SOCIAL JUSTICE COMMITTEE

Wednesday 2 May 2001
(*Morning*)

Session 1

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SOCIAL JUSTICE COMMITTEE
15th Meeting 2001, Session 1

CONVENER

*Johann Lamont (Glasgow Pollok) (Lab)

DEPUTY CONVENER

*Ms Sandra White (Glasgow) (SNP)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)
*Bill Aitken (Glasgow) (Con)
*Robert Brown (Glasgow) (LD)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Minister for Social Justice)
Ms Margaret Curran (Deputy Minister for Social Justice)
Fiona Hyslop (Lothians) (SNP)
Paul Martin (Glasgow Springburn) (Lab)
Tommy Sheridan (Glasgow) (SSP)

CLERK TO THE COMMITTEE

Lee Bridges

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Rodger Evans

LOCATION

The Chamber

Scottish Parliament

Social Justice Committee

Wednesday 2 May 2001

(*Morning*)

[THE CONVENER *opened the meeting at 09:30*]

Housing (Scotland) Bill: Stage 2

The Convener (Johann Lamont): I welcome everyone to this meeting of the Social Justice Committee. We are dealing with the Housing (Scotland) Bill at stage 2 and will begin where we left off last night.

After section 16

Amendments 133 and 134 moved—[Ms Margaret Curran]—and agreed to.

Section 17—Succession to Scottish secure tenancy

The Convener: Amendment 174 is grouped with amendment 175.

Robert Brown (Glasgow) (LD): This early in the morning, we need to get our brains into gear. Amendments 174 and 175 concern succession to tenancy. The bill provides for a tenancy to pass to only two successive qualified people. I see no reason why there should be such a limitation, especially in these days of more fluid social relationships—husbands and wives split up, cohabitees come into the picture and so on. There is a whole series of different situations. For example, if the son who is the second successive tenant gets married and the couple stays in the house for another 10 years, is there any reason why his wife should not succeed to the tenancy?

Amendments 174 and 175 are designed to knock out the restriction to only a second qualified succession. I see no reason for that restriction, which serves no social purpose these days, so I hope that the Administration will look at the amendments sympathetically.

Among the complicated nuances of the proposals, I may not have thought of certain aspects—no doubt the minister will tell us if that is the case. However, in straightforward family situations, there seems no reason why a tenancy should not go further down the line. There may be an issue about how we define a qualified person—whether we refer to the relationship to the original tenant rather than to the succeeding tenant—but, however the definition is arrived at, there is no justification for such a limitation nowadays.

I move amendment 174.

Ms Sandra White (Glasgow) (SNP): Having dealt with such cases, I am not sure whether the amendment should have been lodged. After the death of a qualified person, local councils have ways and means of making sure that people such as the wife or children, or perhaps even a cousin, have lived in the house for a year. If a tenancy is not terminated at death, amendment 174 might open the door to people claiming that they have stayed in the house. There are checks and balances and local councils usually come up with the right conclusions, so I cannot support the amendment.

Karen Whitefield (Airdrie and Shotts) (Lab): I share Sandra White's concerns. Most local authorities would be sympathetic to a family who had experienced a difficulty such as a death or marital breakdown. We must get the balance right. We have to be careful that houses are not in effect taken out of the social rented sector. People will always try to find some excuse to succeed and we do not want someone to move into a house at the last minute and gain the right to succession.

The Deputy Minister for Social Justice (Ms Margaret Curran): It seems just seconds ago that we were all here in the chamber.

Succession rights are a critical part of what we would argue is the best ever package for tenants. The bill enhances those rights by enabling a second round of succession for a prescribed hierarchy of people, including carers. In practice, landlords can, if they wish, offer further enhancement through the contractual terms of the tenancy. That could mean a commitment to offer a new tenancy on the house to a qualified person who would otherwise not be able to succeed to the tenancy.

Amendments 174 and 175 would widen that provision. We are a bit uncomfortable about that. The amendments could lead to the succession being extended indefinitely, provided that there were eligible persons to succeed. That would mean that the house was, in effect, withdrawn from the pool of properties that are available to the landlord to allocate. As has been said, there must be a balance between enhancing tenants' rights and enabling others outside the succession hierarchy to have access to social rented housing.

The Executive undertook considerable consultation on the matter, which is why the bill provides for two statutory rounds of succession. There is consensus about that. It is open to landlords to offer further rights to others who are not formally caught by the statutory succession terms through the contractual elements of the tenancy, but we do not think that the right that

Robert Brown proposes should be required by law—still less do we think that there should be unlimited rights of succession, which could reduce the number of houses available to let to people in greater need than those who have succeeded. I know that Robert Brown has a long-standing commitment to tackling homelessness, but his proposal could militate against that by reducing the pool of houses.

Robert Brown: I am not altogether impressed by the objections to the amendment. Under schedule 3, a qualified person is defined as a tenant's spouse, a cohabitee or a member of the family. The qualification is that the house should be their

"only or principal home at the time of the tenant's death".

As has been said, people could rush back to the deathbed scene, as it were, to take up residency. If that is a difficulty, it can be re-examined.

Schedule 3 gives the further qualification that

"the house must have been the person's only or principal home throughout the period of 6 months ending with the tenant's death."

The extension of the right to succession is not unrestrained even as the bill stands, so what is the purpose of not further extending it to those people whom amendment 174 would cover? The house is by definition their home—that is how we arrive at the definition of the qualified person in the first place. If those people do not get the house, they will have to be flung out and housed somewhere else.

I understand that amendment 174 is supported in principle by Glasgow City Council—that was certainly the impression that the council gave me in discussions on the matter—which has a lot of experience of such situations.

I ask ministers to reconsider the issue. The argument that the amendment would take houses out of the pool applies only if the house were not—under the bill as it stands—going to go, contractually or by concession, to the person whom one would have to get out of the house to allow it to come back into the pool. I do not think that those circumstances will obtain in most instances, although I do not know whether there is any evidence on that. I intend to press amendment 174.

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

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 174 disagreed to.

Robert Brown: In the light of that division, I will not move amendment 175, as it is subsequent to amendment 174.

Amendment 175 not moved.

Section 17 agreed to.

Schedule 2

SCOTTISH SECURE TENANCY: GROUNDS FOR RECOVERY OF POSSESSION OF HOUSE

Amendment 135 moved—[Ms Margaret Curran]—and agreed to.

The Convener: Amendment 218 was discussed with amendment 170.

Tommy Sheridan (Glasgow) (SSP): The argument for amendment 218 was heard yesterday—I hope that members can remember it. The amendment is important, so I will move it.

I move amendment 218.

The Convener: The question is, that amendment 218 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 218 disagreed to.

Schedule 2, as amended, agreed to.

After schedule 2

The Convener: Amendment 219 was debated with amendment 215.

Tommy Sheridan: Amendment 219 relates to amendment 215, which I agreed not to move on the basis that the Executive said that it would re-

examine the issue before stage 3.

Amendment 219 not moved.

Schedule 3

SUCCESSION TO SCOTTISH SECURE TENANCY: QUALIFIED PERSONS

The Convener: Amendment 137 is grouped with amendments 220 and 138 to 141. Please note that amendment 137 does not pre-empt amendment 220, which would simply replace the words that amendment 137 would remove with different wording. Similarly, amendment 140 does not pre-empt amendment 141, which would replace the words that amendment 140 inserted with the words that are in amendment 141. I am sure that that is clear to all members.

Ms Curran: Are you going to test us?

The Convener: I will check who was listening.

Bill Aitken (Glasgow) (Con): Amendment 137 is a probing amendment. I appreciate that we are probably talking about the issue in a vacuum, as the majority of the people involved will have joint tenancies. The Executive's intention is to ensure that the surviving partner in a gay relationship would have the house in the event of the death of the other individual. I have no difficulty with that. However, the problem—I raised it at stage 1—is that the bill does not accurately represent the Executive's intentions.

As I say, I have no problem with the view that the gay partner should inherit the house. However, the bill's wording precludes consideration of non-sexual relationships. Many people elect to live together for convenience, security or other reasons. Schedule 3 requires a sexual relationship for the surviving partner to benefit. That is not the bill's intention. People who are simply pals should have the opportunity to benefit from the provisions. They would benefit if they had a joint tenancy, but I am a little unhappy about the other provision. I will listen with interest to the minister.

I support amendment 140. There is some unease at the fact that ruthless and exploitative relatives could benefit from a terminally ill family member. Someone who was willing to exploit the situation could move into the relative's house, await their death and benefit by obtaining the house. We should not make it easy for that to happen. That is why I believe that we should extend the period during which the house must be the carer's only or principal home, to make it clear that the individual who is likely to benefit from an ill person's death must have had a commitment to that person.

I move amendment 137.

09:45

Brian Adam (North-East Scotland) (SNP): My intention is not to remove rights that exist or are proposed, but to change the basis on which rights and responsibilities are granted. Amendments 220, 138, 139 and 140 are intended to allow anyone who meets the six-month residence qualification to benefit. Bill Aitken made the argument for a residence qualification. People might exploit the fact that the bill requires no qualification to obtain the right to an attractive tenancy. That involves dangers. For succession rights, a six-month residence qualification should be met, or the original tenant's agreement to a joint tenancy should be obtained.

Rather than define in the bill a series of relationships that are based on personal and private matters, I seek to base the rights of joint tenancy and succession on housing need and the wishes of the original tenant. The present arrangements—not those proposed in the bill—do not take into account the wishes of the original tenant, unless they are expressed in the form of a joint tenancy or by some other means. As Bill Aitken said, the present arrangements are unfair.

We must attribute rights without prying into the exact nature of relationships. The nature of a relationship does not reflect an individual's housing needs and requirements. The bill tends to focus the qualification on the relationship. That is discriminatory, as others may have relationships that fall outwith the scope of the definition and so are excluded.

I am a little concerned that we have moved from the present 12-month residence requirement for carers to a zero requirement. In my amendments, I have tried to put people on an equal basis and to be fair. The residence qualification ought to be six months, except for those who have legally binding arrangements, such as marriage. Twelve months is too long. Irrespective of the period that is included, people will always be up against the buffer. However, if there is no residence qualification, there is a danger that there will be open season on who can get access to Auntie Jeannie or any relative who has a wonderful house in the west end.

