OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 10 December 2025

Session 6

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Pàrlamaid na h-Alba

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Wednesday 10 December 2025

CONTENTS

	Col.
NATURAL ENVIRONMENT (SCOTLAND) BILL: STAGE 2	1

RURAL AFFAIRS AND ISLANDS COMMITTEE
35th 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)
Jim Fairlie (Minister for Agriculture and Connectivity)
Maurice Golden (North East Scotland) (Con)
Mairi Gougeon (Cabinet Secretary for Rural Affairs, Land Reform and Islands)
Ross Greer (West Scotland) (Green)
Jamie Halcro Johnston (Highlands and Islands) (Con)
Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
Douglas Lumsden (North East Scotland) (Con)
Gillian Martin (Cabinet Secretary for Climate Action and Energy)
Douglas Ross (Highlands and Islands) (Con)
Mark Ruskell (Mid Scotland and Fife) (Green) (Committee Substitute)
Mercedes Villalba (North East Scotland) (Lab)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 10 December 2025

[The Convener opened the meeting in private at 08:33]

08:47

Meeting continued in public.

Natural Environment (Scotland) Bill: Stage 2

The Convener (Finlay Carson): Good morning, and welcome to the 35th meeting of the Rural Affairs and Islands Committee in 2025. Before we begin, I ask everyone to ensure that their electronic devices are switched to silent. This morning, Rhoda Grant will join us remotely.

Our remaining item on today's agenda is consideration of the Natural Environment (Scotland) Bill at stage 2. We still have quite a few groupings to get through, so I ask everyone to be as succinct as possible when speaking to their amendments. I welcome Jim Fairlie, the Minister for Agriculture and Connectivity, who is supported by Scottish Government officials. I also welcome other members who join us at stage 2. Officials seated at the table are here to support the minister, but they are not permitted to speak in the debates on amendments.

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

Section 33—Removal of requirements related to licensing to deal in venison

The Convener: Amendment 321, in the name of Tim Eagle, is grouped with amendments 252, 322, 323, 75, 254 and 255.

Tim Eagle (Highlands and Islands) (Con): Good morning. To follow your suggestion, convener, I will try to be brief not only with my notes but also by not speaking very much to others' amendments.

Section 33 of the bill, as currently drafted, removes the requirements for licences to deal in venison. My amendment 321 would enable Scottish ministers to repeal the venison dealer licence by regulation at a time of their choosing. By making that an enabling power, there will be sufficient time for the NatureScot app to be integrated to the register of authorised persons, which would make the venison dealer licence surplus to requirements.

My amendment 252 would delete the entirety of section 33, and my amendments 322 and 323 would instead give ministers the power to repeal the venison dealer licence by regulation at a time of their approving. It is essential for food safety that there is appropriate, continuing oversight and traceability in respect of venison that is intended for human consumption.

I will briefly touch on other amendments in the group. I fully support Rhoda Grant's amendment 75 and my colleague Rachael Hamilton's amendments 254 and 255, which seek to add a venison action plan to the bill. I strongly urge other members to support those amendments, too.

I move amendment 321.

Rhoda Grant (Highlands and Islands) (Lab): Amendment 75 seeks to set up a venison action plan. We need to better control deer numbers, and the bill seeks to improve deer control. Better control should lead to more venison being available to enter the food chain. Deer need to be managed in a way that allows that venison to be used. We have excellent initiatives in Jura and elsewhere that seek to give communities access to venison. My amendment therefore seeks to initiate a venison action plan to ensure that venison is not wasted and that it becomes a healthy addition to our diet.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Amendment 254 would require ministers to introduce a venison action plan that sets out what action Scottish ministers will take to ensure that public bodies regularly offer venison as a meal. Through several freedom of information requests, the Scottish Conservatives looked at the number of universities and public institutions that were serving venison, and they were few and far between. The amendment also puts the onus on ministers to take action to remove barriers to demand and supply. Currently, there is no requirement for public bodies to use venison, and uptake across local authorities and health boards is minimal. Only one local authority serves venison in schools and no health board offers it to patients. That is despite venison being a good source of micronutrients, high in protein and locally sourced, and its increased use being helpful in managing Scotland's growing deer population. The action plan would help introduce measures to support suppliers, grow the rural economy and improve distribution so that venison

can be served in hospitals, schools and other public sector catering establishments.

Likewise, amendment 255 would require ministers to introduce a venison action plan that sets out how deer larders, butchery facilities and distributors can be best utilised to maximise the amount of venison available for human consumption. It is very similar to Rhoda Grant's amendment 75, but my amendment 255 introduces a requirement for ministers to review the current processing capacity and to outline action that will be taken to increase that capacity in order to strengthen the industry and promote Scotland's venison supply, which I know is something that the Scottish Government supports.

Last month, at an agritourism round-table meeting, I met Lauren Houston of Glenkilrie Larder, which has a cook school. With funding from the Cairngorms 2030 programme and support from the National Lottery Heritage Fund, Lauren and her husband Andrew have donated more than 775kg of venison to 26 schools, nurseries and children's events from their family farm near Blairgowrie. Lauren believes, rightly, that our young people deserve good food on the table and that venison is an option that should be on the school menu. Grass-roots enterprises such as Lauren's are leading the way in putting venison on plates across Scotland, but they should not have to do it alone.

Together, amendments 254 and 255 would ensure that we have both the supply of venison, through improved processing capacity, and demand for it, through the encouragement of public procurement, which accounts for more than £130 million of food spend in Scotland annually.

To close my remarks for this group, I would like to read part of a poem written by Lauren, called "Care of Glenshee":

I come from rolling hills and arable land.
I'd never seen anything so vast, so grand.
Glen of fairies a magical sight
Heather hill and rocky face
Grouse nesting and hares who race.
Stags roaring and lapwing overhead.
Oyster catchers in the brush,
Roe deer in a speedy rush.
Kites and buzzards fly above
In a landscape that they love.

Glenshee may look wild and free.
This is untrue I hope you can see.
The balance here not by chance,
It is work of hand not happenstance
Protection that often goes unseen
Keepers brave the dark of night
While you lie in your bed cosy and tight.
The farmer who works all hours of the day
For satisfaction, tradition but little pay.
Constantly told they harm not care
But in the same breath, people shout of the beauty everywhere.
Managed well and land will thrive.
It's farmers and keepers who keep this glen alive.

The Convener: Thank you for that bit of culture—I am just glad that it did not go to a tune. [*Laughter*.] It might be a bit early for a song.

The Minister for Agriculture and Connectivity (Jim Fairlie): I will get straight into it. We have a lot to get through, so I will be as brief as I possibly can be.

On amendments 321 and 252, I fundamentally disagree with the member's intentions to prevent the repeal of the venison dealer licence in the bill. Time and again in Parliament, we have heard about how important it is to raise the profile of venison, as so eloquently done by Ms Hamilton just now and through Lauren Houston's fine words.

If we want to raise the profile of venison, the venison dealer licence acts as a barrier to that goal. For a start, the price of a licence varies significantly across local authorities and it prevents locally sourced venison being consumed in local communities, hotels, pubs and restaurants. In addition, it makes no sense to me that we can allow other wild game such as pheasant and rabbit to be dealt with without a licence, yet we still require a costly licence for venison. It is entirely suitable for venison to follow the same protocols as other wild game, so I want to increase its availability while maintaining the high food standards that we would expect. Ultimately, the venison dealer licence is no longer fit for purpose. For those reasons, I urge members to oppose amendments 321 and 252.

Amendments 322 and 323 seek to introduce a power for Scottish ministers to repeal section 33 of the Deer (Scotland) Act 1996 by regulation rather than through primary legislation. Amendment 322 goes further and adds that conditions that would require ministers to be satisfied that alternative arrangements for data collection were in place and effective before repealing section 33. I understand that the amendments stem from concerns raised by the committee about traceability and monitoring of venison and its recommendation to delay the repeal of the venison dealer licence provision until the NatureScot deer app is in place. However, it would be remiss of the committee not to remember that, when the committee met practitioners during stage 1 of the bill, the current licensing system for venison dealers was criticised as being ineffective.

It is also important to be clear that the venison dealer licence does not function as a national data collection tool. In addition, Food Standards Scotland has confirmed that traceability of wild venison can be maintained through the existing food safety and hygiene legislation, which applies to all meat and wild game. If those reservations remain, we do not need to commence the repeal of the venison dealer licence immediately, and we

will work with NatureScot on the correct timing for doing that.

The venison dealer licence is outdated and acts as a barrier to increasing venison supply and supporting local communities. For those reasons, I believe that both amendments are unnecessary and that they risk delaying the removal of a system that is no longer fit for purpose. I ask members to oppose amendments 322 and 323.

Finally, amendments 75, 254 and 255 seek to make better use of venison. As I have said many times, that is a subject that I feel very strongly about. Although the amendments are well intentioned, it is critical that we look at deer management as a whole when creating action plans. During a stage 1 evidence session, Ms Grant said that it is important that we manage deer properly and do not waste the venison that is created from the cull of deer. I absolutely agree with that sentiment.

We are taking forward various strands of work on venison, including on how we can learn from the wild Jura venison project, which was referenced, where products have been distributed to schools. However, creating stand-alone plans that focus solely on venison risks overlooking the wider objectives and the need for integrated solutions. That is why I supported the creation of a national deer management plan, which we heard about during the discussion on amendments 246, which will be capable of addressing the issues that are raised by amendments 75, 254 and 255.

I invite Ms Grant and Ms Hamilton to work with me and Mr Ruskell to develop a proposal for an amendment on a national deer management plan ahead of stage 3 of the bill. I therefore ask those members not to press those amendments, and, if they are pressed, I ask the committee to reject them.

Rachael Hamilton: Will the deer management plan have a specific reference to a review or action plan to address the fact that, since 1990, the amount of deer has doubled? We now have 1 million deer in Scotland, and a lot of that, as we heard from Edward Mountain last week, is going to waste. I know that you are highly tuned into the fact that we need to utilise venison. I find it regrettable that, even though it is such a good, lean protein, public institutions are not putting it on the menu.

09:00

Jim Fairlie: I absolutely concur. As we start to develop the deer action plan, venison will be very much part of the process. I have said a number of times in this committee and in engagements with other stakeholders that we should stop talking about culling deer and start talking about harvesting a product. For me, the two go hand in hand.

Venison must be at the heart of our work to develop the national action plan for deer. I concur with the member's view in that regard.

The Convener: I invite Tim Eagle to wind up and to press or withdraw amendment 321.

Tim Eagle: I have nothing more to add. I press amendment 321.

The Convener: The question is, that amendment 321 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 321 disagreed to.

Amendment 252 not moved.

Section 33 agreed to.

After section 33

Amendments 322 and 323 not moved.

The Convener: Amendment 74, in the name of the minister, is grouped with amendment 253.

Jim Fairlie: At stage 1, a range of views were expressed by stakeholders, members and the committee, especially about the long-term impact and effectiveness of the proposed changes to deer management. I acknowledge the concerns that were raised and reassure people that the Scottish Government is listening.

Amendment 74 seeks to introduce a review mechanism in relation to the operation and effectiveness of the modifications made to the Deer (Scotland) Act 1996 by part 4 of the bill. It will place on the Scottish ministers a statutory duty to prepare and publish such a report within 10 years of the relevant provisions coming into force. Importantly, the review will assess the operation and effectiveness of the relevant provisions against three objectives:

"(a) protecting and restoring the natural heritage and environment,

(b) achieving the aims and purposes of deer management set out by section 1 of the 1996 Act, and

(c) improving standards of welfare for deer."

Amendment 74 will also ensure that the review process is inclusive. Ministers will be required to consult NatureScot and

"such other persons as the Scottish Ministers consider appropriate",

who should include landowners, land managers and other relevant stakeholders. The report must include a statement of any action that the Scottish ministers intend to take and, importantly,

"where the Scottish Ministers do not intend to take any action, their reasons for not taking action."

The report must be laid before the Scottish Parliament, thereby ensuring transparency and accountability.

Amendment 74 will strengthen the bill by embedding a clear commitment to review and reflect on the operation of the changes to the 1996 act. It will ensure not only that the deer management provisions are implemented, but that their operation and effectiveness will be monitored. For those reasons, I encourage members to support amendment 74.

I move amendment 74.

Tim Eagle: My amendment 253 would provide for a review to be carried out of the operation and effect of the powers in sections 13, 14, 15 and 16 after five years. I believe that sections 13 to 16, which provide new powers that build on those in the 1996 act, should be re-evaluated to measure whether they have been utilised or been effective.

Amendment 253 is supported by the British Association for Shooting and Conservation, which believes that the powers in the bill must be evaluated in a five-yearly review.

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

Jim Fairlie: Although amendment 253 is well intentioned, it contains a fundamental flaw. The provisions in the bill will not be commenced in unison—a staggered approach will be taken—so it is unclear when the proposed five-year review period would start.

In addition, as I have set out in amendment 74, the review that I propose will look at more than just sections 13 to 16 of the bill. It will look at all the modifications that have been made to the 1996 act.

I would be happy to work with Mr Eagle on my proposed mechanism for reviewing the operation and effectiveness of the modifications made to the 1996 act by part 4 of the bill. However, based on what I have said, I ask Mr Eagle not to move amendment 253. If he moves it, I ask members to oppose it.

Amendment 74 agreed to.

Amendment 253 not moved.

The Convener: I suspend the meeting to allow for a changeover of ministers.

09:05

Meeting suspended.

09:07

On resuming—

The Convener: Amendment 11, in the name of Mercedes Villalba, is grouped with amendments 13, 78 to 88, 158 to 164, 304, 304A and 304B. Amendments 304A and 304B are direct alternatives, which means that both can be moved and decided on. The text of whichever is last to be agreed to is what will appear in the bill.

Mercedes Villalba (North East Scotland) (Lab): Good morning. I want to start by thanking the Royal Society of Edinburgh and the Parliament's legislation team for their support in drafting these amendments.

I have 17 amendments in this group, covering three areas: deer overgrazing, urban afforestation and sustainable forestry. All have been inspired by the Royal Society of Edinburgh's report "Inquiry into public financial support for tree planting and forestry", which concluded that

"subsidising commercial conifer planting is not justified and the potential for the forestry sector to deliver multiple benefits has not been fully realised."

With that in mind, I have lodged these amendments to probe areas that the RSE report found would benefit from Scottish Government intervention.

First, on the issue of deer grazing, amendment 11, in my name, seeks to address the environmental damage caused by the overgrazing of deer while protecting other wildlife habitats. The RSE report identified a concern about

"expensive fencing around planted areas resulting in red deer being displaced to adjoining areas where browsing and grazing pressures then increase, together with capercaillie and black grouse mortality caused by collisions with fences".

Put simply, deer fencing is expensive and, although those who can afford it are able to erect it, it simply moves the problem of deer overgrazing to areas without fencing, without addressing the problem of unsustainable deer numbers. At the same time, it poses a risk to wildlife, which might become trapped or injured in the fencing.

If the cabinet secretary believes that there are unintended consequences with amendment 11, I am sure that she will explain them. However, I ask that she outline how the Scottish Government will address the heart of the issue—that is, how it will support those without deer fencing whose plots adjoin areas with fencing to control deer numbers on their land. As, I am sure, she will agree, deer overgrazing is a national concern that no landowner or tenant should be left to shoulder alone.

The Convener: Will the member give way?

Mercedes Villalba: Sure.

The Convener: I wonder whether the member appreciates that deer fencing is not selective and that it is equally important for the establishment of new native woodland and the protection of non-spruce species. In other words, it is equally important to native woodland as to commercial conifer planting.

Mercedes Villalba: I am happy to agree with the member on that point. As I have said, the amendment seeks to address the risk of displacing the problem instead of its being tackled. It is not saying that all deer fencing is a problem, in and of itself, but that alone, and without other measures, it can exacerbate existing problems.

Moving on to the topic of urban afforestation, amendment 13 seeks to introduce requirements for Scottish Forestry to partner with local authorities to plant urban trees in towns and cities—for example, in streets, squares and parks and on other local authority-owned land. Again, these amendments come from the recommendations in the RSE's report that

"Scottish Forestry should provide targeted grants to Local Authorities to plant trees in existing urban locations"

and that

"Local Authorities should require all new built developments with road frontages to incorporate trees in the road or on their frontages."

Scottish Environment LINK, as well as the Royal Society of Edinburgh, has highlighted the positive social, economic and environmental impacts of such spaces, particularly their promotion of good air quality in urban areas. Beyond the benefits to us, urban afforestation is vital in ensuring species connectivity and flood management. Again, this is a probing amendment, and I am keen to hear from the cabinet secretary about any partnership working that might already be in place between Scottish Forestry and local authorities, and how any best practice is being promoted across the country to encourage more of that joined-up working.

On the issue of sustainable forestry, the RSE's report highlights that 61 per cent of Scotland's coniferous woodland comprises Sitka spruce, and what lies at the heart of this particular set of amendments is an attempt to shift the balance towards native tree planting. For each area being amended, I have brought forward two options to amend the Forestry and Land Management (Scotland) Act 2018, either in or after section 11.

I will not go through every amendment in detail, in the interests of time, but I can take questions on specific amendments. Broadly, they seek to increase instances of mixed native broadleaf planting, incorporate shrub cover, improve biodiversity, create mixed native woodlands, and ensure that any public financial support goes to schemes that improve biodiversity and increase native woodland planting.

There are also the amendments that the convener highlighted—that is, amendments 304A and 304B. Amendment 304 and the amendments that amend it seek to require an environmental impact assessment to be completed before any public funding can be used for tree planting, with the requirement applying to land of 50 hectares or above, or where the cumulative area of land held by the person receiving support would be 50 hectares or above, if the land adjoins or is adjacent to existing land held by the person receiving support and if support is being provided for the same activity across the cumulative landholding. Within that, there are provisions for sensitive areas relating to heritage and conservation.

The difference between the amendments relates to deep peat soil. The RSE has been proactive in highlighting the role of peat soil in sequestering carbon. Globally, soils contain three times more carbon than vegetation, particularly when the soil is peaty. Each of the amendments recognises that and seeks to ensure that deep peat soil is considered in environmental impact assessments. However, amendment 304 specifies a thickness of 30cm, amendment 304A a thickness of 50cm and amendment 304B a thickness of 40cm. Of those, a thickness of 30cm would be my preference. However, although I think that that would be incredibly beneficial, there are other options for consideration.

In conclusion, the findings of the RSE's report "Inquiry into public financial support for tree planting and forestry" are stark. It says:

"Based on the evidence, the report concludes that subsidising commercial conifer planting is not justified and the potential for the forestry sector to deliver multiple benefits has not been fully realised."

Clearly, although work might be being done in this area, it is neither successful nor efficient enough for the scale of the challenge that we face.

09:15

I am keen to hear from the cabinet secretary the Government's response to these amendments before I decide whether to move them. However, based on those findings, I feel that, at the very least, there are grounds for the Scottish Government to carry out its own inquiry into the issues that are highlighted in the report.

I move amendment 11.

Mark Ruskell (Mid Scotland and Fife) (Green): I will speak to amendments 78 and 79 on behalf of Ariane Burgess.

Amendment 78 would establish a requirement to consult with communities in relation to new forestry. It is very similar to an amendment that Ariane Burgess lodged at stage 2 of the Agriculture and Rural Communities (Scotland) Act 2024. It is informed, as are Mercedes Villalba's amendments, by the recommendations from the RSE, which has called for forestry applications to be subject to more EIAs, including the important public consultation element. The amendment would increase the consultation requirements without requiring a full EIA to be conducted.

Amendment 79 would bar Scottish ministers from providing and approving public funding for deer fencing, including any on-going maintenance of existing fencing. That draws on the report from the John Muir Trust, which raised concerns about the proportion of forestry payments that support deer fencing as opposed to other deer population control measures. Its argument is that the current funding model is an inefficient use of taxpayers' money and is not a long-term strategy for increasing nature restoration. The funding for deer fencing concentrates deer density on unfenced land. Moving to a natural regeneration approach would focus on controlling deer populations to lower densities and allow for more natural and effective woodland restoration.

It is argued that that approach would also create healthier environments at a landscape scale by allowing the free movement of other wildlife.

Tim Eagle: I will touch on some of Mercedes Villalba's amendments. I am sympathetic to amendment 13, regarding urban areas, but my understanding is that, through the Scottish planning system, tree planting is a big part of any new development. I would like to see that progress, so I look forward to hearing from the cabinet secretary in that regard.

Amendment 80 would require the removal of tree seed outside new woodland. Seed can spread beyond the area that is being planted by wind and other means, so it is impractical to try to regulate that activity in such a way. It would be better to ask Scottish Forestry to work with the sector to establish what the issue is and the actions that can be undertaken.

My main concern is with amendment 88, which is, if I understand it correctly, about the removal of financial assistance for "exotic conifer species". That would include Sitka spruce, which is an incredibly important species for Scotland. Amendment 88 would result in the loss of thousands of jobs in the coming years and make Scotland reliant on timber imports. I do not think that any of us really wants that, given the potential biodiversity consequences for other parts of the world.

The timber market is dominated by softwood from conifers, and Scotland's only native conifer is the Scots pine, which can be grown commercially only in limited sites in the east of Scotland. The amendment would also completely undermine the role that woodland creation can play in sequestering carbon for Scotland's 2045 net zero target, as only fast-growing conifers will sequester carbon in that time.

Amendment 88 also ignores NatureScot's evidence that those forests are one of only a few habitats that have shown improvement in biodiversity this century and that they provide a home for many iconic species, such as the red squirrel and the white-tailed eagle.

The Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): I will say at the outset that I agree with many of the points of principle behind quite a few of Mercedes Villalba's amendments in this group, and I am happy to have conversations ahead of stage 3 about how to take some of these matters forward. However, there are a few issues with some of the amendments.

I agree with the principle of what Mercedes Villalba is trying to achieve in amendment 11, which is to deal with the root cause of the problem. However, if the amendment had the effect that it appears to seek, it would increase the complexity and bureaucracy of new forestry projects. It would also see a duplication of some of the existing processes that are carried out by Scottish Forestry. Deer management planning and assessing the landscape impact of deer fencing are an intrinsic part of planning forestry projects, and they are funded through the forestry grant scheme. The amendment also does not define what characteristics distinguish a deer fence from any other type of fence, which is important, because the amendment would not apply to a fence of similar dimensions that was erected for any other purpose.

However, amendment 11's main flaw is that it fails to address the fact that more general permitted development rights allow the erection of

any fence or enclosure for any purpose, and those would not be affected by the amendment. On top of that, any amendments that we might seek to make to permitted development rights would be made appropriately via statutory instrument informed by a public consultation, rather than through the primary legislation route. I am happy to discuss, ahead of stage 3, how we might address the issue, and I therefore ask Mercedes Villalba not to press the amendment.

On amendment 13, we recognise the vital role that trees and woodlands play in enhancing urban communities. We have supported and continue to support urban woodlands through the forestry grant scheme. We fund partnership initiatives such as the Forth, Clyde and Fife climate forests, and we are committed to exploring how best to align our collective resources and funding to support the important work of planting more trees across our towns and cities. Amendment 13 is therefore unnecessary, given that so much work is already under way in that area. If Mercedes Villalba is content not to move the amendment, I am happy to meet her to discuss how we can best support that important area of work.

Amendment 78, in the name of Ariane Burgess, is the same amendment that was lodged at stages 2 and 3 of the Agriculture and Rural Communities (Scotland) Bill. The amendment was not accepted then, and the reasoning that I provided at that time still stands today. Given that forestry support provided under the 2024 act extends far beyond woodland creation alone, the amendment would place an unreasonable duty on Scottish ministers. The current forestry grant scheme was subject to public consultation and was developed following direct stakeholder engagement. Those same principles will apply as forestry support is developed under the powers of the 2024 act. Scottish Forestry is also working to improve and strengthen community engagement in forestry decision making and to ensure that the application processes for forestry support and regulatory approval are aligned with the principles of the land rights and responsibilities statement and associated guidance. Therefore, I ask Ariane Burgess not to move amendment 78.

On amendment 79, the impact of deer populations on our natural environment is an issue, as I have mentioned. I agree with the principle that we should deal with the cause and not the symptom. The issue is already being explored by Scottish Forestry and NatureScot in order to see how future forestry support can be targeted to reducing deer numbers rather than just erecting fences. However, the amendment fails to take account of the fact that landscape-scale deer management is a complex cross-ownership issue that takes time to resolve. Cutting off funding for deer fencing would risk the establishment of new woodlands and natural regeneration, which could result in a swing towards the planting of more browsing-tolerant species such as Sitka spruce, which are less palatable, and I do not think that Ariane Burgess or others would appreciate that. The amendment would also disadvantage tenant farmers, small landholders and crofters, because it would not prevent deer from spreading on to tenanted land. For all those reasons, I ask her not to move amendment 79 today, and I ask the committee not to support it if it is moved.

I will consider amendments 80 and 84 to 86 alongside amendments 158, 161, 163 and 164, because they are almost identical in effect and differ only slightly in their wording. The amendments seek to put additional duties on ministers to “impose conditions on” or refuse planting schemes that are submitted for approval where there is a risk of invasive tree seed spread, particularly from commercial forestry.

Amendment 163 seeks to impose a requirement to remove non-native tree seed spread from adjacent land and for Scottish ministers to assess the risk of seed spread and implement measures to prevent it. Not all natural regeneration on adjacent land presents equally, and the type of land and its use will determine its suitability. Any interventions need to be context and site specific, which the amendments do not take into account. I am aware of the negative impacts that tree regeneration can have on sensitive habitats such as peatlands, but it is a legacy issue and the amendments relate only to new woodlands. The issue of unwanted tree regeneration pertains mostly to legacy issues from forest design and planting before the introduction of the United Kingdom forestry standard, so focusing on new woodland creation would have little impact on some of the legacy issues that we have seen, particularly those on peatland.

Amendments 80 and 163 also pose a significant legal implication for land access rights. Scottish ministers do not currently have power of entry on to land for such purposes, so setting a condition on an approval for a planting scheme that requires accessing neighbouring land to remove tree seedlings without adequate powers of entry is unrealistic and likely to cause disputes. I am happy to discuss how we might address the principle behind the amendments between stages 2 and 3, to ensure that the issues can be addressed effectively and proportionately. Therefore, I ask Mercedes Villalba not to move them, to allow that discussion to take place.

On amendments 81 to 83, 159, 160 and 162, I reassure Mercedes Villalba that the requirements that she is seeking to add through those amendments are already in place and are reflected in daily practice in the forestry sector.

The amendments seek to change the Forestry and Land Management (Scotland) Act 2018 by introducing measures to increase native woodland and biodiversity; however, those things are already covered by the UK forestry standard. As I mentioned before, under the 2018 act, Scottish ministers have a statutory duty to promote sustainable forestry management. Therefore, Scottish Forestry and Forestry and Land Scotland must comply with the UK forestry standard at all times, which makes the proposed legislative changes unnecessary. Keeping the requirements in the forestry standard rather than putting them in primary legislation means that we have the flexibility to reflect any scientific advances as well as site-specific conditions. That approach enables land managers to deliver measures that best support ecological coherence, rather than applying rigid specifications elsewhere. I would be happy to discuss how we might address the principles of the amendments at stage 3. I therefore ask Mercedes Villalba not to move them.

I agree with the principle behind amendment 87, but the amendment is not necessary, because the outcomes that it is seeking are already supported through the forestry grant scheme, which functions under retained European Union law. Amendment 87 would place a duty on ministers to duplicate existing support mechanisms, which would be needlessly complex and expensive.

Amendment 88 further seeks to amend financial support under the 2018 act to prohibit the funding of exotic conifer plantations. I appreciate the concern that was raised by Tim Eagle, but no payments or grants are currently available under the 2018 act for the creation or expansion of such plantations. However, that is not to say that the act might not be used in that way in the future. In September, we published a new list of productive tree species, which was developed through extensive collaboration between Scottish Forestry, Forest Research and a wide range of partners. Ultimately, an amendment of this type would disincentivise the use of almost every conifer species that is on the new list. Amendment 88 is problematic in that it could restrict the species that are used in future plantation forests in Scotland. Ultimately, that could have the effect of limiting the diversity of Scotland's forests, decreasing their resilience and negatively affecting their adaptability to climate change. With all of that in mind, I ask Mercedes Villalba not to move her amendment 88. If it is moved, I ask the committee not to support it.

Amendments 304, 304A and 304B are similar to amendment 58, which has already been discussed in group 6. These amendments would go even further and would apply the criteria to all publicly funded woodland creation, not just to conifers. The amendments would make an even greater number of forestry projects, particularly the expansion and natural regeneration of native woodland, more expensive and unreasonably bureaucratic. Ultimately, that would result in a two-tier system, because the amendments would apply only to publicly funded woodland creation. Publicly funded projects such as many farm, croft and community woodlands would be subject to more onerous administrative and financial requirements than woodland creation that had been funded through private investment.

