deer management, I must ask the member not to move this amendment today. The proposal for a national dashboard is ambitious, but it introduces significant technical and resource challenges that require careful planning. We share the objective of improving public access to deer management data, and we are already exploring opportunities to achieve that through NatureScot’s existing deer management app. Indeed, that platform can be developed to provide much of the functionality envisaged by the amendment, without creating additional legislative complexity.

We are fully committed to improving the data and information that we gather on deer management, and to making that information more readily available to the public. I would welcome the chance to discuss that further with Beatrice Wishart, to ensure that the aims of her amendment are met in a practical and cost-effective way—

Rachael Hamilton: Will the minister give way?

Jim Fairlie: Please allow me to finish this point first. For those reasons, I ask that amendment 251 not be moved at this stage. If it is, I ask the committee not to support it.

Rachael Hamilton: I understand that you have offered to work with Beatrice Wishart on her amendment. However, what is the current conduit for individuals or authorised persons to record data? Did you say that that was already being done, minister?

Jim Fairlie: There is a NatureScot app right now. When deer managers shoot a deer, they record it in the NatureScot app, which gives the location of where that deer was taken out.

Rachael Hamilton: But that is voluntary at the moment.

Jim Fairlie: It is, yes.

Rachael Hamilton: To be clear, then, is the Government saying that it will work with Beatrice Wishart to make that mandatory?

Jim Fairlie: We do require cull returns to be made. I am more than happy to talk to Beatrice Wishart about how we can improve the amendment that she has lodged.

The Convener: It is my understanding that the app that you referred to is a pilot. Is it your intention to bring it in across the whole country, and potentially mandate its use?

Jim Fairlie: Cull returns are currently happening all over the country. Yes, the app is a pilot at the moment, but it is definitely something that we can develop.

On amendment 333, in the name of Tim Eagle, I appreciate the member’s efforts to seek to incentivise sustainable deer management by introducing a requirement on Scottish ministers to establish and maintain financial assistance schemes. However, I do not believe that we need to legislate for that. We are already taking strides with our incentive programmes, which are being piloted across Scotland, led by NatureScot and the Cairngorms National Park Authority, and which financially support deer managers to control numbers of deer in specific parts of Scotland in response to the climate and nature emergencies.

One of the schemes focuses on central Scotland, and we continue to assess what support is needed specifically in lowland areas. Our intention is to utilise the learnings taken from those pilot schemes and expand the schemes in order to support deer management and wild venison markets.

Ultimately, as I have said, we do not need to legislate for that. For those reasons, I ask the member not to move amendment 333. If it is moved, I ask the committee not to support it.

19:15

Mark Ruskell: I have been listening carefully to the minister’s comments on amendment 333. You say that we do not need to legislate for what it is proposing, but would it not deliver some certainty about the direction of travel, given the need to build the venison market and ensure that there are effective groups across Scotland that are realising the advantages of effective deer management? Would an amendment such as amendment 333 not underline the importance of where the Government is moving towards and help to create certainty that there will be investment going forward?

Jim Fairlie: To be perfectly honest, I do not think that legislation is the way to ask people to eat venison—there are better ways for us to do that. I give you an absolute assurance that I am committed to doing everything that we can to ensure that venison is a product that people want to eat and can access, and that we are working to change the culture, but I am fairly certain that legislation is not the right methodology for that.

Tim Eagle: I am grateful to hear that you are keen on doing that, but, if you are so keen, why not put it in the bill?

Jim Fairlie: If we did that, it would be in legislation. I would much rather that we did it by asking people to eat venison.

Tim Eagle: I am talking about incentives.

Jim Fairlie: As far as I am concerned, the biggest incentive would be to create a vibrant market for venison, which I hope is where we are heading. I hope that people can see that venison is very much part of our heritage and culture.

The Convener: Is it not the case that those schemes or incentives would be almost impossible to roll out nationwide, given the cost?

Jim Fairlie: I would much rather that we did not pay people to shoot deer that had no value—I would rather create a market for a product that we were proud of. It would be of much more value to the country if we were able to say, “Venison is a brilliant product. Come to Scotland and eat it in great quantities.” That would create a market for the people controlling deer across Scotland.

Emma Harper: From my engagement with the lowland deer shooters, I know that they absolutely agree that we need to create a sought-after product. I know, too, of a teacher in Lockerbie who is teaching the weans how to make venison mince burgers and creating demand in that way. I just wanted to put on record that I agree with the minister.

Jim Fairlie: Thank you.

Edward Mountain: For over 40 years, now, I have been told by various people that venison will come on to the market and be a great success, and I am still hearing that every day. However, I know of game dealers across Scotland who are not taking in venison, because they have nowhere to put it. We are putting scrawny old stags on to the market in February and March, when they are in no condition for anyone to eat—the meat is probably better as dog food than human food. Surely, if we are going to make venison a quality product, those stags ought to be coming on to the market when they are in peak condition and ready for the human food chain. We should not be getting them at a time of year when they can be culled more easily, because they are so—excuse

the expression—knackered that they cannot avoid the hunter’s bullet.

Jim Fairlie: We have put in an extra £150,000 for processing this year, and a total of £300,000 has gone in. I take the member’s point about shooting a scrawny old stag; no one will be falling over themselves to eat that, but let us not characterise the venison that we have in Scotland as only scrawny old stags that have been shot out of season. That is not what we have, and I think that that undermines the message that we are trying to convey through the bill, which is that we have a fantastic product in Scotland that we should get behind and eat as much of as we possibly can, and that there will be multiple successes as we go forward.

Emma Harper: My understanding is that deer management is not just about shooting stags or red deer. We have different species of deer, and there are hinds, too. Is that not why we are here today?

Jim Fairlie: Yes. This is about deer control across Scotland.

The Convener: I remind members that this session is for getting through amendments to the bill—it is not an opportunity to make statements on the record that do not allow us to make progress. I am aware that this is taking quite some time, and we are not yet at the end of this group. I do not want to stifle debate, but the purpose of contributions should relate to the amendments that we are debating.

Jim Fairlie: I shall refer back to those comments if I refuse to take interventions in the future, convener.