Such an arrangement could reduce the pool of attractive and affordable houses to rent, as the minister said Robert Brown's amendments 174 and 175 might. Therefore, the residence qualification is needed. I do not go as far as Bill Aitken, who wants to retain the 12 months for carers. The requirements should be uniform, and six months is adequate.

Robert Brown: There is probably unanimity about the intention behind the amendments. The issue is how to put that intention into the bill. The

big advantage of the original restrictive phrasing of "husband and wife" is that that is a statutory, certifiable relationship that is easily proved.

There is acceptance that we have to recognise cohabiting relationships of one sort or another, but I have some sympathy with what was said about not interfering in private relationships—that is important. The trouble is that the definition would be opened up probably too widely to include people whom we might not want to be included and who are probably better dealt with by the discretionary power that the council presumably retains. If better phraseology could be found, I would not be against the amendment, but I am not sure that the right wording has been arrived at.

Karen Whitefield: I have concerns about amendment 139 and declare an interest as the convener of the cross-party group on carers.

I think that the potential for abuse is minimal. There is a residence test, in that succession can occur only if the house will be the only or principal home of the successor. I have great concerns about introducing a residence test of six or 12 months. Sometimes, people are forced to give up their home and to live with a relative or family member who needs care. People take into consideration the level of support needed, their responsibilities and the time that they will have to give.

Carers may believe that the relative or family member's life expectancy is a year or 18 months, but the person's health may deteriorate quickly and he or she may die within a couple of months. The carer may have given up their home to do what was best—and the only thing they could do—and would be left homeless. In a modern Scotland, that is not right.

Fiona Hyslop (Lothians) (SNP): Shock, horror—I agree with Karen Whitefield. I have serious concerns about a six or 12-month test for the same reason. The fact that succession can occur only if the house is the principal home is enough of a safeguard to ensure that nobody abuses the situation.

There is an issue about how broad we can make paragraph 2, in particular paragraph 2(1)(a), of schedule 3. The way in which the Executive has drafted the bill is sufficient to allow an indication of the pecking order. It is narrower and more focused than what Bill Aitken and Brian Adam are trying to introduce.

Ms Curran: Rights of succession are an important part of tenants' rights and we have given them great consideration. As has been said, it is a matter of balance.

Last week, Shelter Scotland said:

"the Bill has balanced the needs of the tenants, family and carers with the need to guard against abuse of this right".

We are heartened by that.

A number of issues have been raised. I want to talk about amendments 137, 138 and 220, which concern the succession rights of cohabitees and same-sex couples. The Executive is trying to widen the basis of succession to include cohabitees, irrespective of sex, with a six-month residence test in all cases.

Bill Aitken referred to persons who live in a house who are not cohabitees or same-sex couples, but are just friends or lodgers. Unless they are joint tenants or carers, our view is that they should not have the same rights of succession. It is right that family members should be protected and that other members of the household who are over 16 can become joint tenants. That enables those who live together, but not as a couple, to be protected.

The aim of defining succession rights for cohabitees in terms of marital relationships is to establish a test of the stability of a relationship for succession. That idea is well established in legislation passed by Parliament.

I appreciate Brian Adam's efforts to consider succession rights without recourse to an analogy with marriage, but I cannot see how one can convey the importance of a partnership in legal terms in any other way. Seeking to substitute a simple time period or to exclude lodgers does not in itself suffice. Without some reference to the nature of the way in which people live together, it is impossible to provide a reasonable basis for determining the hierarchy of succession rights.

In the light of the need for a test of the nature of a relationship, we would be happy to listen to any substitutes. Brian Adam's suggestion, however, would cut across succession rights and hierarchies across the piece. We cannot therefore see a way of framing such paragraphs.

On amendment 139, it is right that family members and married people—who have a clear and legally defined relationship—should have to prove not prior residency but that the house is their only or principal home at the time of death. It would be untenable to require a residence test for family members if we do not require it for carers.

A number of members have talked about carers and the issue has been considered carefully. Our proposal for a 12-month test has been amended to reflect concerns about the test for carers—that they should have given up their home. The fact that the carer has given up their home itself demonstrates a commitment to the ill person. The consultation was clear about that and was supportive of such an amendment. There will be

circumstances in which the carer may have less than 12 months' residence but would become homeless as a result of the tenant's death. We do not want to undermine people's desire to offer care in the community and I believe that the potential for abuse, both in theory and practice, is minimal.

In summary, the bill sets out a clear and enhanced set of succession rights that balances the housing needs of those who are most closely affected by the tenant's death with the needs of the landlord to prevent abuse and to allocate appropriately. I urge the committee to reject the amendments.

Bill Aitken: I have listened carefully to what the minister said, but I am still of the view that the bill is discriminatory, although I fully acknowledge that that is not its intention. In the circumstances, I wish to press amendment 137.

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

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)

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

Amendment 137 disagreed to.

Amendments 220 and 138 not moved.

Amendment 139 moved—[Brian Adam].

The Convener: The question is, that amendment 139 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 139 disagreed to.

Amendment 140 moved—[Brian Adam].

The Convener: The question is, that amendment 140 be agreed to. Are we agreed?

Members: No.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
White, Ms Sandra (Glasgow) (SNP)

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

Amendment 140 disagreed to.

Amendment 141 not moved.

The Convener: We come to amendment 142.

Ms Curran: Amendment 142 is a straightforward, technical amendment, which is designed to ensure that there is no gap between a person qualifying for succession and declining to take up the tenancy.

I move amendment 142.

Amendment 142 agreed to.

Amendment 143 moved—[Ms Curran]—and agreed to.

Schedule 3, as amended, agreed to.

Section 18—Tenant's right to written tenancy agreement and information

The Convener: Amendment 297 is grouped with amendments 179 and 181.

Ms White: The purpose of amendment 297 is to ensure for both landlords and tenants that there is a statement of the tenant's responsibilities under the tenancy. In bygone days—perhaps for some but not all of us—when a person became a tenant, they had to sign a statement and a missive that included, for example, cleaning the closes. That was to try to nip anti-social behaviour in the bud.

Some may say that such measures are still in the missive, but I feel that they have been forgotten in the past couple of years. In the Housing (Scotland) Bill, it would be right to remind tenants of their responsibility to look after the property and not to behave anti-socially. Amendment 297 seeks to ensure that people know that, as tenants of social rented housing, they have to act responsibly. That has been forgotten. If we want to rectify anti-social

behaviour, this is one way of reminding people of their responsibilities.

I hope that the minister will accept amendment 297. It is not innocuous. It is a straightforward and commonsense reminder to landlords and tenants of their responsibility to the property and to others who live in the property.

I move amendment 297.

10:00

Robert Brown: I do not think that Sandra White's amendment 297 is necessary or adds anything, because it is recognised that the written tenancy agreement is, both in statute and in practice, a statement of the respective obligations of the landlord and tenant.

Amendment 179, which focuses on tenant participation, was suggested by the Dundee Federation of Tenants Associations. Tenant participation is probably understated by section 18, but I feel that Cathie Craigie's amendment 181 is more satisfactory on that issue, so I will not be moving amendment 179. I hope that amendment 181 will be accepted. It is important that people's attention is drawn to practical ways in which they can influence the decisions of the landlord.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I will discuss the amendments in this group in the order given in the marshalled list. Like Robert Brown, I feel that Sandra White's amendment 297 is unnecessary. Tenancy agreements exist and although, in the past, they may not have been written in friendly or understandable terms, they are now much more understandable and should explain the responsibilities and obligations of tenants who sign them.

I am grateful to Robert Brown for saying that he will not move amendment 179 and that he favours amendment 181, which was drafted in consultation with tenants organisations. It is important to ensure that the strategy for tenant participation and involvement—as the Executive has indicated throughout evidence taking on this bill—is paramount. Tenants should be involved as much as possible at every level. I hope that the committee and the Executive will accept amendment 181. It will allow tenants to get information on the decision-making process and to be involved in decisions that will directly affect their lives.

Brian Adam: It has been argued that Sandra White's amendment 297 is not necessary as the measures that it includes are already included in tenancy agreements. The argument is weak, because the same could almost be said of the other amendments in the group. In the bill, we are introducing new rights, and quite rightly so. However, we also have a duty to emphasise the responsibilities that come with tenancies, so I am more than happy to support amendment 297. It emphasises those responsibilities.

Part of the intention of Cathie Craigie's amendment 181 is to spell out how tenants have the responsibility of being involved in the overall management of housing, with regard not just to their own property, but to the community. I will be more than happy to support amendments 297 and 181.

Bill Aitken: I am attracted by amendment 297. It is important that people's responsibilities should be underlined—they should go in tandem with their rights. I am a little concerned that any omission in a statement of responsibilities could lead to problems in a legal action for recovery. That does not preclude my support of the amendment, but I shall listen carefully to the minister on that point.

I have no difficulty with amendment 181. It is worthy of support.

Ms Curran: I do not think that I have ever been listened to so attentively in my life.

Bill Aitken: Do not get too used to it.

Ms Curran: I will not, believe me.

We welcome amendment 181, in the name of Cathie Craigie. It is very helpful and strengthens the existing rights to information in section 18. I recognise that Robert Brown will not move amendment 179. Amendment 181 is slightly more comprehensive, as Robert has acknowledged.

A number of points have been raised about amendment 297. We feel that it is unnecessary and one-sided. It is unnecessary because a tenancy is, almost by definition, a statement of obligations and responsibilities. It is one-sided because it requires only the obligations of tenants to be spelled out and makes no corresponding reference to the obligations of landlords. The emphasis of amendment 297 is wrong.

To address some of the issues that Sandra White has raised, I highlight the fact that the model tenancy—which we are developing and which is out to consultation—includes clear sections on, for example, respect for others. The type of behaviour that will be expected from tenants is made clear. I hope that the model tenancy will address the issues that Sandra has raised. We have had widespread support for the model from the key housing agencies.

Ms White: I intend to press amendment 297, although I was encouraged by the minister's response. I do not say that this is a delicate area, but it is an area about which people are

concerned. There are plenty amendments that cover the responsibilities of landlords, and rightly so. However, I thought that it was time that we included something about the responsibilities of tenants as well. I look forward to the outcome of the consultation and I hope that it will lead to an inclusion of the issues that I have raised. Members will know that a lot of concern is expressed on this issue at surgeries. I am glad that Robert Brown will not move amendment 179. I will support amendment 181, which is excellent.

The Convener: The question is, that amendment 297 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 297 disagreed to.

