OFFICIAL REPORT
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Rural Affairs and Islands Committee

Wednesday 4 February 2026

Session 6

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RURAL AFFAIRS AND ISLANDS COMMITTEE
5th Meeting 2026, 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:

Jim Fairlie (Minister for Agriculture and Connectivity)
Edward Mountain (Highlands and Islands) (Con)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 4 February 2026

[The Convener opened the meeting at 09:03]

Crofting and Scottish Land Court Bill: Stage 2

The Convener (Finlay Carson): Good morning, and welcome to the fifth meeting in 2026 of the Rural Affairs and Islands Committee. Emma Roddick and Rhoda Grant are attending remotely. As usual, I ask members to ensure that all electronic devices are switched to silent.

This morning, we will be considering the Crofting and Scottish Land Court Bill at stage 2. I welcome to the meeting Jim Fairlie, the Minister for Agriculture and Connectivity, who is supported by Scottish Government officials. The officials who are seated at the table are here to support the minister, but they are not permitted to speak in the debate on amendments.

Because two members are participating remotely, I will briefly explain the procedure for hybrid stage 2 proceedings. If we lose connection at any point, proceedings will be suspended. Emma Roddick and Rhoda Grant's cameras will be kept on at all times and, for each vote, remote members should raise their hands at the appropriate moment.

Before section 1

The Convener: Amendment 1, in the name of Alasdair Allan, is grouped with amendments 166, 133 to 135, 173, 174, 136, 175, 11, 13 to 21, 137, 22, 24, 189, 190 and 155.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): I will speak to amendments 1 and 24.

Amendment 1 would add the enforcement of statutory duties to the general functions of the Crofting Commission. Applying criminal rather than civil sanctions for failing to comply with, say, the return of an annual notice seems to be heavy handed. It is vital that the Crofting Commission has the necessary enforcement powers to ensure that crofters meet certain requirements, but a more practical civil system of monetary penalties would enable the commission to respond proportionately and effectively to non-compliance.

Amendment 24 would give ministers a regulation-making power to establish a civil monetary penalties regime for non-compliance with specific duties. That power would enable ministers to, by regulation,

"confer upon the Commission the power to impose and collect monetary penalties"

and to

"repeal or adjust any existing criminal offence"

that relates to those duties. The regulation-making power would be subject to a statutory consultation requirement. That would allow those who are likely to be affected by any change to have an opportunity to express their views, and it would ensure appropriate parliamentary scrutiny. I urge members to support my amendments in the group.

I move amendment 1.

Rhoda Grant (Highlands and Islands) (Lab): I will speak to amendments 166, 173 to 175, 189 and 190.

Too often, we hear about people using their croft house as a holiday let or a second home. That theme runs through a lot of the amendments to the bill, because we must find ways of making sure that crofts are used for their intended purpose. At the moment, many so-called crofters are not crofters; they are people who bought a house and some land. Crofting land is fundamentally different from other land in that the land must be put to agricultural use. Over the years, diversification has infringed on that purpose—often for good reasons, because few crofters make a living from the land on their croft.

Amendment 166 would tighten up the "ordinarily resident" criteria to ensure that the

"crofter's sole or main residence"

is on or near the croft, as opposed to the crofter being "ordinarily resident". That definition would make it easier for the commission to identify those who are not ordinarily resident on the croft.

Amendment 173 would allow Scottish ministers or any Scottish Government department, such as the rural payments and inspections division, to be able to report breaches in the residence criteria to the Crofting Commission, which would then be required to instigate an investigation.

Amendment 174 would enable the person who is reporting a breach to request that they remain anonymous and to have the Crofting Commission keep their details anonymised if they live in the same township as the person who is being reported. It can cause tensions and splits in the community if the name of the person who has reported a breach becomes known.

Amendment 175 would limit the scope for people to make vexatious complaints by allowing the commission to take previous vexatious

complaints “into account” before proceeding to investigate a breach.

Amendment 189 is a probing amendment. Currently, crofters are able to apply for consent to be absent from a croft. There are legitimate times when someone would require to be absent, such as for short-term work commitments or caring and family responsibilities. However, anecdotal information suggests that the ability is being misused and that people are using it to be permanently absent. I am keen to work with the minister and the bill team to explore how we can stop the abuse of consent for absence without putting people’s homes and livelihoods at risk should difficult circumstances occur.

Amendment 190 seeks to deal with the issue of someone who is buying a croft or an assignation needing to be aware of the duties that they are taking on. All too often, people believe that a croft is a house, but it is not. Where a house is attached to a croft, that is a croft house. However, there cannot be a croft house without it being attached to croft land, and it is the land to which obligations are attached. Crofts are changing hands for huge amounts of money, and I do not believe that that would happen as it is doing currently if people understood what they were taking on. My amendment proposes a way in which to enable that to happen, but I am open to discussion if there are better ways of doing it.

The Convener: I call Ariane Burgess to speak to amendment 133 and other amendments in the group.

Ariane Burgess (Highlands and Islands) (Green): I will speak initially to amendments 133 to 136, which relate to section 3, on reporting breaches of duties.

During the committee’s evidence taking on the bill, we heard concerns about the reporting of breaches of duties. In the light of that, I have worked with Community Land Scotland on amendments 133 to 136. We feel that a duty on the commission to investigate possible breaches of duty on crofts only if they have been reported by those coming from the same township, as the bill currently states, will not lead to meaningful change, for the simple reason that crofters, and people in any other walk of life, are unlikely to report their neighbours for such breaches. Indeed, that view came through, and was reflected in, the discussions in our evidence sessions.

Amendment 134 seeks to rectify that by using the word “parish” instead of “township”. A parish encompasses a larger area, albeit one in which inhabitants are still likely to know almost every blade of grass. That would allow a wider community of those who could report suspected breaches of duty on a nearby croft—it would take that burden off the shoulders of nearby neighbours and share it among that wider community.

Likewise, as we have set out in amendments 133 and 135, we feel that it is important that prospective crofters, local community councils and Government agencies have the power to report breaches. That would further take pressure off the community, which, understandably, might wish to protect relationships and avoid conflict. Amendment 136 is consequential to amendments 133 to 135.

I think that Rhoda Grant’s amendment 173 offers a more limited version of what I have set out in amendments 133 to 135, adding only the Government to the list of those who can report a breach. Although I understand the intent of her amendment 174, which would allow complainants to remain anonymous, I am a little concerned that it restricts the airing of issues. I believe that we need to move to a culture in which the community has the confidence to discuss openly, and with support, the issues that it faces, as it could help crofting communities move to a better way of living together. Therefore, I am not minded to support Rhoda Grant’s amendment 175 either.

However, I will support her amendment 166. I agree that tighter language is needed to ensure that we do not have crofters living well away from their crofts and crofting communities. Keeping crofting communities in place is key to halting rural depopulation and creating a thriving rural community, so that amendment has my support.

On amendment 137, which relates to section 4, common grazings account for more than 550,000 hectares of land in crofting tenure, and, to ensure their proper management and administration, grazings committees are encouraged to adopt appropriate regulations. Where someone breaches those regulations, it is important that the Crofting Commission has the necessary controls to encourage compliance. Amendment 137 therefore seeks to bring the treatment of such breaches in line with a suspected breach of duty when the commission is considering whether to process a regulatory application or to decline to do anything.

The Convener: I call the minister to speak to amendment 11 and other amendments in the group.

The Minister for Agriculture and Connectivity (Jim Fairlie): I am very happy to support Alasdair Allan’s amendments 1 and 24. Enforcing compliance with statutory duties is one of the commission’s most important functions, and it is right that that is stated explicitly in the legislation. It is also much more appropriate and practical for enforcement to be done by means of

a civil fine rather than by approaching breaches as criminal offences.

However, I cannot support Rhoda Grant's amendment 166. Andrew Thin, the chair of the Crofting Commission, in his evidence to the committee, explained that the commission was modernising its policy plan, which will be significantly more detailed and make it crystal clear what being "ordinarily resident" means and what evidence for that will look like. That will allow the commission to undertake evidence-based residency checks, and I ask that we trust the regulators to regulate at this moment in time.

I am also unable to support Ariane Burgess's amendments 133, 135 and 136, or Rhoda Grant's amendment 173. If we extend the list of those who can report breaches and require that those must be investigated, that has the potential to create a lot of additional work for the commission, because it would be obliged to investigate every report that it received, regardless of the strength of the evidence that was provided. One of the things that we are trying to do is get the commission to actually investigate breaches.

09:15

In the view of the Government and the commission, the significant expansions already in the bill strike the right balance. We do not want to diminish the overall regulatory effectiveness of the commission by drawing the scope too widely and giving people who may have no connection to the township such a right. We should also bear in mind the existing roles of Government officials and community councillors, who have their own key roles to play in these communities. That goes back to Rhoda Grant's earlier point that rural payments and inspections division officers also live in these communities.

We know from the commission's evidence session that it can and does consider some breaches of duty that are reported by people outwith those mentioned in legislation. However, that decision is based on the strength of the evidence that is provided; no one person or organisation is prevented from reporting a suspected breach of duty, but there has to be evidence behind it.

For similar reasons, I cannot support Ariane Burgess's amendment 134, which would expand the geographical extent of those with the right to report a suspected breach and thereby require the commission to investigate. Several parishes in the Highlands and Islands extend over a considerable area. Again, I point out that there is nothing to prevent anyone from the wider parish reporting a suspected breach of duty, and whether the commission chooses to investigate that report will be based on the strength of the evidence. That would be a far more efficient use of the commission's resources. I urge the committee to reject amendments 166, 133, 135, 136, 173 and 134.

I also urge the committee to reject amendment 174. A system of anonymous reporting would be problematic, for several reasons. For one thing, anonymity can be hard to maintain in practice. Secondly, if anonymity were maintained, that could potentially have a devastating effect on the community. If a person is complained about, they may then harbour suspicion about all their neighbours or may wrongly assume a certain neighbour has made a complaint. Thirdly, as the amendment accepts, a request for anonymity can sometimes be overturned by some other rule in law.

With regard to amendment 175, the commission is already entitled to consider whether a report of a suspected breach is frivolous or vexatious. Considering each case on its merits, which could already include whether it comes from someone whose reports have been considered frivolous or vexatious in the past, will continue to be required. As a result, I do not support amendment 175.

I turn now to eight amendments in my name: amendment 11 and amendments 14 to 20. Section 4 of the bill replaces provision in sections 26C and 26D of the Crofters (Scotland) Act 1993 to streamline the process for the giving of notices and undertakings relating to the enforcement of duties. These amendments further simplify the procedure to be followed by the commission in instances where a crofter or owner-occupier crofter is issued with a notice suspecting them to be in breach, and the period set out in that notice expires when no undertaking has been given. Instead of having separate sections setting out the procedure in which representations are made or not made on time and the consequences that flow from that, amendment 11 will omit proposed new section 26DB, with some aspects being imported into new section 26D. That will provide a clear steer to the commission about what it may do in relation to a person who engages with the enforcement process and in relation to those who do not engage properly or at all.

In deciding whether the duty is being complied with, the commission may treat a nil return by the person as an acceptance that they are not complying with their duties. The commission will still have to consider any representations that are made on time, and it may take account of any late representations.

When the commission decides that the duty is not being complied with, the amendments provide that its obligation to give the person a further

opportunity to give an undertaking before it takes enforcement action will apply only in cases in which the person has engaged with the process properly—that is, in cases in which the commission received representations from them on time. In all other cases, the commission can exercise discretion in deciding whether or not to offer such a further opportunity. New section 26DA sets out the procedure to be followed if an undertaking is given, whether in response to an initial or a further notice.

Amendment 13 provides that, when the commission has a suspected breach of duty notice and then chooses to decline to do anything with a regulatory application that the person has an interest in, the commission must notify the applicant of its decision. Amendment 21 will apply the standard timescales and grounds of appeal to any appeals against a decision of the commission to decline to do anything with an application.

I move on to amendment 22. Section 5 will insert new section 29BA into the 1993 act, which will give the commission powers to vary or revoke consent for a sublet or short lease when it considers that the subtenant or short leaseholder is not fulfilling the crofting duties or is otherwise breaching a condition of let. Amendment 22 provides that, when the commission makes an order under that new section, its decision will be appealable to the Land Court.

I ask the committee to support Ariane Burgess's amendment 137, which will enable the commission to treat a breach of grazing regulations in the same manner as it treats a suspected breach of duty when considering whether to process a regulatory application or decline to do anything. Oversight of common grazings is an important regulatory function of the commission, and there is the same need for sanctions as we have recognised in regard to enforcement of crofting duties.

I cannot support Rhoda Grant's amendment 189, which would remove the right for a crofter or owner-occupier to apply to the commission for consent to be absent from their croft. The consequence of the amendment would be that the crofter, who might have to leave their croft for work or health reasons, for example, would not be able to advise the commission in advance. They would leave and have to wait and see whether someone decided to report them, and if they were then reported, they would not be at home to respond to the commission's suspected breach of duty letter. All of that would cause unnecessary stress and uncertainty. It is far better to have a system that encourages people to be up front about their current position and not to wait and see whether they are caught or informed on by a neighbour. I urge the committee to reject amendment 189.

I also cannot support Rhoda Grant's amendment 190. One of the aims of the bill is to simplify the legislation and make crofting regulation less onerous for crofters and the commission. The amendment would bring yet more regulation into the system and would have a resource impact on the commission.

The Convener: I beg your pardon for interrupting, minister. I just want to let you know that Rhoda Grant, who is participating remotely, has indicated that she wants to make an intervention. That is just in case you missed that. Are you willing to take an intervention?

Jim Fairlie: If she allows me to finish this point, I will let her in. I apologise—I was not seeing the screen, so thank you for letting me know.