On amendment 310, in the name of Tim Eagle, I absolutely agree on the importance of clear guidance being provided before new duties take effect, but I ask him not to move the amendment. We are committed to working with him to ensure that the code is developed promptly and in consultation with stakeholders, so that the guidance is available before commencement. NatureScot has already begun work with stakeholders, through a working group, to update the code, and that work will continue as the bill progresses to ensure that the work is done in sync wherever possible.

However, tying commencement to the laying of the code of practice could delay the implementation of key measures that will allow us to support the nature restoration that we are looking for. I would be very happy to meet Tim Eagle to discuss the issue and how we might further address concerns about the sequencing, but I ask him not to move amendment 310. If it is moved, I encourage members not to support it.

On amendment 311, the bill has already undergone full parliamentary scrutiny during its passage, with detailed consideration of sections 10 to 33. The commencement regulations are a standard administrative step and will not introduce new policy decisions, and requiring the affirmative procedure to be used at that stage would add unnecessary bureaucratic delays without improving accountability. For those reasons, I encourage members to oppose amendment 311.

I apologise, convener, but I forgot to address amendment 147, in the name of Rhoda Grant. The changes that we are making to NatureScot's powers under the bill are intended to support voluntary deer management and ensure that, in situations in which voluntary agreements break down, NatureScot can take enforcement action to ensure effective deer management. That is of the utmost importance, so that we can continue to support good deer management across Scotland.

At the moment, the process requires NatureScot to make meaningful attempts to secure agreement on voluntary deer management. I fear that amendment 147 would undermine that aim entirely and could be detrimental to the good relations that have been fostered to date. The Common Ground Forum, for example, is a fantastic set-up. Therefore, I cannot in good faith support amendment 147, and I ask members to oppose it.

Rhoda Grant: Will the minister be willing to speak to me ahead of stage 3 to consider what action people could take if everything else had failed and they were being passed from one estate to another?

Jim Fairlie: I would be more than happy to do so.

The Convener: I call Alasdair Allan to speak to amendment 39 and other amendments in the group.

Alasdair Allan: I believe that amendment 39 responds directly to the concerns that have been expressed by crofters, tenant farmers and rural communities that, as we have heard, face increasing damage from rising deer numbers. I am grateful that the Government has been willing to work with me on the amendment.

Currently, occupiers and tenants can act only on improved land and enclosed woodland, which leaves moorland and common grazings vulnerable. As everyone knows, deer move freely across those landscapes, causing harm to crops, woodland regeneration and livestock and contributing to tick-borne diseases such as Lyme disease and louping ill.

Amendment 39 will extend to all types of land, including moorland, the right of tenants to take or kill deer and will empower grazing committees to

act collectively in that regard. It is a simple and low-cost measure that will support Scotland's biodiversity and our national target to reduce deer densities by 50,000 annually.

On Rhoda Grant's point, I do not feel that our aims are in conflict. I think that she was referring to amendment 70 or other amendments. I hope that amendment 39 will provide a good sound way to empower tenants with the same rights to control such issues as landowners have. If she feels that there are still outstanding issues, I hope that we will be able to work on them at stage 3.

Tim Eagle: The minister has agreed to work on this point, but I was trying to get across the point that there is a public safety risk if the notification elements are not right and the tenants and landlords are not aware of where the other is shooting. Do you accept that?

Alasdair Allan: If a landlord does not know where his tenants are, there is something wrong with the landlord, frankly. Also, if that criticism can be levelled at tenants, I am not sure why it cannot be levelled at landlords. *[Interruption.]*

If you will let me finish, I am not saying that to make a point against landlords. I am just saying that it is an issue of safety and I do not see any reason why passing the amendment means that we are not saying that tenants have to, should and must live up to all the same safety obligations, for example, as landlords and their shooting guests.

Edward Mountain: I know that you think through your amendments carefully, but my concern with this is that landlords might not own the sporting rights in areas where they have tenancies, whether they be crofting or elsewhere. What checks have you done to make sure that giving the tenant a right to do something that interferes with the sporting right does not leave the Government legally at sea by giving someone a right that impinges on somebody else's right, for which they might already have paid money?

Alasdair Allan: I appreciate that there might be—I am going to get the term wrong. Is it sporting tenants?

Edward Mountain: Yes.

Alasdair Allan: Sporting tenants might have rights and exercise those rights rather than the landlord, and I accept that. However, I do not feel that it leaves anyone in the Government or elsewhere liable if tenants can ensure that their land and interests are not damaged by large numbers of deer. I have worked with the Government and managed to come up with an amendment that would ensure that tenants have those rights.

Mr Eagle makes an important point about communication, however, and I did not mean to be

flippant in response. There is a need for communication, whether it is with the landlord or the sporting tenant, to make sure that this is all done responsibly.

Edward Mountain: The issue is that sporting rights can be separated from the land. They are a legal right to which somebody is entitled.

The issue was covered by the Land Reform (Scotland) Bill, which I am sure you followed as closely as I did and which gave the tenants a right to claim against game damage, and deer were included in that. My concern, Dr Allan, is that we would be extinguishing or interfering with a property right that somebody has at law, and, in my opinion, if the Government makes this law, it will leave itself open to legal challenge.

Alasdair Allan: The Government would have to comment on whether it thinks that it would be liable, but I do not think that it would be.

A crofter pointed out to me that property rights operate in a slightly asymmetrical way as regards deer. If a crofter's car is hit by a deer for example, the landlord does not claim any responsibility for that deer, as it is a wild animal. Without legislation of the kind I am proposing, at the moment, a crofter who takes action against deer that are damaging his interests could be said to be infringing on the rights of a landowner or a sporting tenant. As far as I am concerned, that is two contradictory definitions of a deer.

The Convener: I am not concerned about the potential expansion of the rights of the tenant, but there need to be safeguards to ensure that the rights are subject to some authorisation, so that we do not get to a situation where tenants and landowners are shooting at night and that gives rise to a safety concern. Should the legislation not mandate for that authorisation to be notified in order to exclude that possibility? Rather than being about taking away the tenant's rights, it is more about putting the public safety of the tenant and the landowner first.

Alasdair Allan: We might return to some of those questions at stage 3. However, I am reluctant to pass an amendment that introduces another level of bureaucracy. I accept the point about safety, but that would introduce a level of bureaucracy around notifications that would essentially make it impossible for a tenant to act when his or her interests are threatened by the presence of deer. I would not like to go down that route.