The Convener: The other amendments in this group will be dealt with when we meet them on the marshalled list.

In the next group, amendment 298 is grouped with amendments 176, 177, 193, 299, 178, 300 and 180. If amendment 298 is agreed to, I shall not call amendments 176, 177 or 193 as they will be pre-empted.

Tommy Sheridan: With the benefit of hindsight, amendments 298, 299 and 300 are probably one of the less contentious sets of amendments. I will not say much just now but, given that I will introduce amendments to the appropriate parts of the bill to delete the right to buy, it only makes sense that I should now seek to delete the sections that relate to the provision of information on the right to buy. As I say, I know that that will be non-contentious—[*Laughter.*]

The Convener: Can I ask you to move amendment 298?

Tommy Sheridan: I move amendment 298.

The Convener: Never mind the politics, get the procedure right.

Robert Brown: Leaving aside the way in which Tommy Sheridan is proposing to deal with the right to buy, there are two issues in section 18 that highlight the need to rebalance the sort of information that people are given about the right to buy. The first relates to section 18(4), which describes the information that is given at the start of the tenancy. If the right to buy is part of the tenancy, it is reasonable to expect that people will be given information about it when they accept the tenancy. However, it is nanny state stuff to require the landlord to give that information to the tenant once a year after that. That is unnecessary bureaucracy. Amendment 176 is designed to knock that out, and I hope that it will receive the committee's support.

The second issue concerns the information that people receive from the landlord on request at a later stage, which is mentioned in section 18(6). In various ways, there are movements to amend that, to require information on the right to buy at that stage. I have tried to rebalance that, so that people are told not just about their right to buy but about the problems that they are taking on through home ownership, such as maintenance of one sort or another. That is the thrust of the rest of the proposed amendments to section 18.

We agree broadly about where we are going—it is a question of phraseology. I prefer amendment 193 to amendment 177, as it goes into more detail. However, we need to find a phraseology that balances the section properly and ensures that the information that is given to tenants is reasonable and objective and gives them clear warning that there are not only advantages to discounts and buying their house, but responsibilities for maintenance payments and repairs.

Cathie Craigie: I lodged amendment 177 after the committee took evidence on, and after having experience of, the refurbishing of properties with owner-occupiers and tenants and the difficulties that can be incurred. Many people who exercise the right to buy do not realise the responsibilities that buying will entail. That is what amendment 177 focuses on.

We recognise the fact that tenants require as much information as is available, and we all welcome the provision of that information. However, like Robert Brown, I do not believe that it is necessary to advise tenants annually of their right to buy. Robert Brown lodged his amendment first—he won that race—and I would be happy to support amendment 176.

Amendment 177 focuses on the obligations that the tenant is likely to incur. It is important that we lay out the obligations that tenants may take on in the early days, when people are contemplating buying their house. It is not just a matter of buying the house and knowing what they must pay for a mortgage, but of planning ahead. Amendment 177, coupled with the work of the housing improvement task force, which is working away just now, should improve the information that is

given to people who want to buy and the processes of modernisation and improvement.

Although I see where Sandra White is coming from in amendment 193, I do not think that it is the responsibility of the local authority or an RSL to give mortgage advice. We should ensure that that responsibility is stated in the Executive's recently published pamphlet on the responsibilities of home ownership. When people exercise the right to buy, we must let them know about the responsibilities that they are taking on. That is the job that we have to do, and amendment 177 will go a long way towards assisting the Executive, local authorities and RSLs to do that.

10:15

Ms White: It may come as a surprise to members, but I support Robert Brown's and Cathie Craigie's amendments as well as amendment 193 in my name. Robert Brown is correct in saying that giving information once a year is far too bureaucratic, and I support his amendment. Cathie Craigie's amendment is fine; however, if it is coupled with my amendment, it will give tenants a lot more information. She mentioned the Executive's responsibility. Although it is not for me to specify the work of the Executive—I am sure that the ministers are quite capable of that—I believe that it is its duty properly to inform tenants who take up the right to buy. They should not only be informed of the pitfalls of buying, but be given sufficient information to decide whether it is a good thing for them to have the right to buy.

Current statistics and statistics from a few years ago show that people who took up the right to buy did not realise the responsibilities that they were taking on. Many tenement properties, especially in Glasgow, that have been taken over through the right to buy are falling into disrepair. People do not have the money to repair them and had never thought of putting money aside to help with repair work, especially communal repairs, which we will address next.

I am rather disappointed that Cathie Craigie seems to think that anything that the Executive comes up with will be much better, and that there is no point in supporting my amendment as the Executive will lodge further amendments. We must try to get the wording of the bill right at this stage. I shall support amendments 176 and 177, and I do not know why the committee would not support amendment 193.

We are talking about being responsible, and it would be irresponsible not to say that when someone wants to look into buying their house or exercises the right to buy, they need to be told by the landlord of the consequences of that decision. In previous discussions, the minister talked about the responsibility being too one-sided. I am now asking the landlords to take responsibility and tell the tenants exactly what they are entering into before they purchase their house. That is right and proper, and I am rather disappointed by what Cathie Craigie said.

We should not leave everything to the task forces and the ministers. Committee members have a right to lodge amendments too. It is the responsibility of members of the committee to protect people from getting into debt, not being able to repay their mortgages and living in substandard properties because they have not been given the proper information. We are here to lodge amendments, and I hope that members will support amendment 193.

Brian Adam: My motivation in lodging amendment 178 is the same as that of the other members who are attempting to highlight to prospective purchasers the fact that certain obligations will fall on them. That is what Robert Brown's, Cathie Craigie's and Sandra White's amendments, as well as mine, are trying to ensure. The question is, which is the best approach? The Executive may want to take stock of the matter and return with proposals at stage 3. If that is its intention, I am more than happy to go along with it. I hope that the ministers will acknowledge the need to do that.

Amendment 193 spells out the responsibilities not only for the individual house, but for any communal areas. That has been a difficulty in tenement properties, as Cathie Craigie has highlighted at various stages of the bill's consideration. It is important to include those responsibilities in any information that is given to prospective purchasers of properties. It is true that local authorities and/or other landlords do not have responsibility for mortgages. Nevertheless, there is an opportunity to provide the appropriate information. All sorts of people are involved in the task forces that are drawing up the guidance and advice. I am sure that that is not beyond their wit.

The Executive regularly and rightly involves the Council of Mortgage Lenders in its discussions. It is just as appropriate that information should be put out by the landlord as by a prospective lender. I do not see that there is a problem with that. In fact, I prefer amendment 193 to my own amendment. I suggest that, if the ministers cannot agree to any of these amendments, they should indicate that they are willing to consider the matter and introduce amendments at stage 3 that might satisfy all our wishes.

Karen Whitefield: I support amendment 176, in the name of Robert Brown, and amendment 177, in the name of Cathie Craigie. However, I have some concerns about amendment 193, in the

name of Sandra White. I appreciate what she is trying to do, but we have to be careful not to place too heavy a burden on landlords. We must also be careful not to be patronising to people who exercise their right to buy. If I were to put my house on the market, nobody would tell the person who looked at it and wanted to buy it from me about all the obligations that come with it. It is somewhat patronising to suggest that those people who want to exercise their right to buy need to have the same heavy burdens placed on them. We have to get the balance right and remember the role that the landlord has.

Bill Aitken: In recognition of Tommy Sheridan's self-denying ordinance, I will not deal with the right to buy in any great depth this morning. I am attracted, to a greater or lesser extent, to all the amendments in the group except amendment 176, in the name of Robert Brown. I do not think that it is inappropriate that people should be advised of the potential difficulties that arise from home ownership, and I am reasonably relaxed about that.

With respect to amendment 176, there is a degree of inconsistency in Robert Brown's argument. He berates the nanny state mentality in one respect, and then seeks to support the very sound principle that the difficulties of home ownership should be highlighted. At the same time, he seeks to suppress the fact that the right to buy exists. There is a clear inconsistency there, so I am unable to support amendment 176. At the end of the day, we will have to choose which of the other amendments in the group we should support or discard, and I await the minister's comments with interest.

Ms Curran: This has been an interesting discussion. We quite accept that it is sensible for tenants who are contemplating home ownership through the right to buy to be told about their obligations as well as about the benefits. Notwithstanding Karen Whitefield's point, we can still genuinely accept that, and amendments 176 and 177 address the matter quite sensibly.

Although I recognise some of the points that amendments 193 and 178 flag up, they are not closely focused on the right to buy. As Cathie Craigie was saying, we need to be careful not to place too great a burden on landlords in that respect. Robert Brown was right to say that there should be appropriate information from appropriate agencies. We are not trying to stop the flow of proper information, but we must ensure that things are done appropriately and that landlords are not overburdened by having all the responsibility for providing information. There are other agencies that are better placed to provide more general information about home ownership.

I did not hear Cathie Craigie say the things that Sandra White said that she had said; I heard something quite different. The Executive will, quite properly, use its resources and opportunities to provide information, but that is not to say that everything that we do is better, and I do not think that that is what Cathie Craigie was saying. In fact, amendment 177 is quite substantial. Some of the ideas that Sandra White is talking about could be encompassed in information issued under amendment 177. We therefore do not see the necessity for amendment 193, because of the burden that it would impose on landlords.

On amendment 180, in the name of Robert Brown, there would be merit in tenants being able to approach landlords for information about

"the implications and responsibilities of home ownership",

but we feel that the information should be given in the context of the right to buy, and the amendment is not properly focused on that. He may want to contemplate introducing an amendment at stage 3 that does something similar to what amendment 180 proposes, but which is more closely linked to section 18(6)(d).

Tommy Sheridan is consistent in his approach, and we obviously have to argue against his amendments, because we do not envisage the right to buy being deleted from the bill. It follows logically that if the right to buy is in the bill, people should have the right to information about it.

The Convener: I invite Tommy Sheridan to wind up and ask him to indicate whether he intends to press or withdraw amendment 298.

Tommy Sheridan: I am sure that you will not be surprised to hear that I intend to press amendment 298 and the other amendments in my name in this group.

I hope that I will be forgiven for mentioning an incident that happened on Friday in your own constituency, convener. As one of the local councillors in your area, I was invited to open a marvellous new housing development, on which some £74,000 per unit has been spent to build 22 new homes for rent. What is important in relation to this debate is that we defend two rights. The first is the right of an individual to become a home owner. The second is the right of the public stock to remain part of the public stock. I moved amendment 298 in that spirit, and I know that we will have a fuller debate on the issue at a later stage.