I agree that we need to raise awareness of the crofting duties. That is why I welcome the action that the Crofting Commission is taking to issue guidance to solicitors and agents on croft sales. The guidance is designed to ensure that those who are acting for the sale of a croft or croft tenancy are fully aware of the legal duties and obligations that come with owning a croft.

I am happy to take Rhoda Grant's intervention.

Rhoda Grant: Is the minister willing to have discussions ahead of stage 3 on amendment 189? I know that the amendment is not the finished article by any stretch, but there is an issue about people being absent but not really being absent and instead using it to enable abandonment. If we could tighten up the rules on that, that would make the situation better. I am not suggesting that people should wait to be reported, but the circumstances in which people can leave their croft for a short period should perhaps be tightened up.

Jim Fairlie: I am more than happy to have a discussion. I should say that, throughout the amendments, there are a lot of things that we agree with in principle but in relation to which the bill is not the place to make the suggested changes. I am more than happy to have a discussion on many of the things that we will cover as we go through. The fact that I am saying that we cannot support an amendment at this point does not necessarily mean that further discussion cannot be had. I am more than happy to have that discussion.

I was dealing with amendment 190 and talking about the work that the Crofting Commission is doing. The advice that it gives to estate agents outlines the key responsibilities of a crofter, including the legal duties that the crofter needs to be ordinarily resident at or near the croft to make purposeful use of it. The advice also highlights the offence of failing to return the annual notice, which requires crofters to confirm that they are complying

with their duties. I have been encouraged by the work that the commission has done on that, and, on that basis, I urge the committee not to support the amendment.

I ask the committee to support Tim Eagle's amendment 155, as it will bring clarity to the material in section 40A of the 1993 act and remove any potential for confusion.

The Convener: I call Tim Eagle to speak to amendment 155 and other amendments in the group.

Tim Eagle (Highlands and Islands) (Con): I will first just remind everybody of my entry in the register of members' interests.

My amendment 155 simply changes the section heading of section 40A of the 1993 act to avoid any possible confusion between a crofting-specific notice given under that section and either the agricultural census or the national census, which occurs every 10 years. I thank the minister for working with me on the drafting of the amendment.

The Convener: As no other members wish to speak, I call Alasdair Allan to wind up and to press or withdraw amendment 1.

Alasdair Allan: I have nothing further to add other than to press amendment 1.

Amendment 1 agreed to.

Amendment 166 not moved.

Section 1—Enabling environmental uses of crofts

The Convener: Amendment 167, in the name of Tim Eagle, is grouped with amendments 3, 168, 169, 4, 5, 132, 6, 7, 170, 8, 10, 142 to 148, 196, 76, 77, 197, 149 to 152, 198, 153, 202 and 203. I point out that, if amendment 132 is agreed to, it will pre-empt amendment 6. If amendment 142 is agreed to, it will pre-empt amendments 143 to 145.

Tim Eagle: My amendment 167 would add to the list of what constitutes misuse of a croft. The bill outlines a list of what constitutes misuse if the crofter fails to do something. Amendment 167 works alongside amendment 169, which prevents a crofter from putting the croft to environmental use unless the crofter is present on the land and the land is being used for active land management. This reflects concerns that were raised at stage 1 about extending the use of crofts for environmental purposes. It addresses concerns that environmental purposes would allow absent or neglectful crofters to neglect their crofts. It also addresses concerns about the commission's enforcement powers and abilities.

As drafted, the bill outlines some examples of what environmental use may include, such as peatland restoration and habitat creation. My amendment 170 seeks to add to the bill that environmental use does not include a use for the generation, transmission or storage of renewable energy or for the purpose of rewilding. This follows arguments that I have repeatedly raised that food-producing land should not be overtaken by any renewables infrastructure. That is a constant problem in our rural communities, where communities and the needs of locals are often ignored. The amendment also reflects concerns that the definition of "environmental use" is vague. We hope to establish what it definitely does not mean by ensuring the very best possible drafting, rather than having a vague term which could be interpreted in various ways.

I thank the minister for working with me on the amendments from amendment 143 onwards in this group, which seek to make adjustments to section 18, on the use of common grazings for forestry or environmental purposes, for a variety of reasons. My amendments 143, 144 and 145 would remove certain constraints on the rights of a landowner to refuse consent for proposals put forward by a grazings committee. The owner would be able to refuse consent if they considered the proposal detrimental, rather than its having to be "substantially detrimental" to the management of the estate, or if they considered that it would cause them hardship rather than "undue hardship" or would lessen rather than "significantly lessen" the amenity of the land. The requirement for a high degree of detriment, hardship or loss of amenity is not necessary, because the bill gives the final say on any application to the commission rather than the landowner. The constraints, if they were retained, would, in effect, prevent the owner from expressing their views freely and fully.

My amendment 147 would allow an owner eight rather than six weeks to state whether they wished to refuse consent to a grazings committee application for a forestry or environmental use of the common grazings. Any refusal would not be the last word, however, as the commission could overrule it.

My amendment 149 would remove a duplication from the legislation. The requirement for a commission determination to be entered in the register of crofts is already provided for in section 58A(12) of the 1993 act and does not need to be repeated in new section 50ZA of the 1993 act.

My amendment 150 would provide that, when the commission consents to a grazings committee's proposal to use the grazings for forestry, an environmental purpose or any other novel purpose, the consent would expire if the project was not commenced within five years rather than seven. Finally in this group, my amendment 153 would insert into section 50B of the 1993 act, on the use of common grazings for

other purposes, text that is equivalent to words already in section 50 of the 1993 act and that would be retained in the new section 50ZA, on the use of common grazings for forestry or environmental purposes. The text would provide that, once consent was given by the commission, it would take effect when entered into the register of crofts, and the agreement would be binding on the successors to the owner's interest.

I will turn briefly to other amendments in the group. I will await the member's explanation, but, from my reading, I believe that Rhoda Grant's amendments 4 and 5 are along similar lines to mine and would ensure active management of environmental use. As such, I am content to support them, and the same applies to Rhoda Grant's amendment 7 and the minister's amendment 76.

I will listen happily to what Ariane Burgess says about her amendment 132, but, at the moment, I am not convinced that I can support it.

I move amendment 167.

The Convener: I call Rhoda Grant to speak to amendment 3 and other amendments in the group.

09:30

Rhoda Grant: I will speak to my amendments 3 to 8, 10, 197, 202 and 203.

Although they welcome the ability to put a croft to environmental use, stakeholders expressed concerns that this might be a shortcut to abandonment. Therefore, what could be deemed as "environmental use" has to be better laid out. The purpose of my amendments is to strengthen the definition of environmental use to reflect a more proactive and purposeful approach. Amendment 3 would add an exception to section 1.

Amendment 4 would make a parallel change to the existing definition of "purposeful use", bringing it in line with the new definition of environmental use in relation to active management of land.

Amendment 5 would require a crofter to actively manage their land with the intention of providing environmental benefit.

Amendment 6 would ensure that environmental use must not adversely affect the croft.

Amendment 7 would exclude energy generation, transmission and storage from being environmental use. That would not prohibit energy generation on a croft, but it would prohibit it from being termed "environmental use". For instance, a crofter could not cover their croft with solar panels and say that it had been put to environmental use, but they could have solar panels on their croft as part of the normal working of their croft, to generate electricity—for example, for a barn.

The bill gives ministers regulation-making powers to adapt the list of purposes that are considered to be environmental uses. Amendment 8 would allow them specifically to exclude items from the list.

Amendments 3 and 10 would ensure that crofters and owner-occupier crofters are not treated as breaching the standards of good agricultural and environmental condition if an environmental or purposeful use is incompatible with the requirements under sections 5B and 19C of the Crofters (Scotland) Act 1993.

Amendment 197 would remove a part of the bill that gives no role for the Crofting Commission in a situation where the landowner grants conditional consent to environmental use. The amendment would allow the commission to determine all applications for environmental use.

Amendments 202 and 203 refer to carbon credits. A crofter is entitled to take trees and peat on their croft or common grazings, so they are currently entitled to any financial gains from that. Some landlords are now seeking to take the carbon credits that pertain to that peat and forestry. This is not only wrong, but it is preventing crofters from working to ensure that they maximise the environmental benefits of their croft. We heard about this matter when we were scrutinising the climate change plan.

Amendment 202 would ensure that, if a crofter or grazings committee carries out peatland restoration or forestry, they alone are entitled to the carbon credits that emanate from their work.

Amendment 203 would prevent a landlord from resuming the croft or common grazings, once that work has been carried out, in order to keep to themselves the carbon credits that emanate from that work. This would not interfere with a landlord or a grazings committee entering into a joint venture to carry out such work if they wish to.

The Convener: I call Beatrice Wishart to speak to amendment 168 and other amendments in the group.

Beatrice Wishart (Shetland Islands) (LD): My amendment 168 would allow a crofter to fulfil their duties under section 5C(2) of the Crofters (Scotland) Act 1993, as amended by section 1 of the bill, with the assistance of family or hired labour. The current law lacks certainty with regard to the involvement of other family members or hired labour, following the removal of the explicit wording in that regard from schedule 2 to the 1993 act, and the Law Society of Scotland has suggested that amendment 168 would provide

certainty by inserting such language into the 1993 act.

The Convener: I call Ariane Burgess to speak to amendment 132 and other amendments in the group.

Ariane Burgess: It was clear during the committee's stage 1 discussions on the bill that there was a degree of dissatisfaction with, or confusion about, the way in which section 1 defines "environmental use". Given the importance of putting land to environmental use, I feel that, if Scotland is to tackle the climate and biodiversity crisis, it is important that we address those concerns and put forward a watertight definition of the term.

My amendment 132, which has been drafted in collaboration with Community Land Scotland, seeks to underline that environmental use has to be

"intentionally designed and systematically managed".

It also stipulates that such use must not

"be detrimental to the croft"

and must not

"undermine the public interest".

That definition would give crofters, and the Crofting Commission, ample room to interpret the phrase "environmental use" as they see fit, while providing guardrails to ensure that such use must have a thought process, planning and implementation measures behind it, as well as a clear aim, in order to fit in with crofter duties.

I appreciate that Rhoda Grant's amendments 4 to 6 stipulate that environmental use must involve active management and that is certainly tighter than the definition in the bill, but, crucially, it does not require the level of design and planning that I believe are important in this instance. As a Scottish Green, I want to see environmental usage that is properly executed and meaningful, especially in the face of the climate and nature crises. The version proposed by my amendment is stronger and would enable crofters and the Crofting Commission to operate with absolute certainty in respect of environmental use. Likewise, I am concerned that Tim Eagle's amendments 167 and 169, which are alternatives to my amendments and those of Rhoda Grant, contain a vagueness that could operate as a backdoor to preventing environmental use.

Amendment 170, also in the name of Tim Eagle, stipulates that environmental use does not include energy generation, transmission or storage. I agree with that, but the last part of it, which puts "rewilding" out of bounds for environmental use, could make it difficult for crofters to carry out duties under section 1(3) of the bill.

My other amendments in this group—amendments 142, 146, 148, 196, 151, 152 and 198—relate to section 18, on common grazings used for environmental purposes. The bill takes a welcome step towards enabling crofters to use the land that they manage for environmental purposes, but there are issues with section 18 that need addressing if crofters who are part of common grazings are to be able to operate with confidence. For example, landowners will have too much power to stymie environmental initiatives, because the language in the bill is too loose. With support from Community Land Scotland and the Scottish Crofting Federation, I have proposed ways of bringing landowner rights into balance with those of crofters.

My amendment 142 would allow landowners to review their consent for environmental initiatives only if those initiatives would be detrimental to the community or the public interest. That would still give landowners a power to say no and allow them to make a reasonable case for doing so. I have heard that landowners are using their existing powers of refusal to block environmental initiatives or are accepting them only if crofters accept highly unfavourable terms. That is preventing good climate and nature-friendly work from taking place and it is damaging our nation's progress towards legally binding targets. During the committee's evidence taking on the bill, the Crofting Commission chair, Andrew Thin, told us that

"A large chunk of land in our country is being used suboptimally and is suboptimally productive, which is not sensible"—[*Official Report*, *Rural Affairs and Islands Committee*, 24 September 2025; c 25.]

and he called on MSPs to rethink existing systems of land use and management so that they provide environmental good where appropriate. Amendment 142 seeks to drive that change by putting the needs of our nation above those of individual landowners.

In the event that that amendment is not agreed to, I want to provide a bit of clarity on when an intended resumption can take place. As a result, amendment 146 states that any resumption would have to be for a "reasonable purpose" that would benefit crofters, local communities and the public interest. It would mean that landowners could not claim that they would carry out a resumption at some obscure point in the future, as the current wording allows, and it also seeks to ensure that, if they genuinely intend to go through with a resumption, it will be of benefit to others. Again, landowners would have ample power to say no, but that alternative to amendment 142 would at least remove some of the ambiguities in the bill as introduced.

We must also consider how to clear up uncertainties around carbon rights and how those

are shared between crofters and landlords. That has been an on-going conversation since the beginning of the session, when I began attending the cross-party group on crofting. It would be unacceptable for crofters to put all the work into environmental use only for the landowner to collect the financial benefit of that work.

Amendment 148 would provide that revenues from carbon and ecosystem services would belong to the active user of a common grazing. As a Scottish Green, I fundamentally do not agree with the idea of natural capital markets, but they are here, so we need to address justice and fairness in that respect.

Amendment 196 offers a slightly different path to achieving the same goal by copying the same language from new section 50(6) of the 1993 act into new section 50(7). That would mean that crofters would receive the economic benefit that comes with restoring peatland ecosystems, improving water management or preserving and enhancing the environment in another way.

Meanwhile, amendment 198 offers another way into that reform by entitling the grazings committees to financial benefits arising out of active environmental use. Passive landowners should not be allowed to extract wealth that has been generated by active crofting—wealth that would support rural communities. It is a hangover from the archaic system that we lived under in Scotland for far too long, and it is one that benefits the few at the expense of the many. I strongly encourage the Government to commit to wider work on the issue, perhaps through a carbon rights bill, as we touched on in discussions prior to this meeting.