There is also a perception that, due to the low number of EIAs that are carried out each year, somehow, the process is failing. However, as I pointed out during the development of the ARC act, the opposite is true: hundreds of projects are screened under the regulations each year. Due to the hard work that is put in ahead of submission, most schemes are well designed to mitigate environmental risks before they are screened. The responsible due diligence by land managers and their agents ahead of regulatory engagement is, ultimately, what we would all want to see.

All new planting schemes in Scotland that exceed 20 hectares are already subject to screening assessments under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017. Strict thresholds have been set out in regulations for where, particularly in sensitive areas, EIA screening is always required. The cumulative aspect of amendment 304 would also disproportionately affect native woodland expansion, because small, native plantings or natural regeneration that is used to expand existing native woodland could trigger the threshold, even down to the smallest projects.

Amendment 304A lists deep peat soil as being 50cm deep, which is the depth that is used in the UK forestry standard, by NatureScot and in the national planning framework.

Ultimately, I remain satisfied that the current EIA process is sufficiently robust, and for those reasons I strongly oppose the amendments and ask Mercedes Villalba not to move them. If they are moved, I ask members not to support them.

09:30

The Convener: I call Mercedes Villalba to wind up and to press or withdraw amendment 11.

Mercedes Villalba: I thank the cabinet secretary for her detailed response to my amendments in this group.

As I said in my opening remarks, it may be that some of the work that my amendments seek to bring about is already being undertaken or is at least possible in the current legislative landscape. However, as the RSE's inquiry has shown, that

work is not happening at the scale, or with the effectiveness, that we need in order to tackle the escalating challenges that are presented by the climate emergency.

I very much welcome the cabinet secretary's positive response in acknowledging some of the issues and committing to further discussions with me and with other members ahead of stage 3. There seems to be cross-party agreement between the Government, myself and other members on our commitment to address these issues in a way that will benefit not only the people of Scotland, but our natural environment and our wider contribution to global biodiversity. On that basis, and given that the cabinet secretary has committed to discussions with me ahead of stage 3, I seek to withdraw amendment 11.

Likewise, I will not move my other amendments in the group, on the basis that the cabinet secretary has offered to meet with me to discuss the principles behind them, so that these complex issues can be addressed in a sustainable way.

Amendment 11, by agreement, withdrawn.

Amendment 75 not moved.

The Convener: Amendment 254, in the name of Rachael Hamilton, has already been debated with amendment 321. Ms Hamilton, do you wish to move the amendment?

Rachael Hamilton: On the basis of what the cabinet secretary said, I will not move it.

Amendments 254 and 255 not moved.

Amendment 333 moved—[Tim Eagle].

The Convener: The question is, that amendment 333 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 333 disagreed to.

Amendments 12 and 13 not moved.

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

09:32

Meeting suspended.

09:39

On resuming—

The Convener: Amendment 17, in the name of Sarah Boyack, is grouped with amendments 90 to 93, 328, 95 to 101, 156, 264 to 266, 294 to 298 and 301.

Sarah Boyack (Lothian) (Lab): There are a lot of amendments in the group, and colleagues will be relieved to know that I am not going to refer to them all.

I think that everyone here is trying to strengthen the bill and respond to the various stakeholders who have spoken to us about the improvements that they think need to be made. I thank the Marine Conservation Society, the Scottish Creel Fishermen's Federation, Scottish Environment LINK and the Sustainable Inshore Fisheries Trust for helping me to craft my amendments in the group.

Given that a huge portion of our environmental sector is focused on our marine, coastal and fishing environments, the amendments are incredibly important not just for our seas and our marine ecosystem but for the people who rely on those for their livelihoods.

My amendment 17 would provide that

"The Scottish Ministers must, within 12 months of Royal Assent, publish a national marine strategy".

Many stakeholders in the marine sector have been asking for that. The strategy would need to set out clear indicators or methods for measuring progress. My amendment would ensure that ministers, in preparing or reviewing the strategy, were obliged to consult relevant stakeholders and take account of "new environmental challenges"; that is something that Scottish Environment LINK mentioned.

Amendments 93, 328 and 95 would all strengthen our focus on adaptation as well as mitigation. Amendment 93 would update section 68(3) of the Marine (Scotland) Act 2010 so that ministers must state the ecosystem recovery objectives for any new nature conservation marine protected area. That would ensure that designation criteria are properly aligned with future nature recovery targets under part 1 of the bill.

Amendment 95 would require ministers to review the guidance annually so that it could be

updated in line with new scientific evidence and best practice, which is vital to raising awareness and delivering best practice whereby lessons can be learned, shared and implemented.

I thank the Scottish Creel Fishermen's Federation and SIFT for helping to craft my amendments 156 and 265 on inshore fishing. Amendment 156 would give ministers the power to bring in low-impact fishing priority areas, in line with their commitments to support a just transition to a more sustainable industry, and I have worked closely with the Scottish Creel Fishermen's Federation on it. It is a modest proposal that would require any such areas to be subject to extensive consultation; it could be done only to help meet any targets that are set under the bill, to fulfil the national marine plan or to help achieve ministers' legal duty to deliver good environmental status.

Having said that—and, again, this has the support of the Scottish Creel Fishermen's Federation—I encourage members to also support amendments 96 to 101, in the name of Maurice Golden, which are systemic and in the same space. Those amendments draw on the positive experience with the inshore fisheries and conservation authorities that operate successfully in English waters. What is proposed would fit within a potential hierarchy in the 2010 act of 11 regional marine plans sitting below one national marine plan.

My amendment 265 would give ministers the powers to protect the parts of our sea lochs that are most important as marine carbon stores. Those make a significant contribution to Scotland's climate mitigation efforts, burying more carbon than the whole North Sea and storing more per hectare than peatland. However, there is significant concern that carbon that is sequestered in those sediments would, if it was disturbed, re-enter the water column, and would then be at risk of returning to the atmosphere.

Scottish ministers have drafted the "Scottish Blue Carbon Action Plan", which rightly supports more research, and there are indeed many areas where that research is needed. The areas referred to are only rarely fished, so their closure would have a minimal impact on the trawl sector, which is the primary cause of disturbance to our inshore marine muddy sediments. However, their protection would have a significant impact on the amount of carbon that Scotland can sequester.

I also support amendment 294, in the name of Ross Greer, on enforcement, because taking stronger action is important.

In conclusion, the amendments in the group are important because they would improve our environment for coastal communities as well as for those who are working in the fishing industry, which would, in turn, enable us to create a more sustainable future for Scotland.

I have spoken to Government ministers, and I am conscious that they have a variety of views on these issues. I am trying to get positive results here, so I am keen to listen to what ministers have to say. Like other colleagues, I want to be constructive and ensure that we get the best possible legislation in order to have the best possible impact.

I move amendment 17.

09:45

Mark Ruskell: I will speak to the amendments in the name of Ariane Burgess. I support the majority of the amendments in the group, and I particularly support the approach that has been taken by Maurice Golden and Sarah Boyack. There is a wider issue about the management of our marine environment, which the bill so far does not tackle, so we need to go further at stage 2.

Amendments 90 and 91 would strengthen the reporting on the status and condition of Scotland's marine protected area network by giving Environmental Standards Scotland a formal role in assessing the network. The evidence that we have had from Open Seas stressed the lack of real protection that is being delivered by Scotland's existing MPA network. The Government has acknowledged that MPAs might not be meeting legal objectives, so giving ESS a more formal role in assessing the network's objectives and achievements would mean greater accountability for any marine-related targets that are set by secondary legislation.

Amendment 90 would strengthen the reporting by requiring ESS to report on whether there has been any deterioration in the MPA network. Amendment 91 would then require ministers to include in their reports to Parliament under the 2010 act a summary of the pressures and impacts that human activities are having on MPAs.

Amendment 92 relates to the national marine plan 2, which ministers are currently developing. The intention is for the new plan to set out ministers' policies for how different sectors will interact in the marine environment. That is important, because we all recognise that there is a demand for access to marine space, from fishing to energy to recreation, and deciding what goes where is the critical role of that national marine plan. However, we are concerned that the current proposals from the Government suggest that the new national marine plan would significantly weaken protections, including by dropping the fisheries objective from the new plan entirely. Amendment 92 seeks to rectify that omission.

Fisheries management measures are deemed to be a national or regional marine planning matter under the 2010 act. They are part of the first national marine plan and the Shetland regional marine plan. The proposal, which attempts to treat fisheries management decisions as separate from the wider national marine planning, is concerning. We need to join things up here rather than put fisheries in a siloed box. Amendment 92 would make it clear that fisheries objectives are categorically part of the national marine plan and cannot be interpreted otherwise and removed at the whim of a serving Government.

Amendment 301 would make two straightforward changes to the current light-touch regulation of the wrasse fishery and finish the work that was begun by this committee and the Scottish Government in the area. First, it would close some of our marine protected areas and special areas of conservation to the fishery all year round—specifically, the SACs for which rocky reefs are a qualifying feature and the MPAs for which kelp and seaweed on sediment are a protected feature. Those are the MPAs and SACs for which the various commercially fished wrasse species listed in amendment 301 are the keystone species, which are hugely ecologically important to the future of those habitats. There might be a case for closing the fishery in all MPAs and SACs, but, in those specific areas, wrasse are absolutely integral to the survival of those habitats. You cannot protect rocky reefs or kelp forests and other seaweed habitats if the wrasse that they depend on can be taken away.

Amendment 301 would close the wrasse fishery during the five months when wrasse spawn and guard their nests. At the moment, the closed season is completely misaligned with the spawning season, again risking the future of the fish and the ecosystems that they are part of. Protecting vulnerable fish stocks during the spawning seasons is an absolutely fundamental part of good fisheries management. I am at a loss as to why that is not being applied in relation to the wrasse fishery.

We all know that wrasse are used in large numbers by the salmon industry for lice control, and, no doubt, the industry would like the fishery to be open all year round, to give it flexibility. However, that would not be in the industry's interests if it intends to rely on wrasse for the longer term. It has been reported that local wrasse populations have collapsed in some areas. That is a dire outcome for important marine ecosystems, but it is also a problem for the aquaculture industry. We need better regulation in the area. I think that Ariane Burgess's amendments take that final step and ensure that there is a sustainable recovery of our wrasse across Scotland.

Maurice Golden (North East Scotland) (Con): My amendments in the group seek, essentially, to explore the question of rural communities and the environment versus Government institutions and multinationals, and who is best placed to decide how to protect the interests of individuals. Is it the creel fisherman based in Skye or the bureaucrat based in Edinburgh? It is the classic local-versus-national question.

Ultimately, the amendments seek to address substantial problems with inshore management that are both urgent and long standing. The Scottish Government and the marine directorate have failed to address many problems over many years, and, in each case, those problems have been environmental and economic.

In setting out the purpose of my amendments, I will seek to shine a light on associated problems that, in each case, relate to shortcomings in the 2010 act. The amendments might not be the answer, but in each case an answer is required, and I look forward to the Scottish Government's response to them.

Ultimately, the amendments fall into two parts—regional marine planning and fisheries management. Amendment 96 seeks to require action on regional marine plans. Section 5(1) of the 2010 act says that

"Ministers must prepare and adopt ... a national marine plan",

so they should have done so. However, the first iteration of the plan was broad brush practically to the point of uselessness, both for the purpose of ecological restoration and for the management of inshore economic activity. A good national marine plan would have had a clear spatial element, because, without that, the various pressures on the inshore cannot be balanced against one another.

The fishing industry has complained about a spatial squeeze on operations, and it is right to do so. Community groups have complained that much nature protection is in name only, or is simply ineffective, and they, too, are right to do so. Nevertheless, a national marine plan exists, although I note that its next iteration has been delayed. In passing, I encourage the cabinet secretary to ensure that it is in line with best practice around the world and that it includes clear spatial plans that are based on science and economics.

However, I note that section 5(2) of the 2010 act says that

"Ministers may prepare and adopt ... a regional marine plan".

As a result of that use of the word "may", none has been adopted. A decade and a half after the 2010

act was brought in, that does not seem good enough, and amendment 96, therefore, would turn that “may” into a “must”.

Amendment 97 addresses the question of who should prepare regional marine plans. At the moment, that responsibility is, in theory, in the hands of non-statutory regional marine planning partnerships. Those that exist have worked hard, and those that have taken part in the processes are to be commended and thanked. However, the reality is that their hands are tied by the marine directorate.

Section 12 of the 2010 act allows ministers, if they wish, to delegate powers and specifies to whom they can be delegated. Amendment 97 would require those powers to be delegated; in other words, the preparation of marine plans should be done locally, with all the protections that are set out later in section 12. That brings me back to my opening point about who knows best how to manage our inshore waters.

Amendment 97 would also require regional marine plans to be prepared with sustainable fisheries and other sustainable economic activities in mind, aligned with the objectives set out in section 1 of the United Kingdom Fisheries Act 2020 and any targets set out in the Nature Conservation (Scotland) Act 2004, once it has been amended by the bill. Importantly, if measures of that sort were adopted, Scottish ministers would still retain a strong and appropriate level of control via the national marine plan. If they were to produce a second, more detailed national marine plan, the regional marine plans could be adopted only if they were aligned with it. I am not proposing 11 separate inshore fiefdoms operating in isolation; I am talking about 11 local communities deciding for themselves how best to deliver on their statutory duties and on the local elements of the national marine plan. Overall, I think that that is a balanced approach.

Amendment 101 gives more detail on what regional marine plans should contain. Unlike the status quo, it would require that areas for different fisheries be identified; after all, in some cases, different fisheries can take place alongside each other but, in others, they cannot. The amendment would also require regional marine plans to be consistent with other statutory requirements and, as discussed, consistent with the national marine plan and adopted by ministers.

Amendment 98 relates to fisheries management. At the moment, we have regional inshore fisheries groups, but, like regional marine planning partnerships, they have no statutory basis and no powers to act. Under the Marine and Coastal Access Act 2009, inshore fisheries management in English waters is handled by 10 inshore fisheries and conservation authorities. Amendment 98, alongside amendments 99 and 100, does not seek to replicate the English model; the Scottish system has some clear advantages over the English regime, most notably the potential—and at the moment just the potential, I am sad to say—of regional marine plans. Instead, this group of amendments would require ministers to establish regional inshore fisheries and conservation management bodies, which would be charged with managing fisheries, and given the powers to do so, in line with locally developed regional marine plans. As with the plans, that approach would ensure that management decisions were taken locally by the industry representatives and other key stakeholders. I should also note amendment 100, which would give such bodies the powers to regulate and do the detailed work on fisheries management, including creel limits, open and closed areas, and so on.

The committee has heard, most notably during pre-budget scrutiny, frustrations on all sides with the marine directorate as well as concerns about underfunding. Those frustrations have come from the mobile gear sector, from environmental non-governmental organisations and from academics—in fact, from a range of stakeholders. Ultimately, I believe that local communities, scientists and industry should be brought to the fore and given the powers to act, and we should let them work together to deliver inshore waters that are rich in biodiversity, with thriving fish stocks, and ensure that all parts of the fleet work together.

Amendment 266 would require the Scottish Government to conduct a review of the efficacy of marine penalties and to consider the feasibility of increasing fines accordingly. In many ways, it dovetails with Ross Greer’s amendments, but it is a proportionate and necessary amendment relating to improvements in compliance and enforcement, which currently are heavily reliant on surveillance aircraft and monitoring vessels in order to catch out non-compliance. Such an approach is costly and, historically, has been somewhat ineffective in responding to offences quickly. Indeed, the response happens after the event.

Douglas Ross (Highlands and Islands) (Con): This group of amendments is on marine planning, protection and enforcement. Therefore, we have to look at how we enforce any wrongdoing in our marine environment. For three decades, we, as a country, have been very well served by an aviation asset based in Inverness that has been involved in exactly what this group is talking about—the enforcement and protection of the marine environment and the waters around Scotland.

I come at this issue as a local MSP who has been approached by constituents affected by the Scottish Government's decision to dispose of the two marine aviation aircraft that look after the marine environment. I know that other MSPs on the committee have been contacted about this, too, and there have already been questions in the chamber on the matter.

This element of the bill provides an opportunity for further dialogue, and I am approaching the issue in what I hope is a constructive way, so as to get answers from the Government. I wish to state clearly from the outset that what I am asking for is a review of the Government's decision. Ideally, that review would accept the shortcomings of the Government's decision and would provide an opportunity to reintroduce an asset that has served us well for 30 years.

10:00

That is the next stage, however. The first step is to ascertain the impact of removing the facility, not just the two aircraft—and I will come on to speak about what has replaced them. The hugely skilled, dedicated and committed staff who worked on the aircraft are passionate about protecting the marine environment and want to continue to do that to the best of their ability, but they need the best tools in order to do that. The decision by the marine directorate and the Scottish Government to move away from the aircraft was clearly taken on financial grounds. I understand that they will not be the cheapest vehicles to use, but they are the best. They have been replaced by three ageing vessels, which are extremely slow to operate, in what is a vast area.

If we are seeking to protect our marine environment, we need a quick and reliable service when something is going on that needs to be addressed and captured, so that enforcement action can be taken. It is not possible to monitor the fifth-largest exclusive economic zone—EEZ—in the world, as was previously done by the two aircraft operating out of the base at Inverness, with drones and three very slow vessels. It is simply not possible.

I would like to hear from the cabinet secretary and the Government what they believe the outcomes and implications of their decision have been and whether they accept that our marine environment is not protected in the same way now as it was prior to those aircraft being lost.

I should add that the aircraft are still sat there at Inverness. They have been put up for sale. To my knowledge, there are no interested buyers; they have certainly not been sold. If that was intended to be a capital receipt for the Government, it has not been realised. The use of the drones and the vessels does not protect areas that should be protected, and certainly not as quickly.

The main aim of the formerly used aircraft was to act as a deterrent. They were called on for time-sensitive missions—to catch a trawler in a closed box, for example. The aircraft could get up in the air very quickly, with their skilled, dedicated and committed staff, capture images and send them back to the marine directorate. Enforcement could take place very rapidly. Now, if someone knows that the ships that will be chasing them in order to take the same images are hours or potentially days away, the deterrent is gone. The trawlers are in and out of the closed boxes before the vessels have even turned round to try and catch them. We have lost a crucial deterrent. Therefore, a lot of the amendments in the group will be the poorer for the lack of a deterrent and an enforcement mechanism, which we previously had, as a country, and which was lost.

There was also a great deal of concern at the lack of engagement with those involved in the operation prior to the decision being taken. They had operated successfully for 30 years, but the Government very quickly announced its view and said what was going to happen and what the replacement was going to be.

My amendment 264 proposes a review to ascertain what has happened and how enforcement and the deterrent have been affected. If the Government and the marine directorate had taken a bit more time in the process of getting to this stage and had been engaged with the staff, they would perhaps have seen the benefit of retaining the asset that they have had for so long.

I will sum up now, as I am more interested in hearing the response to the amendments from the Government—and I will perhaps intervene when the cabinet secretary is responding. This issue is not going to go away. We have had questions in Parliament, but we also have an opportunity here. The aircraft have not been sold; they are sitting idle at Inverness, ready to be redeployed at a moment's notice. If the Government were to undertake an honest, open and transparent review, looking at all the information, and if the review found that we now have a big capability gap, there is something to fill that gap, which is something that we have used successfully for 30 years.

I hope that the Government will support the amendment and the proposal to simply have a review. Then, at the next stage, if the review says that we should go back to what we have done in the past, the skilled crews and staff, as well as the aircraft, would be available to be deployed. That would be a very welcome move.

I look forward to hearing the cabinet secretary's remarks.

Ross Greer (West Scotland) (Green): Amendments 294 to 298 would variously amend the Inshore Fishing (Scotland) Act 1984, the Aquaculture and Fisheries (Scotland) Act 2007 and the Marine (Scotland) Act 2010.

I am grateful to the Sustainable Inshore Fisheries Trust and the Scottish Creel Fishermen's Federation for their support in developing the amendments on the basis of their considerable insight and experience in the area. Between them, the amendments seek to update and future proof our approach to marine enforcement, particularly around fines and forfeiture when fishing laws are broken.

I am not proposing anything brand new here; I am just seeking to fix what has not worked in practice or what is now badly outdated as a result of the legislation having been passed some decades ago.

I have a particular regional interest in that I am very proud of Arran's Lamlash Bay no-take zone, which is a great example of marine restoration. It is locally led by the Community of Arran Seabed Trust. However, in November last year, a skipper was caught illegally harvesting scallops in the no-take zone. He was issued a £10,000 fine by the marine directorate but he refused to pay it, so he went to court. He pled guilty to the offence at that point, but, astonishingly, he was then fined only just over £4,000, despite the estimated retail value of the scallops that were illegally fished and sold at market being £15,500. He made a profit of more than £10,000 by breaking the law.

At the risk of sounding like my colleagues to either side of me, I do not think that crime should pay. Inadequate fines and forfeiture mean that the risk of being caught breaching our existing marine conservation efforts is really just the cost of doing business for bad actors. They can afford to take that hit.

The amendments are a package of measures that are designed to rectify that situation and prevent it from happening again. Previous acts have set out fixed pounds-and-pence figures for fines and monetary penalties, but, the moment a bill is passed, those figures begin to go out of date. Inflation erodes their relative value. For example, the £5,000 fine that is set out in section 4 of the 1984 act should be £16,500 in today's money to maintain the value that was agreed by MPs at that point. Instead, it has lost more than two thirds of its relative value and, therefore, more than two thirds of its effectiveness.

For consistency, amendment 294 would bring such fines into line with the £50,000 limit set for equivalent offences in the Marine (Scotland) Act 2010. It would also fix the infamous enforcement issue when someone is caught illegally fishing and with catch on board. Currently, the burden is on the prosecution to prove that all the fish were caught illegally, but amendment 294 would flip that. If someone was caught fishing illegally and with catch on board, it would be presumed that it had all been caught illegally unless they could prove otherwise—for example, through remote electronic monitoring data.

Amendment 298 would extend the imposition of fines for breaches of the 2010 act from just the master to include the owner and, if relevant, the charterer of a vessel. The decision to fish illegally within MPAs is often made at a more senior level than a vessel's master, but fines are typically imposed solely on that master. Amendment 294 would disincentivise owners of vessels from encouraging or, at the very least, condoning illegal fishing.

Amendment 297 follows the same approach as amendment 298 with regard to disposals, but, in this case, it would extend fixed-penalty notices to the vessel's owner and charterer, if applicable.

Amendment 295 would uprate the maximum fixed penalty associated with the 1984 and 2010 acts from £10,000 to £13,000, given that it is now more than a decade out of date, having last been updated in the 2010 act. More important, the amendment would require ministers to review the maximum at least once every five years and to take into account matters such as inflation in uprating the maximum via regulations.

Douglas Ross: Ross Greer is articulating very clearly how people should be punished if they are caught. Does he accept that my amendment 264 would help to catch people? If we have a review of the processes that are available to the marine directorate to catch people who are operating illegally in our waters, we should do so with the best tools available—in my view, that is aviation tools, but the Government should at least commit to a review. Will the Greens support amendment 264 in order to support their amendments to catch people who are illegally operating?

Ross Greer: I will defer to my colleague Mark Ruskell on the specifics of Douglas Ross's amendment, but I think that he made a compelling case. This is about effective enforcement. If the vessels that are charged with enforcement are, at best, hours away and, in some cases, days away, enforcement will not happen and people will not be caught. That is one of the core issues. A lot of what I am proposing would not be relevant if we cannot get to the point where someone is caught in the act and evidence of it is gathered. Therefore, Douglas Ross makes a compelling case, but I will defer to colleagues who are on the committee on the specifics of his amendment.

On the point about updating the fixed monetary values, we, as a Parliament, need collectively to learn the lesson that we cannot keep putting such figures into primary legislation without putting in associated provisions to update them via regulation. It is almost comical that some of those figures are more than four decades out of date and have lost the vast majority of their value.

Amendment 296 seeks to address one of the most egregious features of the current enforcement system, which is highlighted by my example from Arran. As the Government has set out in answers to various questions over the years, including to Tim Eagle and me, if a fisher ignores a fixed-penalty notice or chooses not to pay it and is then charged, taken to court and convicted, the fine at final disposal is often lower than the penalty would have been in the fixed-penalty notice that they were initially offered.

Members may know—not from personal experience, I am sure—that if a motoring offence attracts a fixed-penalty notice, that penalty is always at a discount on any fine that would be imposed as a result of court proceedings. That is designed to encourage people to accept the fixed penalty in clear-cut cases and to save the courts time. At the moment, there is an incentive in the other direction when it comes to offences related to fishing; in other words, there is an incentive to ignore the fixed-penalty notice and to take the matter to court in the hope of getting a lower penalty. Of the 17 unpaid notices in the period that was covered by Tim Eagle's question, only four led to convictions, and, in three of those cases, the fine at court disposal was below the level in the fixed-penalty notice.

Amendment 296 would, should the court convict, require a fine at court disposal to be at least 50 per cent higher than the unpaid fixed penalty. That would offer a clear incentive for people to accept the notices in the first place and avoid taking up court time.

Tim Eagle: I will not speak for very long, but I will come in on a few of the amendments very quickly. I have quite a lot of sympathy with a number of the amendments in the group, with the quite large caveat that inshore waters have deep cultural connections with our rural communities. I am always a bit nervous about doing anything without having taken evidence on it, and we did not take evidence on this during the stage 1 process.

Maurice Golden brought up IFCAs, which have great potential—I have looked into what is going on in England. They can be a bit of a mixed bag, though, as they are quite resource intensive. I am sure that the cabinet secretary will come in on this in a minute, but my understanding is that the inshore fisheries improvement programme is looking into IFCAs and is meant to come back with proposals early next year. My gut reaction is to have huge sympathies for what Maurice Golden is trying to do but to feel that it might be a tad early and that it would be best to wait for the inshore fisheries improvement programme to come back.

Sarah Boyack mentioned blue carbon. I am not against her on that, but I think that it is crucial that we have detailed knowledge on it. My understanding is that the science on it is not quite there yet, and I worry that we might harm our fishing sector if we push ahead before we have the science and a full understanding in place.

Spatial management has come up a number of times. Again, I am not against spatial management, but it has to be flexible to ensure that everybody's future needs are met. We do not know what is going to happen in the future, and I worry that putting something inflexible in place might cause more harm than good.

I am actually sorely tempted to support Ross Greer's amendments. In truth, Ross Greer has a point. The figures are outdated, and we do not want to put the great fishermen that we have right across our rural communities at risk from illegal fishing activity. So, in fairness, I think that he made a very valid point.

I fully support Douglas Ross's amendments. I raised the issue before, and the fisheries protection planes are still sitting there in Inverness. It was a real shame that the pilots and the organisation behind Airtask were not given much notice, and it caused them quite serious problems. I welcome Douglas Ross's bringing the issue forward.

The Cabinet Secretary for Climate Action and Energy (Gillian Martin): Before I speak to each amendment in connection with my portfolio, I will say that consideration has to be given to the level of reporting duties and publication requirements that are being proposed through amendments in this area. Although such duties can have a place, such obligations can divert substantial time and resources away from delivery and the action that we all want to see. There needs to be a clear assessment of whether there are already reporting requirements in place and whether duplication is a possibility.

In diverting capacity from bodies of civil servants who are required to produce reports or other types of ancillary documentation, we must always ask ourselves whether we are making best use of their expertise and effort. I am repeatedly told by members of public bodies and, indeed, MSPs how overstretched they are, so we have a duty to take into account any administrative burden that we might unnecessarily place on them.

10:15

The Convener: On the issue of unnecessary burdens, I wonder whether the cabinet secretary will reflect on the fact that we have in front of us a natural environment bill that was supposed to be about setting biodiversity targets, about Scottish Government powers and about national parks and deer management, but, given the wide scope allowed by the bill's long title, we are today discussing marine planning, protection and enforcement. That should not have been the case. We are now at stage 2, and we have had no opportunity to scrutinise some of these amendments.

It is also unfortunate to have this number of amendments that, I would suggest, almost fall outwith the intention of the bill. However, it is also a sad reflection of the lack of progress that this Government has made on marine issues, with a complete lack of progress on inshore and offshore marine planning. We should not be discussing such issues here today. It is the fault of the Government in bringing forward a bill with such a wide scope.