The Convener: The question is, that amendment 298 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

White, Ms Sandra (Glasgow) (SNP)

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

Amendment 298 disagreed to.

Amendment 176 moved—[Robert Brown].

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

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)

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

Amendment 176 agreed to.

Amendment 177 moved—[Cathie Craigie].

Brian Adam: Just for guidance, convener, can you rehearse again what the consequences are of agreeing to amendment 177? If we agree to that amendment, will some of the other amendments be knocked out?

The Convener: No. If we had agreed to amendment 298, I would not have called a whole series of amendments. We could have saved a lot of time.

Brian Adam: But that does not apply to any of the other amendments in the group?

The Convener: No.

Brian Adam: I see.

Amendment 177 agreed to.

Amendment 193 moved—[Ms Sandra White].

The Convener: The question is, that amendment 193 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 193 agreed to.

Amendment 299 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 299 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 299 disagreed to.

Amendments 178 and 179 not moved.

Amendment 300 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 300 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 300 disagreed to.

Amendment 180 not moved.

Amendment 181 moved—[Cathie Craigie]—and agreed to.

Section 18, as amended, agreed to.

Section 19—Restriction on variation of tenancy

The Convener: Amendment 301 is grouped with amendments 302 and 303.

Tommy Sheridan: Amendment 301 is a

consequential amendment concerned with the creation of a new fair rent section. I do not have to say more than that it is a technical necessity.

Amendment 302 would provide more defence for tenants on the number of rent rises that would be allowed in a financial year. The bill should stipulate one annual rent rise, rather than allow landlords to have two, three or even up to six rent rises, as it does at present. The aim of the amendment is to achieve stability and security for tenants.

Amendment 303 would enable tenants who feel that a rent increase is unfair to challenge it before an impartial and independent quasi-judicial forum: the rent assessment committee, which already exists. I am sure that ministers will be aware that the scope of the amendment is not substantially different from that in the Housing (Scotland) Act 1988 for assured and short assured tenants, many of whom are housing association tenants. The justification for the amendment is that many housing association tenants who will become Scottish secure tenants currently have the right, under sections 24 and 25 of the Housing (Scotland) Act 1988, to refer a rent increase notice to the rent assessment committee, but, in its current form, the bill will take that right away. In view of other discussions that we will have about taking rights away, it is interesting that that right will be taken away. That will leave tenants with the same rights as council tenants under the Housing (Scotland) Act 1987.

There is a difference in accountability for rent rises between councils, which are directly elected and accountable, and registered social landlords. That is why the rent assessment committee exists. It would be fair to retain the right for current tenants and to extend it to future tenants so that they are able to question whether a rent increase is fair and reasonable.

I move amendment 301.

10:30

Ms White: Amendment 303 is complex—it takes up almost a page—but it is very well meaning. Tenants must have protection. We have been given an assurance that if housing stock transfer goes ahead, rents will not increase for four years, but we do not know what will happen after that. It is right and proper that we put legislation in place that protects tenants from soaring rent increases. As Tommy Sheridan said, such protection is necessary for tenants of local authorities and RSLs. Tenants should be given as much information as possible and should have recourse if rent increases are too high. We must protect tenants. As members have said, renting houses must be affordable. Amendments 301, 302 and, especially, 303 provide a protective mechanism to ensure that there is affordable rented accommodation.

Bill Aitken: It goes without saying that it would be highly preferable that any rent increase should be restricted to being annual. We all agree on that, but I have some difficulty with amendment 303.

First, there should be provision for a rent increase in the event of an emergency. I have some difficulty in envisaging what such an emergency would be, but it is possible that it could happen. What would happen when the members of a housing association voted to impose a higher rent increase on themselves because they wanted, for example, a better repair service? It would be their right to do so, but they would not be able to if amendment 303 were accepted.

I agree that it is important that there should be protection against RSLs imposing unreasonable rent increases on their tenants, but that protection is enforced on a statutory basis as it stands. I am content with that.

Cathie Craigie: I oppose amendment 303. The committee has been trying to encourage more tenant participation and involvement through the bill. Tenants will be encouraged to be involved in discussion with the landlord—whether it is an RSL or a local authority—about rent levels and what any increase in rents will be used for.

As Bill Aitken suggested, amendment 303 would mean that the tenants forum or tenants council—whatever it is called—or the board of a tenant-run RSL could agree to go ahead with improvements, but one person could complain and hold up those improvements. We have got the position right in the bill, but I hope that in future we will encourage much more tenant participation when rent levels are set. Amendment 303 would afford an opportunity for somebody—as they say, there is always one—to hold up the works of the landlord and the services that they provide for tenants.

Ms Curran: I will speak about amendments 301 and 303 then come back to amendment 302, which has a rather different effect.

Our general policy is that rents in the social rented sector should be affordable. Variations in rents between different houses that are owned by the same landlord should fairly reflect the differences in amenity, size and quality of the houses. We are also conscious of the fact that although affordability is a concept that attracts a great deal of support in principle, there are several views about how it can best be put into practice. Judgments must be made; we believe that they are best made by landlords, taking account of general guidance from the regulator and following consultation with tenants.

The bill seeks to create the framework. It does not give Scottish ministers the power to set individual rents—that is quite right. However, section 70 gives Scottish ministers a power to give guidance on

"principles upon which levels of rent should be determined".

That means that rent policies of local authorities and RSLs will be subject to regulation. The regulatory arm of the new executive agency will be able to set performance standards and monitor the extent to which they are achieved. If necessary, it will also be able to have recourse to the regulatory sanctions that are set out in part 3 of the bill, although they will not be used lightly.

The bill also requires landlords not only to give due notice of any rent or service charge increases, but to consult tenants, in advance, on any proposals to increase rents and to have regard to the views expressed.

Given that framework, a right of appeal by individual tenants, which amendment 303 proposes, would not be helpful. First, it would greatly expand the work of the rent assessment committees as their remit is currently focused on the private rented sector. The proposals in the amendment would have a substantial cost, which would have to be met out of other housing programmes. The amendment, as drafted, would allow tenants to object to any proposed rent or service charge increase at no cost to themselves. Given that more than 600,000 tenants would have the right to apply, that would be a significant extra task, even if only a relatively small percentage of them took up the option.

Secondly, the new requirements would impose costs on landlords, who would need to present detailed evidence and provide information so that committees could consider the matter fully. Those costs would inevitably have to be reflected in increased rents.

Thirdly, and most important, the principles that would be applied by the committees are not clear. Amendment 303 refers to a "fair rent", but what Tommy Sheridan has in mind seems to be a very different sort of "fair rent" from the concept that is applied in the private sector through the Rent Acts. Fair rents in the private sector are intended to be market rents that are adjusted to take account of the effect of any shortages of housing or other factors; that concept cannot easily be applied to the social rented sector.

Amendment 303 seems to suggest that rent assessment committees should take account of rents for similar houses in the local authority area. Although that comparability is important, we do not think that that principle alone should be used to determine rent increases.

In Scotland as a whole, average council house rents are currently similar to average rents in the housing association sector—although I recognise that there are variations—and they are substantially lower than average market rents in the private rented sector. The bill begins to sort out some of the anomalies that exist in the social rented sector through the regulation of local authority and social landlord rent policies. There is therefore no case for the extra bureaucracy that amendment 303 would create.

Amendment 302 would prevent local authorities and RSLs from increasing rents or other service charges more than once a year. That would be entirely reasonable in the vast majority of cases, as has been highlighted. Indeed, it is in line with current practice. However, there may be exceptional circumstances in which landlords might legitimately need to increase rents or service charges twice—for example if there is a significant change in the level or nature of the services that are provided. We certainly expect the regulator to encourage landlords to limit themselves to annual increases and, on the basis that we will rely on guidance on good practice to achieve that, I ask Tommy Sheridan not to move amendment 302.

Tommy Sheridan: The arguments that we have heard in opposition to amendments 301, 302 and 303 are weak. Bill Aitken referred to a committee taking the decision to increase rents to deliver a better service, as did Cathie Craigie and the minister. If, in the course of an annual discussion about rents, the idea is raised that improvements in a repair service are necessary, the recommended rent rise would, I hope, reflect those improvements in the repair service. The idea that a defence is needed for an RSL to increase rents more than once a year infringes the security of tenants and their ability to plan annually for their rents. It is very important that we encourage as much stability as possible in the social rented sector.

On rent assessment committees and the right of tenants to appeal against a rent rise on the ground that it is unfair, we must be careful about rights and what they are for. Cathie Craigie made the point that it may be that only one tenant complains—she made the point that there is always one. The point about rights is that they are there to defend everybody. It is important that there be a fair and efficient system to deal with such a complaint. If the complaint is not justified, that will be dealt with by the rent assessment committee.

The minister mentioned extra costs for landlords. If landlords cannot justify why they are increasing the rents to a certain level, we have to question whether they should be landlords. We

must consider rent assessment committees in relation to that question.

The fact that many tenants would have the right to appeal against a rent rise is not a reason not to give them that right. I wish that a lot of rights were used more. People often do not have the knowledge about their rights that is necessary to use them.

On average rents and fair rents, the minister touched on an important point. She is correct that, throughout Scotland, average housing association and local authority rents are roughly similar. However, there are huge differences between the two within local authority areas, such as in Glasgow, which is the minister's own area, where local authority rents are currently some 25 per cent above the average housing association rent. Because of that, there needs to be an extra defence mechanism for fair rents.

I will press the amendments. Amendment 302 could stand on its own, as members may wish to support the idea of only one rent rise per year but not a fair rents amendment. However, I appeal to the committee to support all three amendments.

The Convener: The question is, that amendment 301 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 301 disagreed to.

Section 19 agreed to.

Section 20—Increase in rent or charges

The Convener: Amendment 144 is grouped with amendment 155.

Ms Curran: Amendment 155 is a technical amendment to define "notice" in chapter 1 as "written notice".

Amendment 144 is a consequential technical amendment to remove the unnecessary reference to "written notice". The requirement to give notice in writing will remain because of the definition in section 35 that will be inserted by amendment 155.

I move amendment 144.