19:30

Jim Fairlie: There is a solution to be found here, and, if we work together ahead of stage 3, we can find that solution. I take on board that there

are potential safety issues with having two different sets of people going out with guns on a hill, unless there is some co-ordination.

Looking at amendment 39, I can see the benefits that it would have for tenants, notwithstanding the rights of the landowner, who may also be a sporting tenant or someone who has the right to take deer. I would not interpret amendment 39 as providing the right for crofters to harvest deer. It would be a method of allowing a crofter or a tenant to have a conversation with the landowner to say, "This is causing us a difficulty and we require you to do something about it. If you don't, we have the right to do something about it." At that point, they would then co-ordinate with the landowner to say, "We will be taking deer at this particular point." I hope that there is no disagreement about that. There is an opportunity for us to come to a reasonable solution that will satisfy everybody's desires.

Alasdair Allan: That would be my hope, minister.

The Convener: Have you completed your comments?

Alasdair Allan: Yes.

The Convener: As no other members wish to speak, I invite Edward Mountain to wind up and to press or withdraw amendment 132.

Edward Mountain: You will be pleased to know, convener, that I will not speak for as long as the minister did on these amendments. However, I will address one or two of the key issues.

First, I turn to amendments from other members. On Dr Allan's amendment 39, I would be grateful if the minister could explain to me how superimposing a right on somebody else's right will not allow that new right to be challenged in a court of law. If you have sporting rights—which can be separate from landowning rights—and someone else has the right to take those sporting rights, how will that not affect your sporting rights? I am happy to take that up with the minister after the meeting in the spirit of the way in which the amendment has been discussed. If you are happy to do that, minister, I will be happy to move on.

Jim Fairlie: I am happy to do that.

Edward Mountain: Okay. I will turn to some of the other amendments. I am slightly nervous about praising any of the amendments in case that might be a kiss of death for them—let us hope that it is not. The proposal in Beatrice Wishart's amendment 232, on extending deer management plans from three to six months, is a good idea. In my personal experience, one deer management plan took me more than 18 months to agree, because it was an agreement between public and private parties, trusts and charities. Trying to get

everyone together to agree things took a long time. Therefore, providing a slightly longer period is an excellent idea.

I am nervous about amendment 222, on reviewing the code of practice every five years, because the code takes a long time to draw up. I was involved in the first code, which was fairly long in coming, and a lot of people fed into it. Five years is quite a short time to review it. Most of the codes have stood the test of time, but some of them have not, because of technological advances. Therefore, it is perhaps a better idea for the code to be reviewed every 10 years.

I am not convinced by Rhoda Grant's amendment 68, because most of its provisions are covered by the Land Reform (Scotland) Bill and the compensation relating to game damage that it will provide for. However, I am taken by her amendment 69, in which she requests lowland deer management plans. That makes eminent sense, because there are now just as many deer in lowlands as there are in uplands.

I am slightly nervous about Mark Ruskell's amendment 29, because—like the minister—I believe that talking is good but ordering is bad, because that causes friction. If amendment 246 means that Mr Ruskell is again pushing for the Deer Commission for Scotland to be re-established, I think that that is a great idea. If not, I am prepared to work with him at stage 3 to come up with a sensible body to take on that role if that is not just to be SNH. I know that I am not a minister and that some would say that there is no reason to do that, but I would like to see the establishment of a public body that could help to reduce the conflict between landowners or those with an interest in land and SNH, which has a lot of responsibilities beyond deer management that might bring it into conflict with deer managers.

I think that Tim Eagle's amendments, which mostly deal with the code of practice, are excellent. That code has evolved over time.

Emma Harper's amendments 240 and 241 seem eminently sensible to me, and I urge members to support them. I hope that that does not damn them, because they are good amendments.

I also say that about amendment 233, from Rachael Hamilton, which deals with road safety. The point that I was making, which may accidentally have been misinterpreted, is that the lush grass on our verges, planted and looked after by Transport Scotland, combined with the road salt actually works to attract deer. It acts like a magnet, drawing them in from miles around the A9 to eat. Further, allowing vegetation to keep growing on roadsides actually increases the likelihood of accidents, because drivers cannot

see deer coming. There is a balance to be struck and I would like to see a bit more work on that, because I think that that amendment could be extremely beneficial to deer management.

I will talk briefly about my amendments in this group. I came here because I believe that I have something to add on the subject of deer management, due to my 50 years' experience. I do not come to disrupt; I come because I think that there are things in the bill that are wrong. I lodged amendment 132 because I was disappointed by a statutory instrument to remove close seasons for male deer. The minister at that time, who was not the minister we have now, failed to understand that it is not male deer who are responsible for calves. It is female deer who produce calves, so controlling male deer does not mean that you will not get calves. You absolutely will get them, because the females will travel miles to find male deer to ensure that they have calves every year.

Female deer were not controlled, because it was felt to be unpalatable to extend the open season for hinds, as culling hinds in March and April would actually mean removing fetuses from female deer and cutting their throats to ensure that they did not survive because some would have been viable. What we got instead was the—to my mind really bad—measure of targeting only male deer. We have to do more to target female deer, but we must do that in a clear and ethical way. That is why my amendment 132 is on the table.

It is important to ensure that what we are doing is clear and good management. I personally find it extremely distasteful to go to the hills and see male deer being chased and harried in February and March when some of them will probably not survive the winter because they are so thin and lacking in condition. I have a lot of experience of finding male deer that have been chased in plantations late in the winter lying dead up against the fence because they have been harried to a point where they can no longer survive. That is why I have lodged amendment 132. I do not do it to disrupt; I do it because I have a strong feeling about that.

I remind members of the point that I made earlier about how having 25,000 head of male deer being shot out of season has brought the venison market to a standstill. If I take a stag, buck or hind to a game dealer at that time, they just do not have the capacity to deal with it. We are killing deer in huge numbers, which may be the Government's aim and the aim of some people, but we do not have the capacity to process them, and it will need a huge intervention by the Government to deal with that. One way that it could do that is by increasing the use of venison in schools and institutions such as prisons.