My other amendments in the group, amendments 151 and 152, are crucial to encourage crofters to adopt environmental practices or use common grazings for forestry. They would be particularly helpful if members do not vote for amendments 148, 196 and 198. Amendment 151 would require ministers to ensure that agricultural support payments and other public grants are set up to also support environmental initiatives or forestry on common grazings. We need to use the levers of state to encourage positive behaviour, all the more so if—as the bill currently has it—there is going to be little other incentive to do so.

Amendment 152 would require ministers to set up an advisory capacity for grazings committees on the use of common grazings for forestry or environmental purposes. I believe that that is key, particularly given that the use of land for those purposes is still relatively novel. That advisory function would help to build expertise and ensure that crofters can get the best out of land when it comes to environmental uses.

As I said at the start, the bill makes a genuinely positive step forward in opening the door to environmental use of crofting land, and these amendments are intended to build on that positive foundation by supporting crofters to walk through that door.

The Convener: I call the minister to speak to amendment 76 and other amendments in the group.

Jim Fairlie: First, I urge the committee to support Tim Eagle's amendments 143 to 145, 147, 149, 150 and 153. As members know—this is an important point in this section—the bill will give the commission, rather than the landowner, the final say on a grazings committee's proposal to use the grazings for forestry or environmental purposes. It follows that some of the previous constraints on how the landowner could oppose such proposals are no longer appropriate.

I commend, in particular, Tim Eagle's amendment 150, which would reduce the time limit for commencement of an approved project from seven years to five. It is in no one's interest for the land to be tied up longer than is necessary when planned activities are not happening.

However, Tim Eagle's amendments 167, 169 and 170 cover some of the same ground as Rhoda Grant's amendments, as does Ariane Burgess's amendment 132. I support Rhoda Grant's version, so I ask Tim Eagle and Ariane Burgess not to move their amendments.

I support Rhoda Grant's amendments 3 to 8 and 10, because they would make sound changes to the definition of "environmental use", in line with the evidence that we heard at stage 1. I also support Rhoda Grant's amendment 197. It seems to me that, even if the grazings committee and the landowner are in agreement about a proposal, it is still appropriate that the commission plays a role in the final decision.

However, I cannot support Rhoda Grant's amendments 202 or 203. They refer to "carbon units", but no regulations have yet been made under the Climate Change (Scotland) Act 2009 to define what those carbon units are or to establish any system of registering, holding or transferring them. A lot of detailed work needs to be done to set up such a carbon credits scheme, and it is far too early to set out in legislation how any financial benefit from such a scheme should be shared between landlords and tenants.

That said, there is nothing to prevent—

09:45

The Convener: I beg your pardon, minister, but Rhoda Grant is seeking to intervene.

Jim Fairlie: I apologise. I will have to keep my eye on the screen.

The Convener: I got caught out as well.

Jim Fairlie: I will just finish the point that I was making, and I will then take Rhoda Grant's intervention.

There is nothing to prevent crofters and landlords from entering into joint ventures that will develop and secure shared solutions that benefit all the parties that participate in them.

Rhoda Grant: I am really concerned about the matter, because it represents a blocker on crofters carrying out environmental work if the landowner can then take the benefit. I also know of cases where landowners and crofters cannot reach agreement. It seems to me that we could find a way of ensuring that, if a crofter or a grazings committee takes action to create environmental benefit, the landowner cannot claim any of the income or wealth that is generated from that work. We could get round the issue of defining carbon credits and we could surely find a way of making sure that the crofter or the grazings committee gets the value from their work.

Jim Fairlie: As I said in relation to the previous group, I am more than happy to meet Rhoda Grant to discuss the matter further. My concern is that we do not have a fixed market or a system to define carbon units. However, we need to have those conversations, so I am more than happy to continue to have those chats after this meeting.

Ariane Burgess: I share Rhoda Grant's concerns. I have not referred specifically to carbon markets, but I would appreciate being part of those conversations, because it is really important that the efforts of crofters on the ground remain. As I said, we need to reward the efforts that people on the ground are putting in, and we need to get away from the extracting of wealth and keep it in the community.

Jim Fairlie: Alasdair Allan also raised that point. I am more than happy to continue those discussions, to make sure that we try to find the solutions. I am not sure that we can find them in the bill, but we can definitely talk about how we will go forward.

Unfortunately, I cannot support Beatrice Wishart's amendment 168. The matter was raised in our 2024 consultation and, although the majority supported it, others pointed out that it is already widely recognised that crofters can be supported by family members and hired labour in working the croft, so I do not think that it is a problem that needs to be fixed. The fear is that that well-meaning amendment could encourage more informal lending of crofts, which our crofting communities would see as a backward step.

I cannot support any of Ariane Burgess's amendments in the group. I have already mentioned why I support Tim Eagle's amendments that will give grazings owners the ability to express their support for or opposition to a crofter-led proposal freely and fully before the commission makes the final decision. Ariane Burgess's amendments 142 and 146 would run counter to that position. Her amendments 148, 196 and 198 would attempt to intervene in the balance of carbon rights between grazings shareholders and landowners. I have set out my reasons why we should not seek to do that at this stage. Finally, her amendment 152 would require ministers to make provision for advising grazings committees on forestry and environmental use of grazings. I agree with the sentiment, but any future Government should be free to decide whether and how to add to what is already available from, among others, the commission, the Farm Advisory Service and private land agents.

I will turn to my amendments in the group. I listened to the debate at stage 1 and I agree that energy generation, transmission and storage should count as other uses of common grazings rather than environmental uses. My amendment 76 will clarify that point and my amendment 77 will give ministers a power to make further clarifications by regulations, should that be necessary.

The Convener: I call Tim Eagle to wind up and to press or withdraw amendment 167.

Tim Eagle: I have nothing to add. I will not press amendment 167.

Amendment 167, by agreement, withdrawn.

The Convener: Amendment 2, in the name of the minister, is grouped with amendments 9, 23, 74, 100, 101, 106, 110, 111, 115, 120, 121, 125, 127, 128, 130 and 131.

Jim Fairlie: My amendments 2, 9, 23, 74, 100, 101, 106, 110, 111, 115, 120, 121, 125, 128 and 130 can be accurately characterised as minor amendments that correct technical issues in the bill, such as typographical or referencing errors. I will run through them as quickly as I can.

Amendments 100 and 101 limit the Government's and the commission's powers to make provision about the giving of public notification and specifying the form and content of public notices in relation to the Crofting Reform (Scotland) Act 2010 to provision under section 12(8) of the 2010 act only. That is because section 12(8) is the only public notice requirement in the

entire 2010 act, so the broader reference is not appropriate.

Amendment 127 cancels an insertion that the bill was going to make to section 58A(4)(b) of the 1993 act, to confirm that that sub-section applies to any non-crofters who hold shares in the common grazings. That insertion is now considered not to be needed, because section 47(10) of the 1993 act already makes that provision.

Amendment 131 is a consequential change. It updates the Tribunals (Scotland) Act 2014 to remove the Lands Tribunal for Scotland from the listed tribunals that may be transferred into the Scottish tribunals. The jurisdiction and functions of the Lands Tribunal will transfer to the Scottish Land Court under section 36 of the bill, and amendment 131 ensures that the statute book accurately reflects the tribunal landscape.

I invite members to agree to the amendments.

I move amendment 2.

The Convener: As no other members have anything to add, I invite the minister to wind up.

Jim Fairlie: I have nothing further to add.

Amendment 2 agreed to.

Amendment 3 moved—[Rhoda Grant]—and agreed to.

Amendment 168 moved—[Beatrice Wishart].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
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)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 168 agreed to.

Amendment 169 not moved.

Amendments 4 and 5 moved—[Rhoda Grant]—and agreed to.

The Convener: I call Ariane Burgess to move amendment 132. I remind members that, if amendment 132 is agreed to, amendment 6 will be pre-empted.

Amendment 132 not moved.

Amendments 6 and 7 moved—[Rhoda Grant]—and agreed to.

Amendment 170 not moved.

Amendment 8 moved—[Rhoda Grant].

The Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
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

Burgess, Ariane (Highlands and Islands) (Green)

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

Amendment 8 agreed to.

Amendment 9 moved—[Jim Fairlie]—and agreed to.

Amendment 10 moved—[Rhoda Grant]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Removal of timescales for deciding applications

The Convener: Amendment 171, in the name of Edward Mountain, is grouped with amendments 172, 139, 78, 79 and 210.

Edward Mountain (Highlands and Islands) (Con): I remind members of my entry in the register of members' interests, which shows that I have a share in a family farm in Morayshire. No crofting is involved in it.

My amendments 171 and 172 came about because of the experiences that my constituents and I had with the Crofting Commission and the amount of time that it took to get a response. To put it on the record, the longest that I have waited for a response from the commission is 14 and a half months, which is unacceptable. The bill removes the timescales for the commission's decisions, which could be seen as a negative step for those who interact with it, particularly as quite tight timescales are placed on crofters and

landlords and there are serious consequences if they fail to meet them. I understand that, as it stands, there are no consequences for the commission if it fails to meet its stated timescales, so the value in statute is limited. The consultation that was carried out before the bill referred to a "customer service standards" document for the commission to produce, but the bill does not include any requirement to publish that within a reasonable timescale.

Amendment 172 places that intention on a statutory footing in order to provide some assurance that a standard will be produced that the commission's performance can be measured against. I do not think that doing so adds any administrative burden to the commission; it simply provides a statutory commitment for it to do something that is already planned. Therefore, amendment 172 offers a practical alternative by ensuring that the commission publishes a set of meaningful standards, so that crofters and landlords have clear expectations of how long the process will last when they interact with the commission.

Amendment 171 is consequential to amendment 172.

My amendment 210 would reverse the removal of the requirement to have somebody on the commission who can represent the interests of landlords. I have some sympathy with what the minister said at stage 1 about the need for flexibility. However, given the growing diversity in types of crofting owners, which includes communities, it would be a retrograde step for the legislation to imply that their interests might not always be represented. I remember that the name of the commission was changed from the Crofters Commission to the Crofting Commission for a reason. The commission should continue to serve the wider crofting community, not alienate an important part of it. It is clear that landlords and owners of common grazings play an increasingly important and valuable role in investing in crofting counties and in helping to generate shared benefits for crofting communities. To marginalise them as the bill does is short-sighted.

I move amendment 171.

The Convener: I call Ariane Burgess to speak to amendment 139 and other amendments in the group.

Ariane Burgess: It has already been reflected in committee sessions that the crofting market is running too hot for new entrants, which threatens the future of crofting, and that needs to be dealt with. People who want to be active on a croft by managing the land or producing food are the lifeblood of our crofting communities. In the face of the climate and nature crisis, people producing food for local consumption will be crucial. Restricting decrofting for residential purposes is a must, but we must also ensure that we do not create unintended consequences.

My amendment 139, which I worked on with the Scottish Crofting Federation, states that decrofting orders for residential purposes may be given only in connection with a "rural housing burden". Such a policy would allow us to maintain stocks of affordable housing in our rural communities, which would slow rural depopulation and ensure that crofting communities can continue to thrive into the future.

The Convener: I call the minister to speak to amendment 78 and other amendments in the group.

10:00

Jim Fairlie: I am content to support Edward Mountain's amendments 171 and 172. The commission is committed to improving application processing times and has made strong progress over the past two years. However, as it will remain an important issue, requiring the commission to publish its service standards is appropriate.

I turn to the two amendments in my name. The commission occasionally finds that an order or direction that it has issued contains an administrative error, such as a typographical mistake or small inaccuracy in an attached map. My amendment 78 will empower the commission, in the event of a manifest error, to vary a direction or order to correct inaccuracies, provided that all affected parties are notified in advance and given 14 days to comment and as long as none has disputed the proposed correction or relied on the original error.

My amendment 79 requires that any transfer of ownership of land that contains

"any of the following … a croft … an owner-occupied croft … a common grazing",

whether by sale, gift or inheritance, must be notified to the commission within one month. The commission must maintain the register of crofts, including ownership details, so it is important that it is notified of any change of ownership at the earliest opportunity. If a new owner fails to notify the commission or comply with an information request, the commission can

"reject any objection submitted by the person"

until that failure is remedied.

I cannot support Ariane Burgess's amendment 139, which would make the right to apply for a residential decrofting direction conditional on the land being made subject to a rural housing burden. That is a significant change to how decrofting

currently operates, and its interaction with the existing house-site provision is unclear. Such changes risk creating unintended consequences, so crofters should be fully consulted on them, and I would be happy to work with Ariane Burgess before such a consultation was carried out.

On Edward Mountain's amendment 210, I recognise the importance of landlords' interests, which is reflected in the bill, but I cannot support the amendment. Given that, normally, only three commissioners are appointed and that such appointments are made only every few years, we need flexibility in order to select the strongest overall mix of skills and experience. The bill already provides that ministers must consult the commission on the desired attributes, while also having regard to the value of a commissioner who can represent landlords' interests. That approach gives proper weight to the landlord voice without constraining ministers' ability to make the best appointment for the commission as a whole.

The Convener: I ask Edward Mountain to wind up and to press or withdraw amendment 171.

Edward Mountain: From the outset, I am grateful to the minister for considering and supporting my amendments 171 and 172. I have a couple of comments on Ariane Burgess's amendment 139, which includes an interesting proposition. I am sad that the bill has reached the committee only now, given that it was promised to the Rural Economy and Connectivity Committee in 2010. Crofting is not only about crofting per se; it is about language, communities and preventing rural depopulation. I am sad that the bill does not go further than it does, but I am sure that Ariane Burgess will work with the minister to find a way around issues.