Robert Brown: I am probably being difficult, but I do not regard what the minister has said as a justification. Instead of having something about written notice in the section that deals with it, the minister wants to move it to a later section. That does not alter the meaning at all, as far as I can see. Will the minister clarify why the amendment has been drafted in that way?

10:45

Ms Curran: It has been done to make the notice more general and in writing.

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

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Brown, Robert (Glasgow) (LD)

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

Amendment 144 agreed to.

Amendment 302 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 302 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 302 disagreed to.

Section 20, as amended, agreed to.

After section 20

Amendment 303 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 303 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 303 disagreed to.

Sections 21 and 22 agreed to.

Schedule 4

SCOTTISH SECURE TENANCY: LANDLORD'S REPAIRING OBLIGATIONS

The Convener: Amendment 292 is grouped with amendments 182, 304, 305, 293 and 316.

Ms Curran: This group of amendments deals with changes to the legislation that covers landlords' repairing obligations and what tenants can reasonably expect in relation to a property allocated to them under the Scottish secure tenancy. Executive amendments 292 and 293 attempt to tidy up some aspects of the law in this area. We gave a commitment to do that in "Better Homes for Scotland's Communities: The Executive's proposals for the Housing Bill".

There is a significant amount of case law in this area, but the essential elements can be distilled down to two or three key areas that the Executive amendments cover. They clarify landlords' right of access to carry out repairs, their responsibility to put right any damage caused by carrying out work and their responsibility to ensure that repairs are carried out within a reasonable time scale.

Robert Brown's amendment 182 is in a similar vein and I appreciate his intention to make clear the landlord's obligations and what the tenant should expect. I am happy to consider further the points that he raises, with a view to lodging an amendment at stage 3, if necessary. We may, in particular, need to look further at the details to ensure that we are clear about the commitment given by the landlord and the time scale in which repairs should be made. In addition, we need to consider carefully the relationship between amendment 182 and the core requirement of paragraph 1(a) of schedule 4. We need to be sure that what we end up with is fair to landlord and tenant.

Amendment 304 specifies aspects of fitness for human habitation. As members are aware, the Executive is committed to tackling fuel poverty strenuously. The warm deal and central heating programme are helping the fuel poor practically. They are complemented by other changes that have been made in partnership with the United Kingdom Government.

Although we sympathise with the underlying objectives of amendment 304, there are a great deal of practical problems with its details because it goes beyond the responsibility of landlords in many aspects.

We also reject amendment 316, which is related to amendment 304. We do not see why the provisions to which it refers should be commenced within a particular time scale. No other provisions in the bill are considered in that way. We draw the attention of the committee to the major resource implications of agreeing to amendment 316. That may have a knock-on effect on other issues about which the committee feels strongly.

On amendment 305, we considered that landlords must be able to gain entry to undertake their statutory obligations. Of course, we expect them to make appropriate arrangements with the tenant, except in emergency situations. The bill provides that entry should happen only at reasonable times.

I move amendment 292.

Robert Brown: I welcome amendment 292, which adds to the duties satisfactorily.

Amendment 182 is designed to deal with what happens at the start of the tenancy. In my experience—I am sure it is the experience of others who have been on councils—tenants often raise problems when they take over the tenancy, because various jobs may need to be done at that time. That might not affect their ability to move in, but various promises are made, then the matter disappears into the ether and nothing is done thereafter. It is important that we keep a trigger point in the way that we deal with the matter. Amendment 292, in a sense, is a specific application, but it is important that everybody knows where they stand at the start of the tenancy, when people move in.

I have considerable sympathy for amendment 304. It would be helpful if the minister would indicate, when she responds at the end of the debate, where in the bill the Executive will introduce its promised amendments on fuel poverty. Until we know what is proposed, there will be uncertainty about where the amendments will be introduced and what their implications will be. There is merit in considering whether anything can be introduced to schedule 4 to fulfil our unified view that we should try to do something on that front.

Tommy Sheridan: The bill uses the word "enter" in relation to the right of landlords. Amendment 305 seeks to replace "entry" with "seek entry to", in order that there would be no absolute right for a landlord to gain entry to someone's home. For example, if the tenant was trying to prevent the landlord entering the home, the entry would have to be gained via court orders. The amendment tries to improve the existing wording.

The more substantive amendments—amendments 304 and 316—relate to one of the most important questions that face Scotland and our society: fuel poverty and the unacceptable number of premature deaths through cold-related illnesses. In introducing the amendments, I refer to a speech that was made recently, in which an MSP said:

"The current depth and extent of fuel poverty in Scotland is unacceptable."

The MSP went on to say:

"We define fuel-poor households as those households that spend more than 10 per cent of their income on domestic fuel. According to the 1996 Scottish house condition survey, 740,000 Scottish households—one household in three—are fuel poor. Those are three quarters of a million reasons to hold this debate."—[*Official Report*, 1 March 2001; Vol 11, c 165-66.]

I am sure that Jackie Baillie is well aware that that quotation is from her speech in the recent debate in the Parliament on fuel poverty. It was a good speech and good points were made. I hope that we can think about that speech and those points in relation to the minister's point about amendment 304 having major resource implications. A total of 740,000 families are fuel poor. In the same debate, Robert Brown referred to the 4,331 premature deaths that were a result of fuel poverty in Scotland the previous year. He talked about the 367,000 children and 119,000 pensioners who are fuel poor.

The minister was right to say that there would be major resource implications. However, we must ask ourselves whether it is right that we commit the resources to deal with that fundamental problem and whether we deal with it now in the bill by imposing certain standards and conditions on homes in Scotland. That would mean that, through the bill, we would be facing up to the unacceptability of fuel poverty. Robert Brown mentioned that he expects Executive amendments on fuel poverty. I have not seen any such amendments yet—perhaps there will be an indication that some will come later on, but schedule 4 would be an appropriate part of the bill in which to introduce the need to tackle fuel poverty head-on.

Amendment 316 proposes a commencement date of 31 December 2003. The reason for that is to recognise that, while there are practical issues about improving to a certain standard homes that are socially rented, if we are to tackle the problem, we should set ourselves a time scale and try to eradicate fuel poverty and premature deaths among pensioners in our society.

Fiona Hyslop: The bill provides an opportunity, which the Executive has acknowledged, to tackle fuel poverty. I have been calling for the past two years for a warm homes amendment to be part of the bill. Robert Brown made the valid point that is important for everybody who is considering the bill at stage 2 to know what—and where and when—the Executive plans to do. There is an opportunity to start providing definitions.

The interesting point about amendment 304 is its recognition that fuel poverty relates to the individual, rather than necessarily to the condition of the housing stock. The amendment recognises the relationship of fuel poverty to an individual's income. It would provide an opportunity to begin to measure the extent of problem housing in Scotland in order to identify how many houses would fail for the purpose of human habitation.

Two separate issues are involved. Tommy Sheridan's time scale, proposed in amendment 316, gives rise to the resource problem. Amendment 304 would give us a definition that would allow us to start measuring the extent of problem housing and would provide the Executive with the tools with which it could set targets for reducing the number of houses that are not fit for human habitation.

The committee may want to consider closely Tommy Sheridan's time scale, as proposed in amendment 316, because that is where the resource implications lie. It might not necessarily be the committee's responsibility to set out a time scale, but amendment 304 gives the committee and the Parliament an opportunity to say, "These are the targets for measuring fuel poverty and these are the conditions that we want to set. We want to ensure that the resources follow." I look forward to hearing what the Executive says about where and when it intends to lodge its own warm homes amendment.

Ms White: I welcome anything constructive from the Executive and to my mind amendment 292 is constructive. However, amendment 182 is much more constructive. Robert Brown mentioned that most of the problems begin when a tenant has just received a tenancy. Amendment 182 encompasses the problems much better than the Executive's amendment does and I support the amendment. I also support amendment 293.

Amendment 305 is a tidying-up of words, which I could not support. I have been in a situation where a landlord has had to get into a house within 24

hours, has contacted the tenant and the tenant, for some reason, has not let the landlord in. Amendment 305 represents a delaying tactic, so I could not support it.

I put a question mark next to amendment 304 when I looked at it earlier, because the heading for this group of amendments is "Landlords' repairing obligations". Tommy Sheridan has been quick off the mark with his warm homes initiative—perhaps he is right to get in first, because there will be opportunities later in the process for others to introduce initiatives for warm homes. I welcome amendment 304, even though it should perhaps have referred to later sections in the bill. It gives us the opportunity to highlight the fact that the lack of mention of fuel poverty throughout the stages of the bill has been a concern—not only to me, but to everyone. I think that I speak for the committee when I say that all members have been concerned about the lack of information and input from the Executive on fuel poverty.

I will support Tommy Sheridan's amendment 304—I have scored out the question mark and put a tick. I agree that the issue that it raises has to be highlighted. Schedule 4 may not be the right place to do that, but the amendment is here and I will support it. I look forward to the many amendments on fuel poverty that will be introduced later.

11:00

Bill Aitken: The Executive's amendment 292 uses the word "reasonable"—but, once again, we have no definition of that word. Those of us who have served on local authorities will know that the definition of reasonableness—as used by housing departments and direct labour organisations—is far from satisfactory. Nevertheless, amendment 292 should be supported.

Amendment 304 demonstrates, once again, a conflict between principle and practicality. The principles are worthy and should, in general, be supported, but the practicalities concern me. If a house has condensation or dampness, it may not be the fault of the landlord; in some instances, it could be the fault of the tenant. I therefore do not support amendment 304. However, a clear and unequivocal message should go to the Executive that the committee and the Parliament are looking for early action on fuel poverty. If we do not receive assurances from the ministerial team that action will be taken, it may well be that, when the matter is debated in somewhat greater depth, I for one may have to reconsider my view.

Karen Whitefield: I have considerable sympathy with what Tommy Sheridan is attempting to do in amendment 304. There are real and weighty expectations on ministers to introduce a raft of amendments on fuel poverty, to address the concerns that the committee highlighted in its stage 1 report. We took a considerable amount of evidence from many agencies that are working on this subject. Much of that evidence concerned condensation and dampness and how consideration of them should be included in the work that the Executive is undertaking on tolerable standards. The committee hopes that the Executive will consider that. All members have expectations and we all want the Executive to do something.

My one concern is that the part of the bill that we are discussing may not be the right place to deal with the issue. We need a comprehensive package that genuinely tackles fuel poverty. On this occasion, I will not support amendment 304, but I look for real assurances that the Executive appreciates the concerns of committee members. I hope that we can look forward, in the near future, to amendments that address our concerns.