Jim Fairlie: On capacity, I have been assured that there is more than enough capacity to process the number of deer, even if we got to the target of taking an extra 50,000 head of deer a year. However, I absolutely agree that, at the moment, we do not have a viable marketplace for that venison, which is why we want to build the market in a sustainable way. We want to market the produce in the same way that Scotch whisky was marketed, to make it something that is so valuable that people are going to want to pay money for it. That is what I would encourage to happen as a result of the debate.

Edward Mountain: I agree with the minister that the capacity is there, but these deer end up in chillers in the backs of lorries and in game dealers, and the meat is not leaving the shelf. Some of it gets to the point where it has to be destroyed. My point about the male deer is that, over the years, we have seen an increase in contract stalkers, who move around Scotland shooting deer. Yes, they use the app, they record where the deer were shot, and, in the cases in which they were shot for Forestry and Land Scotland, the stalker gets a payment for each deer. As I said, those payments equate to about £4.8 million, which is a huge amount of money. Contracted stalkers often do not live in the communities where they are killing the deer. All that I am trying to do, minister, is to get you and others to think about taking on more staff at Forestry and Land Scotland to carry out deer management, rather than deer control, which will ensure that the associated employment happens in rural communities.

I have banged on enough about that. I apologise, but I feel passionately about this, and my passion comes from love for the animals that I believe we have to control.

Amendment 133 would stop the approach becoming about a single species. I would gently probe the minister on that and say that, in 2018, it was not all about deer. It was also about sheep, because, in 2018, Forestry and Land Scotland killed 222 sheep to protect its trees, and it accepted that sheep, as well as deer, play a part in shaping the natural environment. Amendment 133 would stop the approach being all about deer and make it about holistic management.

Amendment 142, in my name, is an attempt to make control schemes more accountable. I am a great believer in relying on, for lack of a better description, the citizen's knowledge—the knowledge of people who have been doing this for years and years. They bring great knowledge to the table that cannot be found in books or read in magazines. That is why I want control schemes to be more accountable. Amendments 145 to 146 are all about scrutiny. We need to be careful that

the people carrying out the scrutiny are not the people who are urging greater and greater killing.

I will leave my remarks there, but I am disappointed that I have been called disruptive. I am here because I have a passion; I am in this Parliament because I have a passion; and I am in this Parliament because I represent many people in the countryside who share my passion.

I press amendment 132.

The Convener: The question is, that amendment 132 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)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 132 disagreed to.

The Convener: I propose that we have a comfort break and resume at 19:50.

19:44

Meeting suspended.

19:54

On resuming—

The Convener: We continue our consideration of amendments at stage 2.

Section 12—Code of practice on deer management

Amendments 219, 220, 329 and 222 not moved.

Section 12 agreed to.

Section 13—Grounds for intervention

Amendment 223 moved—[Tim Eagle].

The Convener: The question is, that amendment 223 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 223 disagreed to.

Amendment 224 moved—[Tim Eagle].

The Convener: The question is, that amendment 224 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 224 disagreed to.

The Convener: I remind members that, if amendment 133 is agreed to, I will not be able to call amendments 330 and 225 to 230, due to pre-emption.

Amendment 133 moved—[Edward Mountain].

The Convener: The question is, that amendment 133 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 133 disagreed to.

Amendments 330 and 225 not moved.

Amendment 226 moved—[Tim Eagle].

The Convener: The question is, that amendment 226 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 226 disagreed to.

Amendment 227 moved—[Tim Eagle].

The Convener: The question is, that amendment 227 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 227 disagreed to.

The Convener: I remind members that amendments 228 and 229 are direct alternatives. They can both be moved and decided on, and the text of whichever amendment is the last to be agreed to is what will appear in the bill.

Amendment 228 not moved.

Amendment 229 moved—[Tim Eagle].

The Convener: The question is, that amendment 229 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 229 disagreed to.

Amendment 230 moved—[Tim Eagle].

The Convener: The question is, that amendment 230 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 230 disagreed to.

Section 13 agreed to.

Section 14—Deer management plans

20:00

Amendments 134 and 68 not moved.

Amendment 231 moved—[Tim Eagle].

The Convener: The question is, that amendment 231 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)
Grant, Rhoda (Highlands and Islands) (Lab)

Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 231 disagreed to.

Amendments 232 and 69 not moved.

Section 14 agreed to.

After section 14

Amendment 233 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 233 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)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

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

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

Amendment 233 disagreed to.

Amendment 331 moved—[Tim Eagle].

The Convener: The question is, that amendment 331 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 331 disagreed to.

Section 15—Control agreements

Amendment 135 not moved.

Amendment 136 moved—[Rhoda Grant].

The Convener: The question is, that amendment 136 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)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 136 agreed to.

The Convener: I call amendment 234, in the name of Edward Eagle—sorry, I am thinking of Eddie the Eagle. [*Laughter.*]

I will say that again for the benefit of the *Official Report*. I call amendment 234, in the name of Tim Eagle, which has already been debated with amendment 132.

Amendment 234 moved—[Tim Eagle].

The Convener: The question is, that amendment 234 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 234 disagreed to.

Amendment 137 moved—[Rhoda Grant].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 137 disagreed to.

Amendments 138 and 235 not moved.

Section 15, as amended, agreed to.

Section 16—Control schemes

Amendment 236 moved—[Tim Eagle].

The Convener: The question is, that amendment 236 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 236 disagreed to.

Amendments 29, 30 and 139 not moved.

Amendment 140 moved—[Rhoda Grant].

The Convener: The question is, that amendment 140 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)
Ruskell, Mark (Mid Scotland and Fife) (Green)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (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 140 disagreed to.

Amendment 237 moved—[Tim Eagle].

The Convener: The question is, that amendment 237 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 237 disagreed to.

Amendment 238 moved—[Tim Eagle].

The Convener: The question is, that amendment 238 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 238 disagreed to.

Amendment 239 not moved.

Amendments 240 and 241 moved—[Emma Harper]—and agreed to.

Amendment 141 moved—[Rhoda Grant]—and agreed to.

Amendment 142 moved—[Edward Mountain].

The Convener: The question is, that amendment 142 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 142 disagreed to.

Amendment 143 moved—[Edward Mountain].

The Convener: The question is, that amendment 143 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 143 disagreed to.