Gillian Martin: I agree with your first point; in fact, I was ready to say that I totally agree with you, convener. It is important that we take evidence on all aspects of a bill throughout its passage, but we have seen, many times, amendments being lodged to various bills—not just this one—that would effectively add arms and legs to them. Nevertheless, I do respect members' right to put forward the issues that have been raised with them by stakeholders.

I do not accept, however, that no progress has been made in protecting the marine environment. In fact, when I speak to many of the amendments in this group, I will explain what is taking place and where there is duplication. The point that I was making is that people might think that things are not happening fast enough, but adding reporting requirements and duplicating administrative burdens will not accelerate action; it will, in fact, do the opposite—that is the point that I was making.

Amendment 17, in the name of Sarah Boyack, would require Scottish ministers to publish a national marine strategy for protecting and restoring Scotland's marine environment. Although I understand the intent behind the amendment, I am afraid that it is unnecessary, as it would lead to duplication and would risk undermining our existing legal framework. The Marine Strategy Regulations 2010 already require the development and implementation of a marine strategy to achieve and maintain good environmental status in marine waters. Scottish ministers are already subject to statutory obligations under those regulations, which are complemented by the Water Environment and Water Services (Scotland) Act 2003 to provide integrated management of estuarine and coastal waters, including environmental objectives, pollution control and monitoring.

A national marine strategy under amendment 17 would be limited to the extent of the Scottish Parliament's legislative competence, unlike the marine strategy under the 2010 regulations, which is not limited in that way. As a result, amendment 17 would complicate rather than enhance marine governance, diverting resources from delivery into administration through overlapping systems and additional and unnecessary reporting requirements. For those reasons, I ask Sarah Boyack—

Sarah Boyack: Will the cabinet secretary give way?

Gillian Martin: Yes, I will.

Sarah Boyack: You say that the amendment would, in effect, result in overlap and repetition, but, with regard to its purpose, do you not accept that all of the issues that I have been talking about, and some of the other issues that colleagues have mentioned this morning, need to be brought into the previous marine plan that you say exists but that lots of stakeholders are not satisfied with?

Gillian Martin: Sarah Boyack's general point is relevant, and it is why we have gone out to consultation on all the national marine plans and strategies that we have put in place. It is why we have consistently spoken to stakeholders and given them the opportunity to put forward the fundamental issues that Sarah Boyack and a lot of other members have highlighted today.

As for whether this is the best place to accelerate action, though, I come back to the fundamental point that I made at the beginning. Just because people do not see things happening fast enough for them in those areas, that does not mean that we should add more administrative burdens or strategies that duplicate the work. None of the action that people want will be accelerated by that approach; in fact, it will be stifled by the red tape and the reporting requirements that people are asking for.

For those reasons, I ask Ms Boyack not to press amendment 17. If it is pressed, I urge members not to support it, given the comments that I have made.

Amendment 90, in the name of Ariane Burgess, seeks to establish a role for Environmental Standards Scotland in assessing and reporting on nature conservation MPA status and the achievement of conservation objectives, while amendment 91 would require that an additional layer of detail be included in Scottish ministers'

reports under section 103 of the Marine (Scotland) Act 2010. The amendments would place near-identical reporting requirements on two organisations with regard to nature conservation MPAs. Again, that would duplicate effort and come with significant costs.

Moreover, the requirements would apply only to nature conservation MPAs designated under the 2010 act when the fact is that Scottish ministers report more widely to produce a holistic view across our entire MPA network. Given the resource constraints that the committee has highlighted regarding marine science, I cannot support such a duplication of effort or the significant costs involved for the little benefit that either amendment would bring.

Furthermore, ESS currently does not have the capacity or capability to carry out that work, and agreeing to amendment 90 would create significant further financial and capacity implications for it. For those reasons, I ask the member not to move amendments 90 and 91. If she does, I urge the committee not to agree to them.

Sarah Boyack's amendment 93 would require ecosystem recovery objectives to be stated when designating nature conservation MPAs. However, those sites are designed to conserve specific features, and wider ecosystem recovery is delivered through a three-pillar approach of species protection, site-based measures and wider seas policies. I also make it clear that amendment 93 effectively aims to pursue similar ecosystem policy outcomes that Parliament rejected in relation to highly protected marine areas, and it would create differences between future designations under the Marine (Scotland) Act 2010 for inshore waters and the Marine and Coastal Access Act 2009 for offshore waters.

Sarah Boyack's amendment 95 seeks to place a duty on ministers to review the scientific basis of the MPA selection guidelines every 12 months. That would involve a significant waste of resources, as the underlying science evolves very slowly—and not within a 12-month period, that is for sure. However, regardless of that, we have, in any event, already committed to reviewing those guidelines for carbon considerations under Scotland's draft climate change plan, so the amendment is not necessary.

For those reasons, I ask the member not to move her amendments. If she does, I urge the committee not to vote for them.

Amendment 328, in the name of Sarah Boyack, makes it a requirement rather than an option for ministers, when considering whether to designate a nature conservation MPA, to have regard to how designation might contribute to climate mitigation. It also adds climate adaptation to that requirement. Giving equal weight to adaptation is a sensible approach that is in line with Scottish Government policy when protecting biodiversity, and both mitigation and adaptation are absolutely critical to our efforts to tackle the twin crises. Therefore, I am happy to agree with what I think is a sensible approach, and I urge the committee to support Ms Boyack when she moves amendment 328.

Amendment 92, in the name of Ariane Burgess, would require national and regional marine plans to contain fisheries management objectives and policies and would require fishing impacts to be considered in the preparation of those plans. Again, the amendment would create significant misalignment between terrestrial and marine planning, and it would fundamentally alter the core purpose of marine planning to cover the management of fisheries. Marine plans, like terrestrial planning, support sustainable development and not activity regulation, which is covered by sector-specific legislation that sits outside planning.

In practice, therefore, the amendment would not achieve effective management of fisheries. Indeed, it might disadvantage the domestic fleet, as any fisheries management policies introduced through Scottish marine plans would be limited in scope to inshore waters only and could be applied by Scottish ministers only to Scottish vessels, not the whole fleet. In addition, those objectives can already be achieved under—

Mark Ruskell: Will the cabinet secretary give way?

Gillian Martin: I will.

Mark Ruskell: I am trying to understand that argument. You are, in effect, saying that we should have a national marine plan with no reference to fisheries in it. I do not quite understand that. Surely fisheries management is, by its very nature, spatial, and therefore a spatial interpretation of fisheries management and a relationship to a plan alongside other activities, including activities that use the seabed, such as renewables and fish farming, would be quite a rational approach. I appreciate the distinction between onshore and offshore, but surely a marine plan needs to include marine activities, among which fisheries are an important spatial form of management.

Gillian Martin: I think that Mark Ruskell makes my point there. We have national marine plans that will be consulted on; my issue is with this specific amendment, which would disadvantage the domestic fleet. The situation for the domestic fleet would be different from that for a fleet that was coming in from elsewhere, and that is fundamentally problematic. The objectives can

already be achieved under the Marine (Scotland) Act 2010, so, again, the amendment would duplicate effort and would be unnecessary.

Mark Ruskell mentioned national marine plans, which are the vehicle for what happens in those areas. The amendment would not only duplicate effort in that regard; it would have unintended consequences in placing burdens on the domestic fleet that would not apply to vessels in any other fleet.

Amendments 96 and 97, from Ariane Burgess, on regional marine plans, would attempt to impose directives on local stakeholders without prior consultation or consent. On that basis, I strongly oppose them. It is essential that we listen to community views and work with local people to determine appropriate solutions that work at a local level; a number of members have made points on that today. That is why we are committed to regional marine planning's intent of enabling community-led approaches and local decision making. These amendments would undermine that way of working and impose a top-down approach for all regions, and neither I nor the Scottish Government can support that. I therefore ask the committee not to agree to amendments 96 and 97.

I turn to amendment 101, from Maurice Golden. Spatial planning is under way and is still evolving, so implementing it through primary legislation now, before addressing critical considerations, including evidence-based robustness, would, in my view, be premature. I thank Tim Eagle for his comments in that regard, because I believe that he is absolutely right that we need to allow these processes to take place, the evidence to be gathered and the consultation to happen.

Maurice Golden: Will the cabinet secretary take an intervention?

Gillian Martin: Yes—but I will make one further point, and the member may want to address this as well.

We are exploring how the national marine plan could respond to consultation feedback, including stakeholder requests for marine spatial planning and implications for existing users. That is the vehicle by which a lot of these issues will be addressed.

I have sympathy with the intent behind the amendment, but I point to the fact that any amendment that altered regional requirements without regard for the national framework could actually prove impractical without further legislative reform, and it might be associated with actions that are the opposite of what Maurice Golden is looking for. I am happy to have further conversations with him about it, but, fundamentally, it would not work with the existing law.

I am happy to take a comment from Maurice Golden.

Maurice Golden: On your point around timing, I point to the 2016 manifesto, which said:

> "We will also update inshore fisheries legislation through an Inshore Fisheries Bill to support sound fisheries management."

That was not the Conservative manifesto; it was the Scottish National Party manifesto. These amendments attempt, in true cross-party spirit, to deliver on that manifesto commitment.

With regard to timing, given that we are aware of the on-going decline both in our inshore fishing fleet and in inshore biodiversity, should it not therefore be for primary legislation to deliver that spatial management, as the SNP's 2016 manifesto set out?

Gillian Martin: I thank Maurice Golden for trying to help my party to deliver its objectives, not for the first time—wry smile.

The national marine plan will consider and react to consultation and feedback. It goes back to my point that I sense that quite a lot of the amendments are intended to prompt action because people do not see things happening fast enough. However, the vehicles required to take those actions already exist. I point to the fundamental issue that, if the amendment were to be agreed to, it would cause serious problems with the Marine (Scotland) Act 2010, because it would not dovetail with it.

10:30

I get the general point. I understand that people want action to be accelerated. I do, too, but difficult amendments will have the unintended consequence of taking away from that action. Data collection in the marine space takes time, which is probably more the reason for things not happening fast enough for people. It is not about a lack of relevant regulation or legislation; rather, it is about getting the data collection in place, getting many stakeholder views, and ensuring that we collectively move forward.

The Convener: We need to absolutely hammer the point that the reason why we have had so many amendments and why members have been inundated with correspondence from stakeholders is that the progress is just not good enough. We are seeing inshore fisheries under pressure. Fishermen and non-governmental organisations are all campaigning to get the regulations put in place far more quickly.

As someone who passionately believes in having science and data lead on future policy, will you not accept that progress has not been good enough? That is why we are seeing amendments—to put pressure on the Government to take action far more quickly.

Gillian Martin: The debates on the amendments can draw out the point that people want to see faster action. My point is that quite a lot of the amendments would slow down progress, because they would add administrative burdens. We must ensure that we have robust vehicles in place, but not a crowded situation that has unintended consequences.

I understand the general point about people wanting to see accelerated action.

Mairi Gougeon: I will pick up on amendments 98, 99 and 100, from Maurice Golden, although Tim Eagle actually covered some of the points that I was going to make.

I appreciate where the amendments are coming from; however, a significant programme of work is on-going. We undertook a call for views, and we hope to publish a consultation soon. It is correct that we follow that process in order to deal with some of the more intricate issues. That is why I ask the committee not to support those amendments.

Maurice Golden: Would the cabinet secretary commit to working with me and possibly others to get some assurance in the bill around the purpose and effect of the amendments? We are both standing down as members, and I have heard all of this previously with the Circular Economy (Scotland) Bill, which was promised in 2018 but did not become an act until 2024, thanks to her colleague. I hope that the cabinet secretary gets my point.

Mairi Gougeon: I take the point. I am more than happy to have a conversation with any member about the issue. I would not necessarily be able to commit to more amendments, because, as I say, a significant programme of work is already under way. We must make sure that we consult those who will be impacted by that, to ensure that we get the design right. This is very much about our not wanting to impose a model on anyone; we want to ensure that a regional model works across Scotland.

I am more than happy to have a conversation and to set out more information. I will keep the committee updated on how and when that work progresses. We are all keen to see progress in this area. We have talked today about some of the models that we can look to learn from, but, as I say, I am more than happy to pick up that conversation.

I turn to amendment 264 from Douglas Ross and Tim Eagle's comments. I appreciate the point of view from which both come at the amendment and their constituency and regional interests. The Government routinely reviews the operational requirements of our fisheries surveillance obligations and assets, because we want to have the modern, effective and efficient protection service that Douglas Ross highlighted in response to some of Ross Greer's amendments.

The decision not to tender for the two manned aerial surveillance aircraft and to dispose of the assets was made after consideration of issues with the age and reliability of the aircraft. There have also been other advances in surveillance technology and access to other Government manned aerial assets that offer value for money while maintaining effective service.

Amendment 264 seeks to impose a requirement to repeat a review that has concluded. It is therefore unnecessary and I ask members not to support it.

I see that Douglas Ross wants to come in, and I am happy to take the intervention.

Douglas Ross: If such reviews are done fairly regularly, as the cabinet secretary has suggested, would there be a problem with making that a bit more formal and having a review now that would also include and involve the Airtask staff, who felt totally disengaged from the decision making? They felt that the decision was taken very quickly and without prior consultation. They could be involved in the review. If the review says that the Government got it right and made the correct decision, there would be more buy-in. Instead, staff were told, "This is the decision," by the marine directorate and the Scottish Government without that buy-in. That is the biggest problem.

Mairi Gougeon: I appreciate the concerns that have been highlighted. If there are areas for us to reflect on, I am happy to do that. However, the decision has ultimately been made and the new memorandum of understanding is now in place, so I do not see the benefit in repeating a review that has already concluded.

Douglas Ross: Does the cabinet secretary not understand that we do not have the facts and figures—maybe the Government does—about how effective the replacement is? There is serious concern that it is not the deterrent that I spoke about, because the vessels that are used are far slower to get to where they need to be to capture the evidence. The cabinet secretary is saying that everything is fine, but that information should be made public, because people are telling us, as Highlands and Islands representatives on the ground, that everything is not fine and that we have a lesser service now than we had before. A

review would either confirm my view or confirm the cabinet secretary's view, and that is why it would be important.

Mairi Gougeon: A lot of the issues that you have raised were picked up through the committee's scrutiny of the decisions that have been made on our surveillance capabilities. I want to make it clear today that, alongside all the value-for-money considerations, we have enhanced capabilities through the new MOU and the additional surveillance equipment and technology that we are using in comparison with what we had previously. However, I am more than happy to set out more of that information and respond to the committee with it.

I turn to amendment 266 from Maurice Golden—there are amendments from Ross Greer that are relevant to this area, too. Scotland's fishing industry is subject to high levels of regulation and monitoring, and there are already penalties to encourage compliance. We have already committed to conducting a fisheries penalty review within our 10-year fisheries management strategy during the next session of Parliament. However, any penalties review that we undertake will be complex. We need meaningful engagement and to undertake due diligence to prevent any unintended consequences.

My concern with amendment 266 is that the deadline that it sets out is unrealistic and does not consider the resources that would be required and the scoping work that we would need to undertake to determine reasonable timeframes. However, I am willing to work on amendment 266 with Maurice Golden ahead of stage 3 to see whether we can come to an agreement on a more realistic plan. I ask him not to move amendment 266 on that basis.

Subject to reworking amendment 266 ahead of stage 3, Ross Greer's amendments would introduce a commitment to a timescale for a review to take place. Although I have a lot of sympathy for some of the issues that he has flagged and I understand the concerns that he has expressed today, I do not support his amendments.

We need to consider the proposals as part of the wider review that we have talked about. We need to undertake due diligence and have operational certainty, and to guard against the unintended consequences and quite piecemeal changes that the amendments would introduce. We need to look at all of this more holistically. For those reasons, I ask Ross Greer not to move his amendments in this grouping. If he does, I urge the committee not to support them.

Ross Greer: I understand, to some extent, where the cabinet secretary is coming from, but my comments are similar to those that Maurice Golden made a moment ago. It is frustrating for the Parliament to be asked to wait again, particularly given that, with some of my amendments, I am trying to rectify a situation that has been out of date for more than four decades now and which gets more and more out of date the longer we wait.

Some of what I propose is very specific and, I would argue, quite minor—for example, giving the marine directorate the opportunity to issue fixed-penalty notices to the charterer or the owner of a vessel, and not just to vessel's master. Is the cabinet secretary saying that there is no way that the Scottish Government would be amenable to working on at least some of my amendments for stage 3, and that the Government's position is that they cannot be dealt with in this session of Parliament and must be dealt with in the next session?

Mairi Gougeon: We had the commitment within our wider strategy, bearing in mind that that is a 10-year strategy, but I appreciate the time in the cycle that we are at. On the offer that I have made to Maurice Golden regarding his amendment 266, I am not saying that we should push this further down the road and not do any work on it. A 12-month timescale is unrealistic, because it means that work would have to stop and we would have to redetermine what priorities we were taking forward. I am keen to do work ahead of stage 3 to consider what a realistic timescale could look like, to ensure that there is certainty for members about what can be done.

A few of Ross Greer's amendments take a bit of a piecemeal approach, whereas we need to look at the issues holistically. That involves a lot of work. I want to make sure that we continue with that work and see progress, which is why I have made a commitment to Maurice Golden. I am more than happy to involve Ross Greer in those conversations, if that is helpful.

Ross Greer: I appreciate that, and I would be happy to engage with the cabinet secretary and Maurice Golden. I agree that a holistic approach would be ideal.

Does the Scottish Government have any specific issues with my proposals? It is one thing to argue that they take a piecemeal approach, but has the Government identified any problems with the amendments? If so, I would be happy to discuss that with the Government ahead of stage 3.

The argument that, as a matter of principle, we need to consider the issues holistically rather than piecemeal makes it feel very much as though the Government is kicking the issue into the long grass, even though some of the proposals are

pretty minor and would involve making helpful adjustments immediately, before engaging in a more holistic exercise.

I have not yet heard an argument from the Government against any of my specific proposals.

Mairi Gougeon: Again, it is about the overall approach. I think that there are particular issues with the amendments, and I am more than happy to follow up with Ross Greer on those and to have a conversation about Maurice Golden's amendments. However, we need to consider the issues in the round, which requires a lot more work.

Amendment 156, in the name of Sarah Boyack, would duplicate existing legislation, such as the Fisheries Act 2020 and the Marine (Scotland) Act 2010, which already enable the management of fishing activity as envisaged by the amendment. Therefore, the amendment is not necessary or appropriate, and it further clutters the legislative landscape. For those reasons, I ask Sarah Boyack not to move amendment 156.

On amendment 265, ministers already possess the powers to take action if the evidence base indicates that that is needed. However, as we have outlined in the recently published "Scottish Blue Carbon Action Plan" and as Tim Eagle highlighted earlier—another of his points that I agree with—there are significant uncertainties about the impact of bottom trawling on seabed sediment carbon stores. This is an area that we are actively investigating, given the need for any policy intervention to be evidence based. Amendment 265 is therefore unnecessary.

Finally, on amendment 301, in the name of Ariane Burgess, we manage all fisheries on the basis of the best available evidence. We need flexible structures that adapt to emerging evidence rather than rigid primary legislation. The wild wrasse fishery is not open access—the marine directorate controls it through annual vessel-owner applications. There are limited participants operating under strict spatial, temporal and technical restrictions.

The 2025 fishery operates from June to November. Before opening this year, we published an assessment of wrasse fishery interaction with the MPA network, and we introduced new spatial management measures that prohibit fishing in relevant SACs and near kelp and seaweed communities in the relevant MPAs. Therefore, amendment 301 is unnecessary, because licensing is the appropriate approach to take.

The proposed amendments to the seasonal dates contradict the best available scientific evidence on protecting spawning fish and could put stocks at considerable risk. For those reasons, I cannot support the amendment, and I ask the committee not to support it, too.

Sarah Boyack: This has been quite a constructive debate, because there is ambition to make things happen. The cabinet secretary said a few times that an amendment would involve duplicating powers that ministers already have. That illustrates that people want to see action. It is not enough just to have a power; it is about how it is used, monitored and reflected on. There has been a constructive discussion, but there is a need for more action.

10:45

It is critical to link the national marine plan and regional marine plans and to give them a local focus that involves communities, not only to bring people around the table but to lead to action that will improve their lives and our environment.

The fact that we are in a nature and climate emergency means that things are changing. I get that research is being done and that things do not change immediately, but we need to start doing survey work and planning ahead now. There will be tipping points involving things such as the Atlantic meridional overturning circulation that we need to start reflecting on now. We need joined-up thinking and action—there are opportunities as well as challenges.

The responses from both cabinet secretaries have been relatively constructive and positive. If members do not move amendments today because of what we have been told by the cabinet secretaries, that means that there is a clear appetite for further discussion before stage 3, so that we do not accidentally miss out on addressing the very good points that stakeholders have made to us. If our amendments, as currently crafted, do not take the ideal approach—if, for example, they introduce inadvertent duplication or are not perfect—I would like us to get them right before stage 3.

If there are not to be further amendments on an issue, there needs to be an explanation—now or very soon—from the Scottish Government about what is happening. These matters cannot be kicked into touch. It is not just about the pressure from stakeholders; there is a real need to see practical action, so that we deliver where there is a degree of agreement around the table. That is critical. If there is a consultation on the way, we need to know what that means. That is key.

Some of the amendments will be moved today, but others will not be. There is an appetite for change and for more action. Change is under way, but we need to ensure that it is communicated effectively to our communities and to key stakeholders, so that we do not just kick all this

into touch and say that the most recent marine legislation sorted everything so we do not need to do anything. The fact that we have amendments shows that people feel that we need action.

Mark Ruskell: I ask Sarah Boyack to reflect on the fact that, in the previous session of Parliament, a proposed fisheries management bill was in the programme for government but it was never delivered. We have been waiting a very long time to unpack the issues, and trying to unpack an entire reform of fisheries management in 45 minutes or an hour is very challenging work for everybody.

Sarah Boyack: It is challenging, but what colleagues have put on the record today is important, because it logs that there is an appetite for change and that there are both opportunities and major challenges. Before we get to stage 3, there is an opportunity for the Scottish Government to engage with us constructively so that we can reflect on the comments that have been made and make sure that, as this piece of legislation goes through, we do not miss another opportunity, because change is needed now.

Amendment 17, by agreement, withdrawn.

Amendment 31 not moved.

The Convener: I am aware that we have a technical issue with Rhoda Grant's connection, so I will suspend the meeting until 11 o'clock to allow a reboot.

10:48

Meeting suspended.

11:00

On resuming—

The Convener: I am pleased to say that Rhoda Grant did not require rebooting, but her laptop did. That seems to have done the trick. Welcome back, Rhoda.

Amendment 32, in the name of Mark Ruskell, is grouped with amendments 32A to 32H.

Mark Ruskell: I am going to continue in the same vein as earlier this morning, because it is important that we take the opportunity that is offered by the bill to take action to improve biodiversity. That is why we are seeing so many amendments at this point that are rooted in a lot of the frustration of members that practical action has not been taken to protect biodiversity and restore the environment in Scotland.

I will try to be brief in my comments. Four years ago, in its programme for government, the Scottish Government pledged to

"phase out the use of peat in horticulture."

That included a ban in order to protect peatlands and

"to restore the health and vitality of the natural systems that sustain us."

That pledge remains unfulfilled, and about 1,000 hectares of our peatlands are actively dug up every year. That is enough peat to fill 68 Olympic-sized swimming pools. As we know, peat forms at the very slow rate of about 1mm per year, so it takes 1,000 years to form to a depth of 1m, but diggers can strip out the same amount of peat from the ground in just a couple of weeks. Peat is not therefore a resource that can be renewed within a human lifetime. Once it is gone, it is gone.

Amendment 32 is therefore about giving us the chance to change the fate of Scotland's peatlands and to save the peat and carbon that they hold for future generations. I do not think that there is anything new in the amendments, and everybody in the room is probably in agreement with the policy intention, but there is a concern that it has not happened yet despite years of commitments.

Amendment 32 would insert a requirement for the Scottish Government to use powers that it already has via secondary legislation under section 140 of the Environmental Protection Act 1990, which is a part of the 1990 act that has already been used. The ban on single-use vapes follows those powers, and amendment 32 would follow a similar model. We have done this before. We have innovated in the Scottish Parliament to achieve things on a four-nations basis across the UK.

Scotland is not alone in its impatience about the lack of direction from the UK Government on this. The chair of the Climate Change, Environment, and Infrastructure Committee at the Welsh Senedd recently wrote to urge the UK Parliament to increase pressure to get progress across the UK, and I understand that Northern Ireland has now committed to a firm date for the phasing out of the use of peat in horticulture. Within the devolved constitutional settlement, including Northern Ireland, nations are moving forward, setting dates and delivering action in this area. Why can we not do that in Scotland? I am sure that the minister will tell me why in a minute.

One of the stated objectives of the Natural Environment (Scotland) Bill is to cover key actions to deliver biodiversity targets, and this is a key action that is long overdue.

I note that Rachael Hamilton has lodged a number of detailed amendments to amendment 32, and I will listen carefully to her unpack those in a minute. I respect her work as chair of the cross-party group on horticulture. We will see where we get to, but I am looking for an acknowledgement that action is long overdue, that there is a pathway

to banning peat extraction and that the Government is prepared to take that action and we can move forward in the months to come.

I will leave my comments there.

I move amendment 32.

Rachael Hamilton: My amendments in this group are, as Mark Ruskell has said, amendments to his amendment 32, which seeks to introduce a prohibition on the sale or supply of peat for horticulture. I understand why Mark Ruskell has lodged the amendment—after all, the trajectory is towards a peat-free future for horticulture—but I do not think that now is the time to bring all of this to some immediate conclusion. Instead, we should introduce certain crucial safeguards, and my detailed amendments seek to bring forward such safeguards to ensure that, before there is any such prohibition, ministers do the following things, on which I am going to give some detail.

First, ministers must establish an expert horticultural group to advise on technical measures, the supply of alternatives to peat and market readiness. As Mark Ruskell has said, I am convener of the cross-party group on gardening and horticulture; we have many experts who stand ready and willing to be included in such a group, and I think that they bring huge expertise to the CPG. Ministers would also be required to consult the group that is formed before introducing any regulations and to undertake a full economic and environmental impact assessment on market readiness, the availability of alternatives and projections on international trade and market access.

Ministers must also ensure that there is alignment across the UK to avoid any unnecessary exclusion from the United Kingdom Internal Market Act 2020. We do not want to see any obstructions in the supply chain, as there are enough challenges in the economic and business environment as it stands.

Finally, my amendments would introduce safeguards to protect businesses by allowing ministers to create exemptions to any prohibition; providing 12 months after any prohibition to allow for the sale or supply of existing peat stock; and ensuring that there is no end to professional use before 2030, which I think is a reasonable aim for the Government to have. Ministers must also conduct a review ahead of and following implementation of any prohibition for unforeseen peat-free supply chain disruption and market issues. That review would provide advice to ministers based on the expert horticultural group and would allow the Government to pause or suspend regulation. There are many social, cultural and practical considerations that we must take into account here, and I know that the Government is alive to those considerations.

The amendments were drafted with the Horticultural Trades Association, which provides the secretariat for the cross-party group on gardening and horticulture and represents 85 member businesses across 144 sites in Scotland. Mr Fairlie has spoken at the CPG, so he is well aware of the representation on the group. I would also note that the sector contributes £2.6 billion to Scotland's economy and supports nearly 60,000 jobs, so it is important that we support the horticultural industry and allow it to continue to benefit the communities and the environment.

In summary, I think that I have highlighted the importance of looking towards extending the readiness of the industry—I do not like the word "transition"—given its importance and the fact that it has a much greater and wider societal impact. I will leave it there, convener.

I move amendment 32A.

The Convener: As no other member wishes to speak, I call the minister to respond.

Jim Fairlie: First of all, I absolutely understand Mark Ruskell's frustration. I get that this was a previous Government commitment, but I assure the committee that, as a Government, we are absolutely committed to progressing with an effective ban on the sale of peat for horticulture in Scotland.

Indeed, we are making steady progress towards that. We had a consultation in 2023, and there was widespread support from retail and commercial horticulture; indeed, UK horticulture now uses a third less peat than it did in 2011. Since that consultation, we have engaged widely with the sector to inform the scope and timings of any ban in Scotland. I have visited nurseries that use peat both on a commercial basis and in direct sales to the public; there have been round-table discussions; and research commissioned by ClimateXChange that is soon to be published focuses on the challenges faced by commercial horticulture, in particular, as it plans its transition. I know that Rachael Hamilton does not like that word, but the fact is that we are transitioning away from the use of peat.

However—and the amendments allude to this—the United Kingdom Internal Market Act 2020 would have an effect on such a ban. As drafted, the amendments would commit Scotland, in law, either to the vagaries of securing an internal market act exclusion or to playing the waiting game while the rest of the UK brought regulations into force on the same date. Such approaches would be neither advisable nor desirable; they would not provide the certainty that we need and,

crucially, they would not supply certainty to the sector either.