Brian Adam: Bill Aitken's point about the word "reasonable", in amendment 292, is reasonable. Most, if not all, local authorities have a defined period of time by which different grades of repair will be completed. If we are trying to raise standards, that should perhaps be built in—either in the guidance or elsewhere. I presume that ministers will, in the guidance, spell out what a reasonable time is.

To drive up standards, consideration should be given to how measures can be enforced. I am thinking about the service provider. I understand precisely why the Executive has introduced amendment 292; I have no great difficulty with it—other than the use of the word "reasonable".

The measures in Robert Brown's amendment 182 may be difficult to achieve. I am thinking in particular of the requirement on the landlord, on the subject of repairs, to

"provide a written undertaking to the tenant, in terms agreed with the tenant, specifying when they will be made."

Many tenants—especially those who have the work done by DLOs—feel aggrieved about such issues. I do not mean to be overly critical of DLOs, but we may have to consider means of enforcement. However, I support amendment 182.

Part of Tommy Sheridan's amendment 304 talks about houses with "condensation dampness". Now, one man's condensation is another man's dampness. Condensation tends to be the description that is used by those who come to inspect the property, in an attempt to place the responsibility on the tenant for the damage caused by the water; dampness is the description used by the tenant who has suffered as a consequence. Some water damage may be caused by the actions of the tenant, but we need to do quite a bit of work in this area.

To get agreement on the causes, we will need adequate descriptions that will not allow tenants to exploit difficulties that landlords might have and that will not allow landlords to exploit difficulties that tenants might have. In my view, landlords manage to escape many of their responsibilities by saying, "This is condensation. Open your windaes and the problem will go away." But the problem does not go away: all that happens is that the fuel bill for gas or electricity goes up.

There are problems with definitions and I hope that the Executive will tell us its plans for tackling fuel poverty. The Executive must also consider the consequences of water damage, whatever the reason behind it. I hope that the many task groups that the Executive has set up will try to tackle the definitions. This is an issue that causes significant health problems for many tenants. Unless we have a clear definition of who is responsible for what, we will make no progress. All that will happen is that the ping-pong between landlords and tenants will continue. Landlords will try to get out of their responsibilities by suggesting that the tenant caused the problem.

Ms Curran: This has been an interesting debate. As an ex-convener of the committee, I am well aware of your continuing commitment in this area. That commitment is to your credit.

Please do not underestimate our determination to tackle fuel poverty. The human costs of fuel poverty have been grasped by the Executive—as Tommy Sheridan indicated by quoting Jackie Baillie's speech. We take the issue very seriously. In this brief response, I will explain why we favour the Executive's approach rather than that of amendment 304. I will explain the measures that we will introduce.

If members read further into Jackie Baillie's speech, they will see that we strongly favour a comprehensive and integrated approach to this serious issue. We require a strategic approach to deal with the grave problem of fuel poverty in Scotland. The speech gave a number of clear commitments on that. Our problem with amendment 304 is that it does not deal with that strategic response—an overall strategy must be developed—and refers to factors that are outwith the landlord's control, such as changes in the price of fuel and tenants' incomes. We think that it is inappropriate to include those factors. We intend to lodge an amendment, and we made it clear to Parliament during the stage 1 debate that amendments on fuel poverty would reflect the approach of the Warm Homes and Energy Conservation Act 2000, which would include a targeted time scale for tackling fuel poverty.

We will lodge amendments to part 5, which will be broadened to cover the strategic functions generally, not just those of local authorities. I ask members to give consideration, when making their decisions this morning, to the substantial commitments that the Executive has given—not least of which is its central heating programme, which has been warmly welcomed by many people as one of the most definite actions that a Government has ever taken to tackle fuel poverty in Scotland. Members must not lose sight of that fact as amendment 182 might encourage them to do.

Amendment 292 agreed to.

The Convener: Amendment 182 has already been debated. I ask Robert Brown whether he wishes to move the amendment.

Robert Brown: In the light of the minister's assurances, I will not move the amendment.

Brian Adam: I am not convinced by the minister's assurances, therefore I move amendment 182.

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

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Brown, Robert (Glasgow) (LD)

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

Amendment 182 disagreed to.

The Convener: Amendment 304 was debated with amendment 292.

Tommy Sheridan: Schedule 4 refers to a home that is not

"reasonably fit for human habitation".

I am asking not for an exhaustive definition of such a home, but for a clearer one.

I move amendment 304.

The Convener: The question is, that amendment 304 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)

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

Amendment 304 disagreed to.

Amendment 305 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 305 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 305 disagreed to.

Amendment 293 moved—[Ms Margaret Curran]—and agreed to.

Schedule 4, as amended, agreed to.

The Convener: We come to sections 23, 24 and 25, on which members may comment.

Robert Brown: I return to the issue of fuel poverty. We welcome the minister's assurance; she was right to refer to the central heating programme and the strategy that it involves. However, we should also consider, as an aspirational target, improving the schedule 4 definition of what is fit for human habitation, as Tommy Sheridan suggested.

Fiona Hyslop: People may have expected the minister to indicate the contents of schedule 4 and to provide more information about the amendments that the Executive will lodge. She has told us that the Executive wants to take a strategic approach in part 5, which is useful. However, where would that operational detail be? Are we going to get additional schedules to help with definitions? Where will the operational definitions be, if not in the duties and functions in part 5, on the strategic roles?

There is a danger that we may lose an opportunity, if all we do is put the strategic issue of fuel poverty in the bill without defining the tools and practical things that tenants and landlords would need to deliver. There may be an expectation that definitions of those things will be provided.

It would be helpful if the Executive could give us an idea of when it will lodge its amendments. As you will know from our problems yesterday, convener, there can be amendments to amendments. Because this is such a serious issue, which members will be scrutinising closely, it might help if the ministers could tell us when they will lodge their amendments, so that other members can work out whether they should try to amend the Executive's amendments or—as we are planning to do—lodge their own.

11:15

Ms Curran: Fiona Hyslop has raised those points about legislative practice on several occasions. It is well understood that operational detail is not included in a bill: that is not standard practice. We would adhere to any examples of good practice and I defend the Executive's practice to date. We have lodged our amendments as early as we can, and we are in the committee's hands when it comes to certain stages of the bill's scrutiny. We always try to lodge our amendments early and we have worked as co-operatively as possible with the clerk to ensure that we give early indication of our views.

Sections 23, 24 and 25 agreed to.

After section 25

The Convener: Amendment 306 is grouped on its own.

Paul Martin (Glasgow Springburn) (Lab): Amendment 306 highlights the fact that we must recognise the role that owner-occupiers can play if they are consulted on improvements and repairs to their properties.

From previous experience as a local councillor, and current experience as an MSP, I know that owner-occupiers are usually consulted when a contract is awarded and prior to that on some occasions. We must recognise the role that they can play in shaping the future of their properties.

The kinds of properties that I refer to are tenements and blocks where the local housing authorities own the majority of the accommodation and owner-occupiers are in the minority. Amendment 306 requires that we consult owner-occupiers when improvements to their properties are needed. They have a role to play in shaping the future of their properties and the communal areas around them.

I move amendment 306.

Robert Brown: I support the principle of amendment 306. It deals with a general issue of communal rights to which I have referred, along with Cathie Craigie and other members, on many occasions. There are a number of difficulties in the area. The amendment refers to the general issues of getting work done. Behind it, there is an issue on which I would appreciate the minister's comments: the effectiveness of the role of the local authorities as factors. That idea has been considered previously.

In my days as a councillor, I experienced situations in which owner-occupiers were landed with substantial repair commitments after a decision was made by the factor, without any consultation. The standard conditions of council house sales refer to a restriction on tendering above a certain value, or something of that sort. However, those values are quite high. It is important that all the people involved should have ownership of the project.

Bill Aitken: The relationships between local authorities and owner-occupiers are fraught, from time to time, and there is every likelihood that, in the years to come, the situation will become even more pronounced. On that basis, amendment 306 has some merit. Consultation is a good thing at any time. If a situation arises in which substantial contributions are sought from local authorities in respect of works carried out on communal areas, consultation will become vital. I therefore support amendment 306.

Cathie Craigie: I have sympathy with Paul Martin's intention. Consultation is a good thing. It is necessary when we are trying to improve the quality of housing stock that is both rented and in shared ownership. However, I am a wee bit worried that amendment 306, as written, merely focuses on registered social landlords and does not take into account all landlords, that is, local authorities and other landlords. I am interested to hear what the Executive has to say on the amendment, and whether there is any way in which it can take on board the measure in the amendment.

Ms Curran: Paul Martin has raised a significant issue, and we are grateful to him for doing so. We are aware of the concerns that amendment 306 seeks to address. For example, the Scottish Consumer Council published two reports which criticised the way local authorities provided information on common repairs and consulted former tenants, who had bought their houses under the right to buy. However, those findings related exclusively to ex-local authority tenants who had bought under the right to buy, whereas Paul Martin's amendment 306 refers only to RSLs.

Because of the concerns that have been expressed, and the desire to establish good practice throughout the social rented sector, the Executive established a common repairs working group to provide advice and guidance to landlords. We also decided to use the Housing (Scotland) Bill to extend the scope of regulation to include factoring services provided to private owners by RSLs and local authorities. It is our intention that the regulator should drive up standards and ensure that owners are properly informed about and consulted on decisions on common repairs and the maintenance of communal areas, where they are expected to share the cost.

However, there is another aspect to the issue. Local authorities and RSLs often complain that owners are reluctant to contribute to common repairs. We are keen to encourage tenants who purchase through the right to buy to join factoring schemes. We are pleased that the Social Justice Committee has supported amendment 177, to ensure that intending purchasers are given information on their responsibilities and obligations.

The legislation relating to common repairs and maintenance is complex, and is likely to change as a result of the Executive's programme of property law reform. In particular, the proposed title conditions bill is likely to provide for a default scheme for majority decision making to instruct repairs if the title deeds are silent on that point. The bill will also include provisions about the appointment of managers and their powers.

The Executive recently published a consultation paper setting out its proposals for the title conditions bill, some of which are directly relevant to the position of social landlords and their relationship with owners, which I am sure will be of great interest to Paul Martin. We have also set up the housing improvement task force, with a remit that includes looking at arrangements for common repairs and the maintenance of communally owned areas. The group will examine the private sector as a whole, but its work should be relevant to the situation that Paul Martin is attempting to address with amendment 306, and it will take account of the legislative changes that are already in train.