Amendments 242 and 243 not moved.

Section 16, as amended, agreed to.

After section 16

Amendment 145 moved—[Edward Mountain].

The Convener: The question is, that amendment 145 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 145 disagreed to.

Amendment 146 moved—[Edward Mountain].

The Convener: The question is, that amendment 146 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 146 disagreed to.

Amendment 147 not moved.

Section 17—Recovery of costs and expenses

Amendment 244 moved—[Tim Eagle].

The Convener: The question is, that amendment 244 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 244 disagreed to.

Section 17 agreed to.

Section 18 agreed to.

Section 19—Measures to prevent damage by deer

Amendment 245 moved—[Tim Eagle].

The Convener: The question is, that amendment 245 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 245 disagreed to.

Amendment 70 not moved.

Section 19 agreed to.

Section 20 agreed to.

After section 20

Amendment 246 not moved.

Section 21 agreed to.

Section 22—Power to require information and documents

The Convener: I call amendment 148, in the name of Edward Mountain, which has already been debated with amendment 132.

Edward Mountain: I do not know whether it helps to say this, but I do not propose to move amendments 148 to 151. I am happy if you want to put a question on those amendments en bloc. If not, I will simply say, "Not moved."

The Convener: We must go through them individually, but thank you for that offer.

Amendment 148 not moved.

Section 22 agreed to.

Section 23 agreed to.

Section 24—Authorisation for taking or killing deer during close seasons

Amendment 149 not moved.

Section 24 agreed to.

Section 25—Authorisation for taking or killing deer at night

Amendment 150 not moved.

Section 25 agreed to.

Section 26 agreed to.

Section 27—Offence of shooting deer with a shotgun

Amendment 151 not moved.

20:15

Amendment 71 moved—[Jim Fairlie].

The Convener: The question is, that amendment 71 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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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.

Amendment 71 agreed to.

Section 27, as amended, agreed to.

Section 28—Register of authorised persons

The Convener: Amendment 152, in the name of Edward Mountain, is grouped with amendments 37, 153, 72, 38, 154, 155, 247, 248, 73, 249 and 250.

Edward Mountain: All my amendments in the group—amendments 152 to 155—are to do with the requirement to be fit and competent to shoot deer. There are significant concerns in the sector about the firearms licensing implications arising from section 28. I understand that the Scottish Association for Country Sports has written to and spoken with the Minister for Agriculture and Connectivity about it. The bill as drafted would require anyone who is shooting deer in Scotland to be entered on a new register of authorised persons once they have been assessed by NatureScot to be “fit and competent” to shoot deer. Although paragraph 182 of the explanatory notes describes it as a straightforward process for applicants, many issues remain unresolved, including the criteria for satisfaction and how the new test would interact with the existing firearms licensing law.

Self-regulation has served the sector effectively for many years and has maintained high standards voluntarily. There is no scientific or peer-reviewed

evidence to support claims that mandatory training is needed for deer welfare. The deer working group said that wounding rates might be 6 to 17 per cent, rather than explicitly confirming whether that was the official evidence. There is no official study into the wounding rates or second shot data that would suggest that mandatory training is required. In fact, I recently submitted an FOI request to Forestry and Land Scotland, asking about its wounding rates. It responded to say that it does not record mis-shots or wounded deer, which I find amazing. Therefore, I wonder on what evidence the Scottish Government is basing the apparent need for mandatory training. The imposition of mandatory training would deter entrants to the sector and reduce the pool of active stalkers at a time when higher culls are being expected and are called for. There is no consideration of grandfather rights for practitioners in the bill—the fact that I have 50 years’ experience does not absolve me from having to be trained by someone who may have only days of experience.

Firearms licensing is wholly reserved to the UK Parliament. Under section 27 of the Firearms Act 1968, police forces must be satisfied that an applicant has good reason for keeping each firearm that they seek to possess. For deer stalking rifles, the good reason is normally demonstrated by a person’s intent and lawful ability to take deer. However, the bill would make it unlawful to shoot deer without being on the authorised register, which would create a direct dependency. If an individual is not on the register, they cannot lawfully shoot deer and, therefore, they may no longer meet the good reason test for possessing a suitable firearm. Therefore, the bill risks undermining the established Great Britain-wide firearms licensing framework, which has just been reviewed by the current UK Government. We would be left with the inevitable chicken-and-egg situation of what comes first, the firearms certificate or being found to be fit and competent? You cannot have one without the other. The two pieces of legislation do not work together, and that will place an unnecessary burden on the chief of police. Police Scotland processes around 9,000 firearms and shotgun certificates annually. Without a robust, streamlined information-sharing mechanism, the proposed system would require up to 8,000 additional checks with NatureScot each year to verify whether an applicant’s status is authorised on the register.

The impact, of course, would not be limited to Scotland. Many certificate holders in England and Wales regularly stalk deer in Scotland, but the 43 police forces in England and Wales currently have no information-sharing protocol with NatureScot. Each case, therefore, would require direct verification of an applicant’s authorised status on a

Scottish register, which would place an unsustainable burden on both sides. I do not know how the imposition of those regulations would impact on foreign deer stalkers.

Those pressures would, to my mind, inevitably delay licensing processes, reduce capacity and create significant inconsistency across the UK. The Home Office has already been made aware of the bill in its current form, and I believe that the guide on firearms licensing law would require amendments to address the new Scotland-specific requirements.

I would be delighted if the minister could explain to me what engagement has been had with Police Scotland, the Home Office and NatureScot around that issue, whether the three parties have talked together under his guidance and how people will travel to Scotland from the rest of the UK to manage deer, either professionally or recreationally as a country sport, if they are not on the register in Scotland.

My amendments 152 to 155 acknowledge that fitness to hold a firearms certificate is already demonstrated under the Firearms Act 1968. Given that NatureScot recently wrote to the regulatory committee to say that it already has high standards of training and expertise among practitioners, there does not seem to be any need for the insertion of mandatory training in the bill.

My experience tells me that people travelling from overseas who have gone through tests such as the Jagdschein test, which is a mandatory test in Germany to shoot deer, are no better qualified than somebody like me, who has not been tested. Will they be fit and suitable people? If you have a Jagdschein or a European accreditation for shooting deer, will you be considered fit and competent to shoot deer in Scotland? If not, why not? Where would it put us as far as the UK Withdrawal from the European Union (Continuity) (Scotland) Act is concerned?