Mark Ruskell: I know that this might be a sensitive area, given history, but have there been any interministerial discussions about securing an exemption to the United Kingdom Internal Market Act 2020? That has been done successfully before, particularly with single-use vapes, and the provision under section 140 of the Environmental Protection Act 1990 is available, if everybody is happy with that. Obviously, getting everybody happy in the UK is the challenge.

Jim Fairlie: Various discussions have been held with the UK Government about banning peat, but it should be borne in mind that we had a change of Government last year, so the conversations that we had with the previous Government are not the same as those that we are having with the current Government. If I continue going through my notes, I will perhaps answer some of your questions.

Banning the sale of peat in Scotland ahead of the rest of the UK risks our industry in Scotland and the vast number of jobs that it supports. Having a backstop for the legislation to come into force creates risks of an exclusion from the UKIMA if agreement with the four nations is not reached before then. The process that is implied by the amendments is not feasible within the timescales.

I will make one point. We had an effective ban on glue traps, which was caught by the UKIMA during the Wildlife Management and Muirburn (Scotland) Bill, and that has still not come into effect. The point that I am making is that, rather than our trying to do this individually to make some sort of statement, we should be doing it in collaboration with the rest of the UK, and that is what I am trying to do.

Rachael Hamilton: Minister, I am not sure whether you are speaking to Mark Ruskell's amendment, because my amendments look to align with the rest of the UK through the UKIMA. I have read the responses to the 2023 consultation and, in a way, the minister has cherry-picked the parts of the consultation that he wanted to talk about.

To back up my amendments, many individuals and organisations in the horticultural sector were concerned, including 57 per cent of people who said they were very concerned about a peat ban. They raised issues such as increased costs, disruption to the supply chain, productivity issues and the unsuitability of a peat-free version of peat for specifics such as growing potatoes and so on. Although the minister is reassuring me that the process is on-going and that we have to wait for the UK to introduce its ban, what is the Government doing to speak specifically to expert horticultural voices?

Jim Fairlie: I am happy to come on to that point. I am speaking to all the amendments as I go through, because I want to tie the whole thing together. We need to go about this in an effective and efficient way, working with the industry to make the transition a success.

Earlier, the member asked whether there is an expert panel. There is not an expert panel, but I give an absolute commitment that no decisions will be made until we have had full consultation and constructive dialogue with the sector. I am well aware of the problems of bringing a ban in before the rest of the UK and because of UKIMA, because of the impacts that such a ban will have on jobs and the industry in Scotland. It will be massively disadvantageous to us, so I am not prepared to do it.

I take the member's point about the consultation. The industry has accepted the fact that we are going to have a ban on peat, but lots of really good work is being done on how we are going to transition and what the new forms of media will be. The industry is coming with us and the Government is speaking to it. There is also widespread engagement across the four nations, so that we can bring in the ban at a time that works for all the countries in the UK. It will not benefit anyone, least of all the horticulture sector in Scotland, if we do not do it in that manner.

11:15

Rachael Hamilton: I lodged my amendments out of fear that a ban could be brought in too early if the UK Government moved at a certain point. I was responding to Mark Ruskell's amendment 32.

We now have a good opportunity to debate the issue. I do not know whether the bill is the right place to address it, but I could not let amendment 32 be agreed to unamended. I think that Mark Ruskell and I agree that we must reach a certain point—obviously, we agree with the minister on that. I cannot speak on behalf of Mark, but I would really like the issue to be followed up. It seems that the minister is not going to support any of the amendments in the group, but I strongly believe that it is important that the issue is followed up, so I would like to have an opportunity to meet the minister to discuss it further.

Jim Fairlie: I ask the committee not to support any of the amendments in the group, but that is not because we are against or are trying to subvert what Mr Ruskell wants to achieve. We absolutely agree with all of that, but we want to do it in the most efficient and effective way possible, and in a way that does not disadvantage our

industry in Scotland in comparison with that in other parts of the UK.

Constructive discussions on a four-nations approach are on-going at the moment, and I would like that process to continue. If the amendments in this group are agreed to today, that could subvert the work that is being done on a four-nations basis. I give an absolute commitment to push as hard as we can to get the UK Government to come to the table so that we can reach an agreement on an approach that can be taken across the four nations that will be effective throughout the UK.

I ask that amendments 32 and 32A not be pressed and that the other amendments in the group not be moved. If they are, I ask the committee to vote against them.

Jim Fairlie: I invite Mark Ruskell to wind up on amendment 32.

Mark Ruskell: Once again, we are doing a lot of heavy lifting in the committee this morning, are we not, convener?

There is a conversation to be had ahead of stage 3. I still believe that a restatement of the commitment to ban the supply of peat for horticulture is needed in legislation. Regardless of whether that restatement reflects a need to extend the readiness period or to deliver a transition, I think that the destination is quite clear—we are moving towards making horticulture peat free in Scotland. I think that everyone acknowledges that.

We should reflect on the fact that, in Northern Ireland, a date has been set. At the very least, we could get a consensus on that.

Rachael Hamilton: Northern Ireland has devolved powers. Why do you think that Northern Ireland has set a date without waiting for work to be done with the UK Government to resolve the internal market issues?

Mark Ruskell: I do not have an answer to that question, but we could certainly explore that in discussions with the minister.

I think that there is scope to reflect on the situation ahead of stage 3. Would you like to come back in, minister?

Jim Fairlie: I ask that amendments 32 and 32A not be pressed and that the other amendments in the group not be moved, because the Government has made an absolute commitment to continue to do the work that we are doing on a four-nations basis. Whatever Northern Ireland does in its back yard is entirely up to it, but it will come across the same problems that we would have if we implemented a ban straight away. As I pointed out, a ban on glue traps has been cleared, yet it is still not doable.

I get that you have been very patient, but I ask for a bit more patience to allow us to continue to work on a four-nations basis. We will press as hard as we can to get an effective ban that works right across the country.

Mark Ruskell: Northern Ireland is one of the four nations. It has clearly set the tone.

I will not press amendment 32 today, but I think that consideration needs to be given to how an appropriate consensus position could be reached ahead of stage 3.

The Convener: I invite Rachael Hamilton to wind up and to press or withdraw amendment 32A.

Rachael Hamilton: I am not hugely confident that we will get anywhere by my not pursuing my amendments to amendment 32. However, Mark Ruskell has said that he wishes to withdraw amendment 32. It is only fair to work collegiately on this matter, as we are all agreed about the trajectory that we are on. The sector needs a little bit more time.

I am the convener of the cross-party group on gardening and horticulture, and I would not be doing my job if I had not responded to amendment 32. I will not press my amendments to that amendment, but I put it on the record that I want the minister, Jim Fairlie, to commit to working with Mark Ruskell and me on the matter.

Amendment 32A, by agreement, withdrawn.

Amendments 32B to A32H not moved.

Amendment 32, by agreement, withdrawn.

Amendment 40 not moved.

Amendment 41 moved—[Mark Ruskell].

The Convener: The question is, that amendment 41 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 41 agreed to.

The Convener: Amendment 76, in the name of Mark Ruskell, grouped with amendment 77. I note that Jim Fairlie is not the minister in charge of this part of the bill: we are moving on to a proposed new part headed "Nature Networks". I will therefore suspend the meeting for a changeover of minister.

11:23

Meeting suspended.

11:23

On resuming—

The Convener: I once again welcome the Cabinet Secretary for Climate Action and Energy, Gillian Martin.

Amendment 76, in the name of Mark Ruskell, is grouped with amendment 77.

Mark Ruskell: Both of the amendments in this group relate to delivering nature networks. As the Government rightly highlights, nature networks deliver multiple benefits beyond biodiversity: they store carbon; they mitigate floods; they regulate temperature in our towns, villages and cities; and they improve our mental and physical health. They are a keystone of the Scottish biodiversity strategy, because fragmentation of nature is a key driver of its decline.

Amendment 76 would introduce a requirement for ministers to report on progress towards the establishment of nature networks and on their effectiveness. Embedding a reporting requirement at ministerial level would ensure co-ordinated delivery that complements the bottom-up approach at council level. We are all aware of the excellent work that councils are doing on the ground to establish nature networks and to embed them in local planning. Without amendment 76, we risk nature networks being overlooked. The Government has set ambitious goals for the planning system to deliver positive effects for biodiversity and for private finance to support the ambitions of the biodiversity strategy, but, unless a strategically co-ordinated pipeline of projects is identified through nature networks, we risk missing those opportunities.

Amendment 77 would add a requirement for the forthcoming land use strategy to consider the ecological connectivity that is delivered through nature networks. The land use strategy provides the context for the major land use decisions that are needed to meet Scotland's climate ambitions. Given that a key principle of the bill is the need to tackle climate and nature together, it makes sense to explicitly include ecological connectivity in the land use strategy. The strategy also underpins regional land use partnerships, which engage communities in shaping the land use changes that are required to meet climate targets. Elevating nature to the same level as climate in those discussions would ensure that communities are involved in the decisions, especially those on nature networks.

I move amendment 76.

Gillian Martin: I am pleased that Mark Ruskell has drawn attention to the excellent work that is being done across the whole of Scotland to develop nature networks. However, I must point out that nature networks are currently identified as a key outcome in our Scottish biodiversity strategy, and that, under section 2 of the Nature Conservation (Scotland) Act 2004, we are already required to report on implementation of that strategy every three years. In addition, the templates for public bodies to report on compliance with the biodiversity duty were updated in 2023 to ensure that they referred specifically to nature networks.

To support public bodies, and local authorities in particular, NatureScot has developed a nature networks toolbox, which contains a wide range of information, including detail on many of the topics that are referred to in amendment 76, such as sources of public and private financing. I would prefer us to focus our resource on helping our local authorities and national parks to deliver nature networks across Scotland, rather than on compiling a report that would duplicate the information that is already provided in our report on the implementation of the biodiversity strategy. A requirement to produce such a report would add an unnecessary administrative burden that would take away from action. Therefore, I do not think that amendment 76 is necessary, and, on that basis, I ask Mr Ruskell not to press it.

On amendment 77, our land managers have a hugely important role to play in helping to tackle the nature and climate crisis, and I recognise the good work that they are already doing. Our biodiversity strategy and delivery plan already recognise the importance of nature networks and identify a range of actions to expand and enhance ecological connectivity across Scotland. The Scottish ministers will be able to set out their objectives for nature networks and to report on progress on them through the Scottish biodiversity strategy reporting mechanisms.

The Government has already embedded nature networks in our national planning framework and is providing significant support and assistance to local authorities and other delivery bodies. The Climate Change (Scotland) Act 2009 requires the Scottish ministers to produce a land use strategy to ensure that they give due consideration to the need for and delivery of sustainable land use. The recent consultation on the fourth land use strategy

focused on the role of integrated land use in achieving a balance across the multiple demands that are placed on Scotland's land. The consultation responses did not suggest that action on nature networks similar to that which is proposed in Mark Ruskell's amendment was necessary.

Nature networks and wider ecological connectivity are key parts of the complex landscape of sustainable land use, but it is essential that they are integrated alongside other elements, such as sustainable food production, forestry, peatland restoration, energy and housing. The 2009 act requires the land use strategy to consider an integrated and balanced range of land uses. The introduction in the bill of a specific reference to one land use would shift the focus away from the integrated approach that stakeholders strongly supported in the recent strategy consultation.

For those reasons, I do not support amendment 77. I think that it would unhelpfully alter the carefully balanced approach to sustainable land use that is taken in our land use strategy. Therefore, I encourage Mark Ruskell not to move it, and, failing that, I ask members not to support it.

The Convener: I call Mark Ruskell to wind up and to press or withdraw amendment 76.

11:30

Mark Ruskell: I will press amendment 76. The Scottish Wildlife Trust has been doing a huge amount of work over many years on nature networks. Its concern, and the concern of many stakeholders, is that, although nature networks are referred to in the Scottish biodiversity strategy and are part of the workstream, they are not central to it. There would be benefit in drawing out the work that is being done to support nature networks across Scotland by having specific reporting on that.

I do not see nature networks as being in competition with other land uses; I see them as being integral to all land uses, because every type of land use will have corridors through which nature can pass. Land that is used for agriculture has hedgerows and other networks within it. The same is true of the urban landscape. Our parks and cycle lanes all form part of nature networks, so it is not something that can be considered to one side—it should be integral to all land uses.

In some parts of Government, to an extent, I think that there is perhaps a little bit of a misunderstanding about the central importance of nature networks and the need to integrate them into all forms of land use.

For those reasons, I will press amendment 76. I accept the cabinet secretary's point that nature networks are being considered, but I do not think that they are a central consideration, as needs to be the case.

The Convener: The question is, that amendment 76 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 76 disagreed to.

Amendment 77 moved—[Mark Ruskell].

The Convener: The question is, that amendment 77 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 77 disagreed to.

Amendments 78 to 88 not moved.

Amendment 90 moved—[Mark Ruskell].

The Convener: The question is, that amendment 90 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 90 disagreed to.

Amendment 91 moved—[Mark Ruskell].

The Convener: The question is, that amendment 91 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 91 disagreed to.

Amendment 92 moved—[Mark Ruskell].

The Convener: The question is, that amendment 92 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 92 disagreed to.

Amendment 93 not moved.

Amendment 328 moved—[Sarah Boyack].

The Convener: The question is, that amendment 328 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 328 agreed to.

Amendments 95 to 101 and 156 not moved.

Amendment 157 moved—[Tim Eagle].

The Convener: The question is, that amendment 157 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 157 disagreed to.

Amendments 158 to 164 not moved.

The Convener: I suspend the meeting to allow for a changeover of ministers.

11:39

Meeting suspended.

11:40

On resuming—

The Convener: Amendment 256, in the name of Emma Roddick, is grouped with amendments 325, 326, 327, 271 and 287.

Emma Roddick (Highlands and Islands) (SNP): My amendment 256 would allow ministers to introduce, by regulation, the ability for local authorities to issue fixed-penalty notices in relation

to any byelaws that they introduce to prevent wildfires. The amendment came about through conversations with the Highland Council. As members will know, the byelaws that were recently introduced by the Cairngorms National Park Authority in order to prevent wildfires were met with a great reaction locally. Many constituents, including some who were impacted by the Dava moor fire this year, have written to me asking for similar legislation to be brought in outwith the park area. I have made that case on their behalf to multiple councils, and I believe that that case is very strong.

However, council officers have shared with me that an inability to issue fixed-penalty notices is preventing them from introducing their own byelaws, because they need to have confidence that such byelaws would be enforceable and that the penalties would be known and clear and could act as a deterrent. Council officers cannot be sure that they will be able to resource that process if there is no ability to fine. I would like local authorities to be given the opportunity to manage their byelaws in the same way that we are allowing national parks to manage their byelaws through the bill. The issue was mentioned in some responses to the committee's call for views at stage 1. Multiple respondents suggested, in response to the question on the new national park powers—which were overwhelmingly supported—that those powers could be extended to other authorities as well.

I would be interested to hear from the minister about what is under consideration, what the Government's position is on local authorities being able to issue fixed-penalty notices, and whether the Government will support that ask from those councils that are most at risk of wildfire.

I move amendment 256.

Tim Eagle: Members may remember that this is not my first time talking about muirburn and wildlife management, as I argued for very similar amendments at stage 3 of the Land Reform (Scotland) Bill. In 2024, the Scottish Parliament passed the Wildlife Management and Muirburn (Scotland) Act 2024, which prevents anyone from making muirburn on land without first acquiring a licence.

Following two delays that were due to stakeholder concern, the licensing scheme is due to come into force next year. The effect of that might be that fewer people are able to make muirburn or that people will stop muirburn altogether, curtailing work that is obviously necessary to prevent devastating effects—such as the very damaging wildfires at Carrbridge and Dava in the Cairngorms this year—from taking place again. The devastation and scale of those fires cannot be overstated. They are considered to have been the largest such wildfires in Scottish history, and they burned more than 11,000 hectares of moorland and forestry. Licensing will only make it harder for skilled land managers to carry out preventative muirburn. That will mean an increase in combustible fuel loads and potentially the loss of those in the industry who played such a vital role in containing the recent fires.

My amendment 325 would therefore repeal part of the muirburn licensing scheme conditions from the 2024 act—that is, the conditions related to applications for making muirburn on peatland. It would mean that all land, whether peatland or not, would be subject to the same conditions when a licence is being considered.

My amendment 326 would go further and seeks to completely repeal the muirburn licensing scheme, removing it from the 2024 act for the reasons that I have already stated.

My amendment 327 was lodged in response to those wildfires. We know, and I have stated before on the record, that many businesses and land managers were involved in tackling those wildfires to the benefit of communities. I remain incredibly grateful to communities—and to the Scottish Fire and Rescue Service—for coming out in support during that time. Amendment 327 would provide that the Scottish Fire and Rescue Service must set up a wildfire response unit to manage and protect land in the event of wildfire, with appropriate vehicles, aerial support, commanders with enhanced authority and so on. I am aware that the minister has been doing some work in this area, and I am grateful for the round-table discussion that he put together. Unfortunately, I could not make it to that, but I still want to push at length to the committee the importance of making sure that we have provision in Scotland to tackle any wildfire in any part of Scotland.

11:45

Beatrice Wishart (Shetland Islands) (LD): Amendment 271 relates to the licensing scheme for muirburn that forms part of the Wildlife Management and Muirburn (Scotland) Act 2024. The muirburn licensing scheme is not yet in force, following the minister's recent decision to delay commencement of the scheme until next year, which followed the devastating wildfires near Carrbridge and Dava. At the time, the minister noted that the delay would

"provide us with the time and opportunity to carefully consider the upcoming changes to muirburn and how these changes can be brought forward in a way which does not adversely affect our ability to prevent and respond to wildfires."—[*Written Answers*, 9 October 2025; S6W-41119.]

After this year's devastating wildfires, that approach is sensible.

On 9 September, the minister asked NatureScot, the Cairngorms National Park Authority, Scottish Land & Estates and the Scottish Gamekeepers Association to test the licensing scheme, principally to see whether licences would be granted on peatland for the purpose of preventing and reducing the risk of wildfire. The test required landholders to prepare and submit licensing applications relating to their own circumstances and to follow NatureScot's licensing guidance in doing so. All test applications were completed by qualified land agents or specialist contractors. The test has now been concluded and feedback has been provided to the minister, and it is clear that there are issues with the scheme, which stem from the primary legislation.

Amendment 271 seeks to fix those issues in a targeted way, while retaining the central architecture of the licensing scheme, by changing two aspects of the provisions governing the granting of licences to make muirburn on peatland.

First, the amendment seeks to remove the presumption in favour of other methods of vegetation control if those methods are more practicable than muirburn. In effect, that provision prioritises methods such as cutting and grazing over muirburn, which, in the context of preventing and reducing the risk of wildfire, is not appropriate. Fuel load is the only aspect of fire behaviour that can be controlled ahead of wildfire taking hold, and muirburn is generally the most effective means of removing the fuel in its entirety. For that reason, prescribed burning is practised internationally to remove fuels in cooler months before they become a problem. Other methods, such as cutting, retain fuel in the landscape, and although rewetting plays a valuable role in promoting resilience to wildfire in the landscape, it does not remove fuels in the same way as muirburn can.

Secondly, amendment 271 seeks to replace the test of necessity with that of appropriateness. Evidencing that muirburn is necessary for the specified purpose constitutes a very high legal bar, which was one of the main reasons why licences were refused by NatureScot in the test phase. I propose to substitute "necessary" with "appropriate", with NatureScot retaining regulatory oversight.

Members will recall that, during stage 2 of the Wildlife Management and Muirburn (Scotland) Bill, we unanimously agreed that approved training courses should be put in place for practitioners who make muirburn. An approved training course comprises both theoretical and practical elements. The practical element ensures that a practitioner can make muirburn safely in the confines of a training environment under the direction of experienced instructors. However, Bright Spark Burning Techniques and Scottish Land & Estates have identified that training is not a licensable purpose for making muirburn. Given the requirement to complete an approved training course with practical components, it seems that that is an oversight that should now be corrected.

In addition, Bright Spark Burning Techniques is now actively training the Scottish Fire and Rescue Service to make muirburn—or tactical backburns, as they are referred to in a wildfire context. That is the technique of removing the fuel in front of the face of a wildfire by burning towards it. Such activity falls under the definition of training, for which there is currently no licensable purpose.

In addition, it will occasionally be appropriate for training of members of the Scottish Fire and Rescue Service to be conducted outside the normal burning season, so as to simulate conditions that are similar to those that might be faced in a wildfire.

Accordingly, amendment 271 also seeks to put beyond doubt that training is a valid purpose for making muirburn under licence from NatureScot. I hope that members will agree that my proposed amendments to the muirburn licensing scheme are reasonable and evidence based, and that they are required so that we do not adversely affect our ability to prevent and respond to wildfires.

I look forward to hearing what the minister has to say in response to the amendments in this group.

Rachael Hamilton: My amendment 287 calls for a review of the impact of wildfires on biodiversity and a review of the provision of fire services in rural areas. It would also require the Scottish Government to publish data on the volume of greenhouse gases that are released as a result of wildfires.

Scotland has experienced 250 wildfires this year, which is a sharp increase from previous years. Earlier this year, 90 wildfires burned across one weekend alone. Not only are wildfires dangerous and destructive; they are also a major contributor to greenhouse gases. The Fire Brigades Union has previously warned that the service is struggling to cope with wildfires, and has said:

"They're very, very resource-intensive incidents—which with climate change will only get worse."

It is important to recognise the role that the private sector plays in wildfire management. During the devastating Carrbridge and Dava wildfires, rural businesses, working alongside the Scottish Fire and Rescue Service, provided nearly £4 million-worth of equipment and 110 volunteers, 83 of whom had direct experience in land

management and fire control. That expertise is invaluable, and I welcome recent engagement from the Scottish Government on the issue with industry members and elected representatives. I attended a meeting, alongside the minister.

However, there is still a long way to go. My amendment 287 would also introduce an assessment of fire provision in rural areas, which reflects the concerns of my constituents in Hawick, who are potentially facing a partial closure of their fire station. If the Scottish Fire and Rescue Service's proposals go ahead, they will have a clear impact on people's safety in the Borders. Amendment 287 looks to ensure that rural Scotland has the resources and understanding to tackle wildfires and rural fires.

Jim Fairlie: On amendment 256, I support the intention behind the proposal and the underlying policy aim, as it would enable the Scottish Government to make regulations for a fixed-penalty notice regime in order to enforce local authority byelaws aimed at the prevention of wildfires. However, I do not believe that the bill is the right place for that change.

As the committee is aware, part 3 of the bill includes similar regulation-making powers that will enable national park authorities to issue fixed-penalty notices for byelaw breaches within national parks. That will be an important additional enforcement tool, including for the new fire management byelaws that will come into force in the Cairngorms national park in the spring. Those fire management byelaws aim to deter irresponsible behaviour and ensure improved compliance and behaviour change in order to reduce the growing risk of wildfires. They will form part of the integrated wildfire management plan within the national park, which will include enhanced patrols at key sites, training for rangers, signage, a targeted wildfire communications campaign and co-ordination with landowners, NGOs, public bodies, businesses and communities.

I can understand why Emma Roddick has proposed similar fixed-penalty notice powers for local authorities that may be considering whether to introduce fire management byelaws in their areas. In my view, however, more detailed work needs to be done at this stage before proposing legislative changes, so I cannot support amendment 256. We have to consult local authorities and other partners to ascertain the most effective means by which to prevent and manage wildfires.

It is important to note that, similar to how the fixed-penalty notice regime is likely to work in national parks, we would not expect the full costs of enforcing the byelaws to be covered by income from financial penalties.

Emma Roddick: I understand what the minister is saying about the fixed-penalty notices not covering the full cost of enforcing such byelaws, but I have written to the Scottish Government on previous occasions about bringing in byelaws to outlaw disposable barbecues being used at times of high wildfire risk. The Scottish Government's responses have indicated that the expectation is that local authorities should bring in such byelaws as things stand, so even a partial ability to cover the cost of that resource should surely be considered.

Jim Fairlie: Local authorities have the ability to do things at the moment—if the member will allow me to continue making some points on this, that might make the position clearer.

We have talked about the issues that have arisen after the Dava fire. As a result, Siobhian Brown and I committed to developing the Scottish wildfire strategic action plan, which was informed by the recent wildfire summit, cross-sector engagement and the ministerial round table with MSPs.

The action plan will include prevention, preparedness, response and recovery. It will also consider whether any legislative changes would be required to support the actions within it. The point that I am trying to make is that the strategic action plan will carry a lot of weight.

We should not be pre-empting the work of that action plan, and, crucially, we need to consult local authorities and other partners as we go through the process. We expect to explore the issue further as part of the development of the wildfire action plan.

I cannot therefore support amendment 256, but we will return to the issue in the future, and I am happy to meet Ms Roddick to discuss it further ahead of stage 3, so that we can fully consider the most appropriate approach to tackling the issue. I therefore ask Ms Roddick not to press amendment 256. If she does press it, I ask the committee not to support it.

On amendments 325 and 326, I fully understand practitioners' concerns about muirburn, especially in the context of this year's wildfires. That is why we announced a delay to the licensing scheme until the start of autumn 2026. That delay will give us the time to consider carefully how the necessary changes to licensing can be made in a way that does not adversely affect our ability to prevent and respond to wildfires.

On amendment 325, some parts of Scotland are uniquely vulnerable. Our rural terrain and the rich biodiversity are ecologically precious and highly susceptible to fire. When peatlands burn, they release large amounts of carbon, which undoes years of work in a matter of hours. Mr Eagle's

amendment would mean that there would be no difference in how licences for muirburn in peatlands or non-peatlands were treated. We remain committed to ensuring that muirburn is carried out appropriately and safely, in a manner that ensures that the environment does not suffer as a result.

Tim Eagle: First, I am no expert on muirburn, but my understanding is that when muirburn is done on peatland areas, it does not burn the peat itself; it burns above it. It is all about getting rid of a build-up of stock that could cause significant fires and affect communities. That is why I think that it is possible to bring the two things together.

Secondly, you have just said that you are giving it serious consideration before you bring the licences into effect, but there have already been two delays. Can you therefore tell us what you are doing? Are you speaking widely with stakeholders? As far as the licences are concerned, what do you hope to put in place that will enable the stakeholders—the practitioners—to do this? Basically, I am asking how we keep communities safe. What are you looking for that will keep communities safe?

Jim Fairlie: On your very last point, the strategic wildfire strategy that I have just talked about will do an awful lot of heavy lifting. A hell of a lot of work is going into that.

As for whether we are engaging with stakeholders, we absolutely are. I had a meeting with the Scottish Gamekeepers Association last week, when I met the young keepers. We are having extensive conversations about what is needed, what the practitioners are capable of doing, what the restrictions on them could or could not be, and how we can make the system work so that they can continue to realise the benefits of muirburn, but in a safe and practicable way. Those conversations are on-going, which is why I have delayed bringing in the licences until next year.

Tim Eagle: In that case, why have licences? If we recognise that there are more and more wildfires and if we recognise the benefits that we are getting from practitioners, young gamekeepers and so on, why not, instead of having the administrative burden of licences, scrap the licensing scheme and have a code of practice or something that practitioners could use and that might protect rural communities more in the future?

Jim Fairlie: I would not agree to that at all. The practitioners themselves see the value of a licensing scheme. As the member will be well aware, less than 24 hours after my previous suspension of the introduction of the licensing scheme, there was a wildfire at Dinnet caused by somebody who was setting muirburn inappropriately.

Therefore, a licensing scheme is absolutely essential. It will be coming in, and the practitioners know that, but we will bring it in in a way that will allow gamekeepers and land managers to continue to do what they do in a manner that they can live with and that allows them to get the full training that they need.

I reiterate my previous point: I am having extensive conversations with land managers, practitioners and people who do the training, and I will continue to have those conversations to ensure that we get to a balanced position that will allow muirburn to continue, but in a safe way. Therefore, I recommend that Tim Eagle does not move his amendments or, if he does, that members oppose them.

12:00

On amendment 327, after last year's wildfires, I absolutely share Tim Eagle's aspirations to enhance our wildfire resilience moving forward; indeed, it is something that we have committed to doing. As I have already said, we have extensive engagement with relevant public bodies and external stakeholders, which must be maintained.