I have talked about the long and short term, which I hope will reassure Paul Martin and the committee that we take the issue seriously, although it is one aspect of a wider problem. In the short term, we hope that the regulation of factoring will have a significant impact. In the longer term, we may need additional, more comprehensive, legislation. In the meantime, we are reluctant to support legislation on the narrow point. I hope that Paul Martin will withdraw his amendment in light of that explanation, and the fact that we will converse on the subject at a later point.

Paul Martin: I welcome the fact that the Executive has taken the issue seriously. It is a problem faced by many owners and, as Bill Aitken pointed out, it will become more pronounced in the run up to stock transfers. I welcome the Executive's commitment and its comprehensive response to amendment 306. In that light, I seek to withdraw the amendment.

Amendment 306, by agreement, withdrawn.

Section 26 agreed to.

The Convener: It is my intention to adjourn the meeting for 10 minutes, to give people a break before we move on with our business.

11:24

Meeting adjourned.

11:40

On resuming—

The Convener: I call the meeting to order. I cannot say that I am impressed with people's idea of how long 10 minutes is. Members obviously have not worked in a secondary school. Perhaps we should have a bell to get you back here in time.

Section 27—Landlord's consent to subletting etc

The Convener: Amendment 307 is grouped with amendments 145, 147, 194 and 149.

Cathie Craigie: I lodged amendment 307 to address an issue that was raised by the Scottish Federation of Housing Associations and a number of professionals in the housing field during the evidence-taking sessions that we held. The right of assignation is contained in the Housing (Scotland) Act 1987, but is not widely known. It allows a tenant to assign their tenancy to another person, subject to the landlord's consent. Fortunately, the right has been little used, because if it had been, it could have caused major difficulties in the supply of rented accommodation by local authorities or registered social landlords. The right could be open to abuse and for that reason I lodged amendment 307, which would allow the assignation of a home only if it was an only or principal home, and the assignee had lived in that home for six months. I hope that the Executive will accept this sensible amendment.

Brian Adam lodged amendments 145, 147, 194 and 149. I am concerned by the number of amendments that ask for guidance to be issued. We have discussed this before. Section 70 of the bill allows guidance to be issued by the Scottish ministers, which provides the Executive with enough scope. We do not have to keep repeating the point about issuing guidance.

We should welcome the fact that guidance will be produced, no matter which part of the bill it relates to. We have been assured by the Executive that we will be consulted on the guidance, and that we will have an opportunity to have an input, which is an opportunity that we have not had in the past. As well as being able to influence laws, the committee will be able to influence the guidance that supports those laws.

I ask the committee to support amendment 307 and to reject Brian Adam's amendments.

I move amendment 307.

11:45

Brian Adam: Amendments 145, 147, 194 and 149 are intended to be probing amendments. Amendment 145 allows us to consider whether a landlord's consent can be automatically withheld when a notice has been served about rent not being paid or other matters. I do not think that a landlord should have the automatic right to refuse consent to a sublet in such circumstances. In some circumstances, taking a lodger might make it easier for the tenant to meet their financial obligations.

Amendment 147 would insert a subsection after section 27(3) to allow ministers a little more scope to specify the reasons why a sublet or assignation could be refused. The present list of reasons is not comprehensive and it might be a better idea to issue guidance about whether refusal is possible.

The arguments in favour of amendments 194 and 149 are broadly similar. Shelter suggested the amendments and says that sublets and assignations are used for various reasons. Shelter is concerned that the approach is not uniform throughout Scotland and thinks that guidance may be required to offer some consistency. That would ensure that arrangements were equitable. Amendment 149 would encourage ministers to deal with the issue through guidance, which would mean that local authorities adopted similar approaches.

I will give a couple of examples. Whether a tenant has council tax arrears and how long a tenant has lived in a property might be taken into account when deciding whether a sublet or assignation should be allowed. Refusing a sublet or assignation because a tenant has council tax arrears makes it more difficult for that tenant to deal with their financial problems. People who have council tax arrears are not stopped from using other council services, so why should arrears impinge on their tenancy rights? Shelter would like the reference to council tax arrears in that provision to be removed. I support that.

The length of time for which someone has lived

in a property is not especially relevant to the reasons why an assignation or sublet has been requested and ought not to be taken into account. I would like the ministers to take the general point on board. Depending on whether they are willing to do that, I will choose whether to move the amendments. I wish the issues to be explored.

Bill Aitken: I confess that I looked long and hard at section 27, as I thought that the Executive's proposals were a little liberal. Cathie Craigie was correct to lodge amendment 307, which goes some way towards reassuring me, and which I will support.

We seek to ensure that the greatest number of properties is freed up. If we are a bit permissive with the assignation principle, we will restrict many potential tenants' access to properties.

On this occasion, I do not think that Brian Adam's amendments are worthy of support. He makes the spurious argument that because someone in tax arrears is not denied the opportunity to participate in other council services, that should apply in this particular instance. Where someone is in tax arrears, there will be problems with that person's ability to fund the rent and, at a later stage, that could put the RSL or local authority in a position of some difficulty. I will not support amendment 147, as it unduly interferes with the independence of RSLs.

Ms Curran: The right to assign and the right to exchange are core elements of our tenants rights package. It is appropriate that landlords can refuse consent where legal proceedings are under way against the tenant. We appreciate that subletting may assist the tenant in some circumstances, including paying rent, where legal action is under way. The bill, as drafted, allows landlords to be able to use discretion based on individual circumstances. Guidance and good practice is the best way for the matter to be handled. I assure the committee that that is what we will do.

Contrary to Brian Adam's amendments 147 and 149, we do not need a new power to issue such guidance. As Cathie Craigie pointed out, section 70 provides us with sufficient powers. I am happy to commit that we will use section 70 to issue guidance and to ensure that the regulator monitors adherence to the guidance. I hope that that gives some reassurance to the committee. There is no need for other legislative measures, and I urge Brian Adam to withdraw his amendments.

For some time, Cathie Craigie has expressed an interest in the provisions that are contained in her amendment 307. The right to assign a tenancy is very different from the right to sublet or to take in a lodger, as it allows the tenancy to pass from one tenant to another. Some landlords and tenants groups have expressed concern that the assignation provisions, as they stand, could allow queue jumping, with tenants assigning tenancies to relatives or friends who might not otherwise be allocated the tenancy if the house became available for letting in the usual way.

As has been pointed out, the numbers of assignations are very small. As most tenants need to retain the tenancy for themselves, they are not in a position to assign. However, in the light of comments that have been made, we accept that the provision as it stands is open to abuse—or to the perception of abuse—and we will support amendment 307.

Cathie Craigie: I am grateful for the minister's support for amendment 307. The number of assignations has been small. We can put that down to people not understanding that they had the right to assign and perhaps we should be grateful for that. The provisions of amendment 307 will establish a better framework for assignations.

When Brian Adam spoke to his amendments, he asked for a uniform approach to subletting to be taken across Scotland. We do not need a uniform approach but, as the minister said, we need guidance to be issued. At that point, the individual circumstances of tenants and the discretion of landlords come into play. I hope that Brian Adam will withdraw his amendments 145, 147, 194 and 149.

I intend to press amendment 307.

Amendment 307 agreed to.

Amendment 145 not moved.

Amendment 146 moved—[Ms Margaret Curran]—and agreed to.

Amendment 147 not moved.

Section 27, as amended, agreed to.

Section 28—Landlord's consent to exchange of house

Amendment 194 not moved.

Amendment 148 moved—[Ms Margaret Curran]—and agreed to.

Amendment 149 not moved.

Section 28, as amended, agreed to.

Schedule 5 agreed to.

Section 29—Short Scottish secure tenancies

The Convener: Amendment 183 is grouped with amendments 308, 309, 151, 184 and 152.

Robert Brown: Amendment 183 and some of the others in the group are really just probing amendments. Section 29 deals with short Scottish secure tenancies and, although I do not want to be

derisory, I think that schedule 6 is something of a ragbag of bits and pieces that have been stuck together to make up the short Scottish secure tenancies. I mean by ragbag that it contains different sorts of things; I do not mean to be abusive. The schedule covers temporary lets of various kinds—when houses are being renovated, for example—as well as temporary accommodation for homeless people and more difficult anti-social behaviour cases.

Quite a lot of disparate matters are covered, all of which seem to be linked to a six-month tenancy term. There may be a legal reason for doing it that way, but it seems a little inappropriate to try to lump all those types of cases together with a six-month term. Some tenancies will be for less than six months and some will be on-going depending on how things go. A whole range of different situations seems to be covered.

I observe in passing that I am very much in favour of amendment 308, in the name of Karen Whitefield, which recognises the need to tie in housing support to ensure that anti-social behaviour orders work effectively and are given a chance to work. That is a useful tool and something that I have mentioned in relation to other sections. However, I have a slight qualm about the wording of amendment 308, and I would like to hear the minister's comments about that. Amendment 308 says that "the landlord must provide"—which sounds very statutory duty-ish—

"such … services as it considers appropriate".

That seems to take away almost entirely the meat of the amendment. I wonder whether consideration should be given to changing the wording so that it reads something like "such housing services as are appropriate", which would produce a more objective test in that regard and would give the amendment more meaning. We are all in agreement as to where amendment 308 is going, but we need to make it effective.

Amendment 309 has similar implications. Schedule 6 refers to previous anti-social behaviour as a ground for a short Scottish secure tenancy when the

"landlord has reasonable grounds for believing that an order for recovery of possession has … been made".

Either an order for recovery of possession has been made or it has not. It is not a question of the landlord's having "reasonable grounds" for believing that one has been made. It can be established from court records whether such an order has been made. It seems to me that the wording in schedule 6 would lead us to a whole new series of questions about exactly when a short Scottish secure tenancy applies and when it does not. In that regard, the schedule goes against considerations of fairness. How on earth can a tenant challenge the idea that a landlord has reasonable grounds for believing that an order has been made, when there is a yes or no answer at the end of the day?

I have no difficulty with the other amendments in the group. Amendment 184—which also relates to the six-month limit—is also a probing amendment.

I move amendment 183.