In response to the minister's points about amendment 210, I note the increasing number of communities that are landlords of crofting estates. You can look around Scotland and see them, so there would be some merit in considering the point further. I will not move amendment 210 if the minister is prepared to work with me to see whether there is a way to make it work before stage 3. I do not know whether he would undertake to do so.

Jim Fairlie: I am happy to make that commitment.

Edward Mountain: Thank you very much. On that note, I press amendment 171.

Amendment 171 agreed to.

Amendment 172 moved—[Edward Mountain]—and agreed to.

Section 2, as amended, agreed to.

Section 3—Reporting on breaches of duties

Amendment 133 moved—[Ariane Burgess].

The Convener: The question is, that amendment 133 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 133 disagreed to.

Amendment 134 not moved.

Amendment 135 moved—[Ariane Burgess].

The Convener: The question is, that amendment 135 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 135 disagreed to.

Amendment 173 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

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

Against

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

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

Amendment 173 disagreed to.

Amendment 174 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 174 disagreed to.

Amendment 136 moved—[Ariane Burgess].

The Convener: The question is, that amendment 136 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 136 disagreed to.

Amendment 175 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
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)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 175 agreed to.

Section 3, as amended, agreed to.

Section 4—Enforcement of duties

Amendment 11 moved—[Jim Fairlie]—and agreed to.

The Convener: Amendment 12, in the name of Alasdair Allan, is grouped with amendments 177, 188 and 41.

Alasdair Allan: I will speak to my amendments 12 and 41. Amendment 41 would enable the Land Court to

"sist proceedings in respect of an application"

by a crofter to buy a croft, when the commission has issued the croft with a notice of suspected breach of duty. It would suspend the crofter's right to buy in cases in which the commission was satisfied that the crofter was not complying with their duties. That would be achieved by providing that the Land Court

"must not make an order"

to authorise the acquisition under section 13(1) of the 1993 act in such circumstances.

Amendment 12 supports that approach by providing that, when the commission issues a notice of suspected breach of duty to a crofter, it must send a copy to the Land Court.

Those changes would prevent a crofter from profiting from their croft while they are in breach of their duties. There is no possible case for continuing to allow that possibility. The amendments ensure that duties cannot be sidestepped through a right-to-buy application. I ask the committee to vote for both amendments.

I move amendment 12.

The Convener: I call Rhoda Grant to speak to amendment 177 and other amendments in the group.

Rhoda Grant: My amendment 177 seeks to remove the crofters' right to buy. Many believe that the right to buy is the reason for crofts becoming much more marketable and, as a result, the costs of crofts going up. Unpicking that right will mean other consequential amendments, which I have left the Scottish ministers to do by regulation.

The proposal will be controversial, so I do not intend to move the amendment today, but I believe that it is something that we have to consider. Given the time constraints that we face, it might not be something that we are able to do with this bill, but I do want the Government to give some thought to how we do this and stop the market in crofts locking young people out of becoming crofters.

My amendment 188 seeks to change the reasons for resuming a croft to ensure that it is for the good of the community and in the public interest.

The Convener: I call the minister to speak to this group of amendments.

Jim Fairlie: First, I support Alasdair Allan's amendments 12 and 41, which further strengthen the provision on the enforcement of duties, set out in the bill at introduction, by restricting crofters who have not been complying with the duties from exercising the right to buy in the Land Court.

I acknowledge that Rhoda Grant has said that she is not going to move amendments 177 and 178, but I will point out that the crofters' right to buy has been a fundamental part of crofting legislation since 1976, and any proposal to remove such a significant right should be informed by a proper widespread consultation with all interested parties and a full assessment of the potential impacts. I am aware of the concerns about the right to buy, and I believe that it absolutely needs to be looked at in any future reform, but I would also make the really important point that, in the meantime, the bill will remove the right to buy from tenant crofters for 10 years after a croft has been let to them by the commission. Moreover, if amendment 41 is agreed to, the right to buy will also be removed from crofters who are in breach of their duty. I think that we are taking steps to address some of the concerns that Rhoda Grant has placed on the record, but I absolutely understand the point that she is making.

I would also say that removing a landlord's ability to apply for resumption on grounds relating to the good of the croft or the estate is a significant change, and it, too, should not be made without full consideration and proper consultation. That said, I am more than happy to meet Rhoda Grant to discuss those issues ahead of stage 3.

The Convener: I call Alasdair Allan to wind up and to press or withdraw amendment 12.

Alasdair Allan: I will merely press amendment 12, convener.

Amendment 12 agreed to.

The Convener: I call amendments 13 to 21, all in the name of the minister. I invite the minister to move the amendments en bloc. Does any member—

Jim Fairlie: Moved. [*Interruption*.] Apologies, convener.

The Convener: I like your attitude to getting through this quickly, minister, for sure. I see that no member objects to a single question being put on the amendments.

Amendments 13 to 21 moved—[Jim Fairlie]—and agreed to.

Amendment 137 moved—[Ariane Burgess].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

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

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

Amendment 137 agreed to.

Section 4, as amended, agreed to.

Section 5—Enforcement action against subtenants and tenants of short leases

Amendment 22 moved—[Jim Fairlie]—and agreed to.

Section 5, as amended, agreed to.

Section 6—Power to decline to act until information provided

Amendment 23 moved—[Jim Fairlie]—and agreed to.

Section 6, as amended, agreed to.

After section 6

Amendment 24 moved—[Alasdair Allan]—and agreed to.

Section 7 agreed to.

The Convener: At this point in the proceedings, I am minded to suspend the meeting for a five-minute comfort break.

10:15

Meeting suspended.

10:23

On resuming—

The Convener: We now continue consideration of stage 2 amendments.

Section 8—Assignations to family members

The Convener: Amendment 25, in the name of Alasdair Allan, is grouped with amendments 176, 26, 39 and 40.

Alasdair Allan: I will speak to amendments 25 and 26.

Amendment 25 requires the Crofting Commission to check whether a croft has been let by the commission and is subject to the 10-year restriction on assignation before consenting to a family assignation application. That restriction will ensure that someone does not transfer their croft or sell up early in order to make a profit from a free let by the commission. That control already applies to general assignations, and my amendment would apply it also to fast-track family assignations.

Amendment 26 changes the sequence of the application for a family assignation and would require the crofter to serve a copy of the family assignation application to the landlord at the same time as they submit their application to the commission and to indicate to their landlord that they have 28 days to make any representations directly to the commission. That is a more natural and familiar approach for handling any representations than requiring the applicant to find out the landlord's views in advance and to then tell the commission what the landlord's views are. It also means that the commission will be informed that the landlord has been notified at the time when that happens, so that, if the landlord objects, the commission will already be aware of the application to connect the objection to. I encourage members to support my amendments in the group.

I move amendment 25.

Rhoda Grant: I will speak to amendments 176, 39 and 40. The bill will limit the number of crofts that a crofter may normally hold. There was discussion in the committee about the appropriate number of crofts, given that they can vary significantly in size, especially where crofts have been subdivided in the past. A hectarage threshold might be a more realistic gauge of what may be seen as excessive, and amendment 176 would set the quite high threshold of 500 hectares. That would be a substantial amount of land to be held by one crofter. It is the limit that Mercedes Villalba sought to put into the Land Reform (Scotland) Bill to signify a substantial holding. It seems fair, but I will listen to members' and the minister's thoughts on that approach.

Amendments 39 and 40 seek to slightly tweak the provisions in section 11, which amends sections 23 and 26J of the 1993 act to provide that, where the commission has let a croft to a crofter under section 23(5C) of the 1993 act, it may not be assigned during the 10 years following the date of the let. Under the bill, the commission may not consent to the assignation of the tenancy of a croft and the Land Court may not make an order authorising the acquisition of the croft by the crofter. Amendments 39 and 40 seek to allow the Crofting Commission and the Land Court discretion to waive the 10-year ban in exceptional circumstances. Those circumstances could include someone becoming unwell and being unable to work the croft any more, or someone having a change of circumstances that leads to them having to leave and being in breach of their obligations under the crofting acts. In exceptional circumstances, the Crofting Commission and the Land Court could look at the individual circumstances and waive the requirement if necessary.

Jim Fairlie: I ask the committee to support Alasdair Allan's amendments 25 and 26 and Rhoda Grant's amendments 39 and 40. They will make important technical changes to the provision on the assignation and acquisition of crofts.

However, I cannot support amendment 176. It would prohibit a fast-track family assignation to a crofter who holds fewer than three crofts where the total area of one or two of the crofts was more than 500 hectares, which is nearly 2 square miles. That particular set of circumstances will arise very rarely, if ever. The committee noted in its stage 1 report that the Scottish Government had not used hectarage because the three-croft rule includes deemed crofts, which are unattached grazing shares and do not have a hectarage.

I ask Rhoda Grant not to move amendment 176. If she moves it, I ask the committee to reject it.

The Convener: I call Alasdair Allan to wind up and to press or withdraw amendment 25.

Alasdair Allan: I press amendment 25.

Amendment 25 agreed to.

Amendment 176 not moved.

Amendment 26 moved—[Alasdair Allan]—and agreed to.

Section 8, as amended, agreed to.

After section 8

Amendment 177 not moved.

Before section 9

The Convener: Amendment 27, in the name of Alasdair Allan, is grouped with amendments 178, 28 to 32, 179, 180, 33, 34, 181 to 183, 35, 36, 184, 138, 185, 186, 37, 38 and 187. I point out that, if amendment 36 is agreed to, I will be unable to call amendment 184 due to pre-emption.

Alasdair Allan: I will speak first on amendments 27, 28 and 30.

Amendment 27 creates a direct route for a landowner who creates a new croft to become its owner-occupier crofter, which is a simplification of the current process that has been requested by a wide range of crofting stakeholders. In those circumstances, when someone makes an application to the commission to create a new croft, they will have to indicate their intent to become the owner-occupier crofter. The application will be treated as a single composite application so that the package is either accepted in full by the commission or rejected in full. The amendment does not provide a middle option of accepting the croft creation while denying the applicant's wish to be the owner-occupier crofter.

That procedure is largely the same as the existing procedure for croft creation applications, with the addition that, in determining the application, the commission will also have regard to the crofting duties and an expectation that those duties will be fulfilled by the applicant. Amendments 28 and 30 ensure that, if a person becomes an owner-occupier crofter in that way, both they and their successors in title will meet the definition of an owner-occupier crofter within the act.

Amendments 35 and 36 ensure that the crofting community has the opportunity to object when an owner of a vacant croft applies to the commission for owner-occupier status. Community consideration is relevant because the commission must assess whether the duties of residence, cultivation and purposeful use are met. Allowing objections will give communities the opportunity to comment on whether those duties are, or are likely to be, fulfilled. That will bring those applications into line with the scrutiny that is applied to other applications, so that the commission must first consider any objections before deciding whether to approve an application.

Amendment 38 will give ministers a general power to make provision by regulation about transfers of owner-occupied crofts. That will include a new regulatory system for the control and transfer of ownership and for the transfer of the owner-occupier crofter status. For example, ministers could allow the crofting community the opportunity to submit objections about who could become owner-occupier crofters.

Although that proposal, as currently structured, did not feature in the Government's 2024 consultation on crofting law reform, the consultation did ask whether the sale of an owner-occupied croft to a holder of three or more crofts should be subject to a Crofting Commission decision and the majority of respondents were in favour. Many in my constituency would consider it anomalous for there to be regulatory checks on who can become a tenant crofter by assignation without any similar controls on who can become an owner-occupier crofter by purchasing an owner-occupied croft. However, I appreciate that regulating the sale of owner-occupied crofts might require wide-scale reform that might extend beyond the scope of the present bill.

There are approximately 6,000 owner-occupier crofters who would be affected by such a change the next time they sold their croft and there could also be a significant impact on the commission, which could, in turn, impact all crofters. Therefore, amendment 38 proposes that the Scottish ministers should consult appropriately before using the power, including with the Crofting Commission and with representatives of both owner-occupier and tenant crofters.

I urge members to support my amendments in this group, and I move amendment 27.

The Convener: I call Rhoda Grant to speak to amendment 178 and other amendments in the group.

Rhoda Grant: I will speak to amendments 178, 179, 183, 184 and 187, which try to address a problem created by the right to buy and seek to make it clear that ownership of a croft does not circumvent the obligations of a crofter.

Amendment 178 is a paving amendment, and amendment 179 would add an extra condition that a person must meet to be considered an owner-occupier crofter—that the commission be satisfied that they can meet the owner-occupier crofter duties. The bill introduces an alternative way in which a person can be considered an owner-occupier crofter, via new section 19BA of the 1993 act, by which the commission makes a determination that the person is an owner-

occupier crofter. Amendment 183 would provide that the commission cannot make such a determination unless it is satisfied that the crofter can meet the crofter duties.

Amendment 187 would add a new section to provide that, if the commission is not so satisfied that the person can meet the duties, it must direct the person to let the croft to any person as a crofter. It would also provide a regulation-making power for ministers should they need to create other substantive provisions to make this operational.

Amendment 184 would provide that subsections (3) to (7) of section 58A of the 1993 act, which deal with notification and objections, will continue to apply to determinations under proposed new section 19BA of the 1993 act.

The Convener: I call Beatrice Wishart to speak to amendment 29 and the other amendments in the group.

Beatrice Wishart: I will speak to amendments 29, 31 to 33 and 37. Amendment 37 seeks to remove section 10, which would have prohibited transfers of owner-occupier crofts to non-natural persons. That would have prevented, for example, community landlords from purchasing an owner-occupier croft and then reletting it or selling it to a new entrant or another crofter. My other amendments in the group will ensure that, although a non-natural person can hold title to a croft, they cannot acquire owner-occupier status.

Amendment 29 modifies section 19B of the 1993 act, which defines who can be an owner-occupier crofter. The first condition of owner-occupier status is that a person who becomes the owner after the relevant date—the date on which this part of the bill comes into force—must be an individual, meaning a natural person.