So many questions have not been sufficiently answered. My view is that my amendments should stand and that, if you wish to do something different, minister, you should lodge amendments at stage 3 to prove how you have considered firearms licensing across the UK in relation to the requirement for mandatory training. I find no evidence to show that it is required.

I move amendment 152.

The Convener: I call Alasdair Allan to speak to amendment 37 and other amendments in the group.

Alasdair Allan: Amendments 37 and 38 would introduce straightforward consequential changes to ensure that the bill works properly, while amendment 39 proposes the new structure.

Amendment 37 would ensure that regulations made under section 17A of the 1996 act could make appropriate provision in the light of the new sections 26 and 26ZA that would be inserted into that act by amendment 39. Amendment 38 would allow regulations made under section 17A of the 1996 act to make consequential modifications to proposed new section 26ZA. Those technical adjustments would maintain consistency and clarity in the legislation. There are lots of capital letters but nothing contentious.

The Convener: I call the minister to speak to amendment 72 and other amendments in the group.

Jim Fairlie: Amendments 152 and 153 would remove the word “fit” from the bill’s amendment of section 17A of the 1996 act. Fitness is about more than technical skill; it ensures that individuals are personally reliable and legally compliant when carrying out an activity that involves lethal firearms. Public trust depends on high standards. Police Scotland currently checks fitness for firearms licensing, while NatureScot checks competence. Removing the word “fit” would create a disconnect between those systems and add complexity, not clarity. Competence alone is not enough when dealing with firearms in wildlife management. We must retain the requirement for individuals to be both fit and competent in order to protect safety, maintain legal clarity and uphold public confidence. For those reasons, I encourage members to oppose amendments 152 and 153.

Amendments 37 and 38 are simple but important technical changes that need to be made in consequence of amendment 39. They update and cross-reference section 28 so that the bill makes the necessary changes to the 1996 act, to ensure that it aligns with the revised structure of section 26 and the new section 26ZA introduced by amendment 39. Those amendments are updates to the references in line with amendment 39 and will ensure consistency and clarity in the legislation. They do not alter policy intent but do ensure that the law will work as intended. I therefore encourage members to support amendment 37.

My amendments 72 and 73 make technical but important adjustments to section 17A of the Deer (Scotland) Act 1996, to allow for the implementation of two key recommendations from the deer working group. First, we have made a minor amendment to put beyond doubt the fact that provision can also be made, via regulations, in relation to any additional information to be included in cull returns, over and above the required information about the number of deer of each species and of each sex. Secondly, we have made a minor amendment to the definition of cull returns, to ensure that the information required

from planned cull returns can cover a period not exceeding five years. As is set out in our response to those recommendations, the Scottish Government agrees that gathering a broader range of data will improve our understanding of wild deer populations, their impacts and their densities. Those minor but necessary amendments will support the effective implementation of the deer working group's recommendations, and, for that reason, I encourage members to support amendments 72 and 73.

The proposals in amendments 154 and 155 would weaken the bill's ability to maintain high standards in deer management. Amendment 154 would introduce unnecessary bureaucracy, forcing ministers to produce detailed statements before they made any changes to the register of persons competent to shoot deer. I also highlight that, because the register has not yet been established by regulations, the requirement in that amendment would apply only to changes made following the introduction of the register and not to the new register when it was introduced. It would also restrict future improvements by preventing new training or certification requirements unless they met the strict tests, locking us into outdated standards. Amendment 155 would go even further by banning mandatory training for registration. That is a major risk, because training is fundamental to safe and humane deer management, and removing the ability to require that would undermine public safety, animal welfare and the credibility of our system. Taken together, amendments 154 and 155 would reduce flexibility, weaken standards and create confusion, and they run counter to the bill's aims of improving biodiversity and welfare. For those reasons, I encourage members to oppose amendments 154 and 155.

Amendment 247 would allow experience—in the case of amendment 248, it would be a simple reference—to replace formal training. The power to introduce the register of authorised persons does not set out what is required to be fit and competent, and it has a requirement for consultation before regulations are made to bring the register into effect. The amendment would reduce flexibility and pre-empt the results of that consultation. Furthermore, section 17A already provides that the regulations to introduce the register may make provision in relation to how applications for registration will be determined, such as by including the submission of references, and it allows for any conditions to be imposed when applications are granted. Experience is valuable, but it does not guarantee knowledge of current best practice, welfare standards or safety requirements. References are also subjective and offer no consistent assurance of competence.

Taken together, the amendments have the potential to dilute standards, undermine accountability and increase the risks of poor practice and of accidents. For those reasons, I encourage members to oppose amendments 247 and 248.

Training is essential, but Beatrice Wishart's amendment 249 is unnecessary. Regulations to create a Government-run scheme are not necessary, because effective private training schemes already exist. The enabling power in the Deer (Scotland) Act 1996 already allows us to consult widely and to introduce any additional requirements through secondary legislation. Our current preference is not to set out training details in law. Instead, we would use an SSI for the fit and competent person register, and we would request that NatureScot publish a list of approved schemes. NatureScot has the expertise to consider what is required, with input from relevant stakeholders. That gives flexibility, avoids bottlenecks and keeps pace with best practice. A rigid Government scheme would risk duplication and delays.

There are legitimate concerns about how the new fit and competent scheme will work in practice, so I want to set out clearly that we will consult fully with those who will be affected on the proposals for the scheme. We will also look at barriers to access and training, whether they be financial or time-based barriers, or issues to do with locality and travel. In our consultation, we will set out that we expect baseline competence to be akin to deer stalking certificate level 1—DSC1—but we do not intend that to be the only option. We want to hear from deer managers about what other courses should be included and how we can transition to a new register.

20:30

Edward Mountain: I absolutely understand the level 1 exam that one takes. Are you expecting people who come from overseas to take that exam, to prove that they are fit and competent, before they can go to the hill? When I last took it, which was a long time ago, it took two days and a range day on the back of it. Will people come over here three days early to get through it? Is that right? What about people who come from south of the border? Will they have to come up and do three days of training?