As I mentioned in relation to amendment 256, the Government is developing the Scottish wildfire strategic action plan, which is informed largely by the wildfire summit, cross-sector engagement and the ministerial round table with MSPs. That plan will include prevention, preparedness, response and recovery. We are only just beginning to develop the strategic action plan in preparation for next year's wildfire season and beyond, and we are still carefully considering everything in the round. It is therefore important that we do not pre-empt any outcomes. Given the development of the plan, and the fact that the proposed amendment would place an unhelpful prescriptive duty on the Scottish Fire and Rescue Service, which already carries out much of what has been proposed as business as usual, I do not support Tim Eagle's amendment 327.

Amendment 271, in the name of Beatrice Wishart, seeks to make a number of changes to the muirburn licensing scheme. First, the amendment would add training generally as a stand-alone licensable purpose for making muirburn on any land, including peatland. Secondly, the amendment proposes to lower the threshold for granting a licence for muirburn on peatland to Scottish ministers being satisfied that the making of muirburn is appropriate rather than necessary for that specified purpose. Finally, amendment 271 would remove the additional test

in relation to land that is peatland that would require Scottish ministers to be satisfied that

"no other method of vegetation control is practicable".

Rachael Hamilton: I have some sympathy for Beatrice Wishart's amendment, because it would give land managers a little more latitude and flexibility. Currently, if NatureScot is denying those licences because they include a certain amount of peatland, it is not considering the other elements, such as the protection of woodland. I think that the minister is well aware of that situation, which is limiting and could cause more damage to biodiversity.

Jim Fairlie: If the member will allow me to continue, we will get to a lot of those points as I go through my notes.

On the addition of training, I absolutely support the intention behind the change, and I would be very happy to work with Beatrice Wishart to ensure that that purpose can be included in the muirburn licensing scheme. However, under the current wording, such training would not be linked to an approved training course. I want to make it absolutely clear that such an addition should not mean that a head keeper could just go out and train their junior keepers, because that would take us back to business as usual. If we are to consider adding training, it has to be through an approved training course, and I want to have that conversation with Beatrice Wishart.

As for the other two changes proposed by amendment 271, I fully appreciate the concern expressed by many about increased wildfire risk as a result of increased fuel loads and about the catastrophic damage that wildfires can cause to our peatlands, which I and a lot of other members saw for ourselves over the summer. Muirburn is not the silver bullet; it has a role to play in mitigating wildfire in both prevention and response, but we must strike the right balance between protecting the peatlands from the potential negative consequences of muirburn and the devastation of wildfires. It is a tricky balance.

NatureScot has been working with stakeholders on test muirburn applications, as Beatrice Wishart has pointed out, and I will be talking to NatureScot and stakeholders about the outcomes of those applications, to ensure that we get the balance right. NatureScot's scientific advisory committee was instructed to look again at the science around muirburn in the light of the increased wildfire risks, and the outcomes from that should be available early next year. It is a significant move, and I therefore ask Beatrice Wishart not to move amendment 271 and to work with me between stages 2 and 3 on updated wording in relation to training purposes for muirburn.

I also ask her to work with me and NatureScot between stages 2 and 3 on the peatlands aspects of the muirburn licensing scheme, to ensure that any changes that we make strike the right balance and do not undermine the effectiveness of the licensing scheme and the protections that it offers to peatlands. Therefore, I ask Beatrice Wishart not to move amendment 271. If it is moved, I ask other members to oppose it.

On Rachael Hamilton's amendment 287, I absolutely recognise the importance of monitoring and reporting on wildfires, and I share the member's commitment to improving our understanding of their impacts. However, legislation for that at this stage is unnecessary and risks duplicating work that is already under way.

As I have set out, we will have a Scottish wildfire strategic action plan, and I believe that everything that the amendment seeks to do, such as the assessing of impacts on wildlife, habitats and conservation and fire service capacity, is already being addressed in that work. Introducing a statutory reporting duty now would pre-empt the outcomes of the strategic plan and could result in reporting requirements that are not fit for purpose, because we do not know what will come out of the plan.

For those reasons, I cannot support amendment 287 as drafted, but I am happy to work with Rachael Hamilton at stage 3 to consider how we might provide certainty around the action that we will take, and we can work together on an amendment, if necessary. I therefore ask her not to move amendment 287. If it is moved, I urge members to oppose it at this stage.

The Convener: I call Emma Roddick to wind up and to press or withdraw amendment 256.

Emma Roddick: Recognising that my group does not support amendment 256, and on the basis that the minister has agreed to meet me ahead of stage 3 to discuss the best way of progressing it—which I understand might not be through the bill—I will withdraw it. However, I want to indicate that there is strong support for a move in this direction among the worst-affected councils as well as colleagues on the committee and other parties. I look forward to that discussion taking place.

Amendment 256, by agreement, withdrawn.

The Convener: Amendment 257, in the name of Douglas Ross, is grouped with amendments 258 to 263.

Douglas Ross: This is a group that is just about gulls. It continues a number of discussions—sometimes passionate and, in my case, animated—that I have had with the minister about the issue of gulls. It is an issue that deserves

attention in the Parliament, despite what others say. The bill gives us an opportunity to address concerns that have been raised by my constituents and those of other MSPs. I would particularly like to mention the work that Fergus Ewing has done on the issue, particularly around Inverness and Nairn, and the engagement that he has had with local business improvement districts and others.

In the past, Mr Ruskell has claimed that I want to kill every gull in Scotland, so I want to make it very clear that I do not want to kill them all. Indeed, this suite of amendments would not necessarily result in any gulls being killed. The amendments concern the powers of NatureScot in particular, which I will come on to in a moment, and the information that we have, which I think is lacking.

My amendment 257 gets to the heart of something that I have repeatedly raised with the minister. I respect that he has taken a different view on this, and he might still take a different view, but I would like to get this point on the record. I think that NatureScot has a serious conflict of interest. The organisation is charged by the minister and the Government with conserving bird numbers and with determining the licences to control bird numbers, and I do not in any way see how those two things are compatible.

Jim Fairlie: Douglas Ross will shortly lay out what amendment 257 states, but my understanding is that it would take away powers from NatureScot, because he does not trust NatureScot to make an impartial and unbiased decision. Local authorities would have to consider the protected status of gulls in the same way as NatureScot would, so is he saying that local authorities should dismiss the fact of that status?

Douglas Ross: They would have to consider that. I will come on to the series of amendments, because they offer the minister and the Government a number of options. The licensing functions could be transferred to Government ministers, to local authorities or to any other body that the Scottish Government deemed appropriate.

However, on those considerations, I think that the minister himself accepted in the Parliament that some of NatureScot's determinations have been, frankly, ridiculous. I believe that that was the wording that he used, and I will repeat the example that I think that he used. We had a case in Nairn in which an application was made to remove a nest, which was very high up, and NatureScot said that a picture had to be taken of the nest with that day's newspaper. That is ridiculous, and I think that the minister accepted that in the chamber.

Jim Fairlie: I absolutely accept that, but I did not call it "ridiculous". I called it "ludicrous".

Douglas Ross: Okay. If that is all that we are going to disagree on today, minister, I will be very happy.

Jim Fairlie: It was a ludicrous requirement, but it was something about which I, as a minister, could speak to NatureScot and ask for more sensible discussions about what the licence is. Therefore, that is what was done.

The member will also be aware that we had discussions about the issues in the Inverness area, which Mr Ross and Mr Ewing brought to me. Ministers have the ability to speak to NatureScot to say, "This isn't working. Can you please change it?" That is what happened in that case, and those things were done. Does the member accept that that process is happening already?

Douglas Ross: The process is happening, but not quickly enough. I refer the minister to written question S6W-42266, on the Inverness gull management plan pilot, lodged by Fergus Ewing, which the minister answered yesterday, I think. The pilot is still being developed by NatureScot. It is several months since the minister held his summit. We are not a million miles away from the next gull breeding season and NatureScot is still sitting on its pilot plan for next year's nesting season. I accept that the minister believes that he has made progress internally with NatureScot, but it does not look like it is moving quickly enough—certainly not in terms of next year's breeding season. We will quickly reach the point of the year when the gulls' behaviour becomes even more aggressive, as they try to protect their eggs and nurture their young. We do not have the plans in place to deal with that.

Jim Fairlie: Given that it is mid-December, I suggest that there is time before the next breeding season, because NatureScot will be working at pace with local authorities to work out what it will do for next season. As I said, we can give a ministerial instruction to require NatureScot to do something, and that work is on-going. The fact that we are not in the breeding season right now indicates to me that there is still time for NatureScot to deliver those plans.

Douglas Ross: That is contrary to your answer to the written question, which said:

> "The Scottish Government was unable to provide a definitive response to question S6W-41921, as the pilot plan will require continuous updates and adjustments. Consequently, it is not possible to confirm a date for when the plan will be fully finalised."—[*Written Answers*, 9 December 2025; S6W-42266.]

Jim Fairlie: The plan not being—

Douglas Ross: I am sorry, but may I just finish this point?

Jim Fairlie: The plan not being—

The Convener: I remind members that, although I like a level of informality and a flow of conversation, this is not a debate between the minister and the member. The member is putting forward the reasons for his amendments, and the minister is welcome to intervene, but I do not want this to become a two-way discussion between the member and the minister. Please bear that in mind.

Douglas Ross: I will, but I am more than happy for this to be a four-way, six-way, eight-way or 10-way discussion, because the issue affects all our constituencies and regions. I will give way to the minister after I make this point. He says that we are not in the breeding season, which I agree on—we are in December—but in his own written answer he said that he cannot provide a date for the gull management plan.

Jim Fairlie: The plan is a living, growing thing. It will continue to evolve, because we will not get all the answers for all the issues that we are facing with gull populations in urban Scotland immediately. It will be an on-going process, but that does not mean that there is not work going on behind the scenes in order that we can say what we will do in the interim for the particular issue that the parties that are involved in the current discussion are facing. It is disingenuous to say that there is nothing being done and that we have not done anything, or that no progress is being made. Progress is being made, and it has been made from the very first phone call that I had with Mr Ross and Mr Ewing. We took action then, and we continue to take action. The plan that we put in place will develop as we go along, because this is not an overnight fix by any stretch of the imagination.

I would like the member to consider the fact that, no matter who has the authority, they will always have to take into account the fact that these gulls are protected for a very good reason. As we find solutions, they will be developed in conjunction with the people who are looking to have the issues resolved.

Douglas Ross: I will come back to the last point, but, first, if the minister is saying that there is progress, I am willing to accept that. What I am saying is that, from the outside, those of us who are not in the ministerial corridor, or who are not officials, cannot see that, because the written answers cannot tell us anything about the progress. That is why Fergus Ewing lodged the first written question and had to lodge a second written question. If the information can be shared in any way, it may provide some reassurance for the communities—particularly in Moray, Elgin, Nairn and Inverness—who are concerned about this issue. That is why the minister travelled to the area to hold the summit.

The point that the minister finished with—that it will not matter who holds the power to issue the licences—makes my point. If, according to the minister, it does not matter who holds that power, we should take it away from NatureScot, because it is not using that power effectively. It is issuing decisions that are, to use the minister's own word, ludicrous. I would have thought that, the day that the minister decided that NatureScot's determination of applications was ludicrous, he should have said, "The game's up. You are not suitable as an organisation to both be in charge of conserving bird numbers and to deal with the applications to control bird numbers." That is why I believe that those licensing functions should be removed from NatureScot, because of its significant conflict of interest, and that is why I have provided the options of giving those functions to local authorities, taking them in-house to the Scottish ministers and enabling another body that is not conflicted in that way to carry them out. All that I am asking for in amendment 257 is to remove the functions from NatureScot.

12:15

Amendment 258 would give the licensing functions to local authorities, and amendment 259 would enable licensing to be carried out by the Scottish ministers.

All three of the amendments call for consultation with interested or affected persons. There is no doubt that there is a feeling out there that there was a lack of engagement from NatureScot until the minister held his summit, and that there has been none since then. It is a top-down body. It tells people what it believes, but it does not listen and it does not respond to local people.

When the topic was debated in the chamber, Rhoda Grant rightly mentioned John Divers, who is a Labour councillor in Elgin. He has been dealing with the issue for a long time in the city that he has represented for many years. He is someone whose great experience should be used by bodies such as NatureScot to learn about the problems in those communities and how to respond to them.

NatureScot should be speaking to Elgin community council. It was not invited to the minister's summit and has planned its own summit for next year. The organisation is spending a significant amount of the Elgin common good fund's money to deter gulls in the area, because it is not getting the action that it requires from NatureScot.

I would love NatureScot to listen more to the Nairn business improvement district and to the Inverness business improvement district. I know that they were invited to the minister's summit, but Lucy Harding and Lorraine McBride know more about NatureScot's licensing and operations than anyone else I have met. They have been through the problem year after year after year. They proposed sensible solutions to licensing that were dismissed by NatureScot at the summit.

In the end, what came out of the summit was a recommendation that—I will not do the actions again—people should wave their arms when walking down the high streets to deter the birds or draw googly eyes on pizza boxes. Those are the recommendations that NatureScot is making, rather than listening to people who are on the front line dealing with the issue day in, day out, month after month, year after year, who have the expertise.

Another person I would urge NatureScot to listen to is Bruce Robertson. I know that he wrote to the minister and received a response recently. Like others, he has a wealth of knowledge and experience that is not being utilised by NatureScot, because it is a body that thinks that it is untouchable, that what it believes is gospel and that no one else's views count.

I urge the minister to at least accept that the consultation element of my suite of amendments is necessary, because NatureScot is not engaging widely enough.

I will move on to amendments 260 and 261. Amendment 260 would require the Scottish Government to conduct an analysis of the spend by local authorities on gull management and deterrence. Why have I lodged the amendment? The big flagship announcement from the minister's gull summit was that £100,000 would be committed to local authorities to deal with gulls. That is a drop in the ocean, and we need to know what funding is required. I know that my local authority, Moray Council, has spent around £100,000 in recent years. That is one of 32 local authorities. I know that Aberdeenshire Council has spent a huge amount of money on the problem, and I know that Dumfries and Galloway Council, in the convener's part of the world, has spent a huge amount of money on it, too.

However, we do not know the total spend. Some of the spend has been pieced together through freedom of information requests, and some of it is set out in committee reports. Surely, if the minister got advice from his officials to go up to Inverness and announce £100,000 to be spent across the local authorities in Scotland, that figure came from somewhere. Was that based on how much councils are currently spending or projected to spend, or was it just plucked out of mid-air so that the minister could get some positive press coverage out of his visit to Inverness and the summit? We have no idea how that quantum of money was reached and how it will be spent. We still do not know whether that will be sufficient. Based on the limited information that we have in the public domain, we know that it will not be sufficient to be spread across 32 local authorities.

The most surprising thing about amendment 261 is that it was supported by RSPB Scotland. I noticed in its briefing that it was the one amendment in my suite of amendments that the RSPB supports—it gave it a green rating. As a former member of the RSPB, I think that it has lost a bit of its appeal for me. I no longer pay my membership—but not for those reasons. It has been against a lot of what I have said about gulls. It takes a very different view from me, and I respect that. However, even the RSPB agrees that we need an annual survey of gull numbers in Scotland.

Time and time again, this minister and others will come to the chamber to say that gulls are a protected species because their numbers are reducing. They may be reducing in coastal areas, which is their natural habitat, but they are increasing in our urban communities. The minister and his officials do not have the information that they require to make the case that licences should not be approved in those areas, because the numbers are going down. I and others believe that the numbers in urban areas are going up. If even the RSPB can support amendment 261, I hope that the minister can, too.

I take this issue very seriously, because it affects many of my constituents. I will not reiterate the many horrifying cases of people being badly injured by gulls, but the situation will only get worse unless we have proper licensing, which we are not getting from NatureScot. Let us support the amendments that would remove the licensing functions from NatureScot. Let us give those to a body that is not conflicted in the way NatureScot is. Let us ensure that we know how much local authorities are spending on actions to deter and control gull numbers. Let us have an annual survey of the numbers in urban and coastal communities, so that we can make informed decisions going forward.

I move amendment 257.

Rachael Hamilton: I listened with great interest to Douglas Ross's explanation of his amendments, and I fully support them. I believe that my amendments are complementary to his. I support removing the licensing powers from NatureScot. I will go on to discuss why there could be a conflict of interest and why I agree with him on that point.

Amendment 262 would require the Scottish ministers to undertake a review of measures taken to tackle urban gull problems, including how much funding has been allocated to each local authority to tackle disruptive urban gull populations; to specify the methodology of funding; and to outline what consultation and engagement has been done with local communities and affected businesses.

Communities in my constituency that are affected by gulls include Eyemouth, Cockburnspath, Coldingham and Jedburgh. They are semi-rural, but they are experiencing issues, too. I felt that they were excluded from the initial conversations, considering that I met NatureScot in Eyemouth a year ago to discuss the problems of gulls and the lack of support that the community had had. When everything was focused on the Elgin area, I believe that those communities felt excluded.

I recently made an FOI request to ask about the specifics of the funding. On the arrangements for the administration of the fund, the Government's response said that the agreed fund of £96,000 will be made available to local authorities to support sustainable gull management measures. Those measures are yet to be agreed and are still under development. The Government was aiming to publish details on its website by the end of November 2025, but I am not sure whether that has been done—I have not checked that. If those details are available, I would be happy to hear them from the minister.

I am really concerned that, at the summit, the agreed budget that was stated for local authorities was for this financial year only. Gulls do not breed for just one season, but there is no confirmed budget for 2026-27. I find that very concerning.

Amendment 263 seeks to introduce a review of NatureScot's licensing functions regarding the management of gulls, and it would require the Scottish ministers to make an annual statement on the number of licences that have been issued.

Aggressive gulls are a serious problem, as the minister knows. They are a persistent problem in towns, including in Coldstream, which I have yet to mention, where ensuring the safety of residents is a serious problem because of gulls. I have been working with local residents, as my colleague Douglas Ross has, and with businesses that have raised concerns about the impact on tourism, primarily due to the public safety risks for visitors.

In Eyemouth, children have been attacked. One girl was left with scalp injuries and blood running down her face. Businesses have told me that their customers have been scared, attacked and traumatised. Even when businesses have offered individuals refunds for meals, food or whatever it might be, members of the public have said that they are too worried to come back and that the incidents that they have experienced have been too traumatising.

Despite NatureScot acknowledging that aggressive gulls are a health and safety issue, its licensing process remains bureaucratic and inconsistent, and local businesses have called it "soul destroying". Earlier this year, NatureScot refused to grant any gull management licences in Eyemouth and even suggested using dogs on rooftops. However, within 24 hours of pressure being applied, it U-turned and granted two licences, apologising for the way that those applications had been handled. Clearly, there is a problem.

Communities need practical and commonsense solutions. Amendments 262 and 263 push for improved action from the Scottish Government to develop a wider strategy for managing urban gull populations and to review how licences are granted, to ensure that we have a fair and consistent approach.

Tim Eagle: Douglas Ross and Rachael Hamilton have expressed the concerns about gulls across Scotland expertly. My primary reason for coming in is to support them on that. Douglas Ross mentioned Councillor John Divers, whom I know well, as I served with him on Moray Council for five years. I remember speaking about gull management in 2017, 2018, 2019 and every year after that. Clearly, the issue also affects Rachael Hamilton's patch at the opposite end of the country from me.

The Convener: I put it on the record that it is also a significant problem in my constituency of Galloway and West Dumfries, where post office workers are unable to deliver mail at certain times of the year because of gulls. Councillor Pauline Drysdale ran a campaign for Kirkcudbright, where residents have been scared to leave their homes, which particularly affects those with mobility issues. However, it is an issue across Scotland.

Some interventions by local authorities have not been enough, and that is sometimes because local authorities have been unable to obtain the proper licensing.

Tim Eagle: I was just about to say that.

Common good funds have been put into the pot for gull management, and community councils have put in money. I also know of businesses and individuals who have put up money to try to solve the problem in town centres. Communities across Scotland, but certainly in Moray, have done huge amounts of preventative work, such as putting more bins on the streets, but we now need help from NatureScot and for the Government to take action. The problem cannot go on for many more

years. I fully support what the convener, Rachael Hamilton and Douglas Ross have said.

Jim Fairlie: I will start with Tim Eagle's last point, which is that the Government needs to take action. When I was appointed as minister, I was immediately made aware of the issue by Fergus Ewing and Douglas Ross. I took a call from both of those members and dealt with the immediate problems by taking appropriate action, and an area-wide licence was granted.

Since then, we have had various debates and statements about the issue. We have a strategic action plan, and regional round-table meetings will start in January—the dates have been set. There were concerns that we have had only one summit, in Inverness, but I said at the time that that would be the start of the process. We will have further summits in Fraserburgh, Eyemouth, Dumfries and Irvine, which should be completed by the end of January.

Bearing in mind that local authorities have the responsibility to fund work on environmental issues in their areas, I note that we are funding gull management plans in addition to each local authority's funding.

We are raising a national awareness campaign, the resources for which are being developed as we speak. It will have a clear message about how to manage gulls and how people should manage themselves around gulls.

We are putting in place gull population data methodology for a national and urban gulls survey, which is currently being advanced.

We are also looking at best practice intervention management measures, with a focus on deterrence, infrastructure prevention and effective waste control. That is happening as we speak. In addition, the national gull forum will be established in the first part of 2026.

What I am trying to say is that the issue has been raised with me as the minister and I am taking it very seriously, but that cannot be the limiting point. We have to remember that gulls are a protected species and, therefore, those protections should stay in place.

12:30

Tim Eagle: In relation to Douglas Ross's amendments, it is great that you are going out and speaking to communities but, ultimately, it would be better if the powers and the licensing functions were in the hands of local authorities, rather than with NatureScot. Why not make that move now?

Jim Fairlie: I will come on to all the points on the amendments that have been raised with me.

Rachael Hamilton: On the point that I made about the arrangements for the administration of the fund to support gull management measures, has the development of that fund been completed? How will it be administered and given to the local authorities?

Jim Fairlie: I do not have the information in front of me, but I will make sure that officials write to Rachael Hamilton to give her that information.

Douglas Ross: Before we move on from what the Scottish Government has done, I accept that the minister acted quickly. I remember the call that we had with him—I think that he had been up in Inverness that day.

Jim Fairlie: I was actually sitting in a lay-by at the time of the conversation.

Douglas Ross: Exactly. He took it very seriously, and many issues have been raised since then. One of the requests is that the Scottish Government change the licensing arrangements for the 2026 nesting season and revert to the pre-2024 guidance, and we discussed that change with the minister. Is that an option? That approach was not ideal and it did not answer all the problems, but the previous year was better, before NatureScot unilaterally changed it. Could it go back to that? That would be a positive move by the Government and the minister.

Jim Fairlie: Under the current legislation, it cannot do that. I cannot remember the exact wording, so this is perhaps not as it is set out in the act, but we cannot revert to what was done previously, because the act, or the protection, does not allow it. That is why NatureScot had to change its approach.

Douglas Ross: But it did allow that—it was working in that way. Was NatureScot going rogue and working illegally?

Jim Fairlie: No. Previously, licences had to be issued on the basis of health and safety rather than nuisance. What was happening previously was that health and safety and nuisance were being conflated.

Rachael Hamilton: When I spoke to businesses that had applied for licences and subsequently been refused, they said that NatureScot had asked them for clear evidence that there was a safety issue because of gulls. I ask the minister to put himself in the shoes of people who are applying for licences. They do not have evidence other than from the previous year, because the gulls are not demonstrating that. However, they still have to get their ducks in a row—I was going to say "seagulls"—and prepare for the season ahead. It is not fair on businesses and visitors for them to be put in a position where they have to compromise their safety and where

evidence of the damage or attacks cannot be provided after the licence application. It is putting the cart before the horse; it is not doing things in the right order.

Jim Fairlie: I have not even started talking about the individual amendments in the group, but I am sure that we will get to them.

The strategic action plan that I have laid out will pick up all the points that Rachael Hamilton has just made. On all those issues, I am more than happy to talk to anybody about solutions that they want to bring forward, and we will feed that into the strategic action plan. There is nothing that I am not prepared to discuss, but I am not going to accept the amendments that have been lodged at this stage. I will go through the reasons why, but I am more than happy to discuss with any member how we can make that work going forward.

Douglas Ross: I am grateful to the minister for that offer, but I return to a point that he mentioned a couple of minutes ago. Is he telling Parliament that NatureScot illegally issued licences pre-2024? If so, what action was taken? If no action was taken, why can NatureScot not use the powers that it used pre-2024 for this year's breeding season?

Jim Fairlie: It has not acted illegally. It has clarified that nuisance is not the same as health and safety.

Douglas Ross: If it was allowed to issue licences pre-2024—you have just put it on the record that it was not illegal for it to do so—why could it not continue to do that for the 2026 nesting season?

Jim Fairlie: It is because nuisance and health and safety are two entirely different things.

Douglas Ross: NatureScot was allowed to do that before and it did not breach any laws. You have just said that on the record. It would not breach any laws if it took that approach—which is being called for by Bruce Robertson, the Nairn and Inverness BIDs and others—in 2026.

Jim Fairlie: I also set out in the chamber that the mass reduction and removal of eggs, nests and chicks is not the appropriate way to go. We have to take a much more holistic approach to how we manage and live with gulls as we go forward. That is the position that I will take.

We will absolutely take seriously all the issues that people have raised. I take all the points that Rachael Hamilton, Tim Eagle and Douglas Ross have raised about people's concerns. I do not diminish them in any way, shape or form, but our actions should not be taken at the expense of the status of some of the gulls, whose numbers have crashed.

I also accept that we do not have the data, which is why a gull survey is currently being advanced. A task force is scrutinising the evidence to consider how we should take the matter forward.

I want to get the committee to understand that we are not taking the matter lightly by any stretch of the imagination. However, actions should not be taken at the expense of a bird population that is in massive decline in some areas. The decline is also across species. When we talk about individual gulls, what are we talking about—is it herring gulls or others?

I will not support the amendments today—

Douglas Ross: Sorry, but will you give way?

Jim Fairlie: I will.

Douglas Ross: This is my final question on the point. The pre-2024 approach that NatureScot took is the one that garnered the most support. Is the minister saying that he does not support the approach that best suits the organisations that apply for such licences?

Jim Fairlie: I am saying that the matter is now very much on my radar due to the attention that you and Mr Ewing have brought to it. I will look at everything in the strategic action plan, and we will start to develop solutions that will, I hope, reach the affected communities and give them the right solutions that they can live with, while also avoiding any massive effect on the gull populations.

Rachael Hamilton: You replied to my written question on the matter on 27 August. I had asked whether the Scottish Government had

"assessed how effective current legislation is regarding the management of seagulls in relation to any public health and safety concerns."

It is a function that the Government gives to NatureScot to deliver, which is the reason why licences are issued. The reply that I received from your office said:

"The Scottish Government has not formally assessed how effective current legislation is regarding the management of gulls in relation to any public health and safety concerns."—[*Written Answers*, 27 August 2025; S6W-29097.]

Douglas Ross and I lodged our amendments because, if the Government does not know how the management of gulls is being delivered through a health and safety lens, how can businesses or anyone else understand that, unless we make changes?

Jim Fairlie: We do not need legislation to do that. As I have stated, the issue was brought to my door and I am dealing with it as quickly and efficiently as I can. We have complex issues to

deal with around populations, including where they are and how they live. The strategic action plan is in place so that we can start looking into how we get to the solutions.

I can only reiterate that I take on board all members' concerns and I am more than happy to continue to work with them. If members want to bring individual points to me, I am more than happy to look at them as well. However, there are a number of reasons why I cannot support the amendments today. If they are moved, I ask the committee not to support them, but please be assured that I will continue to work to ensure that we find solutions to the problems that people raise.

Douglas Ross: I get the impression that the minister will not go through his reasons for not supporting the amendments. He is wedded to his view of NatureScot, which I fundamentally disagree with; I think that it should be stripped of that licensing function.

However, if the minister is going to stick to his view, I would at least like to understand it. What is wrong with asking for an annual survey of the gull populations in coastal and urban communities? The minister may say that that is in his plan, but, if that was the case, there would be no problem with agreeing to the amendment, to make sure that it happens.

Jim Fairlie: The annual survey—sorry, I cannot go through all that again. I would need to read the whole thing out to get the clarity that I need in my own head to deliver that information to the committee.

We are not talking about doing an annual survey. We cannot do an annual survey, because wintering birds and different species are involved. We do not have the time or the resource to do an annual survey, because that would take time away from NatureScot carrying out its other functions and purposes. There is no need for an annual survey—and it is very difficult to do one—but we are working out how we can get the population data. As we get the methodology worked out, we will make sure that we have numbers that are as accurate as they can possibly be.

Douglas Ross: How do you get numbers without doing a survey?