Amendments 31, 32 and 33 make further consequential changes to section 19B of the 1993 act to ensure that, if the croft is sold on to a natural person, it can once again be an owner-occupier croft. Of course, if it is let to a natural person, it will simply become a tenanted croft. Amendment 31 would ensure that, if a non-natural person buys a croft after the relevant date, an individual who later buys it from them can still meet the second condition for owner-occupier status. That applies as long as the non-natural person bought the croft from either an owner-occupier or from the constituting landlord. That status would also pass to the individual's successors in title.

Amendment 32 makes it clear that, for a person to acquire owner-occupier status in those circumstances, the croft must not have been let to any crofter since it was acquired by the non-natural person. Amendment 33 will ensure that the definition of owner applies to the first and second conditions for owner-occupier crofter status in section 19B of the 1993 act.

The Convener: I call Ariane Burgess to speak to amendment 180 and other amendments in the group.

Ariane Burgess: I have a number of amendments in the group. I will speak initially to amendments 180, 181, 182 and 138, which relate to section 9, on owner-occupiers. One of the disappointments of the bill is that it does not do much in the way of cooling the marketisation of crofts. That situation is locking out people who are longing to take on a croft and put it to use, and it also threatens to hollow out townships. We need to move away from treating crofts as another land asset to be bought and sold. With a minor tweak to section 9, we can do something to at least remedy some of those issues while also saving the commission and the crofting community time by avoiding the need for long-winded breach of duty procedures.

Amendment 180, which I worked on with Community Land Scotland, would add a fourth condition to the owner-occupier definition as it is set out in the 1993 act. It would mean that someone applying for owner-occupier status would need to provide satisfactory evidence up front that they would live on the croft and put it to permitted use. Those are the same requirements that tenant crofters face, and there is no good reason for owner-occupiers to be treated any differently.

Rhoda Grant's amendment 179 has a very similar intent to my amendment, so, from my perspective, it is clear that we need to do something about it.

Amendments 181 and 182 would give the Scottish ministers the power to determine what evidence would be permissible to allow someone to meet the additional condition that would be required to receive owner-occupier status. Those amendments would go some way towards addressing the intent of the 2010 act, which sought to get parity in status between owner-occupiers and tenants.

Before I speak to amendments 185 and 186, which relate to section 10, on the transfer of crofts to people who are not individuals, I would just like to say that I whole-heartedly agree with the intent behind this section. Too often in society, we see ownership hidden behind obscure corporate or legal structures that prevent scrutiny, and the Scottish Greens will support any move to bring ownership out into the open.

My two amendments to section 10 seek to add a bit of nuance that I think is needed for a very

specific purpose. They would provide for an exemption for local community groups and non-profit organisations, which is necessary because section 10, as it stands, could have unintended consequences for rural housing bodies and community organisations that wish to buy croft land for housing and to attach a rural housing burden.

My amendments, which were drafted with the support of Community Land Scotland and have the backing of the Scottish Crofting Federation, would ensure that crofts can be used to meet pressing local needs, such as the need for housing, and I believe that such an approach will support the cross-party effort to slow rural depopulation and maintain thriving communities across crofting counties. For that reason, I cannot back amendments 29 and 31 to 33, in the name of Beatrice Wishart. In my view, they do not recognise that there are some instances in which non-natural persons should hold a croft.

My amendment 138 would require ministers to set out the number of crofts that one crofter could own and what should happen if that threshold were to be passed. There is evidence that some crofters are collecting multiple crofts, which is not in the spirit of crofting and is damaging the crofting community. The situation is especially galling for the almost 800 people who are actively looking to take on a croft via the land matching service. As long as we leave the market for crofts unregulated, those with the deepest pockets will be able to hoover them up, and amendment 138 would help to mitigate that. I acknowledge the conversation that was had with the Government prior to stage 2 about local people wanting to gather crofts for families, but I think that there needs to be some balance in the process.

The Convener: I call the minister to speak to amendment 34 and other amendments in the group.

Jim Fairlie: I will start by saying that I am happy to support all of Alasdair Allan's amendments in the group—that is, amendments 27, 28, 30, 35, 36 and 38—as they address various points that have already been raised in the debate. Amendment 38, in particular, would provide a power for ministers to introduce regulation of transfers of owner-occupied crofts, subject to appropriate consultation.

I also support Beatrice Wishart's amendments 29, 31 to 33 and 37, which would provide a practical solution to the problem identified at stage 1 with regard to a rural housing body or other organisation wanting to take title to an owner-occupied croft so that it could be let or sold to a new crofter. The key point is that we do not need to restrict who can hold title; what matters is that it is a natural person who has owner-occupier status. My amendment 34 defines the "relevant date" referred to in Beatrice Wishart's amendments 29 and 31, and it makes it clear that the provision requiring all new owner-occupier crofters to be natural persons will take effect as soon as we commence this section of the legislation.

Rhoda Grant's amendments 178, 179 and 187 seek to add new conditions to section 19B of the 1993 act, with the effect that a person will acquire the status of an owner-occupied crofter only if the commission is satisfied that the person is able to comply with the duties of owner-occupier crofters under section 19C of the 1993 act. Those duties are that the person must reside "within 32 kilometres" of the croft,

"must not misuse or neglect the croft; … must … cultivate the croft; or … put it to another purposeful use"

and must keep it

"in a fit state for cultivation"

or such use. The new condition is not intended to apply only at the time that the status is acquired; it would mean that the person would cease to be an owner-occupier crofter as soon as the commission was no longer satisfied that the condition was being met, even if the commission had not told them about any concern that it might have. It would mean that the status of the person would change according to the view of the commission, so that the person might, without knowing about it, cease to be an owner-occupier crofter when there was a concern and become one again if the concern was removed.

That is unfair and cuts across existing processes. Currently, if the commission considers an owner-occupier crofter to be in breach, there is a period when that person is invited to make an undertaking about how to resolve the matter. Such undertakings could include returning to the croft in the near future, making arrangements for it to be cultivated, letting it on a short lease, and perhaps dividing or selling it. The process also gives the commission time to pause and reflect on the best solution in all the circumstances. All of those options would be wiped away by these amendments. In particular, amendment 187 would mean that the commission would immediately have to direct the person to let the land.

10:45

Just to be clear, I do not agree that we need to add a fourth condition to section 19B of the 1993 act. Section 58A of that act already gives the commission a legal obligation to take into account whether duties will be met when deciding on any application. After all, one of the commission's main purposes is to see crofts worked and the residency

duty met, so it is unlikely that it will give owner-occupier status to someone who is not going to fulfil those duties. As the committee knows, crofting law is already incredibly complex, and we should add further requirements only when we have clear evidence that doing so will fix a known problem. That is not the case here.

I understand where members are coming from with their proposals, but, for all the reasons that I have set out, I cannot support them. The changes proposed would have a significant impact on the owner-occupiers of crofts and would raise significant doubts about the rights and obligations of an owner, such that the measures might not be within competence.

As for Ariane Burgess's amendments 180 to 182, they have the same policy objectives and raise similar concerns, so I cannot support them either.

Ariane Burgess: You have said that you support Beatrice Wishart's amendments on the rural housing burden. Can you remind me why you have confidence in those amendments? I have said that I am not going to support them, but I would just like to get some reassurance.

Jim Fairlie: I am confident that Beatrice Wishart's proposals cover the issues raised in the earlier parts of the debate. I am not quite sure why the member—or you—[*Interruption*.] I am not quite sure how to address members in committee.

The Convener: Through the chair.

Jim Fairlie: I am not quite sure why the member considers it necessary not to support Beatrice Wishart's amendments at this stage.

Ariane Burgess: I am just trying to understand your points with regard to those amendments, so that I can consider whether I should change my approach and potentially support them.

Jim Fairlie: We do not need to restrict who can hold the title—only a natural person can have owner-occupier status. Therefore, I think that Beatrice Wishart's amendments cover the concerns that you have—or, I should say, that the member has. I apologise, convener. I would therefore ask the member to support Beatrice Wishart's amendments. However, as I said at the start, there are lots of other things that we can discuss. The bill is not going to cover all the concerns that we currently have, and there is more work to be done on it.

I am not sure where I have got to, convener—I should have marked my page. [*Interruption*.] I am in agreement with Rhoda Grant's amendment 184, but it will not be needed if Alasdair Allan's amendment 36, which goes further, is agreed to.

Ariane Burgess's amendment 138 would create a regulation-making power to allow ministers to make regulations limiting how many owner-occupied crofts one person can hold. That is a contentious proposal, which some crofters would support and others would be very much opposed to, and a change of that scale would require much wider consultation than simply consulting the commission. It is an important issue, but it requires much wider consultation.

Ariane Burgess: It is good to hear your recognition that this is a contentious issue and that something needs to be done about it. I am minded not to move amendment 138 if I can have some assurance that, as the minister has said, the Government is willing to take forward some level of consultation and get to the bottom of the matter. It is a problem in communities if there is an imbalance, although I recognise that there is history to take into account, as well as familial relationships with places.

However, it is an issue that we need to consider. As I said earlier, there are around 800 people who really want to croft, but they cannot access one. We absolutely need to have more people on the land. As Andrew Thin said, we must transform the way in which we use our land and move from the current suboptimal approach to one that ensures that our land flourishes and thrives.

Jim Fairlie: I disagree with none of that, but, as Andrew Thin and Gary Campbell made clear in the evidence session at the committee, they are cracking down on crofting duties—they are getting out into the communities and making sure that crofting duties are being upheld. They are pushing people. That in itself will help to free up crofts.

It is the start of a process. We are working with many years of history, so I believe that our current approach is right. That will help us on our way, but I am more than happy to carry on the discussion after the debate.

Ariane Burgess's amendments 185 and 186 would allow a community group or a not-for-profit organisation to become an owner-occupier crofter. I can see why that has been suggested as a way to address the concerns that were raised at stage 1 about rural housing bodies taking title to support new entrants, but, as Beatrice Wishart has set out, this is not the right solution. It does not feel appropriate for any non-natural person to be an owner-occupier crofter when a better solution is available. I will finish on that point.

The Convener: I ask Alasdair Allan to wind up and to press or withdraw amendment 27.

Alasdair Allan: I press amendment 27.

Amendment 27 agreed to.

Section 9—Meaning of "owner-occupier crofter" etc.

Amendment 178 not moved.

Amendment 28 moved—[Alasdair Allan]—and agreed to.

Amendment 29 moved—[Beatrice Wishart]—and agreed to.

Amendment 30 moved—[Alasdair Allan]—and agreed to.

Amendments 31 and 32 moved—[Beatrice Wishart]—and agreed to.

Amendments 179 and 180 not moved.

Amendment 33 moved—[Beatrice Wishart]—and agreed to.

Amendment 34 moved—[Jim Fairlie]—and agreed to.

Amendment 181 moved—[Ariane Burgess].

The Convener: The question is, that amendment 182 be agreed to—[*Interruption*.] I beg your pardon for the confusion. The question is, that amendment 181 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 181 disagreed to.

Amendment 182 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 182 disagreed to.

Amendment 183 not moved.

Amendment 35 moved—[Alasdair Allan]—and agreed to.

The Convener: I remind members that, if amendment 36 is agreed to, I will be unable to call amendment 184, due to pre-emption.

Amendment 36 moved—[Alasdair Allan]—and agreed to.

Section 9, as amended, agreed to.

After section 9

Amendment 138 not moved.

Section 10—Prohibition on transfers of owner-occupied crofts to persons who are not individuals

Amendments 185 and 186 not moved.

Amendment 37 moved—[Beatrice Wishart]—and agreed to.

After section 10

Amendment 38 moved—[Alasdair Allan]—and agreed to.

Amendment 187 not moved.

Amendment 188 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 188 disagreed to.

Amendment 189 not moved.

Section 11—Ten-year restriction on assignation and acquisition following Commission let

Amendments 39 and 40 moved—[Rhoda Grant]—and agreed to.

Section 11, as amended, agreed to.

After section 11

Amendment 41 moved—[Alasdair Allan]—and agreed to.

Amendment 190 moved—[Rhoda Grant].

The Convener: The question is, that amendment 190 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
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 190 agreed to.

Section 12—Decrofting direction: rationalisation of routes and requirements

The Convener: Amendment 42, in the name of the minister, is grouped with amendments 43, 80 to 85, 204, 86, 205 to 209, 87 to 89, 91 to 99, 90 and 126. If amendment 204 is agreed to, I cannot call amendment 86, due to pre-emption.

11:00

Jim Fairlie: Amendments 42, 43, 90 to 99 and 126 would ensure that crofts have to be registered before most regulatory applications may be made. There are currently two separate routes for processing commission regulatory applications, depending on whether the croft has previously been registered in the crofting register. That can result in parties having different roles depending on whether the croft has been registered.

The amendments will require that applications can be made only in respect of crofts that have already been registered for the following application types: enlargement, exchange, assignation, division, resumption, decrofting, subletting, apportionment and letting of an owner-occupied croft. The amendments also make consequential changes to the 2010 act in respect of provision about registration. This change will simplify these processes and bring clarity, consistency and certainty.

Amendments 42 and 43 are made in consequence of the amendments just discussed and they will amend section 12 of the bill, which made some modifications to the 1993 and 2010 acts that are no longer needed, given the broader changes being made in relation to registration requirements.

Amendment 95 would apply the rule for crofts to be registered before an application is made to applications to the Land Court for a resumption.

Amendment 96 operates on the assumption that, for an application for reversion of resumption, the croft will have already been registered, because resumption has been a trigger for registering a croft since the 2010 act was brought into force.

On amendments 80, 81 and 82, section 22 of the bill will modify the 2010 act to require a tenant crofter of an unregistered croft who acquires title to the croft to apply to register the croft in the crofting register. The amendments apply the same requirement to the circumstance where, instead of the tenant crofter acquiring title themselves, they nominate someone else to do so, the effect being that, in that circumstance, the nominee will be required to apply to register the croft.