Jim Fairlie: As I have already said, in the consultation we will want to hear from deer managers about what other courses should be included and what else we can put in place that would allow their transition to the new register.

Edward Mountain: At the moment, being taken out on the hill by a qualified stalker is usually

considered to be sufficient. The qualified stalker goes through every possible eventuality by taking people to a target before they go to the hill. People occasionally have to move in different directions, which might mean that an individual is on his or her own when they shoot the deer. If they are not fit and competent, they could not do that, could they?

Jim Fairlie: As I have said, when we go through the consultation we will consult deer managers and NatureScot on the proposals, and that will allow us to develop the fit and competent register. All those things can be considered during that consultation.

Rachael Hamilton: Has the Scottish Government conducted any research into the impact of mandatory training on lowland deer management?

Jim Fairlie: That was among the recommendations that came out of the deer working group.

Rachael Hamilton: I know from a freedom of information request that the Scottish Government has not done that.

Jim Fairlie: We have not done the consultation because it came out of the deer working group that I commissioned to look at all the deer management options.

Rachael Hamilton: With respect, minister, why are you proposing the scheme without having done that consultation?

Jim Fairlie: It came out of the deer working group. I have just stated that we are bringing in the requirement but we will consult on it before it comes back to the committee for consideration as secondary legislation. All the issues that Mr Mountain has raised and that you are raising can be ironed out as we go through that consultation. We can then lodge a Scottish statutory instrument for the committee to scrutinise.

Rachael Hamilton: I want to be clear about the deer working group, because NFUS and the British Association for Shooting and Conservation have expressed concerns. Who is on the deer working group?

Jim Fairlie: My apologies—I was distracted. Could you repeat that please?

Rachael Hamilton: NFUS and BASC have expressed concern about the scheme, even though we have the information obtained through an FOI—which you have just confirmed—that no research has been done and you will be doing it during the consultation. Who on the deer working group will be considering it? Are you planning to keep the individuals who are already on the deer

working group, or will it change? What will happen?

Jim Fairlie: As happens in any consultation, NatureScot will consult widely across the sector, including with the people who carry out deer management at the moment. The results of the consultation will be brought back to the committee as an SSI. The full scrutiny process will enable us to find a scheme that works appropriately, given the concerns that have been raised.

Rachael Hamilton: Okay.

Jim Fairlie: Although supporting access to training is important, amendment 250, in the name of Tim Eagle, is undesirable. Regulations to create a Government-run training fund are not needed, because there are already private sector and voluntary schemes that support training—for example, NatureScot's Creag Meagaidh scheme. Our preference is not to fix funding in law. Instead, we can work with NatureScot and the industry to improve training schemes and explore partnership funding. That approach is more flexible, avoids bureaucracy and prevents unrealistic expectations of full Government funding. For those reasons, I ask the member not to move amendment 250. If it is moved, I ask members to oppose it.

The Convener: I call Tim Eagle to speak to amendment 247 and other amendments in the group.

Tim Eagle: I appreciate the minister's comments, but I will set out my point of view on amendments 247, 248 and 250.

Section 28 of the bill establishes a new requirement for the register of those who are authorised to shoot deer: those on the register will need to be both fit and competent. In all likelihood, that will require baseline competence to be proven in some fashion. The policy memorandum suggests that, to undertake activities, people would need to display a higher level of competence than the baseline, which could be evidenced by certification or qualification. Amendment 247, in my name, would exclude people from having to undertake such training if they were able to prove that they had been stalking for some time. Industry concerns, from bodies such as NFUS and BASC highlighted that the introduction of so-called mandatory training could leave the sector significantly short of deer stalkers, which is not what we want. There are also concerns that new stalkers might be discouraged from entering the sector, because of the requirement for training.

The Scottish Government has sought to include such training for safety and animal welfare purposes. Although those are reasonable concerns, it does not take away from the fact that the bill might have unintended consequences.

Unfortunately, the Government appears to have done little research on the likely negative impacts on the deer sector of specific training. I lodged amendments 247, 248 and 250 to help to manage not only the bill's likely requirements for competence to be proven but the serious and genuine concerns of the deer stalking sector.

Jim Fairlie: Does the member accept that, earlier today and this evening, we have talked consistently about our ability to make venison a product that people want to buy and can have absolute confidence in? A register of fit and competent persons will allow the public to be confident that, when they eat wild venison, they are eating venison that was produced properly by somebody who has gone through a process that is designed to give that confidence.

With regard to a lot of the things that the member just spoke about, it is already the case that people have to have that competence. Does he not accept that a register of fit and competent persons will add to our ability to sell the product as a valuable, premium product that has been produced to the highest of standards?

Tim Eagle: That is interesting. I agree with you about the venison market and the need to ensure that it is as strong as possible. However, what I am asking for is nothing that we have not done before. The minister, who has a similar background to mine, will remember that, when control of spraying was introduced to agriculture, grandfather rights were given to those who had been doing it for many years. All that I am asking for is a balanced approach for people have been shooting for many years. Edward Mountain might be one of those people.

Jim Fairlie: I am more than happy to look at that aspect during the consultation period, to allow us to find the best way to get register of fit and competent persons. We will consider all the options. Once we have come to decisions, based on the consultation, we can bring the issue back to the committee as an SSI for further scrutiny.

Tim Eagle: The minister is providing some reassurance and said earlier that he was open to discussion prior to stage 3. On that basis, I am willing not to move the amendments today. We can come back to the issue at stage 3, after further discussion.

The Convener: I call Beatrice Wishart to speak to amendment 249 and other amendments in the group.

Beatrice Wishart: Section 28 of the bill sets out changes to the 1996 act in relation to the register of authorised persons. Those provisions will require some deer management practitioners, such as non-certified stalkers, to make changes—in effect, the provisions mandate training. Some in

the deer sector have expressed concern that the transition to mandatory training could result in a reduction in the number of deer stalkers. For example, older farmers might decide to stop deer management. The Scottish Government has stated that it is engaging with stakeholders and will continue to do so when creating the secondary legislation on the detail of the training scheme. My intention with amendment 249 is to ensure that there is a commitment to the transitional timeframe and that support for the transition is set out in the bill.

Jim Fairlie: We are absolutely clear that this will be a transitional process, and I am more than happy to work with the member to discuss how that will be delivered.