Jim Fairlie: I did not say that we are not doing a survey. You asked for an annual survey, so we need to work out—

Douglas Ross: You will just do a survey on one day, and that will be it.

Jim Fairlie: Convener, I see that you are impatient. Are you prepared to allow me to continue?

The Convener: I will allow you to continue, but I do not want this to get into a back-and-forth discussion. You are speaking to the amendments, and Mr Ross will then have the opportunity to come in and wind up. We have probably expended enough time on this discussion, so we should get down to some of the details. I am happy for you to respond to Mr Ross and then conclude.

Jim Fairlie: Okay. As I set out in the strategic action plan, there is an awful lot of work going on. I am absolutely committed to making sure that NatureScot carries out its functions, as it is required to do by the Scottish Government. We expect that it will do so in a way that protects the gulls in relation to which it issues licences and, at the same time, takes account of the issues that people are raising with it. I hope that I have already demonstrated to Mr Ross that I am prepared to intervene when that is absolutely necessary. However, I do not support the amendments and I ask the committee not to support them.

The Convener: Thank you, minister. I call Douglas Ross to wind up and to press or withdraw amendment 257.

Douglas Ross: I thank the convener and the committee for their indulgence on this issue. It is an issue that I have been passionate about for some time and, as I said in my opening remarks, it needs to be debated.

I give credit to the minister for the work that he has done. He and I do not agree on much, but I accept that he has tried in this area. However, he needs to go further. I will not and cannot get past the point that NatureScot has a conflict of interest that it will never be able to resolve. That it was coming up with—to use the word that the minister used—ludicrous decisions on licences should be enough for the minister to support this suite of amendments.

Jim Fairlie: I make this point purely on the basis that I absolutely agree that some of the responses that came back to members of the public and to people who were applying for licences were absolutely ludicrous—there is no dispute about that. However, that comment applied to one or two of the responses to the hundreds of licence applications that were made. I dispute Mr Ross's characterisation of the organisation as incompetent. It is far from being incompetent, and it must take account of all the issues, not just an individual's experience at one time.

Douglas Ross: I disagree. I think that NatureScot is incompetent and that its leadership should not be in charge of such an organisation. That is my personal view, and the minister takes a different view.

However, I take exception to what the minister said about there being only one or two examples. Those are the one or two examples that entered the public domain. We learned from the BIDs in Inverness and Nairn that people were told to use umbrellas to protect themselves while going in and out of shops. It was Rachael Hamilton who took up the issue of people being told to put dogs on roofs to deter—

Jim Fairlie: Will the member take an intervention?

Douglas Ross: I will in one second. There are also an awful lot of applications that have been rejected, and people are frustrated. Some of those people in Moray have come to me to say, "This is ludicrous," but they will not put that in the public domain because they need to go back to NatureScot to get other applications determined, and they fear that speaking out will have implications for future applications. That may be why we are not hearing about many cases. I urge the minister not to believe that two or three examples means that the maximum number of people who are complaining is two or three. There are far more out there, but those people are worried about the adverse consequences of speaking out.

12:45

Jim Fairlie: On Rachael Hamilton's point about NatureScot telling people to put dogs on roofs, it did not do that. My understanding is that that advice was for ground-nesting birds that were causing a problem, so it was about dogs on the ground.

There is a problem here. The member has very effectively made this a public issue and he has got a lot of coverage of it, so lots of stuff has been said and urban myths start to spring up in such circumstances, of which I have just given one example. No one was told to put dogs on roofs; the advice was about dogs on the ground. We should make sure that we have clarity before we start to say that everything is a disaster—because it is not.

Douglas Ross: I know that the answer to that is different from what the minister just said, so I will give way to Rachael Hamilton.

Rachael Hamilton: I had a copy of the letter that gave the explanation of the denial of a licence that had been applied for by a business on the harbour at Eyemouth. It stated that the individual was being denied a licence and could use dogs to deter gulls. If NatureScot had looked at the licence application properly, it would have understood that, at that point, there were no ground-nesting gulls in Eyemouth. The problem was happening on roofs, and the applicant, who was denied the licence, has looked at the reasons for NatureScot denying the licence and, understandably, connected the two—dogs on roofs, spaniels on scaffolding and all the rest of it—because there were no ground-nesting birds at the time. The whole reason why we have lodged these amendments is that NatureScot does not understand the situation.

Douglas Ross: I agree with that, and I remember Rachael Hamilton making that point to the minister in the chamber.

However, even if the minister does not agree about what happened in that example, he has already said that there were other ludicrous examples. He may not believe that the organisation told people to put dogs on roofs, but he has accepted that NatureScot told people to hire a cherry picker to go up to the roof to take a picture of a nest with that day's newspaper, like a hostage in a film who proves that they are still alive by showing that day's paper. That is what NatureScot was asking for—it is not made up or exaggerated; it is the ludicrous approach that NatureScot has been taking.

The minister did not comment on it today, but we also have to look at what NatureScot is currently suggesting, because it is still telling people that they cannot control the nests around their shops but can tell people to use an umbrella to walk towards the gulls. It is still telling people—supported, I believe, by the minister; I will give way if he wants to disagree—to walk down the high street, waving their arms to deter the birds. It is still telling people—this came out at the summit—to draw googly eyes on pizza and takeaway boxes to stop the birds coming down.

Jim Fairlie: I apologise, convener, but this in itself is ludicrous. At the summit, various experimental things were put forward, with people saying, "Yes, this was tried. Sometimes, this was effective." That is why it was supposed to be a closed-door discussion—so that we did not have this kind of pantomime, because what we are getting is unfinished decision making put into the public domain as the thing that is going to happen.

I get that Mr Ross is very passionate about the matter. I suggest that we can find solutions if we have reasoned and proper discussions and debates. I have made that offer to Mr Ross and Mr Ewing—and I make it to Mr Eagle, if he would want to do that—but let us try to keep some focus on what we are trying to do. To continue to reiterate the arguments that were made during the statement, to denigrate an organisation that is doing a very difficult job in very difficult circumstances and, at the same time, to try to turn this into some kind of show is just ludicrous.

I asked Mr Ross to give us some time to go through the process. He has already accepted that I take the matter very seriously and that I am working very hard to find solutions, so let us find the solutions without this show.

The Convener: I am conscious that we are at risk of repeating some of the statements that were made earlier. I understand the reasoning behind doing that—Mr Ross wants to make his points very clear—but I ask him to start to wind up and to say whether he will press or withdraw the amendment.

Douglas Ross: I will, convener. However, I will first respond to that final point. This is not about it being a show. It is very telling that the minister said that the reason that he wanted to keep the press, the public and politicians out of his summit was so that those weird suggestions were kept private.

Jim Fairlie: They were experimental.

Douglas Ross: He says "experimental"; I will say "weird". They were kept private and out of the public domain, but they deserve to be in the public domain, because those ideas are coming forward from an organisation that I do not deem suitable to determine these licence applications going forward. That is why I seek support for my amendments 257, 258 and 259.

We should also support amendment 260, in my name, in order to find out how much money is being spent by local authorities. Rachael Hamilton said that she does not know about future funding. My understanding is that the £100,000 is a one-off; it is a token fund, and the money will not continue. We need to know how much local authorities are spending.

My final amendment, amendment 261—for which I think there will be some support, if not from members of the Government's party—simply seeks to work out how many of these birds there are in different parts of the country. As I said in my opening comments in this debate, if the RSPB thinks that we can and should get these bird numbers, why does the SNP Scottish Government not?

I urge members to support the suite of amendments in my name, and amendments 262 and 263, in Rachael Hamilton's name.

I press amendment 257.

The Convener: The question is, that amendment 257 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)

Abstentions

Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 257 disagreed to.

Amendments 258 and 259 not moved.

Amendment 260 moved—[Douglas Ross].

The Convener: The question is, that amendment 260 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)

Abstentions

Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 5, Abstentions 1.

Amendment 260 disagreed to.

Amendment 261 moved—[Douglas Ross].

The Convener: The question is, that amendment 261 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)

Abstentions

Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 4, Against 4, Abstentions 1. I cast my casting vote for the amendment.

Amendment 261 agreed to.

Amendment 262 moved—[Rachael Hamilton].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 262 disagreed to.

Amendment 263 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 263 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 263 disagreed to.

Amendment 264 moved—[Douglas Ross].

The Convener: The question is, that amendment 264 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)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Abstentions

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

The Convener: The result of the division is: For 3, Against 5, Abstentions 1.

Amendment 264 disagreed to.

Amendments 265 and 266 not moved.

Amendment 267 moved—[Tim Eagle].

The Convener: The question is, that amendment 267 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 267 disagreed to.

Amendment 268 moved—[Tim Eagle].

The Convener: The question is, that amendment 268 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 268 disagreed to.

The Convener: At this point, I will suspend the meeting. We will resume at 6 pm this evening.

12:56

Meeting suspended.

18:22

On resuming—

The Convener: Good evening. We return to our stage 2 consideration of amendments to the Natural Environment (Scotland) Bill. I call amendment 23—I beg your pardon. That is a good start. [*Laughter.*] Amendment 324, in the name of Tim Eagle, is grouped with amendments 289, 290, 336 and 337.

Tim Eagle: Amendment 324 would put a duty on ministers to protect prime agricultural land. It would also mean that environmental target-setting action would not involve such land and that such targets would not reduce the amount of it, meaning that there would be no net loss of prime agricultural land.

It is estimated that, by 2050, a quarter of farmland across the UK could be lost to housing, solar farms, tree planting, biodiversity projects and carbon schemes. The impact on our food production, supply and security could be staggering. Time and again, environmental developments such as solar farms are established in rural landscapes—and not just on derelict or empty sites, but on good farmland that could be used for growing crops. Amendment 324 would ensure that good-quality farmland would be protected for what it is meant for: growing food and protecting our future food security. I would be interested to hear the cabinet secretary's thoughts on that.

I will be supporting my colleague Rachael Hamilton's excellent amendments 289, on rural crime, and 290, on energy infrastructure, both of which consider the impact of those significant factors on food-producing land. Rachael has compellingly campaigned against the rise in rural crime and its terrible impact on communities across Scotland, and I am very happy to support her campaign and her two amendments.

I move amendment 324.

Rachael Hamilton: I thank Tim Eagle for his support for both of my amendments in this group. Clearly, his amendment 324 is very similar in intention in that it seeks to protect prime agricultural land. If I were a member of the committee, I would support it, too.

Amendment 289 would require the Scottish ministers to review the impacts of rural crime on food production and the natural environment. Estimates from NFU Mutual show that rural crime has cost nearly £5 million since 2022. Rural crime not only has a financial impact; the theft of vehicles, machinery and tools has an impact on land management and food production. I have campaigned to introduce a rural theft bill in Scotland, but the Scottish Government recently admitted to missing a legislative consent motion that would have provided Scottish farmers and rural businesses with the same protections given to those in the rest of the United Kingdom. My amendment 289 aims to highlight the impact of rural crime on agricultural businesses, productivity and environmental management. It also seeks to improve our understanding of Scotland's food security.

Amendment 290 would require the Scottish ministers to review the impact of renewables and energy infrastructure on food production and the natural environment. Energy infrastructure such as battery energy storage systems, onshore and offshore wind turbines, solar developments and data centres has a significant impact on Scotland's ability to produce food and ensure the nation's food security.

In the Borders, local residents and communities regularly raise concerns about developments on prime agricultural land. For example, residents living in Birgham, Eccles and Leitholm are feeling overwhelmed by the number of battery energy storage system applications. Since 2022, four developments have been approved, one is the subject of a public inquiry, and another is going through the planning process. That does not include the numerous ghost applications. Such a concentration of large-scale projects not only burdens one community and risks impacts on house prices but compromises the high-quality agricultural land in the area.

Douglas Ross: Amendment 336 was lodged after the committee's previous deliberations did not conclude. It is an opportunity for the committee, and, I hope—if it is agreed to—the Parliament, to look in detail at what happened with the future farming investment scheme.

At the outset, I want to say that it was very welcome that a large quantum of money was allocated by the Scottish Government and that a scheme was developed to get that money to farmers. I had hoped to be able to say that it had gone to priority groups in particular, but it is clear that that has not happened. It is almost unique to have such widespread support for a scheme but so much disappointment and cross-party concern. The Labour MP for the Western Isles, Torcuil Crichton, has spoken about this a great deal in the media and in the House of Commons, and Liam McArthur has raised concerns about the issue in the islands. From the Conservatives, I, Jamie Halcro Johnston and others have raised it, and, if I remember correctly, Ariane Burgess also raised concerns when there was a topical question on the scheme in the chamber.

The scheme attracted more than 7,500 applications, but almost half of them were not rejected but deemed ineligible. I raised the matter

with the minister in the chamber. I cannot fathom why Government ministers are not trying to get to the bottom of that and why they seemingly just want the issue to go away, because it is clear that there has been a major issue. Yes, people will be disappointed and will think that they deserved the award more than others—that is the nature of such schemes—but the problem is that no one knows why they received an award, why they did not receive an award, or, crucially, why they were deemed to be ineligible. I am very keen to hear the cabinet secretary's understanding of the matter. She might share that when she is winding up, but I would be happy to give way.

Is the cabinet secretary aware of how much time the Government spent considering the applications? There were 7,500 applications to go through. Does the cabinet secretary know how much time was spent on each application, given their importance? I will not put her on the spot.

I ask because we have had a response to a freedom of information request that shows the number of officials who were working on this and the period for which they were working on it. The outcome of that is that it was six minutes per application—six minutes for what were sometimes quite detailed and complex applications, for a fund of more than £20 million. All the applications were very important to the individuals who submitted them. I wonder how any group of officials can work at that rate. I am being generous in saying that it was six minutes per application. That would mean officials going from one to another to another, with very little time to stop, pause for breath, eat or have comfort breaks.

18:30

Does the cabinet secretary think that that is likely to reassure farmers who are annoyed that they were not successful or were deemed ineligible? Does she accept that it will reinforce the concerns that many people have that computer systems, if not artificial intelligence, were used to determine many of the applications? I cannot think of another reason why so many were automatically thrown out or discharged for being ineligible, rather than for not meeting the criteria.

There were very clear criteria for the priority groups, but many of the individuals who were unsuccessful were in the priority groups. One of the priority groups was tenant farmers. Today, I received an email from a constituent in Moray who is a tenant farmer and who applied for a borehole but was unsuccessful. His friend who owns his farm also applied for a borehole and was successful. Without further information, I just do not understand how that calculation was made. I do not understand how someone in a priority group, with a project that is clearly supported by the Government—given that someone else benefited—was not successful, yet others were.

I would be interested to hear the cabinet secretary's views on the scheme and how it was run. On 30 October, her official said:

"Ms Gougeon has noted and appreciates the update. She would like to pass on her thanks and appreciation to you and the team for the design and delivery of this scheme which has been received so well by industry."

I genuinely want to know whether the cabinet secretary stands by those words. Has she looked at the media coverage of the issue, be it in *The Press and Journal*, *The Scottish Farmer* or other farming news, which is extremely critical. The Scottish Crofting Federation has said that the rejection rates for ineligibility were as high as 94 per cent in some areas. NFU Scotland, which was involved in designing the scheme, has said:

"Initial feedback from our members has focused around perceived inconsistencies".

That does not marry up with the cabinet secretary telling officials that

"the design and delivery of the scheme ... has been received so well by the industry."

I am sorry, but it has not. That is why we are here today, seeking amendments to the bill to get answers.

I know that some people might think that it is not appropriate to use the bill for one scheme. I understand from a letter that I received on Monday from Jim Fairlie that it is not the intention to have further rounds of the scheme, but the Government must learn from mistakes, and there have been mistakes.

I want to quickly read out an email that I received from a constituent in the Highlands and Islands who is an agent and who has been working on many of the applications. She said:

"The biggest red flag and huge concern to the industry is the 3,537 applications that did not meet the eligibility criteria—we need more information on this, and we need it whilst the civil servants who have dealt with this scheme are still in their current jobs."

She went on:

"I simply do not believe that 47% of applications were ineligible—I do not believe this possible, I do on the other hand believe that the people (or possibly AI—although this has been point blank denied in parliament) doing the scoring did not have the correct training or information available to them to make these assessments. We need a break down of why each ineligible application was ineligible—and if the government refuse to provide this then that raises greater concerns on transparency and the accuracy of the assessment system."

I could not put it better myself, and my amendment 336 would simply do what that agent is calling for. It simply asks the Government to carry out a review of how the scheme operated

and to inform people why they were unsuccessful or ineligible. Although the scheme might not be repeated in the future, other schemes will be. If people fell foul of ineligibility in that scheme, there is no guarantee that they will not face the same consequences in future schemes, so they need to know what they need to change and improve to be successful for future funding. That is why it is really important that the committee supports amendment 336, in my name.

Jamie Halcro Johnston (Highlands and Islands) (Con): I remind members of my entry in the register of members' interests: I am a partner in a farming business. For full transparency, I point out that I am a partner in a business that made an unsuccessful application to the future farming investment scheme—which is fine—and I am a member of NFU Scotland, Scottish Land & Estates and the Royal Highland and Agricultural Society of Scotland.

Amendment 337 would place a duty on ministers to report to the Parliament on the operation of environmental farming schemes, including the future farming investment scheme and any similar farming scheme with an environmental focus that the Scottish Government considers to be relevant. The amendment aims to ensure transparency and fairness in the operation of programmes that Douglas Ross and others have spoken about and that play an important part in the Scottish Government's work on improving the natural environment. More specifically, it would bring to an end the situation that arose earlier this year when ministers failed to provide the answers that the Parliament and the agriculture sector needed on the operation of the future farming investment scheme and how applications were decided.

The scheme followed a consultation with stakeholders that even the cabinet secretary appears to have had concerns about and a rushed launch that we now know was more about ensuring that ministers had something to announce at the Royal Highland Show. It left the sector confused and uncertain about the criteria for applications, which led to 3,500 applications being deemed ineligible from the outset.

Under amendment 337, ministers would have to report on the basis of awards under relevant schemes, the criteria for such awards and the performance of applicants against those criteria. They would have to provide basic figures on applications and some level of data on the characteristics of applicants.

Douglas Ross's amendment 336 is similar but includes two additional requirements: that relevant stakeholders must be consulted and that, following publication of the report, information must be provided to unsuccessful applicants, including an explanation of why their application was rejected or found to be ineligible. I am sure that many of us who represent agricultural communities will have seen from their inboxes the anger and frustration of farmers and crofters who spent so much time putting in applications only to be told in an email that they had been unsuccessful. They did not know whether they were eligible or why they failed. Given that people in priority groups also failed to make successful applications while others did not, it is vitally important that clarity is provided.

Both amendments would address the fundamental problem with transparency in the future farming investment scheme that was exposed earlier this year. We all want the Parliament to be able to exercise its role in scrutinising the operation of the scheme and the work of the Government, but amendments 336 and 337 would also provide ministers with an opportunity to say to farmers, crofters and other interested parties across the agricultural sector, "We got it wrong, but we're going to get it right next time," and to make a fresh start, with a clear and binding commitment to openness and fairness.

Farmers and crofters want and need this information, and I urge members to back my amendment 337, Douglas Ross's amendment 336 and the amendments in the name of Tim Eagle and Rachael Hamilton.

Mairi Gougeon: On Tim Eagle's amendment 324, the Scottish ministers have been clear that there is no contradiction between producing food and doing it in a way that works for the climate and nature. There are many examples of that, including organic farming and silvoarable agroforestry. Amendment 324 would put those areas in conflict. It also fails to recognise the importance of non-prime agricultural land—including our grasslands, which are the source of our dairy and livestock production—to Scottish agricultural output.

Given the devastating impact that climate change will have on prime agricultural land, not just in Scotland but around the world, we need to ensure that we continue to maintain our productive capacity in Scotland, while also ensuring that we meet our climate obligations. The biodiversity crisis also requires action on all landscape types so that Scotland can maintain the functioning ecosystems that our food production relies on. Amendment 324 would prevent that, and it is for that reason that I encourage members not to support it.

On Rachael Hamilton's amendment 289, I appreciate her enduring interest in the important topic of rural crime, not least the theft of machinery and equipment from rural businesses. I am aware

that Rachael Hamilton has been having discussions with my ministerial colleague Siobhian Brown, who has stated that the Scottish Government would be happy to work with her on a legislative solution to replicate the key points in the UK Government's Equipment Theft (Prevention) Act 2023, although we recognise that that would need to be done after the election. I reiterate that commitment to the committee. Given that the UK Government is still to implement the 2023 act, before we introduce legislation, it seems prudent to wait to see whether we can learn any lessons from that implementation and whether we can gain anything by considering the UK Government's early experience with enforcement.

Clearly, the theft of equipment will affect the ability of a rural business to carry out its core tasks, such as food production, but a statutory review such as the one that is proposed in amendment 289 could be revisited in the future, as we consider the next steps in preventing the theft of equipment, which I recognise has a hugely detrimental impact on our rural communities. For those reasons, I ask Rachael Hamilton not to move amendment 289.

The issue that is covered by amendment 290 is a matter of interest in my constituency, so I want to make it clear that I appear before the committee today in my capacity as a Scottish Government minister. The position that I am representing reflects the Scottish Government's collective view and concerns a matter of law and policy for which I have ministerial responsibility. Separately, and in line with the Scottish ministerial code, I have made my views and those of my constituents known to the responsible minister in the most appropriate way. The issue that is under discussion today is distinct from that constituency interest, and my contributions should therefore be understood as reflecting the Government's position, not a personal or constituency-specific stance.

Ultimately, the key point about amendment 290 is that it would cut across work that is already under way, and it is important that I highlight that work. Collectively, the UK, Scottish and Welsh Governments have commissioned the National Energy System Operator to produce a strategic spatial energy plan, which will set out a long-term view on the optimal type and location for energy generation and transmission across Great Britain on a zonal basis. Throughout its development, the plan will integrate environmental considerations, including by considering other uses for land, such as food production. The plan will be accompanied by a strategic environmental assessment, which will consider the likely significant environmental effects of the plan, and by a habitats regulation assessment.

That is not the only on-going work in this area. It is also important to highlight the on-going work to develop a new land use strategy, the consultation on which closed recently, in October. The upcoming strategy will set out our approach and intentions regarding land use integration, including in relation to renewable energy, how we understand and articulate current land use and how we should consider future land-based priorities.

For the reasons that I have set out, although I am sympathetic to the issues that Rachael Hamilton has raised, I cannot support amendment 290.

Rachael Hamilton: It is all very well talking about strategic reviews and all the other work that will be done in relation to the land use strategy, but we are in a storm at the moment. A lot of MSPs have lodged amendments to try to reflect the importance of land use through the lens of the natural environment. As the convener said, the bill is called the Natural Environment (Scotland) Bill, so we have lodged amendments on issues that are affecting the natural environment. I do not buy the idea that the Government will produce strategies that will have an impact in protecting food-producing land or land of significance within the expected timeframe.

This week, NESO has made its views known on major pylon infrastructure. Battery storage facilities, solar farms and wind farms are all ready to be connected, and there has been a proliferation of speculative planning applications. That is all going on at the moment. There does not seem to be any structure to the energy strategy with regard to protecting land for food production.

Mairi Gougeon: I recognise the concerns that you have highlighted, which is why the on-going work that I mentioned is so important.

My other concern with amendment 290 is that it is quite narrow in how it is structured. It considers only a narrow range of areas, but we need to look at the broader picture. The two plans and strategies that I have talked about consider that broader picture, which is why I think that that should be the key area of focus.

18:45

Finally, on amendment 336, in the name of Douglas Ross, and amendment 337, in the name of Jamie Halcro Johnston, I agree with them that having detailed monitoring, evaluation and reporting of public investment in our farmers and crofters really matters. I am sure that some of the members around the table this evening will recall some of the considerable consultation that we had with rural partners, as well as the discussions and debate on the 2024 act, on ensuring that

monitoring, evaluation and reporting duties with regard to any and all agricultural support were appropriate, and the fact that those reporting duties were supported during the passage of that legislation.

The amendments, as they are at the moment, would only duplicate and confuse the already agreed method for reporting on the impact of spend. The monitoring and evaluation methods that we have set out in the 2024 act also provide us with more transparent and useful information than what these amendments would seek. I think that there is a point—

Douglas Ross: Will the cabinet secretary give way?

Mairi Gougeon: Yes—I am happy to do so.

Douglas Ross: Amendment 336 would also require the Government to provide information to those who are ineligible. They do not know why they are ineligible, and they are sat at home just now wondering why that is. We are talking about 50 per cent of applicants. Does the cabinet secretary understand, not just as cabinet secretary but as someone who represents a rural constituency, how frustrating it is for farmers, crofters and others not to know why they have been dismissed by this Government? They deserve to know.

Mairi Gougeon: I appreciate those points. As I have said, what we have set out in the 2024 act, I believe, offers more transparency.

Douglas Ross: I am sorry, but would you give way again?

Mairi Gougeon: I am sorry, but no, because I am going to address your substantive point. I am just highlighting the provisions that we already have, which, as I have said, are more transparent. They provide us with a lot more meaningful information than what is specifically requested by the amendments. An important point that I would also like to make to the committee—

The Convener: Can you take an intervention from Rhoda Grant?

Mairi Gougeon: I am sorry, but I want to finish my point, because I think that it would address Douglas Ross's point, too.

We are going to publish a paper on the future farming investment scheme, which should address some of the concerns that have been raised by Douglas Ross and other members and help with an understanding of the overall assessment process. For those reasons, I ask the committee not to support the amendments.

Rhoda Grant: Thank you, cabinet secretary, for letting me in. There is a huge amount of concern about this, and there have been statements and questions on it, but we do not seem to have any better information, and I think that there is a lack of confidence that the information will come out. When does the cabinet secretary plan to publish the paper that she referred to? I am minded to support these amendments, because I am not confident that we will get the answers. Is there any way back from this to ensure that, if what is in the paper is not good enough, people can still get the information that they need? We have to ensure that this does not happen again, but we also have to ensure that those affected, some of whom have spent money on applications, get the answers that they deserve.

Mairi Gougeon: Again, I appreciate that. That is why I have mentioned the paper that will be published, which I think will assist with an understanding of the assessment process. The intention is that it will be published certainly before we finish for recess.

Douglas Ross: Will the cabinet secretary give way?

Mairi Gougeon: I have finished making my points.

Douglas Ross: But it is just on that point.

Mairi Gougeon: I will give way.

Douglas Ross: I am grateful to the cabinet secretary.

It is important that we get that paper before the Christmas recess, which means that it will be next week. However, I do not think that it will go to the heart of what Rhoda Grant was asking for, as my amendment does. If I am wrong, I will be very happy to accept that, but will the paper provide individual reasons for individuals who were deemed ineligible? That is what we are looking for. A 100-page statement might satisfy the Government, but it will not satisfy crofters and farmers if it does not give them the reasons for their being deemed ineligible, to ensure that they can correct that in the future. Will it go into the sort of individual detail that is needed and which will be available through these amendments?

Mairi Gougeon: First of all, I can tell you generally what that paper will set out, and I think that it will help with that understanding. However, if individuals have any queries about their own specific applications, I encourage them to go to their RPID office and try to garner that information.

Jamie Halcro Johnston: Will you take an intervention?

Mairi Gougeon: I am sorry, but I am finished.

The Convener: I cannot ask the cabinet secretary to take an intervention if she is not taking it, so we will move on. I call Tim Eagle to

wind up and indicate whether he wishes to press or withdraw amendment 324.

Tim Eagle: There is a lot to unpack in the discussion that we have just had. I liked what Rachael Hamilton said about the importance of looking at land use through the lens of the bill. That is a critical point. Although I accept the cabinet secretary's point that food production and looking after and preserving the environment can go together, there is great concern among our rural communities across Scotland. In Huntly, a farm was bought and put into trees and more areas are being put into rewilding, biodiversity and renewable energy. All that is taking land away from food production. What we are trying to get on the record is the importance of food production to any country, including Scotland, and of making sure that we think about protecting that moving forward, so I will press amendment 324.

Rachael Hamilton makes an important point about rural crime; it is on the rise and we need to deal with it. A lot of good work is being done, particularly by Rachael Hamilton, so I fully support amendment 289.

I failed earlier to mention Douglas Ross's and Jamie Halcro Johnston's amendments, which came in in the past week. Rhoda Grant summed it up: I am not confident that we are going to get the answers that we want. We can vote for the amendments today, because they give the Government a clear indication that we all believe that we need that information.

Jamie Halcro Johnston: As one of the few people who has filled out one of the applications, if I was to fill it out again, I would still be doing it blind, essentially. I would not know the criteria for what I was doing. Advice to go to the RPID office is one thing, but it would not provide the information that we need about why our application was rejected. That is why it is so important that those who apply and are not successful get the information that they need so that any future applications can be made properly the next time around. At the moment, we are having to apply to these schemes blind, and that is why it is important that amendments 336 and 337 are supported.