The purpose of amendments 83, 84 and 85 is to ensure that the fee handling for registration is consistent with the legislative approach that is taken to payment of registration fees in the keeper's other registers, such as the land register. Amendment 83 will allow the keeper to accept an application for registration if the payment has already been submitted to Registers of Scotland as an alternative to arrangements having been made to pay it in due course. If neither has been done, the keeper must reject the application.

The effect of amendments 84 and 85 will be to remove the commission's role in checking that payments have been submitted for an application in respect of a registration event affecting a common grazing or land held runrig, as that function has effectively been transferred to the keeper.

Although I cannot support Edward Mountain's amendments 204, 205, 207 and 209, I would be happy to work with him ahead of stage 3 with a view to finding a different solution so that the forms are prescribed by the Crofting Commission and not the Scottish ministers by regulations. The commission is very experienced in such matters and already provides some forms for a wide range

of regulatory processes, and it is far more efficient to allow the commission to adapt and improve the content of a regulatory form and how it is processed than to have to draft and revisit regulations. I therefore ask Mr Mountain not to press the amendments. If he does, I ask the committee to reject them.

I do, however, support extending the time period for the landlord to respond from 14 days to 21, so I ask the committee to support Beatrice Wishart's amendment 86.

I cannot support Edward Mountain's amendments 206 and 208. When the commission receives a first registration application, it already checks, in accordance with section 7(3) of the 2010 act, the information that is contained in or that accompanies the application against the information relating to the croft in the register of crofts. If there is a dispute between the landlord and crofter, it should always be a matter for the Land Court. The commission does not have the authority to resolve registration disputes, and even a voluntary commission function of trying to get parties to agree would be very resource intensive. It could also result in a crofter's registration being stalled for long periods of time. I therefore ask Mr Mountain not to move amendments 206 and 208. If he does, I urge the committee to reject them.

On amendments 87, 88 and 89, the keeper of the registers of Scotland has come to the conclusion that they would not use the power to make corrections to a manifest error in the crofting register of their own volition. There is no point in making provision in statute for something that is never going to be used. However, section 26 of the bill continues to include the new provision in the 1993 act that would allow the Crofting Commission to direct the keeper to rectify material errors in the crofting register when the means of correcting them are clear and obvious and the parties involved have been consulted. That will make it easier for clear errors to be corrected quickly and with the minimum of costs for the parties involved.

I move amendment 42.

Edward Mountain: I lodged my amendments in this group because I wanted to avoid costly legal action at a later date. From experience, I know that defining the boundaries of crofts is sometimes virtually impossible. Indeed, when I worked for a landlord, when looking at maps that were dated prior to the 1900s, it was often difficult to ascertain where the watercourses were and which croft owned them. My aim with these amendments is to prevent that.

Before I became a politician, I worked with Scottish and Southern Electricity Networks to work out where electric lines ran and which person would get the benefit of the payments, and that often ended up in a dispute between two crofters. My aim with these amendments is therefore to bring forward something reasonable and to avoid costly appeals at a later date that would mean costs for the commission, the crofter and the landlord.

I have heard what the minister has said about my amendments and I seek a resolution. If the minister is prepared to meet me to discuss finding a suitable alternative to my amendments, I would be happy not to move them, on the basis that a solution might be found elsewhere. If that is not possible, I can lodge the amendments again at stage 3. I see that the minister is nodding, but it would be useful to have something on the record.

Jim Fairlie: I would be content to meet and have those discussions.

Edward Mountain: Thank you. With that, I have finished what I wanted to say.

Beatrice Wishart: I will speak to amendment 86. Section 24 of the bill introduces a right for croft landlords to comment on a croft registration application before it is submitted to the commission. It is intended that that voluntary process will support greater accuracy in the croft maps that are submitted for registration. Amendment 86 would extend the period for the landlord to comment from 14 days to 21 days, which would provide a more realistic timeframe for a review of the application.

The Convener: Minister, would you like to wind up?

Jim Fairlie: I have nothing further to add, thank you.

Amendment 42 agreed to.

Amendment 43 moved—[Jim Fairlie]—and agreed to.

Section 12, as amended, agreed to.

The Convener: I suspend the meeting for a brief comfort break.

11:08

Meeting suspended.

11:14

On resuming—

Section 13—Commission decision-making on decrofting applications

Amendment 139 not moved.

Section 13 agreed to.

Section 14—Commission's power to adjust boundaries

The Convener: Amendment 44, in the name of the minister, is grouped with amendments 45 to 64.

Jim Fairlie: Amendments 44 to 64 make technical refinements to the commission's powers to adjust boundaries, enhancing their flexibility for use in different circumstances. The amendments resolve points that were raised by the committee during stage 1 and further points of detail that were subsequently raised by the commission.

Amendment 44 clarifies that, if there is an unresolved registration challenge affecting a registered croft, that croft cannot be included in a boundary adjustment application until the challenge has been resolved.

11:15

Amendment 55 extends the restrictions regarding challenges to the registration of the subject crofts to boundary remapping applications as well as all boundary adjustments. Those safeguards will avoid any risk of two different applications operating concurrently in relation to the boundaries of the same newly registered croft.

Amendments 46 and 59 give the commission power to impose conditions when approving a boundary adjustment or remapping, for example to give consent subject to specified conveyancing being completed. Applicants will therefore be able to avoid the risk of their croft boundaries diverging from the boundaries in their title.

Amendments 49 and 62 are consequential to amendments 46 and 59 and provide that, if any conditions are specified by the commission, the direction for the boundary adjustment or remapping will expire three months after the date on which the conditions are satisfied instead of the date on which the direction was made.

Amendments 51 to 54 provide that an owner or part-owner of a croft may be the applicant for a boundary remapping. That is a significant extension of boundary remapping, and it means that it will be capable of resolving problems for crofts that are in multiple ownership, as long as all the owners agree. That is the result of a recommendation made by the crofting law group in the sump report.

A key requirement of the boundary remapping power is that it can be exercised only if all affected parties consent. Amendments 56 and 58 therefore bring flexibility to the specification of an affected party, giving that decision to the commission instead of prejudging it in the bill.

Amendment 63 gives the Scottish ministers a power by regulation, subject to the negative procedure, to specify classes of people whose consent must be required or to allow new classes of applicant. For example, the power could be used to extend the scope of boundary remapping so that, in the future, an application could be made by a grazings committee in regard to the boundary between a common grazing and a croft.

My other amendments in the group—45, 47, 48, 50, 57, 60 and 61—make minor adjustments to the wording of section 14 to ensure accuracy, clarity and consistency with other parts of the 1993 act.

I move amendment 44.

Amendment 44 agreed to.

Amendments 45 to 64 moved—[Jim Fairlie]—and agreed to.

The Convener: That is a relief.

Section 14, as amended, agreed to.

After section 14

The Convener: Amendment 140, in the name of Ariane Burgess, is grouped with amendments 191 and 192.

Ariane Burgess: It is important that we encourage crofters to put land to environmental use or forestry. It can be hard to make environmental use pay, but we need crofters and other land managers to put their land to such use if we are to meet our nature and climate targets.

Amendment 140 would extend the crofting agricultural grant scheme to woodland crofts and crofter-led forestry. The bulk of new crofts are woodland crofts, given that they are often established on former Forestry and Land Scotland land. They come with restocking requirements, but the CAGS is unavailable to woodland crofts, as the grants are tied specifically to agricultural activity. Forestry grants are also highly competitive, so it is difficult for crofters to access them, and, even if they do, they do not reflect the reality of the cost of undertaking that activity.

Even when a crofter pursues sustainable and regenerative dual usage, such as agroforestry, planting shelter belts or installing fencing for rotational grazing, they are often rejected for subsidy by some rural payments and inspections division offices because the usage is not deemed to be agriculturally justifiable.

Amendment 140 would greatly relieve that pressure and allow more crofters to explore environmental and other more nuanced uses of their crops. For example, crofters could use their land to meet the demand for native tree nurseries, which would help us to meet tree planting and biodiversity targets. Crofters are already doing that to an extent, but a wider form of CAGS could help more of them engage in that kind of activity.

Amendments 191 and 192 seek to introduce a Government-backed loan facility for crofters. All too often, commercial loans do not match up well with crofting, mostly because crofting is—and should, of course, remain—a regulated system of land tenure. Commercial loans are usually unavailable for land that is subject to Government regulations, and that is also the case when it comes to accessing finance for croft housing or for other large capital investments that crofters might have to make. On the housing front, in particular, a croft house would need to be decrofted to be eligible for a commercial loan—a nonsensical situation that puts such housing at risk of being lost to the wider market. That is especially problematic in the Highlands and Islands, given the overheated market that is being fuelled by second homes and Airbnbs.

If the Scottish Government is serious about halting depopulation, creating affordable rural housing and ensuring that crofting land gets to genuine crofters, we need to enable conditional finance in this space. The crofting house grant scheme, even with the proposed changes, is not providing enough to help those who lack the necessary funds to build a croft house—and all the more so since the Covid pandemic, as building costs in the Highlands and Islands have surged by an average of 5 per cent each year.

I would also mention other investments such as loans for support. We need to acknowledge that crofters need money up front for subsidies such as CAGS, which pays out only once the project in question has been completed. As a result, crofters need favourable Government-backed terms if they are to be able to access those funds. I urge members to accept these amendments, so that we can provide these crucial loans to crofters.

I move amendment 140.

Jim Fairlie: I am unable to support Ariane Burgess's amendments 140, 191 and 192. The Scottish Government already provides financial assistance to support the planting of trees and woodland creation. Section 42 of the 1993 act does not exclude those activities; indeed, it has been intentionally framed in broad terms to allow for a wide range of financial assistance to crofters.

With regard to amendment 191, there is already provision under section 46A of the 1993 act to allow ministers to provide for loans. Once again, that provision has been intentionally framed in broad terms to allow for loans to be available for any purpose deemed suitable.

On amendment 192, I do not think that it would be appropriate to compel any future Government to provide loans; as I have said, section 46A of the 1993 act already allows ministers to provide loans to crofters and others. It is not uncommon for the Government, when considering financial assistance, to have to decide between providing loans or grants, or both, and I would not want that choice to be reduced.

Ariane Burgess: Will the minister give way?

Jim Fairlie: I ask the member to allow me to finish. What I was going to say is that we are currently looking to revise CAGS. Part of that will involve looking at what projects will be supported, and discussions are already under way with stakeholders.

I will now take the member's intervention, but I hope that she will bear that information in mind.

Ariane Burgess: That is something that I wanted to get a better sense of. Perhaps there is a communication issue here if there are measures in place that people can access, but it is good to hear that you are looking at revising CAGS to make it more accessible for crofters to do the things that they want to do, especially given the big push for the ecological restoration that needs to be taking place across our land. I will keep track of these developments and what you are looking at with regard to CAGS.

Jim Fairlie: With that in mind, I do not think that we need any of this in primary legislation. I hope that the member appreciates that there is work on-going, and I ask her not to press her amendments.

The Convener: I call Ariane Burgess to wind up and indicate whether she wishes to press or withdraw amendment 140.

Ariane Burgess: Given the minister's assurances that the Government has taken on board the issues with regard to crofters accessing the funding that they need, I am minded not to press amendment 140.

Amendment 140, by agreement, withdrawn.

Amendments 191 and 192 not moved.

Before section 15

The Convener: Amendment 65, in the name of the minister, is grouped with amendments 66, 67, 193, 68 to 73, 194, 195, 75, 141, 199 and 163. If amendment 67 is agreed to, I will not be able to call amendment 193, due to a pre-emption.

Jim Fairlie: Amendments 65 to 69 and 73 are designed to introduce a more comprehensive and flexible system for achieving our policy aims on grazings shares and their connection to crofts.

My officials have reviewed the provisions in the bill with the help of a group of stakeholders with legal expertise. They have concluded that the provision currently in section 15(2) of the bill is inflexible and might have adverse consequences. Amendment 67 will therefore remove that section

from the bill and amendments 65, 68, 69 and 73, supported by amendment 66, will introduce a new set of provisions.

New subsection (2), which will be inserted by amendment 65, provides that, if a crofter purchases the entire croft, including the grazing right, that right counts as part of the croft for the full range of purposes of crofting regulation. It therefore cannot be separated from the inby land unless a division application is approved by the Crofting Commission.

Amendment 69 reinforces and supplements amendment 65. It explicitly provides that any grazing right that is held by an owner-occupier crofter, whether as a purchased heritable right or as a deemed croft held in tenancy, is part of the croft for the purposes of section 19D of the 1993 act. That means that the right cannot be separated from the rest of the croft except by a division application that is approved by the commission.

Amendment 68 considers what happens if an owner-occupier crofter who also holds a deemed croft sells his inby land without having secured approval to separate. It provides that, in that circumstance, an assignation of the deemed croft automatically takes place. That will apply to all deemed crofts that are held by that owner-occupier crofter in the relevant common grazings, including any deemed croft that existed before the passage of the bill.

Amendment 73 will require the crofting register to record links between crofts and deemed crofts that are held by the same person. The registration schedule for the croft will have to include a reference to the deemed croft and vice versa. That provision will be forward looking so will not apply to shares that had become deemed crofts before the commencement of the section until those are next transferred. However, even when the links are not recorded in the crofting register, the constraints on separation and other provisions set out in amendments 65, 69 and 68 will still apply.

Other important changes are made by amendment 65. First, it creates a new situation in which the right to buy applies to an apportionment—which is when someone who is not a crofter holds a separated share that has been permanently apportioned to them. In that situation, it makes sense for them to be able to buy the land, which would then become a new owner-occupied croft.

Secondly, it provides that, if an owner-occupier crofter lets a croft to a new tenant crofter, any grazings share goes, too, and becomes a pertinent of the new tenancy.