The Convener: Have you concluded your remarks, Ms Wishart?

Beatrice Wishart: Yes.

The Convener: I call Edward Mountain to wind up and to press or withdraw amendment 152.

Edward Mountain: The agreement between the minister and Tim Eagle to work together on what mandatory training will be required and grandfather rights is absolutely vital. I found it very odd that, having been trusted for 12 or 14 years to carry a rifle in the Army, I was not considered fit and competent to shoot deer when I came out of the Army. It seemed a strange position to be in, and there should therefore be grandfather rights.

Jim Fairlie: I just want to make the point to Mr Mountain that I held a licence for a heavy rifle for a number of years, but not one bullet ever went through that rifle to shoot a deer. I had not had any training, and yet I had a licence to go out and shoot deer because I held a firearms licence. I absolutely accept the fact that we have stalkers on the hill who have been doing this for many years and who have probably gone through their DSC1. The likelihood is that they will be fit and competent. However, there will be many people who have a licence who might never have shot a deer or had any training whatsoever. Does that not emphasise the point that I made to Mr Eagle that, with regard to our building confidence in a market for venison across the country, having the register of fit and competent persons will give the public the assurance that they are buying a product that is produced to the highest of standards?

Edward Mountain: I am not absolutely convinced that that is the case. I would perhaps be convinced if I knew, for example, how many of all the animals that go through the Forestry and Land Scotland larder have been wounded and how many have been rejected by game dealers. However, none of that information has been provided. Mandatory training might not actually prove to have that effect. I go back to an

amendment that Dr Allan moved on allowing crofters to shoot deer. Many crofters have been shooting deer for generations, but we will now say to them, “Ah, because you’ve been shooting deer for generations, you’re not fit and competent. We’re going to send you off for a test.” I can tell you that, having been considered to be competent for 12 years to carry a firearm in the military, I found it immensely frustrating that I was not considered competent to shoot deer.

Jim Fairlie: I go back specifically to wounding rates. There is evidence through NatureScot’s reviews that wounding rates are much higher than we would like them to be. I do not have the figures in front of me, but I am happy to share those with the member after the evidence session, and the figures are definitely higher than we would like.

Edward Mountain: I would be absolutely delighted to see the wounding rates. The best way to convince me about wounding rates is to go to the organisation that probably kills as many deer as any organisation—Forestry and Land Scotland. If you can give me the wounding and miss rates from that organisation, I will have more belief in what you are doing. That is what I am asking you to do through my amendment.

Jim Fairlie: With regard to Forestry and Land Scotland’s wounding and miss rates, is the member’s primary concern that they are too high or too low, or is it that the member does not know what the rates are? From the information that we get via NatureScot, we know that the wounding rates are higher than we would like them to be, which surely gives us cause to think that a register of fit and competent persons will be valuable to the sector.

Edward Mountain: All that I am saying is that if you set targets for forest rangers to go out and shoot 300 days a year when they work only 150 days a year, there are going to be some misses and some woundings. However, we have no information about that. I have no idea where SNH got its figures from. Has it trawled all the local estates that have been shooting deer? How did it get that information?

I would be very happy to scrutinise the issue with you over a cup of coffee, minister, to see whether the amendment is required—I will take that offer if you want to make it at some stage. However, I find that mandatory training without grandfather rights would be particularly difficult and particularly galling for those people who are already out there, doing what we have asked them to do.

One thing that I did not hear in your response, minister, was any evidence that you have spoken with NatureScot, the police authorities south of the border and the Home Office regarding the

licensing requirements. I will happily give way if you can give me examples of when you spoke to the Home Office about how the bill will affect firearms licensing across the United Kingdom.

20:45

Jim Fairlie: We have looked at the issue for Scotland; we have not looked across the UK.

Edward Mountain: Oh, but firearms licensing is a reserved matter under UK legislation.

Jim Fairlie: That does not have implications for what we are trying to do here.

Edward Mountain: Really?

Jim Fairlie: Police Scotland will still make the decision as to whether a licence should be given to somebody that it believes to be a fit person to have a firearms licence.

Edward Mountain: You are absolutely right—if that person lives in Scotland. If they do not, it will not be Police Scotland that decides. You should have talked to UK police forces to find out what chance they have to liaise with NatureScot on whether firearm licences that are issued south of the border can be used in Scotland by fit and competent people. However, nothing has been done.

Jim Fairlie: Will the member accept that we are doing the consultation to work out what the issues will be, but that that does not change the fact that we want a register of fit and competent people who are taking deer out in Scotland?

Edward Mountain: If I were ever to introduce legislation to the Parliament, I absolutely believe that I would carry out the consultation before I did so. I will leave it there, convener.

The Convener: Do you intend to press or withdraw amendment 152?

Edward Mountain: I will press the amendment.

The Convener: The question is, that amendment 152 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 152 disagreed to.

Amendment 37 moved—[Alasdair Allan].

The Convener: The question is, that amendment 37 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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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.

Amendment 37 agreed to.

Amendment 153 moved—[Edward Mountain].

The Convener: The question is, that amendment 153 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 153 disagreed to.

Amendment 72 moved—[Jim Fairlie]—and agreed to.

Amendment 38 moved—[Alasdair Allan].

The Convener: The question is, that amendment 38 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)
Harper, Emma (South Scotland) (SNP)

Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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.

Amendment 38 agreed to.

Amendment 154 moved—[Edward Mountain].

The Convener: The question is, that amendment 154 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)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 154 disagreed to.

Amendments 155, 247 and 248 not moved.

Amendment 73 moved—[Jim Fairlie]—and agreed to.

Section 28, as amended, agreed to.

After section 28

Amendments 249 and 250 not moved.

Sections 29 to 31 agreed to.

After section 31

Amendment 39 moved—[Alasdair Allan].

The Convener: The question is, that amendment 39 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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
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.

Amendment 39 agreed to.

Amendment 332 not moved.

Section 32 agreed to.

After section 32

Amendment 251 not moved.

The Convener: That concludes stage 2 proceedings for this evening. Members will be pleased to know that we will continue our considerations at the committee's next meeting, on Wednesday 10 December at 9 am.

Meeting closed at 20:52.

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The deadline for corrections to this edition is:

Monday 5 January 2026

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

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