Tim Eagle: I agree with you, and you have reminded me that I should declare my interests as a small farmer and as someone who applied to the FFIS and did not succeed, which is, as Jamie Halcro Johnston said, fine.

I go back to the point that I was making. The committee can safely vote for amendment 324 today. The cabinet secretary has agreed to release some information, but we need the clear information that Douglas Ross spoke about. If the information is provided, by the time we get to stage 3, we might be able to take Douglas Ross's amendment 336 out.

Jamie Halcro Johnston makes an important point. I was an agricultural consultant and, if we go back in history, during the rural stewardship scheme and the countryside premium scheme, there were often times when the money was entirely used during the first year and, in subsequent rounds, the number that had to be reached was very high and we were never really very clear about what got in and what did not. A good review of that every year would help all agricultural consultants across Scotland to make sure that they are doing their best work for what the Government is trying to achieve as well as for farmers on the ground.

I ask the committee to give serious consideration to amendments 336 and 337. They are good amendments, and rural communities across Scotland desperately need the information. I press amendment 324.

The Convener: The question is, that amendment 324 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 324 disagreed to.

Amendment 325 moved—[Tim Eagle].

The Convener: The question is, that amendment 325 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 325 disagreed to.

Amendment 326 moved—[Tim Eagle].

The Convener: The question is, that amendment 326 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 326 disagreed to.

Amendments 327 and 269 to 271 not moved.

The Convener: Amendment 273, in the name of Emma Harper, is grouped with amendments 272 and 274 to 283.

Emma Harper: All the amendments in this group are in my name. I thank Dr Alan Wells from Fisheries Management Scotland for assisting me with them.

As the committee is aware, wild Atlantic salmon are at crisis point across their native range and are now considered to be an endangered species. Amendment 273 would ensure that offences resulting in the killing of salmon and sea trout carried penalties reflecting the species' conservation importance. I have two alternative approaches. One would cover all the proposed changes in a single amendment, which is amendment 273. In the other, I have lodged separate amendments that relate to individual offences in the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003. Those are amendments 272 and 274 to 283. If amendment 273 is agreed to, there will be no need to consider the others.

Fish poaching has one of the highest conviction rates of all wildlife crimes—the rate was 81 per cent in 2023—but the average penalty recorded is only £349. Amendment 273 would increase penalties for fish poaching offences either to the statutory maximum, which is currently £10,000, or, for the most damaging activities, to a maximum fine of £40,000, which is in line with penalties for other wildlife crimes. The amendment would not introduce any new offences and is focused on activities that result in the killing of salmon. It would also allow fines to be imposed on a per-fish basis, which would ensure that penalties were commensurate with the harm caused and might help to deter future offending.

Section 1 of the 2003 act makes it a criminal offence for any person to fish for or take salmon in any inland waters, except by prescribed legal means. Illegal methods of fishing include indiscriminate and highly damaging methods such as gill nets, which are walls of netting that catch fish by their gills, spearing or setting unlicensed traps.

All the amendments would modify offences related to fishing in the 2003 act. Amendment 274 would amend section 2 of the 2003 act, which makes it a criminal offence for any person to fish for or take freshwater fish other than salmon in any inland waters except by prescribed legal means.

Amendment 275 relates to the criminal offence committed by any person who

"uses any explosive substance with intent to take or destroy fish in any waters ... puts any poison or other noxious substance in or near any such waters with intent to take or destroy fish ... or uses any electrical device with intent to stun or destroy salmon or freshwater fish in any such waters".

All those methods of killing fish are indiscriminate and extremely damaging to the environment if used in the context of fish poaching.

Amendment 276 relates to the criminal offence committed by any person who

"without legal right or written permission ... fishes for or takes salmon in any waters."

The amendment would not change the current level of fine for fishing without permission unless the act of fishing without permission resulted in wild salmon being taken.

Amendment 277 relates to the situation where two or more persons acting together carry out any act that would constitute a criminal offence under sections 1, 2 or 6 of the 2003 act. The provision recognises that, where poachers operate as a team, often with a strong commercial drive and sometimes associated with serious and organised crime, the damage that is caused can be significantly greater.

Amendment 278 relates to the criminal offence committed by any person who carries out any act for the purpose of preventing salmon from passing through a fish pass or taking any salmon in its passage through that fish pass.

The provision recognises that any pinch points in the migration of salmon are particularly vulnerable to illegal activity and/or predation, and

therefore require specific protection in such circumstances. It also recognises the vital importance of ensuring free passage of migratory fish, so that they can access their spawning grounds unimpeded.

19:00

Amendment 279 seeks to update section 19 of the 2003 act, which makes it a criminal offence for any person to buy, sell, expose for sale or be in possession of any salmon roe. Scotland's conservation gradings are based on ensuring that enough salmon survive to spawn, with the calculations based on egg deposit rates in each river. Any activity that illegally removes eggs from the river will have a direct impact on that river meeting its conservation limit.

Amendment 281 relates to the criminal offence of being in possession of salmon that have been illegally taken, killed or landed. That offence is important, as it does not have to relate to the person who caught and killed the fish. Instead, it is a means of placing criminal liability on persons or organisations that receive such fish, including for commercial purposes.

Amendment 282 is designed to protect juvenile salmon and their freshwater habitats. The original provision relates to poaching, and makes it a criminal offence to take, injure or destroy, or to buy, sell or expose for sale or be in possession of juvenile salmon. It also sets out important protections relating to access to salmon habitat and makes it an offence to place any device or engine for the purpose of obstructing the passage of juvenile salmon; to injure or disturb any salmon spawn; or to disturb any spawning bed or any bank or shallow on which the spawn of salmon may be present. Protecting those important habitats is vital for the protection and restoration of wild salmon populations.

Amendment 283 relates to the criminal offence of intentionally introducing any live fish or live spawn of any fish into inland waters, or being in possession of any live fish or live spawn of any fish with the intention of introducing it into inland waters. Introduction of any fish into Scotland's rivers should be carefully considered and undertaken only with appropriate authorisation. This important provision would prevent the introduction of non-native species of fish, which have been introduced in the past for angling.

There are also a minority of anglers who use live fish as bait, and such fish are often discarded into the river. They include non-native fish such as minnows, which have a negative impact on native species, including Atlantic salmon.

Finally—you will be pleased to hear, convener—amendment 280 relates to section 38 of the 2003 act, which allows Scottish ministers to make salmon conservation regulations if they consider it necessary or expedient to do so for the conservation of salmon. Currently, it is a criminal offence if any person acts in contravention of, or fails to take any action required of them or to comply with any requirement imposed on them by, regulations made under section 38. Conservation regulations, where used, are an important regulatory measure for the conservation of salmon, and compliance with their requirements is therefore vital.

I know that I have set out a lot of detail in describing the amendments, but I am happy to hear directly from the cabinet secretary on them. I hope that their drafting is acceptable—I know that there are a lot of them, but I am willing to work with the cabinet secretary on them, if necessary.

I move amendment 273.

The Convener: Thank you. Do any other members wish to comment?

Tim Eagle: I have just a quick comment. Despite my fear of Ross Greer looking at me if I do not back his amendments, I have to say that I am actually quite minded to support these amendments. They are very similar to what Ross Greer put forward earlier.

Salmon is an iconic species across Scotland, and some great work is going on in our rivers at the moment. For example, the Dee District Salmon Fishery Board was in the news recently with some work up on the River Dee, and there is also Bob Kindness's work on the River Carron. As I have said, I am minded to support these amendments.

The Convener: I call the cabinet secretary to respond.

Mairi Gougeon: First, I want to say right from the start that I completely understand and support the motivation behind all of Emma Harper's amendments in seeking to increase the financial penalties for the most serious offences against salmon, in order to bring particular offences into line with other wildlife crime and to enable certain financial penalties to be issued on a per-fish basis.

However, as drafted, the amendments apply only to the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003, when there is actually a range of legislation on salmon poaching offences covering the River Tweed, the River Esk and, indeed, the rest of Scotland.

Given that the amendments do not extend to cover the equivalent offences that are set out in other regulations, agreeing to the amendments would mean that there would be significant disparity in penalties for offences in relation to salmon across the different rivers in Scotland.

I absolutely agree with Emma Harper's intention, so, if she is willing to not press amendment 273 and to not move her other amendments in the group, we can work together ahead of stage 3.

Emma Harper: Are you saying that, because my amendments do not cover rivers such as the Tweed, we would need to work with Westminster if we wanted to alter legislation to bring the provisions for the River Tweed into line with my amendments?

Mairi Gougeon: The issue is more that there would be disparity in the offences, because the amendments apply to only one specific piece of legislation. We need to consider other river systems, to which a broader range of legislation applies. I want to ensure that we have the same offences and penalties across the river systems in Scotland, so I would be looking to work with Emma Harper to address that issue.

Tim Eagle: I might have missed what you said earlier. Do you think that it is possible to do that before stage 3?

Mairi Gougeon: Yes, I think that we can work on the amendments to get them workable. I want to be clear that I recognise the severity of the situation relating to salmon in Scotland. Through our strategy and implementation plan, the Government has undertaken a number of pieces of work to address the number of pressures that are impacting our salmon populations.

Emma Harper's amendments are important, because we need to have effective penalties in place. That is why I am keen to ensure that the amendments are workable at stage 3. I want to make that clear to committee members so that there is no doubt about it. If Emma Harper is happy not to press or move her amendments, I will work with her to ensure that we get amendments that are workable.

Mark Ruskell: Will the cabinet secretary take an intervention?

Mairi Gougeon: I have finished, but I will take the intervention.

Mark Ruskell: I appreciate your giving way. I think that there is quite a link between the amendments in this group and what Ross Greer was attempting to do in an earlier group. Emma Harper has made a strong case for reforming the penalties and offences relating to salmon poaching. We see poaching in our MPAs, particularly off the Arran coast, and the purpose of Ross Greer's amendments in an earlier group was to address that, but there was no commitment to work with him ahead of stage 3. Is that because the Government does not consider the issues that Ross Greer raised to be of concern, or is it because the issues are too hard or involve a different minister? I do not know, but I would like there to be progress in tackling such offences, which are serious regardless of whether they relate to our rivers or our seas.

Mairi Gougeon: I completely agree. Ultimately, as I hope I was able to outline earlier, I agree with what Ross Greer is trying to achieve. The only point that I was making was that his amendments were piecemeal and that it is important that we consider the issue as a whole. When looking at these two sets of amendments, it is easy to think that we are comparing like with like, but we are most definitely not—we are talking about very different situations. I believe that, ahead of stage 3, we can work on the specific amendments in this group.

We have already committed to doing a piece of work on penalties. Given the points that were made earlier, I appreciate that some people believe that that work is not being done quickly enough, which is why I committed to work with Maurice Golden on his amendment to ensure that we get a workable timescale.

The Convener: Will the cabinet secretary give way?

Mairi Gougeon: Yes.

The Convener: I appreciate that, because I know that you have finished your comments.

The amendments would allow some penalties to apply in some places in Scotland, but they would not be universal. It is disappointing that the amendments have missed some critical issues. Emma Harper worked with a third party on her amendments, and it is disappointing that those issues were not recognised before we got to this stage. Will the Government commit to lodging amendments in time for stage 3 to ensure that there will be proper coverage of salmon rivers across the whole of Scotland, with enforceable increased penalties?

Mairi Gougeon: I believe that I have already made that commitment to members tonight. I want to ensure that the amendments are workable and that we do not have disparity, which is why I am keen to work with Emma Harper on them.

The Convener: I appreciate that.

I call Emma Harper to wind up the debate and to press or withdraw amendment 273.

Emma Harper: In the interests of time, I will not say anything other than that it has been recognised that there are differences with the River Tweed.

I am content to work with the cabinet secretary ahead of stage 3, because Fisheries Management Scotland is keen to ensure that the drafting is

correct. I am happy to withdraw amendment 273, to not move the other amendments in the group and to work with the cabinet secretary.

Rachael Hamilton: Will the member take an intervention?

Emma Harper: I have concluded.

Rachael Hamilton: It is quite short.

The Tweed has been mentioned a number of times. Now that the cabinet secretary has raised the issue, I am concerned that it seems that only one group of people would be consulted and worked with. Could you expand on that? Would they be people who are relevant to the Tweed?

Emma Harper: Yes, absolutely. In my engagement with Fisheries Management Scotland, I have heard feedback that it has engaged with the Tweed Forum folks. The people involved in the rivers that we are managing in the south-west of Scotland and in the south, including the River Tweed, are all very much engaged with one another. Everybody is quite good at working together, as they are all professional.

I will conclude there.

Amendment 273, by agreement, withdrawn.

Amendments 272 and 274 to 283 not moved.

Amendment 284 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 284 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 284 disagreed to.

Amendment 285 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 285 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 285 disagreed to.

Amendment 286 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 286 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 286 disagreed to.

19:15

Amendment 287 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 287 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 287 disagreed to.

Amendment 288 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 288 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 288 disagreed to.

Amendment 289 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 289 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 289 disagreed to.

Amendment 290 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 290 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 290 disagreed to.

Amendment 291 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 291 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 291 disagreed to.

Amendment 292 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 292 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 292 disagreed to.

Amendment 293 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 293 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 293 disagreed to.

Amendment 294 moved—[Ross Greer].

The Convener: The question is, that amendment 294 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)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Abstentions

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

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

Amendment 294 disagreed to.

Amendment 295 moved—[Ross Greer].

The Convener: The question is, that amendment 295 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)
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)

Abstentions

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

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

Amendment 295 disagreed to.

Amendment 296 moved—[Ross Greer].

The Convener: The question is, that amendment 296 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)
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)

Abstentions

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

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

Amendment 296 disagreed to.

Amendment 297 moved—[Ross Greer].

The Convener: The question is, that amendment 297 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)
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)

Abstentions

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

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

Amendment 297 disagreed to.

Amendment 298 moved—[Ross Greer].

The Convener: The question is, that amendment 298 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)
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)

Abstentions

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

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

Amendment 298 disagreed to.

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

19:21

Meeting suspended.

19:24

On resuming—

The Convener: Amendment 299, in the name of Ross Greer, is grouped with amendments 300 and 307.

Ross Greer: I will be relatively brief, and certainly briefer than I was in the previous grouping on marine enforcement.

We have already discussed some of the issues with fine and penalty rates being set in primary legislation and, as the years go on, their relative value being eroded. I therefore propose taking a similar approach to the maximum fine rate that is set for significant environmental harm offences in the Regulatory Reform (Scotland) Act 2014. There are two options: amendment 299 could be agreed to now, while I consider amendment 300 to be a probing amendment. I am interested in the Government's position on amendment 300 and, if the Government was amenable to it, I would certainly go beyond probing to move the amendment.

Amendment 299 would increase the maximum fine from £40,000 to £100,000, in recognition of the fact that the £40,000 figure is now more than a decade out of date. As it says plainly, amendment 300 would replicate the penalties that were set out in a recent European Union directive that sets the maximum levels for fines as a percentage of the total worldwide turnover of the legal person concerned. That would make sure that the fine is proportionate. If, therefore, an individual or a small business commits serious environmental harm, they will still receive a financial penalty, but it will be proportionate to their ability to pay it. If, however, a large multinational corporation was to commit a serious environmental offence in Scotland, it is only right that any financial penalty that it might face should be far higher and proportionate to its ability to pay.

I lodged the amendments partly because of a Scottish Environment Protection Agency investigation in my region. I will not talk about it in detail as it is on-going, but, as a result of it, I began to look at what the penalties could be. I came across this area as another example in which fines, penalty rates and so on that are set out in primary legislation have simply eroded in value and there does not appear to have been any effort or on-going process to update them.

As I said, amendment 299 could be agreed to now, while I lodged amendment 300 because I am keen to hear the Government's view, particularly given its welcome general position of attempting to maintain alignment with EU regulations.

I move amendment 299.

Douglas Lumsden (North East Scotland) (Con): I lodged amendment 307 because we have a real David-versus-Goliath situation in our communities. The likes of Scottish and Southern Electricity Networks, hydrogen production companies, wind farm developers, Moray FLOW-Park and so on are all multimillion pound companies with deep pockets, and they are bankrolling renewable developments while community groups have to go up against them using their own money, donations, crowdfunding or whatever they can find to protect their communities from what they feel is environmental harm. There is a tremendous impact on those communities, and they do not have much recourse to address the injustice.

Amendment 307 would therefore instruct the Scottish ministers to establish a scheme to ensure that community voices are represented and heard. It would send a strong message to communities across Scotland that we stand with them and we stand for fairness. There is an issue with the current situation and, although amendment 307 might not be perfect, I am trying to open up a conversation about whether there is a better way of doing things so that communities can stand up against some of the big developments.

Tim Eagle: I support amendment 307. This is not an unusual practice: it is common in chartered surveyor territory, when an application goes in from a crofter, a landowner or someone like that, for the applicant to pay for the instruction of a rural surveyor and their legal advice—I should declare an interest in that regard. The best example that I can think of is when the rules came in about mobile telephone masts. When providers were given access to land and could put telephone masts wherever they wanted, they had to pay for a rural surveyor to advise the landowner on the compensation that should be available.

I support the amendment because communities across Scotland are, to some extent, being left

abandoned when it comes to renewable energy. Why not have a scheme in place or require the developer to pay fair compensation, so that those communities can access professional support? I commend amendment 307.

19:30

Gillian Martin: I absolutely understand and sympathise with the intent of amendment 299. It is imperative that we see justice in relation to environmental harms, but I will set out why the amendment is unnecessary and some of the ways in which sufficient fines are already associated with tackling environmental harms.

The offence of causing significant environmental harm is an either-way offence, meaning that it can be tried by summary conviction or on an indictment. The maximum possible fine for a summary conviction is already set at quite a high level—£40,000—which is, in my view, sufficient. However, if the offence is significant environmental harm and it is tried on indictment, the maximum fine that is available is unlimited. That is appropriate for the serious offences of the nature that Ross Greer alluded to.

The current level of fines that is available to the courts is sufficient for such offences. On that basis, notwithstanding my sympathy for what he outlined, I ask Mr Greer not to press amendment 299.

Ross Greer: I appreciate the cabinet secretary's line of argument, but it does beg the question, because £40,000 is not the same in 2025 as it was in 2014. Is the Scottish Government's position that it is content that the relative maximum penalty is weaker than it was in 2014? Surely the Scottish Government would acknowledge that there was a reason why the level was set at £40,000 in 2014 and that, albeit it would not be £100,000 in today's money, some level of uprating is needed to reflect inflation since then.

Gillian Martin: I guess that proceeding an indictment is the available option if a higher fine is what would be sufficient for the crime that has been committed. That is why I have set out our position in the way that I have. I absolutely recognise and sympathise with the fact that, as you mentioned in relation to previous amendments, people have gone to court and had to pay a lesser fine. In this case, however, the option of an indictment, which can lead to an unlimited fine, is available as well. I understand why you lodged amendment 299, but I hope that I have been able to set out that the level is not limited to £40,000, because an unlimited fine is possible.

Amendment 300, which is also in the name of Ross Greer, would introduce a requirement on the Scottish ministers to amend section 40 of the Regulatory Reform (Scotland) Act 2014 to

"replicate the penalties in EU Directive 2024/1203"

and set

"maximum levels of fines as a percentage of the total worldwide turnover".

There are a couple of issues with the amendment. First, I am concerned that it is not entirely clear what is meant by "replicate the penalties". To see why that is the case, we need to consider the nature of the EU environmental crime directive, which places requirements on member states to introduce criminal sanctions for causing environmental harm of different scales for a wide range of activities.

In our transposition of the earlier environmental crime directive, which was conducted while we were still in the EU through sectoral environmental regulation of different activities, the section 40 offence was not included. The new directive introduced a requirement for higher levels of sanction for qualified offences for certain activities where environmental damage is particularly severe and long lasting. That is described in the preamble to the directive as "damage equivalent to ecocide". There is no offence in the directive that is directly comparable to section 40 of the 2014 act.

Members will be aware that the Net Zero, Energy and Transport Committee is considering Monica Lennon's Ecocide (Scotland) Bill at stage 1, and I have put on record my support for its general principles. That bill seeks to establish a new offence of ecocide with higher penalties—I believe that the proposition is to have unlimited penalties—that would apply to events that are more serious in nature than those covered by the section 40 offence. As such, amendment 300 would create uncertainty and confusion as the Ecocide (Scotland) Bill progresses.

I am on record as saying that, before I agreed to support the Ecocide (Scotland) Bill, I offered the option of an amendment to the Regulatory Reform (Scotland) Act 2014, but Monica Lennon has pressed forward and has given Parliament the opportunity to vote for the Ecocide (Scotland) Bill, albeit that there are issues with it and it needs to be tidied up at stage 2, should it get to that stage. That bill would bring us more into line with what is happening in the EU. The campaign for ecocide law across the whole world is gaining momentum, and Monica Lennon has given us an opportunity to consider that in a Scottish context.

Mark Ruskell: I am recalling the committee sessions that we had earlier this week on the Ecocide (Scotland) Bill. I believe that you

committed to lodging an amendment that would help to make more explicit the options available to the Crown Office and Procurator Fiscal Service in pursuing a prosecution under ecocide law or under section 40 of the Regulatory Reform (Scotland) Act 2014. Can you say more about what that amendment might look like? Would it have any bearing on Ross Greer's amendment 300, which is focused on ensuring that the 2014 act is in line with the environmental crime directive?

Gillian Martin: I have not drafted that amendment yet. Obviously, I am waiting to see what happens with the progression of Ms Lennon's bill, but our general thinking is that, because the bar for proving ecocide is rightly set very high, we will link the Regulatory Reform (Scotland) Act 2014 to the applicable section in the Ecocide (Scotland) Bill, so that there could be almost dual offences—I think that is the phrase for it. If a court felt that it could not prosecute under the ecocide law, because the bar was too high and the evidence did not support that, it could fall back on the Regulatory Reform (Scotland) Act 2014.

I have not drafted that amendment, so I have not got the wording, but that is the general intention. We would not want a situation in which somebody brings a claim of ecocide and the whole court process is gone through but the case does not quite meet the bar, even though the evidence suggests that significant harm was caused. That is the reasoning behind the approach. Obviously, notwithstanding some of the issues with Ms Lennon's bill that might have to be straightened out at stage 2, the eventual passing of an Ecocide (Scotland) Bill would provide sufficient leeway in terms of the sentence and the fines that might be associated with it.

Douglas Lumsden: Will the cabinet secretary take an intervention?

Gillian Martin: Yes, but I will finish my comments on Ross Greer's amendments.

One thing that we have been talking about with the Ecocide (Scotland) Bill is the polluter pays principle. Substantial or significant damage could cost an awful lot of money to repair, and we would not want that to fall solely on the public purse. That is all in consideration.

Ross Greer: I am jumping the queue here, but will the cabinet secretary take a brief intervention?

Gillian Martin: Yes.

Ross Greer: I appreciate entirely the case that the cabinet secretary has laid out. Like her, the Greens support the principle of an ecocide law but recognise that there are issues that need to be resolved with the Ecocide (Scotland) Bill.

My concern is about sequencing, because the Ecocide (Scotland) Bill might well fall and, by the point that Parliament has made that decision, the consideration of the Natural Environment (Scotland) Bill will have already concluded. Is there not an argument for us to collectively come back to the issue at stage 3 to ensure that, at the least, amendments are made to the Natural Environment (Scotland) Bill to give the Government regulation-making powers that allow us to do something in the event that Parliament cannot agree to the Ecocide (Scotland) Bill? If we find ourselves unable to resolve the issues with another bill, it would be a shame not to have the opportunity to come back under this bill and create something in a space in which I think there is broad consensus.

Gillian Martin: I can offer you an opportunity to chat the issue over with me and my officials, given the context that you have just provided. The Parliament might not support Ms Lennon's bill, but there is still a situation that needs to be addressed, which could be done through the 2014 act. As I said, initially, I offered reform of the 2014 act as a solution, because it could be amended to include ecocide penalties. We are where we are, but I get your point, so I am happy to meet to talk that through further with my officials.

Douglas Lumsden: I will follow on from Ross Greer's intervention. Cabinet secretary, last week at the NZET Committee, you said that you see section 40 of the 2014 act and the Ecocide (Scotland) Bill dovetailing. That does not prevent our making changes to section 40 of the 2014 act. We might have an ecocide act or we might not, but I am struggling to see why that would prevent our making changes to the 2014 act now.

Gillian Martin: At the moment, there is not a directly comparable offence in the directive that Ross Greer is talking about that works with the 2014 act. The best thing that I can offer is a discussion with Ross, in the context of where we are with the Ecocide (Scotland) Bill and this bill. Maybe we can bottom it out through conversation with my officials, so we can see how we could address potential gaps. The timing is difficult, given where we are with Ms Lennon's bill as we do not know when stage 2 will happen or whether the NZET Committee will agree to the bill.

On amendment 307, in the name of Douglas Lumsden, the Government is committed to ensuring that there is effective access to justice on any matters—not just environmental matters. In November 2024, the Government made a statement on the effectiveness of environmental governance arrangements, following a consultation and a report on those matters, as required by section 41 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. As well as the effectiveness of governance arrangements, the 2021 act required the report to

cover whether the law in Scotland on access to justice and environmental matters is effective and sufficient.

The report considered various issues that have been identified in evidence gathering about access to justice in environmental matters, particularly with respect to the cost of access to court. The report also discussed the concerns that have been raised by the Aarhus convention compliance committee with respect to the cost of access to justice in environmental matters. It set out a number of measures that had been taken with respect to those costs and further steps that were under consideration.

Having fully considered the views that were raised in the consultation, the Government's statement was clear that we could continue to work to improve access to justice in environmental matters and that we would carry out further engagement with stakeholders on our approach to environmental rights. We have also taken meaningful steps to address concerns about the cost to communities' access to justice in environmental matters. For example, court fees for Aarhus cases in the Court of Session have been removed, the Scottish Civil Justice Council has strengthened protective expenses orders to improve confidentiality, and it is consulting on expanding those protections to the sheriff court and private nuisance claims.

It should also be remembered that environmental governance arrangements established by the 2021 act, along with the creation of the independent body, Environmental Standards Scotland, provide the opportunity to individuals and communities to raise concerns about the effective implementation of environmental law. ESS has a simple online form for raising environmental concerns, and it is an alternative route—rather than a complex legal challenge—to resolving a concern. In addition, it enables communities to participate effectively in environmental decision making and enforcement, as a key part of the licensing and consenting systems. It is always preferable for community concerns to be taken account of in the design of proposed development or activity.

Therefore, although we support the principle of seeking to address the cost of access to justice in instances when a community has exhausted other means and regards it as necessary, practical considerations with regard to funding and interaction with existing legal aid provisions must be addressed. I assure the committee that those issues form part of the Government's long-term, on-going work on legal aid reform. That is not in my portfolio, but the Government's position is set out in the legal aid reform discussion paper that was published in February this year, and in our response to the Equalities, Human Rights and Civil Justice Committee's recommendation to consider regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002, which was published on 24 November 2025.

19:45

On the basis that the Scottish Government is committed to ensuring that there is effective access to justice on environmental matters in Scotland, and of the work that has been done as a result of the recommendations of the Equalities, Human Rights and Civil Justice Committee in relation to legal aid, I ask Mr Lumsden not to move amendment 307. If he does, I encourage members to vote against it.

Douglas Lumsden: I accept that—

The Convener: Are you taking an intervention, cabinet secretary?

Gillian Martin: Actually, I had finished—but it is up to you, convener.

The Convener: If you would like to take the intervention, that is fine.

Gillian Martin: Yes, sure.

Douglas Lumsden: I accept that changes to the legal system are happening that would allow community groups more access. That is great, but is there any timetable for it to happen?

Gillian Martin: Is that in relation to legal aid?

Douglas Lumsden: Yes.

Gillian Martin: As I said, our response to the recommendation to consider regulation 15 of the Civil Legal Aid (Scotland) Regulations 2002 was published on 24 November. From memory, I think that it is Siobhian Brown who is dealing with that. I would need to defer to my colleagues about the timing beyond that point.

The Convener: I call Ross Greer to wind up and to press or withdraw amendment 299.

Ross Greer: On the basis of the cabinet secretary's offer to have discussions ahead of stage 3 about what we can do in the space of the RRA, I am happy to withdraw amendment 299.

Amendment 299, by agreement, withdrawn.

Amendment 300 not moved.

Amendment 301 moved—[Mark Ruskell].

The Convener: The question is, that amendment 301 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 301 disagreed to.