Thirdly, it confirms that a grazings committee and the Crofting Commission have the same management and oversight roles for all grazings shares, no matter who holds them or in what form.

I agree with the intent of Rhoda Grant's amendments 193, 194 and 195, as those appear to be designed to do largely the same things as the set of amendments that I have just described. However, they will not be needed if the full package of my amendments is approved. Moreover, my amendments do not require further regulations to be made to achieve the desired effect. I therefore ask Rhoda Grant not to pursue those amendments.

Amendments 70, 71, 72 and 75 make small improvements to the bill for readability and clarity, and I hope that members will support them.

I cannot support Ariane Burgess's amendment 141. I appreciate the importance of dispute resolution for common grazings, but a regulation-making power for what is a very specific aspect of commission activity is not necessary or appropriate. The commission already has a broad range of general functions and duties that can extend to such intervention, and it has the right to devote resources to mediating in disputes. Indeed, if necessary, the Scottish Government already has the power to direct how it fulfils its functions. It is not clear what the proposed new power would add, other than further legislation and process.

11:30

I also cannot support Edward Mountain's amendment 199. Each party will be considering its approach to further crofting reform ahead of the upcoming elections. I do not think that it is helpful at this stage to single out one aspect of that, however important it is, to be prioritised for the review as a matter of law.

As Ariane Burgess will, no doubt, explain, her amendment 163 will correct an important deficiency in the legislation regarding the review of part of an apportionment. I encourage members to support amendment 163.

I move amendment 65.

The Convener: I call Rhoda Grant to speak to amendments 193 and other amendments in the group.

Rhoda Grant: I will speak to amendments 193 to 195. As the minister said in his speech, amendments 193 and 194 do largely what his amendments seek to do. I do not intend to move them, so I will not speak to them in detail.

I am not convinced that amendment 195 is covered by his amendments. Amendment 195 would provide ministers with powers to make provision enabling grazing shares to be reunited with the croft they originally pertained to. It is clear

that that would be desirable, given that owners of grazings shares might not be aware of their status. Those who might be holding on to those shares may also be looking to benefit financially from the work of grazings committees. That was creating a deal of angst for crofters where grazings shares were held by someone with no attachment to the community.

As I say, I do not think that the minister's amendments deal with that issue. If they do, I would be happy to take an intervention. If not, I will move amendment 195.

Jim Fairlie: The bill that we have in front of us already does what Rhoda Grant is looking to do. Her amendment 195, which would insert a section 52ZB, on reunification of grazing shares with a croft, states:

"Scottish ministers may, by regulations, make provision to enable reunification of any share in grazing land with a croft to which it once pertained."

I hope that that gives Rhoda Grant comfort. If she does not move amendment 195 and there are concerns, I am happy to have a discussion ahead of stage 3. If that still does not satisfy Rhoda Grant, the amendment can come back at stage 3.

Rhoda Grant: I am happy to accept that reassurance, and I have nothing more to add.

The Convener: I call Ariane Burgess to speak to amendment 141 and other amendments in the group.

Ariane Burgess: During the committee's discussion of the bill, there was a good deal of reflection on disputes in rural areas and crofting communities. In our round-table evidence session with stakeholders, I proposed creating a soft-touch mediatory function that could work in a similar way to the successful Common Ground Forum, which was intended to take the heat out of misunderstandings related to deer management and very much did so.

During the evidence session, there was a reflection that members of the Crofting Commission would, in the past, have had people on the ground who helped to resolve conflict, along with their other duties. It appears that that practice died out when the commission faced budget cuts over ensuing years. As we all know, when things disappear, it can be mighty difficult to resurrect them down the line.

Jim Fairlie: Will the member give way?

Ariane Burgess: I will finish my point, and then I will.

Amendment 141 is my proposal to resurrect some of the old function that the Crofting Commission performed. Applying specifically to a grazings committee, it would require Scottish ministers to give the commission powers to intervene or seek to resolve conflicts between a grazings committee and the owner of a common grazing. I remember that, when I suggested that to stakeholders at the round-table meeting, the idea received support from across the spectrum.

I take the minister's earlier points in this part of the debate, but I think that we need to recognise that there is conflict across rural Scotland. We need to acknowledge that physical infrastructure such as roads and bridges is crucial for our rural communities. We also need what I call soft infrastructure, which is support for people to come together to resolve misunderstandings. I take the point that the Crofting Commission could take that work on, and I feel encouraged by the approach that is being taken by the chair of the commission and his presence at the committee, but we have a real opportunity here to take the heat out of some points of contention between crofters and landowners, and even between crofters. I think that the commission needs to be properly resourced to take that on board.

If the minister would still like to intervene, I will take his intervention.

Jim Fairlie: If the member is content to give way, I will just point out that we have considerably increased the funding to the Crofting Commission, to allow it to carry out a lot of the functions that we talked about earlier, such as ensuring that duties are held. It is in the Crofting Commission's best interests for communities to work together, and I see no need to put that in primary legislation. If ministers feel that something still needs to be done, there are provisions in the bill that could compel the Crofting Commission to do stuff.

I absolutely understand the point that the member is making—clearly, there are disputes that we need to try to resolve. [*Interruption*.] One of my officials has just clarified that the provisions are in the 1993 act, not the bill.

I take the member's point on board, but I do not think that this is needed in the bill. The Crofting Commission has set out its stall and how it will go forward, which is a good position to be in. I do not think that this amendment is needed in the legislation.

Ariane Burgess: I thank the minister for that intervention, and I take on board all the points that he has made. I am heartened by the reassurance that there is increased funding for the commission—it would be good if we could ensure that that happened year on year.

I just want to underscore the point that mediation and conflict resolution across rural Scotland will be essential to how we move forward into the future. Our communities face a lot of change and

challenge, and change can be extremely unsettling for people. Therefore, I believe that supporting communities in that process would be a compassionate approach.

On amendment 163, section 52(12) of the 1993 act allows the commission, on the application of a township, crofter, grazings committee or owner, to review an apportionment and to choose whether to vary it, revoke it or bring it to an end. This amendment seeks to accommodate those situations in which the purpose of an apportionment review application to the Crofting Commission is only to bring to an end a part of the apportionment, such as an access track or communal facility, that might inadvertently have included an original apportionment.

The Convener: I call Edward Mountain to speak to amendment 199 and other amendments in the group.

Edward Mountain: I want to say at the outset that I welcome the minister's offer to meet Rhoda Grant to discuss how to sort out common grazings. For many years, I have been acutely aware of the problem of apportionments of such grazings not being held by people in crofting communities and of funds that are attributable to the grazings being taken away from them or not being spent on what they are actually all about. I know of historical examples of money being spent by common grazings committees on children's playgrounds and churches, and I just do not think either of those is the function of those committees.

Therefore, I welcome the minister's offer. I do not want to muscle in on Rhoda Grant's negotiations with the minister, but I would like to be kept informed of them, if I may be, because I think they will be vital.

I support the intention behind Tim Eagle's amendment 211 and Ariane Burgess's amendment 212 with regard to wider consultation, as such an approach will enable us to look at the bigger picture of crofting. My amendment 199, however, would require ministers to consult specifically on measures that would improve the regulation of common grazings. With hindsight, I think that I could have gone further by also requiring that regulations be made to deliver such measures.

I would be happy to discuss the regulations with the minister before stage 3, but I do not think that he is minded to agree the principle today, which I think is disappointing. The reason why I will be pushing the issue is that certain promises were made to the committee that I was on in 2017 regarding crofting legislation reform, but things never happened. I dare say, minister, that you might make promises about what can happen in the future, but I am not sure that you will be here to deliver them, as there may be a change of Government and ministers—I do not want to dwell on that, but it is a fact.

We are discussing a hugely important issue that warrants being given priority. Better regulation of existing common grazings could be progressed now, so that we could begin to halt the trend of neglect and abandonment of some of the areas that I have mentioned and help to facilitate the joint ventures that the bill seeks to encourage and that I believe crofters want to see happening.

As the committee is aware, common grazings cover about 550,000 hectares of Scotland, which is about 1.3 million acres. To put it in more parochial terms, that is about 800,000 football pitches, which is a huge amount of ground. However, according to the commission's latest published figures, just under half of those acres are regulated through having a common grazings committee in office. That creates a lack of transparency about who manages and controls the land, which, to my mind, contributes to abandonment and neglect.

Huge frustration about the issue has been felt by many, including the owners of the land, who feel helpless to intervene, and those who use the common grazings and want to do more with them but are unable to do so. The lack of regulation is now a serious barrier to the delivery of important outcomes for the wider public interest, such as carbon sequestration through peatland restoration and renewable energy generation, and it stands in the way of wider sustainable social, economic and environmental benefits, which are what crofting is all about.

At the very least, a common grazings committee should have a named point of contact and information available to owners and communities about who holds shares. That would increase transparency, which is what the bill aims to do. That is why I think we should see these changes, which would facilitate management of the common grazings for environmental purposes and other positive uses and would reduce the current level of neglect and abandonment that I am afraid is evident across Scotland. The grazings would also benefit crofting communities, helping them to generate income and potentially help the environment. I therefore urge the minister and the committee to support amendment 199.

Jim Fairlie: I absolutely understand the point that the member is trying to make, but I think that two years is too soon, as an awful lot of work would have to be undertaken, and we should also allow time for the bill to bed in.

The member stated that he thinks that I am not prepared to discuss the amendment, but I am more than happy to discuss his proposal in order

to work out whether there is another way of doing what he calls for, which could involve there being an extension to the time that would be required. However, as I said, I do not think that two years is long enough to allow us to get to the position that is stated in the amendment.

Edward Mountain: My view is that, if you are not writing off the proposal or saying that it does not need to be done, we could include it in the bill with a slightly longer flash-to-bang time, as far as implementation is concerned. I would probably be happy with that and would therefore not move my amendment.

However, joking apart, my real concern is that I want to see crofting thrive for the next generation and the generation afterwards. That is why I find it deeply disappointing that we are putting off things that we could do today and saying that we are going to do them tomorrow.

The issue is not going to go away. I am happy not to move my amendment when the moment comes, purely on the understanding that the minister will talk to me about the issue. He should understand that I will be tenacious on this matter and that there will be no giving way at stage 3.

Jim Fairlie: To reiterate my point, I am more than happy to have a discussion with the member. If we can find solutions to this issue without going to a vote, I am more than happy to do that.

The Convener: I ask the minister to press or withdraw amendment 65.

Jim Fairlie: I press amendment 65.

Amendment 65 agreed to.

Section 15—Common grazings: unattached shares etc.

Amendment 66 moved—[Jim Fairlie]—and agreed to.

The Convener: I call amendment 67, in the name of the minister. I remind members that, if amendment 67 is agreed to, I cannot call amendment 193, due to pre-emption.

11:45

Amendments 67 to 73 moved—[Jim Fairlie]—and agreed to.

Section 15, as amended, agreed to.

After section 15

Amendments 194 and 195 not moved.

Section 16—Grazings committees meetings

Amendments 74 and 75 moved—[Jim Fairlie]—and agreed to.

Section 16, as amended, agreed to.

Section 17 agreed to.

After section 17

Amendment 141 not moved.

Section 18—Use of common grazings for forestry or environmental purposes

The Convener: I call amendment 142, in the name of Ariane Burgess. I remind members that, if amendment 142 is agreed to, I cannot call amendments 143 to 145, due to pre-emption.

Amendment 142 moved—[Ariane Burgess].

The Convener: The question is, that amendment 142 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 142 disagreed to.

Amendment 143 moved—[Tim Eagle].

The Convener: The question is, that amendment 143 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 143 agreed to.

Amendment 144 moved—[Tim Eagle].

The Convener: The question is, that amendment 144 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 144 agreed to.

Amendment 145 moved—[Tim Eagle].

The Convener: The question is, that amendment 145 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 145 agreed to.

Amendment 146 moved—[Ariane Burgess].

The Convener: The question is, that amendment 146 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 146 disagreed to.

Amendment 147 moved—[Tim Eagle].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 147 agreed to.

Amendment 148 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 148 disagreed to.

Amendment 196 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 196 disagreed to.

Amendment 76 moved—[Jim Fairlie]—and agreed to.

Amendment 77 moved—[Jim Fairlie].

The Convener: The question is, that amendment 77 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)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

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

Abstentions

Burgess, Ariane (Highlands and Islands) (Green)

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

Amendment 77 agreed to.

Amendment 197 moved—[Rhoda Grant]—and agreed to.

Amendment 149 moved—[Tim Eagle].

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

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Eagle, Tim (Highlands and Islands) (Con)
Harper, Emma (South Scotland) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Tweed, Evelyn (Stirling) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 149 agreed to.

Amendment 150 moved—[Tim Eagle].

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

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 150 agreed to.

Amendment 151 moved—[Ariane Burgess].

The Convener: The question is, that amendment 151 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 151 disagreed to.

Amendment 152 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

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

Against

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

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

Amendment 152 disagreed to.

Amendment 198 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

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

Against

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

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

Amendment 198 disagreed to.

Amendment 153 moved—[Tim Eagle].

The Convener: The question is, that amendment 153 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

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

Against

Burgess, Ariane (Highlands and Islands) (Green)

Abstentions

Grant, Rhoda (Highlands and Islands) (Lab)

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

Amendment 153 agreed to.

Section 18, as amended, agreed to.

After section 18

Amendment 199 moved—[Edward Mountain].

The Convener: The question is, that amendment 199 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)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Tweed, Evelyn (Stirling) (SNP)

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

Amendment 199 disagreed to.

Sections 19 and 20 agreed to.

After section 20

Amendment 78 moved—[Jim Fairlie]—and agreed to.

The Convener: Amendment 154, in the name of Ariane Burgess, is grouped with amendments 200 and 201.

Ariane Burgess: One of the bill's missed opportunities is that it does not extend the crofting model to other parts of Scotland. We all know that crofting is a cultural institution and a unique way of life in the crofting counties that must be preserved. We can all agree that it binds communities together and supports rural communities. It gives more people a stake in the land and, by its very nature, is a low-impact way of managing the land. I firmly believe that that makes crofting a good model for reinvigorating communities and halting depopulation in rural parts of Scotland. Furthermore, it makes crofting an ideal method by which to produce locally accessible food in a sustainable and regenerative way, which is a path that we legislated for in the Agriculture and Rural Communities (Scotland) Act 2024 and the Good Food Nation (Scotland) Act 2022.

Amendment 154, which was prepared in collaboration with the Scottish Crofting Federation, requires ministers to commit to and report on

creating new crofts on public land. That would apply within existing crofting counties and beyond them. It would help to put Scotland on track to meet its climate, nature and community wealth building goals while allowing more new entrants to get involved.

Amendment 201 offers another path for public land to be moved into crofting, which could work in tandem with amendment 154. It would give ministers a duty to consider putting public land up for crofting use if a community body requests it. That would be useful, because it would allow local communities that sit close to public land to tackle issues such as the lack of available crofts in their vicinity.

Amendment 200 is similar, although it allows any person to request a crofting designation for land outside the established crofting communities. Ministers would be able to amend that stipulation if necessary.

It is really important that we listen to the calls to expand crofting to the rest of Scotland, and I urge members to vote for the amendments so that we can take that vital step. I will, however, listen to what the minister has to say.

I move amendment 154.

The Convener: I call the minister to speak to the amendments in the group.

12:00

Jim Fairlie: I support Ariane Burgess's desire to see new crofts being created. However, I cannot support amendments 154, 200 and 201.

New crofts are a means to provide opportunities for new entrant crofters, so I will preface my remarks with some comments about the actions that are being taken to free up existing crofts. Each year, the commission reports to the minister—to me, at this moment—on the number of new entrants into crofting. On average, that figure has been around 500. From October 2023 to September 2024, there were 543 new entrants into crofting. The commission also reports each year on the number of crofters who have self-reported, through their annual notice, that they are in breach of one or more of their duties. In 2024-25, that number was exactly 1,000. If we consider that approximately 25 per cent of crofters did not return their annual notice, we know that the true figure is significantly higher. However, I am pleased to say that the commission is now taking decisive measures to encourage the return of annual notices and is taking action on more of those who are in breach of their duties. That is the work that the commission needs to focus on. I am delighted to say that, due to its increased focus on duties and enforcement, the commission is currently letting one croft a week to a new entrant.

Amendment 154 would place a very short period after royal assent for the preparation and publication of two reports. It is important that we let the bill bed in and take effect. That, together with the excellent work of the commission, will give us a much better idea of what new crofts may be needed and where.

The expansion of crofting outwith the crofting counties is a topic that needs serious thought. We need to consider whether there may be practical and unintended consequences from simply allowing crofts to be created anywhere in Scotland. I would want to seek the views of the crofting public before making any firm decision. Therefore, I cannot support amendment 200.

Ariane Burgess: Expanding the practice of crofting into other counties in Scotland has been talked about for quite a long time. Can the minister give any assurances about what work might be done in that area? It would be nice to get to a point at which we are not just talking about it but doing some work on the ground.

Jim Fairlie: There is talk about it, but there is no consensus on whether it is the right thing to do. A much bigger piece of work needs to be done to decide whether to expand beyond the crofting counties. Crofting was established in the first place because particular areas of land required intervention. I think that there has been agreement in every committee evidence session that more work needs to be done on crofting as a whole. Whether we extend croft land to other parts of Scotland should be decided in that process. I would very much push back on the aim of amendment 200 until we have clarity about whether extending crofting to other parts of Scotland is the right thing to do.

Ariane Burgess: I am seeking clarity on how you are going to get clarity. We cannot predict what will happen after the election, but is that piece of work queued up to be taken on board?

Jim Fairlie: As I said to Edward Mountain, every party will have a manifesto with the policies that they are putting forward. However, it has been made very clear to me that we require further work to be done on crofting legislation. I absolutely accept that we need to go much further and be much bolder. I cannot say what will be in the Scottish National Party's manifesto at this stage, but it is very much in my mind that this is a bedrock to start with and that, in the future, we need to go much further.

It is not clear how amendment 201 would be used. It would allow a community body to require a Scottish minister to consider designating some

area of public land as a croft, irrespective of which public authority owns that land or whether the community body is situated near the land. Further, the Scottish Government community land team is currently undertaking a separate review of all the community rights to buy. As a result, how groups could access the right to purchase such land is likely to change. I reiterate what I said: I absolutely take on board the sentiment behind what the member is trying to do. However, I ask her not to press amendment 154 or move amendments 200 and 201, because I believe that work is coming down the line, and if she does so, I ask the committee to reject the amendments.

The Convener: I call Ariane Burgess to wind up and to press or withdraw amendment 154.

Ariane Burgess: I appreciate what the minister said about a commitment to do further work, but I am minded to press amendment 154.

The Convener: The question is, that amendment 154 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 154 disagreed to.

Amendment 200 not moved.

Amendment 201 moved—[Ariane Burgess].

The Convener: The question is, that amendment 201 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

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 vote is: For 2, Against 7, Abstentions 0.

Amendment 201 disagreed to.

Amendments 202 and 203 not moved.

Before section 21

Amendment 79 moved—[Jim Fairlie]—and agreed to.

Section 21 agreed to.

Section 22—First registration of crofts purchased by tenant crofter

Amendments 80 to 82 moved—[Jim Fairlie]—and agreed to.

Section 22, as amended, agreed to.

Section 23—Payment of fees for applications for registration

Amendments 83 to 85 moved—[Jim Fairlie]—and agreed to.

Section 23, as amended, agreed to.

Section 24—Requirement for certain applications for first registration to be copied to landlord

Amendment 204 not moved.

Amendment 86 moved—[Beatrice Wishart]—and agreed to.

Amendments 205 to 209 not moved.

Section 24, as amended, agreed to.

Section 25 agreed to.

Section 26—Rectification of the Crofting Register

Amendments 87 to 89 moved—[Jim Fairlie]—and agreed to.

Section 26, as amended, agreed to.

Section 27 agreed to.

After section 27

Amendments 91 to 99 and 90 moved—[Jim Fairlie]—and agreed to.

Section 28 agreed to.

Section 29—Public notification

Amendments 100 and 101 moved—[Jim Fairlie]—and agreed to.

Section 29, as amended, agreed to.

Section 30—Crofting census notices

Amendment 155 moved—[Tim Eagle]—and

agreed to.

Section 30, as amended, agreed to.

Section 31 agreed to.

Section 32—Appointed members: special considerations

Amendment 210 not moved.

Section 32 agreed to.

Section 33 agreed to.

After section 33

The Convener: Amendment 211, in the name of Tim Eagle, is grouped with amendments 212, 213 and 215.

Tim Eagle: It is important to put on record how important crofting is to the Highlands and Islands. I know that from the many contexts that I have worked in over the past couple of years. I have not lodged many amendments to the bill, purely because it is quite technical and there is quite a lot of agreement on most of it. For me, the key aspect is that, back in 2017, when the Parliament carried out the crofting review, crofters thought that there was going to be some consolidation of previous legislation and that more would come out of the review. That goes back to Edward Mountain's point and that is what I will speak about in relation to amendment 211.

Amendment 211 would require ministers to undertake a review of all crofting legislation two years after the bill gains royal assent. The review would need to consider the impact and effectiveness of existing legislation. It would also question whether further legislation on crofting is required and whether any legislation should be consolidated. The amendment would require that, following the review, ministers would need to produce a report and lay it before the Parliament. That reflects the committee's recognition in its report that there was broad support for a more fundamental and structural review of crofting policy and law in Scotland. It recognises that crofting has been protected by legislation since the 19th century. We must ensure that crofting law is not overly complex, is not scattered across various legislation and is up to date, so that it reflects crofting traditions in a modern Scotland.

Turning to other amendments in the group, I am happy to support Ariane Burgess's amendment 212, as its aims are broadly similar to those of my amendment 211. However, I prefer my amendment, as it addresses concerns about whether existing legislation needs to be consolidated and whether there needs to be more legislation, whereas the aim of amendment 212 is to look at the need for further legislation specifically. I believe that we need to avoid having legislation on top of legislation, which would create complexities and a lack of clarity before the law is consolidated, and it might require us to repeal further legislation that would no longer be necessary.

My amendment 211 would require a review of the bill if it becomes an act. At stage 1, we heard that the bill, although it is welcome and makes positive changes, is not the significant update to crofting law that is wanted or needed, or that has been promised. The Scottish Government has said that the bill will pave the way for future legislation. My amendment would see its effectiveness being reviewed as part of a full review of all existing legislation on crofting.

Finally, Ariane Burgess's amendment 212 states that the review must be undertaken within five years of the bill receiving royal assent, but I prefer the speedy two-year requirement in my amendment, because I believe that we need more robust change and consideration as quickly as possible.

I move amendment 211.

The Convener: I call Ariane Burgess to speak to amendment 212 and other amendments in the group.

Ariane Burgess: As I said during the stage 1 debate, I consider the bill to be something of a missed opportunity. It has been in the works for a decade, and, although it tidies up crofting legislation, it is not quite what crofters had hoped for. There are a number of key asks from crofters that have not been addressed in the first draft of the bill, such as tighter regulation of the market and tenancies so that crofting can be more accessible; a scheme to create crofts on public land; and a Scotland-wide expansion of where crofting can take place. I have attempted to address that with several of my amendments.

I agree with the Scottish Crofting Federation that work on more comprehensive reform must start immediately after the upcoming election. The minister can make guarantees about that today, but, given that none of us knows whether we will be here come May, let alone who will be in Government, it is vital that we codify a commitment to further action in the legislation. Amendment 213 and its consequential amendment 215 would bind ministers in the next parliamentary session to introducing another crofting bill.

12:15

Amendment 212 would give ministers a duty to review crofting legislation within the next five years. That process would make them consider whether further legislation is required, set out the reasons why and consult stakeholders.

I listened carefully to what Tim Eagle said and I appreciate his point about getting the process under way faster. I am therefore minded to support his amendment 211 in the first instance. If it falls, I will move my amendments.

The Convener: I call the minister to speak to the amendments in the group.

Jim Fairlie: I am unable to support Tim Eagle's amendment 211 and Ariane Burgess's amendments 212, 213 and 215. I am not saying that because we do not want to commit to future crofting reform, because we absolutely do. As I said in my evidence to the committee, future reform is necessary, but I urge caution about rushing into reform in the next five years, as is suggested by Ariane Burgess's amendments.

We need to establish, first, what crofting policy should be in the future, and, similar to the approach we took with this bill, we need stakeholders to consider what that policy is. Although it is ultimately the Government's responsibility to set policy, that should never be done in isolation and policy should only ever be based on good evidence—that comes from discussions with stakeholders and those involved in the sector, which take time.

The past four years of discussions in preparing the bill have been informative and have led us to produce a bill that has wide stakeholder input and buy-in. However, these discussions have also told us that there is a wide range of views out there.

Tim Eagle: I do not know what you are going to go on to say, but I agree with Ariane Burgess's final point about putting something in legislation now. We do not know what will happen in May, so we need something that reflects what I thought—unless I am mistaken—was a pretty consistent view in our earlier stage 1 investigations: that the legislation was going to be more than it is. Is there potential to take this off the table and to have a discussion before stage 3, to try to do something with my amendment and Ariane Burgess's amendments that the Government will be comfortable with and that will give people the reassurance that they were looking for at stage 1?

Jim Fairlie: Yes. I am more than happy to do that, and I do not need to say any more. I think that we are agreed around the table and across parties that we need further reform. If Ariane Burgess and Tim Eagle are prepared to take their amendments off the table, we will have a discussion ahead of stage 3 and work out what we think the proposals should look like going forward.

Ariane Burgess: I appreciate Tim Eagle's intervention and the minister's response. Minister, you talked about rushing, but, given that we have been busy looking at crofting for 10 years, which is a long time—I know that it is a complex situation—we need to get that commitment and some surety, so that the crofting community understands that it is genuinely being supported and that it will not be sidelined in the next parliamentary session.

Jim Fairlie: I completely understand that, but one thing that I have taken from my interaction with the crofting community is that there is a broad and diverse range of views on what people want out of crofting, and we have to give that real consideration. I point out that the work that our team has done has been phenomenal in getting us to the stage that we are at, but we are still talking about a bill that does not go nearly far enough.

If the members do not press or move their amendments, I am more than happy to have those discussions before stage 3, to see what we need to do in the next parliamentary session.

Rhoda Grant: I just want to make a short intervention to agree with a lot of what has been said. People were expecting there to be a substantive bill in the previous parliamentary session, and now, in the current parliamentary session, they have a bill that does not really meet aspirations, although the changes that it makes are welcome. We have to find a way of binding the next Government, whoever it is, to consult widely and introduce legislation, while recognising that crofting has evolved in different areas. That will not be easy, but, because of what is happening to crofting, it will not survive if legislation is not amended substantially in the next five years.

Jim Fairlie: I take those points on board and I am happy to include Rhoda Grant and any other member who wants to discuss what we need to do going forward.

The Convener: Thank you, minister. I call Tim Eagle to wind up and indicate whether he wishes to press or withdraw amendment 211.

Tim Eagle: I think we have covered that. I am not going to press amendment 211.

Amendment 211, by agreement, withdrawn.

Amendments 212 and 213 not moved.

Sections 34 and 35 agreed to.

The Convener: We are about to move on to schedule 1, so, at this point in the proceedings, it is appropriate to conclude for today. We will continue with stage 2 proceedings at our meeting next week.

Meeting closed at 12:21.

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