Amendment 302 moved—[Mark Ruskell].

The Convener: The question is, that amendment 302 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)

Abstentions

Wishart, Beatrice (Shetland Islands) (LD)

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

Amendment 302 disagreed to.

Amendment 303 moved—[Mark Ruskell].

The Convener: The question is, that amendment 303 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 303 disagreed to.

Amendments 304 and 305 not moved.

Amendment 306 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 306 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 306 disagreed to.

Amendment 307 not moved.

Amendment 334 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 334 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 334 disagreed to.

Amendment 336 moved—[Tim Eagle].

The Convener: The question is, that amendment 336 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

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

Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 336 disagreed to.

Amendment 337 moved—[Tim Eagle].

The Convener: The question is, that amendment 337 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

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

Against
Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 337 disagreed to.

The Convener: Amendment 338, in my name, is in a group on its own. It addresses a practical and environmental challenge faced by Scotland's shellfish sector. At present, clean scallop shells are treated as waste or animal by-products, creating unnecessary regulatory burden and disposal costs. My proposal recognises that those shells are a valuable natural resource, not waste, and the amendment would enable their use in ways that support biodiversity, climate resistance and Scotland's circular economy ambitions.

The amendment represents another intervention to make the fishing sector more sustainable in the long term. Spatial pressures reduce fishing opportunities, which means that the industry must look for every opportunity to add value. Processors currently face complex compliance requirements under waste and animal by-product legislation, even when the shells are fully cleaned and pose no health risk. My amendment would remove that ambiguity and ensure proportionate regulation. Clean shells can be used for soil improvement, habitat restoration, erosion control and aquaculture. Those applications deliver measurable benefits for biodiversity and coastal protection, which are key priorities under Scotland's climate and nature targets. By preventing the shells from being unnecessarily classified as waste, we would reduce disposal costs for processors and create opportunities for innovative businesses to repurpose shells, supporting jobs and the local economy. The exemption would apply only to shells that were fully cleaned and processed to standards informed by EU-derived regulations. Shells with residual tissue would remain regulated as category 3 animal by-products.

The amendment would ensure that Scottish ministers would consult the Scottish Environment Protection Agency, Food Standards Scotland and industry stakeholders before making regulations. The affirmative procedure ensures parliamentary scrutiny.

Emma Harper: I had a good long conversation with a member of the senior leadership of West Coast Sea Products in Kirkcudbright, in your constituency, convener, which is part of my South Scotland region. I learned about how shells are being transported to the Netherlands for poultry farming and to Ireland for freshwater filtration. There are uses for them, but there is a lot of detail in the amendment. I am not opposed to it, but I am interested in finding out more about how those measures would be taken forward, especially if further consultation and affirmative legislation were needed.

The Convener: It is quite clear that, at the moment, a lot of red tape and costs are associated with the fact that the shells are regarded as a waste product and, in some instances, as an animal by-product. That means that there are issues with storing the shells, because they cannot be moved directly to the Netherlands, Northern Ireland or wherever. My amendment would remove some of the costs and red tape involved in storing the shells before they are exported.

My amendment would support the Circular Economy (Scotland) Act 2024 and Scotland's biodiversity strategy. It would be a practical step towards reducing waste and costs while promoting affordable resource efficiency. It is a commonsense measure that would balance environmental protection with economic opportunities, remove unnecessary red tape, support our climate goals and help Scotland to become a leader in sustainable resource use.

I move amendment 338 and urge members to support it.

Gillian Martin: When I first saw the amendment, convener, I was immediately supportive of the idea of using products such as the shells that have been mentioned as part of a circular economy. I am very sympathetic to that aim. Ahead of stage 3, I want to have a conversation with you to bottom out the concerns of the stakeholders to whom you have spoken about red tape.

However, I will explain why I cannot support the amendment at this point. Presently, there is a regulatory framework with SEPA that already allows a waste item to be moved out of the waste

stream and used for other purposes. Although I sympathise with the amendment's aims, I do not think that creating a new duty on ministers to make regulations is necessary to achieve the intended outcome.

The amendment would cut across existing regulations on waste, which are currently aligned with EU law in that area. The existing framework already provides a workable route to enable beneficial uses of scallop shells when they are properly treated and used to replace other materials. For example, SEPA has an agreed position on clean pulverised shells being used as an agricultural liming agent. It has also worked with the Galloway Fisheries Trust and others in industry to facilitate the River Bladnoch trial this year to improve water quality for wild salmon. In addition, under the Environmental Protection Act 1990, we have powers to provide that certain descriptions of waste are not household, industrial or commercial waste.

Convener, in asking members to support your amendment, you talked about red tape being associated with the process. I need to better understand what the issue is, because we might not have to go down the route of amending the bill. I make the offer that, if you do not press the amendment, my officials and I can have a discussion with you to bottom out the real issues and see whether they can be addressed by working with SEPA rather than by amending any legislation, because my officials and I believe that there are already things in place that should allow for exactly what you want to happen.

Tim Eagle: I recognise that there is huge value in ploughing down the shells for soil improvement, fertiliser use or liming. In Moray, it is very common for distillery by-products, which are very good soil conditioners, to be used on land. There is a SEPA process that allows for that, but it is quite an arduous process that requires numbers. In relation to cross-compliance and farm assurance, there is a requirement for paperwork and everything else to be provided. That creates a red tape barrier that stops people using the by-products, because it is so much easier to phone up a merchant to buy fertiliser. Does the cabinet secretary recognise that, although there might be a process, if it can be confirmed that the shells are clean and present no risk, it will make things easier if the red tape is taken away so that people can freely access and use such products?

Gillian Martin: I am very sympathetic to any means of replacing commercial fertiliser, which has emissions associated with it and is very expensive, with organic materials that can be put straight on the soil. I absolutely understand that point. With Mr Carson and SEPA colleagues, I need to bottom out the reporting and monitoring requirements. We need to ensure that what we put on our soil is right, because it might end up in our rivers and other watercourses, so we need to have a mechanism for recording that. My door is open to the convener to talk about that particular issue because, if there are blocks to that being done, I would like to know about them.

20:00

The Convener: I appreciate the cabinet secretary's comments, but amendment 338 already highlights some of the issues that you say need to be discussed in the future. There are standards and certification in place for shell cleaning and processing, and there will always be record keeping and traceability requirements, which are mentioned in the amendment.

If there are no contamination issues with clean shells—the amendment is specifically about clean shells—finding workarounds to the waste management and animal by-product regulations will add cost, such as consultancy costs, waste management licence consultations and licence costs. Amendment 338 would take that away in a situation in which there is no issue with clean shells, and, again, the amendment makes it quite clear that the shells have to be clean. I am concerned that we would have a workaround rather than a perfectly simple, acceptable and inexpensive forever solution that would mean that companies would not have to deal with licensing or engage with SEPA or whatever. If they had a product that complied with the provisions in amendment 338, they could avoid the cost of putting that shell in the market.

I am not minded to withdraw amendment 338. If there are any technical issues that relate to the regulations that are in place, we could look to amend the provision at stage 3, but I would like to put down a marker that this is the right way forward. It would be good for a fishing industry that, as I have said, is facing ever-increasing pressures on its ability to fish as widely as possible, and it would maximise the full benefit of the scallop and its shell as a product. As I say, I am not minded to withdraw the amendment. I will press it to a vote as a marker, and we will work out any technical issues before stage 3.

The question is, that amendment 338 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 338 agreed to.

Before section 34

Amendment 35 moved—[Gillian Martin].

Amendment 35A moved—[Rachael Hamilton].

The Convener: The question is, that amendment 35A 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 35A disagreed to.

The Convener: I suspend the meeting for a changeover of ministers.

20:04

Meeting suspended.

20:05

On resuming—

The Convener: Amendment 35B, in the name of Rachael Hamilton, is grouped with amendment 335.

Rachael Hamilton: I take members back to the Scottish Government policy memorandum that was introduced with the Wildlife Management and Muirburn (Scotland) Bill. It said that a licence application

"will cover the area of land over which the taking or killing of grouse is to be undertaken."

That legislation was subject to extensive public consultation and robust parliamentary scrutiny from this committee. The Wildlife Management and Muirburn (Scotland) Act 2024 states that a licence can be "revoked" if

"the licence holder fails to comply with any conditions attached to the licence"

and if

"the relevant authority is satisfied that the licence holder has committed a relevant offence"

on the land.

Jim Fairlie's previously debated amendment 35, which was moved just a minute ago, among other factors, adds a new part to the licensing conditions. It allows

"The relevant authority"

to

"propose a different area to which the licence is to relate from that described in the application".

If there is no agreement on the

"area of land to which the licence is to relate",

the licence can be removed.

My amendment 35A, which was disagreed to, sought to remove those changed conditions. I have huge concerns about the SNP amending new legislation, notwithstanding that the matter was already debated ahead of the 2024 act. We are all aware that deterrents are already in place to prevent illegal shooting and the act is clear that licences can be revoked. Amendment 35 will fundamentally alter the operation of the licensing scheme and is at odds with the rigorous process that was followed in 2023 and 2024. It is extraordinary that the Scottish Government said that it would not amend muirburn licensing—that was also brought in by the 2024 act—but is now amending licences under section 16AA of the Wildlife and Countryside Act 1981.

I made my points at the time to Gillian Martin, the Cabinet Secretary for Net Zero and Energy, and I have raised concerns that amendment 35 challenges the European convention on human rights because it could allow NatureScot to impose the licence on an entire property. Furthermore, amendment 35 directly conflicts with NatureScot's definition of land as the entire holding. It has also been stated in briefings that there is a King's counsel's opinion that it is ultra vires.

On 19 November, we had the unusual situation in committee of Gillian Martin debating amendment 35 on Jim Fairlie's behalf, so committee members were unable to put concerns directly to him. She read the minister's notes and argued that it is the Government's intention to change the circumstances by allowing the Scottish Government to achieve the

"original intention of the grouse licensing scheme"

and ensure that

"relevant offences committed outside the licence area can still lead to suspension or revocation of a licence, closing a

loophole that undermines enforcement."—[*Official Report, Rural Affairs and Islands Committee*, 19 November 2025; c 84-85.]

She went on to say that amendment 35 allows the licensing scheme to act as a "meaningful deterrent".

Previously, on 11 November, Jim Fairlie wrote to the committee:

"While the majority of estates have adhered to both the spirit and the letter of the law, it is clear that a small number have not."

I am concerned that that statement is not true. I ask Jim Fairlie to back up that statement in his closing remarks.

In that same letter, Jim Fairlie said that his plans

"will not unfairly penalise or increase burdens on the vast majority of estates who are already complying with ... the law."

The section 16AA licence can be granted to an owner or occupier of land, but it is not uncommon for sporting rights to be divided and assigned under the terms of a lease to multiple tenants across a single landholding. If the licence applies to the entire estate, it means that sporting tenants will share an identical licensed area.

On 21 November, Jim Fairlie wrote to the committee again, arguing that powers of NatureScot to suspend or revoke a licence had been "narrowly interpreted" and stating that a loophole had been created. Again, I ask: where is the evidence?

Finally, Mr Fairlie has also said that article 1, part 1 of the European convention on human rights would not be breached. Can he share his legal opinion on that, or does he not believe that the scrutiny of legislation that was carried out by the committee was robust? According to an FOI response received from NatureScot on 4 December 2025, it was unaware of any offence being committed on land outwith that specified on the application by the licence holder. I ask the minister once again: where is the evidence to support the need to mitigate a fictional loophole when no offences have been committed?

In summary, amendment 35B seeks to require NatureScot to consult landowners before modifying a section 16AA licence. As for amendment 335, section 37, as drafted, would mean that changes made by amendment 35 would have to be brought into force by regulations, and my amendment seeks to ensure that any such changes cannot be brought in without landowners and other persons who are affected being consulted on the impact of the changes to section 16AA licences. In conclusion, I believe that dark forces have wormed their way into the minister's head.

I move amendment 35B.

Tim Eagle: I am not going to go over old ground, as we have already had quite a big debate on this matter, but I fully support Rachael Hamilton's amendments. Amendment 35 is causing considerable upset in rural communities across Scotland, and I still do not see the need for it. We very recently got back an FOI response from NatureScot, and I will tell you what questions we asked.

First, we asked NatureScot to outline the number of grouse moor licence applications that it received annually, and it said that, in 2024, there were 265 licences, and in 2025, 38. We then asked it to outline the number of applications for grouse moor licences that had been rejected because the area of land that was specified in the application was incorrect. It replied that only two applications were rejected in 2024, and that was only because the applicants did not provide grid reference numbers. None was rejected in 2025.

Importantly, we then asked NatureScot to outline the number of grouse moor licences that had been revoked because a licence holder had been acting outwith the area specified in the licence. The answer was none. Finally, we asked it to specify the number of offences committed by licence holders on land outwith the application, and the answer, again, was none.

There is no reason for amendment 35. Some lobby group must have convinced the minister of the need for it, but there is no evidence to support it at all, as far as I am aware, and no evidence that NatureScot, in its own words, has ever been aware of, either.

Jim Fairlie: Rachael Hamilton's amendment 35B, her first in this group, would require consultation with a wide range of stakeholders before a licence for grouse shooting could be modified. Carrying out a consultation with landowners across Scotland every time NatureScot proposed to modify an individual licence, or even when a licence holder requested a modification themselves, would be unnecessary and unreasonable. It would slow down any urgent changes that are required to grouse licences, including changes that are requested by the licence holder themselves. The amendment also seeks to add a procedural step that would increase administrative burden for no positive gain.

I would highlight to the committee that amendment 35 already includes the provision that NatureScot

"may not modify a licence ... to identify a different area of land to which the licence relates from that which was identified when the licence was granted without the prior agreement of the licence holder."

Amendment 35 therefore recognises that NatureScot should agree any changes to the licence area in relation to any licences that are already in place when the proposed changes come into force.

Stakeholder engagement is vital—and it was carried out extensively before amendment 35 was lodged—but it should not come at the expense of timely and effective decision making. For that reason, I encourage the committee not to support amendment 35B.

As with amendment 35B, amendment 335, also in the name of Rachael Hamilton, would introduce unnecessary delay and bureaucracy before the changes to the grouse licensing regime that are contained in amendment 35 could be brought into effect. The amendment would require the Scottish Government to undertake a lengthy consultation process before commencing the much-needed changes to the scheme. However, we already have mechanisms for stakeholder engagement, and duplicating those obligations would add cost and complexity without delivering clear benefits. As I mentioned earlier in relation to amendment 35B, stakeholder engagement has already been carried out in relation to the proposed changes, so this additional requirement is unnecessary, too. In short, the amendment prioritises process over effectiveness, and for those reasons, I encourage the committee to oppose it.

I am quite happy to have a debate on the issues that the member has raised, if she so wishes. However, I am speaking only to the two amendments that are in front of us. It is entirely up to you, convener, how you want to proceed.

The Convener: You are talking to those amendments. I am not going to direct you in any way, and members are free to intervene on a minister at any time.

20:15

Jim Fairlie: Rachael Hamilton raised a number of points. On whether I am convinced that article 1 of the ECHR will not be breached, yes, I am. We do not give out legal advice, so I will not narrate that. There was a comment about dark forces getting into my head. Things get into my head, but they are certainly not dark forces, so I do not know where that came from.

On the rationale for changing the licence, the change came about because 94 licences were altered to show a smaller area after the original licence was agreed. That demonstrated that there was a rationale for closing that loophole—because it is a loophole. The important thing to state is that we are talking about the spirit of the legislation and how we want it to proceed. Had those licences not been altered, perhaps the system would have stayed exactly as it was, but that did happen, so we are closing the loophole.

Tim Eagle: I thank the minister for allowing us the opportunity to have a wee discussion on this.

Jim Fairlie: We cannot have a discussion, because it has to be done through the convener, as we spoke about earlier today.

Tim Eagle: Can the minister confirm what he meant in his previous letter to the committee when he said that estates did not adhere to the letter of the law?

Jim Fairlie: I said that they did not adhere to

"the spirit and the letter of the law".

That is the actual quotation, and it was the spirit of the law that we were talking about at that point, so perhaps I should have been clearer about that. I was talking about the spirit of the law, because, on 94 occasions, the licensed area was redrawn after the licences were agreed and approved. That is why the change to the licence was made.

Rachael Hamilton: The letter says:

"While the majority of estates have adhered to both the spirit and the letter of the law, it is clear that a small number have not."

The minister will be aware that, in 2024, NatureScot updated the 16AA licensing conditions and said that it will be up to the person applying for the licence to specify the area to which the licence relates, because initially the grouse licences covered the whole of the landholding. That is what was passed in the 2024 act, so the minister is well aware that changes were made by NatureScot. Can the minister explain whether those were related to the changes that NatureScot made?

Jim Fairlie: When the 2024 act was passed, there was general agreement that, according to the spirit of the law, the licence would be based on the landholding. When it became clear that the drafting had left a loophole, there were people who then changed the boundary for which they held that licence. That created a red flag, and that red flag is now being addressed by this amendment to this bill, to ensure that we close the loophole.

Tim Eagle talks about people being very concerned about this change. The biggest concern should be about being perceived to be doing anything to try to subvert the law, which was introduced as a result of the Werritty review, to reduce and completely eradicate raptor persecution. We would not be sitting here having this debate had raptor persecution not carried on for the years and years that it did. We made that position quite clear during the initial phase of the bill process. Everybody has accepted that—

Rachael Hamilton: Minister—

Jim Fairlie: Let me finish—

Rachael Hamilton: Minister, that is—

Jim Fairlie: Let me finish. We went through that process at the time, and it was quite clear that the bill was introduced as a result of the fact that raptor persecution continued to happen in the location of grouse moors. The raptor persecution could be associated with owners of grouse moors, but it could not be proven. Various methods have been used to try to eradicate that particular crime, but they did not work. Therefore, this bill was introduced. Unfortunately, we are now in a position where people do not trust the landowners, as a result of what we have seen and the fact that there was a narrowing of the scope of licensed areas. That has put doubt in people's minds again.

Time and again, in my entire work as a minister, I have said that we need to get ourselves to a position where rural sports, rural life and rural workers are highly regarded, not just by people who live in rural areas but by the entirety of the people of Scotland. There is an opportunity to do that, and that is by taking away any risk or any dubiety about the behaviour that is happening on these estates.

Rachael Hamilton: The changes were also made by NatureScot to tackle raptor persecution. Those changes were made after the 2024 act. The act was robustly debated by this committee. We consulted stakeholders and received evidence; there was a robust debate. However, NatureScot went on to produce the licensing conditions and changed a number of them. I am concerned that the minister has stated that trust has to be built up, when the trust is there. There is zero evidence to suggest that, because a different land boundary has been drawn, licences have been revoked. Not one licence has been revoked. Following the changes that NatureScot made to the licensing conditions, perhaps the licences were refused because they changed the scope of the licence.

Jim Fairlie: The conditions are not legally binding; they are certainly not as legally strong as the bill that is in front of the committee. I return to the point that I have made right from day 1 of trying to get through, first, the Wildlife Management and Muirburn (Scotland) Act 2024 and then part 4 of the bill: it is about changing the narrative in Scotland. If there is absolute trust that everything that is going on in estates is good quality, well managed and all the rest of it, that changes the narrative. It changes the ridiculous position that we are in just now whereby people feel demonised for doing a particular job. I would like to change that.

Amendment 35 helps us to do that, because the people of Scotland will look at grouse moor management and say, "You know what? This is robustly regulated, they're doing a very good job, they're bringing money into our rural communities and they're doing the things that help us to be Scotland plc." However, without the trust, we will still be in a position in which people do not trust what is happening on estates. This is not about us trying to demonise or not trusting landowners; it is about ensuring that there is absolute certainty in everybody's mind that what is happening in those places is good for Scotland.

Rachael Hamilton: You said that the licence conditions are not legally binding, but I want to press you on that, because a licence can be suspended or revoked if a licence condition is not met. How is that not legally binding?

Jim Fairlie: Let me rephrase that: the conditions are not as legally strong. They do not have the same legal strength as the legislation that we are in the process of bringing in. The other part of it is that, if NatureScot is working with estates in drawing up boundaries, they have a discussion and negotiation—they come to an agreement. It is not done by one side or the other; it is done in agreement. The position that we are in will help to strengthen the robustness of the legislation, but it will also give security to landholders that they are portraying the image of a properly regulated, well-run business that is good for Scotland. That will help us to change the narrative, which, at the moment, is not as good as it could be.

Rachael Hamilton: Amendment 35 is more stick than carrot, because it states that, if the landowner and the applicant disagree with NatureScot on the specification of the land, the licence is revoked. Therefore, there is no chance for the individual to potentially disagree, particularly where there are sporting rights that are shared among multiple individuals.

Jim Fairlie: The licence would not be revoked; it would be refused, and NatureScot has a duty to be reasonable in its determinations. To me, that feels like the right way to do it, with a proper discussion about and understanding of what you are trying to achieve. If both parties come to an agreement, you have a licence scheme that works.

Rachael Hamilton: Shall I wind up?

The Convener: Would you like to conclude your comments, minister?

Jim Fairlie: I have concluded them.

The Convener: I call Rachael Hamilton to wind up and to press or withdraw amendment 35B.

Rachael Hamilton: I will press it, because we find ourselves in a very odd situation. I will not put words in the minister's mouth, but, from my point of view, it sounds as though he has had to change

the bill because he did not think that what the committee had done on the bill—and everything that was done in the legislative process for the 2024 act—was robust enough. We find ourselves having to amend a licensing scheme that was robustly consulted on.

Jim Fairlie: I believe that the legislation would have been robust enough, except that 94 boundaries were redrawn after NatureScot had started to implement them. It was robust enough, but this goes back to the trust issue: 94 boundaries were redrawn, and that causes doubt. We are now in a position of having to put in place proper legislation so that there is no doubt.

Rachael Hamilton: The minister and I are not going to agree. After NatureScot took legal advice, it identified that, according to the legislation as it was introduced, it was up to the applicant to specify the area to which the licence should relate:

> "Acting on our legal advice we took the decision to change the way we described the area of land covered by the licence to ensure our licensing approach was legally robust. "

As much as we have criticised NatureScot today, I think that it would have had pretty decent legal advice. Now we are changing the 2024 act, which I find to be totally and utterly extraordinary, and I find that the minister's reaction to my perfectly reasonable amendments is that the procedural step will have no positive gain.

Other than the 94 changed licence applications, the minister has not been able to evidence that any of the licences have been revoked. We have questioned the trust that we put in our land managers, and I feel that there is an accusatory undertone, even if the minister does not think that he is—

Jim Fairlie: It is quite the opposite: I am trying to put legislation in place that will be above and beyond doubt for anyone. It should, in reality, be a benefit to landholders because they know that the legislation will be above and beyond doubt, and that strengthens their arguments.

Rachael Hamilton: The minister wants the legislation to be more robust and the sector to have confidence. He thinks that more trust will be developed between landowners and the Scottish Government, but he still does not want—

Jim Fairlie: Will the member take an intervention?

Rachael Hamilton: Hang on. The minister still does not want my amendments, which would give landowners the opportunity of a say in decision making when it affects them. I do not remember there being a consultation prior to the change; I do know that various organisations have had meetings with the minister and have opposed the change, not because they want people to break the law or to have their licences revoked for raptor persecution. That is just nonsense. There is no evidence to suggest that there have been any bad actors in this process.

I think that the minister is scared of consultation and of going out to the stakeholders again, because he thinks that there will be a big backlash, so he is just going to change the legislation and it does not matter because he has the numbers on the committee to vote it through.

Jim Fairlie: Will the member take an intervention?

Rachael Hamilton: Yes.

The Convener: We are now starting to repeat the arguments. Ms Hamilton, your role was to wind up, and that does not necessarily mean to wind up the minister.

Jim Fairlie: The minister is absolutely fine, I assure you.

The Convener: If you are willing, you can take an intervention from the minister and then draw your conclusions to a close.

Rachael Hamilton: Yes—sure.

Jim Fairlie: I will be brief, convener. Rachael Hamilton talked about trust between the Scottish Government and landowners, but this is about trust between landowners, the Scottish Government, the public and everybody else, so that landowners and people who shoot the grouse have the respect that they deserve from everybody.

We should not allow a few bad eggs to bring down the entire industry. The majority of the industry will benefit from the fact that the legislation is being tightened up, and people will see a well-regulated industry that does a good job, that does fantastic stuff by bringing money and jobs into the countryside, and that they should get behind. That is the purpose of the proposal.

20:30

Rachael Hamilton: I thank the minister for his intervention. I will make this brief—I have one last comment in winding up.

I go back to the Werritty review, which recommended that a licensing scheme be introduced specifically for grouse shooting. Now we find ourselves in a position whereby people are going to be liable for an area in which there are no red grouse. The law, as it stood before, was clear: it was about grouse moors. That is what Werritty intended.

I press amendment 35B.

The Convener: The question is, that amendment 35B 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 35B disagreed to.

Jim Fairlie: I press amendment 35.

The Convener: The question is, that amendment 35 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 35 agreed to.

Section 34 agreed to.

The Convener: I suspend the meeting briefly for a changeover of ministers.

20:31

Meeting suspended.

20:32

On resuming—

After section 34

The Convener: Amendment 102, in the name of the cabinet secretary, is in a group on its own.

Gillian Martin: Amendment 102 is a minor, technical amendment that aims to clarify existing provision in response to a concern that was raised by parliamentary officials. The amendment relates to the parliamentary procedure for approving improvement plans submitted under section 30 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. Those plans outline how ministers intend to address concerns raised about the effectiveness of environmental law and its implementation.

Amendment 102 addresses ambiguities in the current legislation regarding whether the approval process should follow a negative or an affirmative procedure. It is right that the Parliament should have the chance to scrutinise improvement plans, so the amendment will ensure that improvement plans for Environmental Standards Scotland are subject to the affirmative procedure and require the Parliament to actively approve the plan. That will ensure clarity about the application of the Parliament's standing orders and will provide a clear, practical process for approving improvement plans. For those reasons, I encourage members to support the amendment.

I move amendment 102.

Amendment 102 agreed to.

Section 35 agreed to.

Section 36—Ancillary provision

Amendment 308 moved—[Tim Eagle].

The Convener: The question is, that amendment 308 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 308 disagreed to.

Section 36 agreed to.

Section 37—Commencement

Amendments 309 to 311 not moved.

Amendment 335 moved—[Tim Eagle].

The Convener: The question is, that amendment 335 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 335 disagreed to.

Section 37 agreed to.

Section 38—Short title

The Convener: Amendment 33, in the name of Mark Ruskell, is in a group on its own.

Mark Ruskell: In the words of Douglas Lumsden, it has been a monster mega stage 2—[*Laughter*]—so I will keep my comments short.

I am seeking to amend the title of the bill to reflect the urgency of the nature crisis and the collective will of the Parliament to act to address it. Amendment 33 would rename the bill to the "Nature Emergency (Scotland) Bill". I draw the committee's attention to the fact that the Net Zero, Energy and Transport Committee scrutinised the Scottish biodiversity strategy and made the recommendation to the Government—I do not know whether the recommendation was picked up—that the strategy should be renamed "Scotland's Nature Emergency Strategy" to underline the seriousness of the issue, and the intent for what the strategy should be achieving and the action that it should be driving.

The vision and purpose of the bill is important. As we have explored in earlier debates about part 2, the focus must be on moving forward on restoring nature. We are in a nature emergency, and we should reflect that in the title of the bill.

I move amendment 33.

Gillian Martin: Section 38 of the bill sets out that, if it is passed, it will be known as the Natural Environment (Scotland) Act, and in practice that has been its working title since we first committed to introducing it in the 2021-22 programme for government. The Scottish Government has been clear that we are facing a nature emergency and that the provisions in the bill are necessary to help us to address that crisis.

I understand why Mark Ruskell has lodged amendment 33 to change the short title of the bill—we are in a nature emergency. However, the Presiding Officer's guidance on the content of bills is clear:

> "The text of a Bill—including both the short and long titles—should be in neutral terms and should not contain material intended to promote or justify the policy behind the Bill".

That guidance is not mandatory, but it reflects a long-standing practice to avoid giving political or emotional titles to our legislation. I would say that "nature emergency" is an emotive term, and I do not think that it is sufficiently neutral to meet the standards set by the Presiding Officer. It could set a precedent for naming future legislation, so I do not support the amendment.

Mark Ruskell: I will not press amendment 33, and I will reflect on the cabinet secretary's comments. As we move to the debates at stage 3, it would be good to hear "nature emergency" reflected in the Government's intent.

Amendment 33, by agreement, withdrawn.

Section 38 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the Natural Environment (Scotland) Bill.

Meeting closed at 20:38.

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

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