12:00

Karen Whitefield: Amendment 308 came about following discussions that I had with Shelter Scotland, which was concerned about the operation of the short Scottish secure tenancy. Amendment 308 would require landlords to provide persons with a probationary tenancy with support and would give Scottish ministers the power to issue guidance on the support services. Its purpose is to ensure that landlords provide, as Robert Brown said, appropriate support to those who are on a probationary tenancy to enable them to achieve conversion to a Scottish secure tenancy after 12 months. If they achieve that, they will have addressed their anti-social behaviour and any other problems that have endangered their tenancy along the way.

I appreciate that, to do that, there will need to be detailed guidance from the Executive. I believe that amendment 308 allows for that.

The amendment addresses the concerns that many housing professionals have expressed about downgrading a person's tenancy to a short Scottish secure tenancy. The amendment would provide help and support to ensure that, if an anti-social behaviour order has been granted, along with that ASBO comes support to help the person address their problematic behaviour.

Amendment 308 is worthy of support. We discussed ASBOs yesterday when we debated amendment 150, when we discussed concerns that sheriffs would be reluctant to grant ASBOs because of the connection between an ASBO and a tenancy. If amendment 308 was successful, it would provide some reassurance that granting an ASBO against somebody would not necessarily cause them to lose their tenancy, but that they would be given access to the support services that were required to help them to address the problems that affected whether they were able to be good tenants.

I hope that members of the committee feel able to support amendment 308.

Ms Curran: I referred yesterday to amendment 151 when we discussed amendment 150. I will return to amendment 150, which Karen Whitefield has just mentioned. Amendment 151 is another measure that is intended to help tackle problems

of anti-social behaviour. The amendment extends the grounds on which the special variant—known as a probationary tenancy—of the short Scottish secure tenancy can be offered to prospective tenants.

Under the bill as drafted, probationary tenancies can be offered only to persons who have been evicted from a tenancy for anti-social behaviour during the previous three years. Amendment 151 will also allow landlords to offer a probationary tenancy if the tenant or any person who will reside with the prospective tenant is currently the subject of an anti-social behaviour order that has been granted, at the request of the local authority, by the courts.

As with amendment 150, we think that that measure will encourage landlords to give tenancies to some applicants whom they might otherwise be inclined not to house. It also gives the tenant a further clear incentive to improve their behaviour.

Amendment 152 is a technical change, which is consequential on amendment 151, to reflect the fact that amendment 151 would insert a new paragraph 1A into schedule 6.

On amendments 183 and 184, the short Scottish secure tenancy is intended to meet a gap in the current tenancy arrangements and to provide a framework of tenancy rights in situations in which it is not possible, for good reasons, for the landlord to offer a full tenancy. One of the rights that we want tenants to have is entitlement to a tenancy of at least six months.

I am not sure what Robert Brown hopes to achieve with amendment 184. He seems to accept the need for minimum tenancies of at least six months for lets to the homeless or to people who require support, but not for people in any other form of short Scottish secure tenancy.

When permanent accommodation has been secured, there is nothing to stop a short Scottish secure tenancy coming to an end by agreement before six months have elapsed. However, I believe that six months is necessary as a minimum entitlement for all short Scottish secure tenancies—as a common standard and for the protection of tenants. Tenancies can be renewed to give complete flexibility where appropriate. In practice, tenancies of less than six months that have a two-month notice period would be virtually unworkable. In such circumstances occupancy agreements would be the appropriate mechanism in which to set out the agreement between occupier and landlord. I hope that Robert Brown will consider those points.

I thank Karen Whitefield for lodging amendment 308, because it makes a contribution to the package of measures in the amendments that the Executive has lodged. Karen Whitefield gives proper consideration to the short Scottish secure tenancy, as we have done in amendment 150. I ask the committee to view the amendment in its totality, because it is an important addition to those measures.

We welcome amendment 308, because it is consistent with our approach. Probationary tenancies are intended to be a positive measure to give tenants a second chance. Amendment 308 reinforces that and increases tenants' chances of being successful. Our measures are not meant to be punitive; they are meant to create solutions and amendment 308 offers us some help in the matter. As has been indicated, it will be a complex area and we will need detailed guidance on the matter.

Before members raise the issue with me, I want to clarify that the guidance on housing support that is included in the provisions in the second part of amendment 308 would not be covered by the general power under section 70. That is why we are not making our usual point and we are happy to support the second part of amendment 308.

I thank Robert Brown for amendment 309. He might be shocked and surprised to hear me saying that the Executive is happy to accept it.

Members: Hooray!

Tommy Sheridan: I am sure that I saw two moons in the sky.

Ms Curran: That is not fair.

The Convener: Without cheering, can I have an indication of which members want to contribute?

Brian Adam: I look forward to the occasion when the minister accepts some of the Opposition's amendments with the same good grace that she showed in accepting Robert Brown's amendment. I would also be interested to see the Labour members on the committee supporting some of the Opposition's amendments. Up until now we have not dealt with the detail of the bill on a cross-party basis: whatever the Labour party has wanted, it has got. We now have one exception in amendment 309, but until that concession, Robert Brown lodged many well-argued amendments. That does not reflect well on the Executive or on Labour members of the committee. Having said that, Karen Whitefield's amendment 308 is well worth while, and I am happy to support it.

I have some concerns about amendment 151, because it does not follow through Karen Whitefield's idea as set out in amendment 308. If the minister can reassure me that support would be available for tenants in those circumstances, I would be more inclined to support the amendment. People who have difficulties require support. I recognise that the minister has lodged a series of

amendments as a result of concerns that were expressed by members of the committee and others about anti-social behaviour. Amendment 151 is a genuine attempt to address those concerns. If the minister will give an assurance that support measures will be put in place for people who would be affected by the provisions of amendment 151, I would be more inclined to support it.

Ms White: Bill Aitken is at a disadvantage because he is sitting to the convener's left. His hand is up constantly before mine, but the convener cannot see him.

The Convener: Sandra White need not worry—I can see him.

Ms White: I congratulate Robert Brown on amendment 309 having been accepted without going to a vote. Although it might be a one-line amendment, it is important because it deletes "reasonable grounds for believing". When I saw that in schedule 6, I thought that it was a landlord's charter, although it is three years since anti-social behaviour orders were introduced. I welcome the fact that the Executive has accepted the amendment and that it has seen fit to take the matter on board.

Karen Whitefield's amendment 308 is an excellent amendment. It goes a long way towards providing tenants with information. I hope that anti-social behaviour will cease when those tenants get help. I welcome the amendment and I will support it.

I have concerns about amendment 151. Yesterday, a number of committee members expressed concern about amendment 150. The provisions of amendment 151 might have been written partly to water down amendment 150, but I do not think that that is the case. However, my concerns about amendment 151 centre on the phrase,

"a person who it is proposed will reside with the prospective tenant".

Under that part of the amendment, a prospective tenant—a child, grandmother, grandfather or cousin—who might not be responsible for the person who is the subject of an ASBO might also be penalised because of that person's behaviour. Perhaps the minister might clarify matters in her summing-up.

The Convener: Thank you.

I assure Sandra White that the only reason I do not see Bill Aitken is because I choose not to. [*Laughter.*]

Bill Aitken: Thank you for that vote of confidence, convener.

The committee is unanimously depressed about the amount of time and public resources that are spent on the issue of anti-social tenants. We all wish that the situation were not so. However, I find it depressing that the emphasis is consistently wrong; we must be much more proactive in coping with the problem. Over the past few months, I have seen some signs of a creeping realisation that we must be more aggressive in facing up to the problems that anti-social tenants cause for the majority of tenants. However, I am not certain that we are taking the appropriate route.

Although the idea of probationary tenancies is worthy of support, it is an exercise in futility. We will not see them working to any significant extent. Furthermore, ASBOs are currently problematic; not enough of them have been granted, and their effectiveness is very much open to question. That said, I recognise the merit in amendment 308. We must give anti-social tenants the opportunity and every assistance to reform, and amendment 308 goes some way towards that. However, a much more realistic and tougher line in other respects is probably required, and I suggest my own solution in amendment 153. I am confident that, in a similar display of open-mindedness to that with which she accepted an earlier amendment in the group, the minister will support amendment 153. The proposals in amendment 153, the introduction of probationary tenancies and the support measures that are detailed in amendment 308 will go some way towards obtaining a result on the issue.

Fiona Hyslop: In your comments on Bill Aitken, convener, I am reminded of the saying, "There are none so blind as those who refuse to see."

The Convener: It is known as the convener's discretion.

Fiona Hyslop: I am well warned.

I want to reflect on yesterday's debate on amendment 150, because it relates to amendments 151 and 308. The problem with amendment 150 is that it could easily be counterproductive and reduce the number of ASBOs that are granted. There are concerns about linking ASBOs to Scottish secure tenancies; amendment 151 definitely needs the support of amendment 308 if it is to have any effect.

I share Sandra White's concerns about amendment 151's reference to

"a person who it is proposed will reside with the prospective tenant".

I find that very weak. How would such a situation be policed or indeed defined? How would the landlord know? I understand why prospective tenants or joint tenants are mentioned in amendment 151; discriminating against a tenant who might live with somebody in the future causes difficulties. However, during the stage 1 debate, a

number of members expressed concerns that, although the Executive said that it would introduce measures on anti-social behaviour, they were not included in the bill.

Although the Executive has come back with proposals, they are not necessarily the right ones. Given the combination of amendments at this stage, members have an opportunity to say to the Executive, "Yes, we recognise your efforts, but they might not be the most practical and acceptable way forward. Please go back and look at this again at stage 3." I make that strong appeal on behalf of many members and I hope that the Executive will reflect on it.

12:15

Cathie Craigie: I support Karen Whitefield's amendment 308. We are all agreed that anti-social behaviour causes problems, not only for the family that produces such behaviour but for people who live around them. Moving that family elsewhere does not always solve the problem. People need support, and amendment 308 would ensure that that support would be provided. We can look to areas in which local authorities have provided support to families who have been evicted because of anti-social behaviour. For example, at the family partnership in Dundee, people who have been given the correct support, not just from housing staff but from all the other services involved, have been able to secure long-term tenancies. That is what amendment 308 proposes, and I welcome that amendment.

I will address some of the points made by Brian Adam. Labour members do not count how many times the Executive has either supported our amendments or not supported them. We have not had time to do so because we have been scrutinising the bill. When the SNP lodges an amendment that makes sense, there is a chance that we might support it. When the SNP lodges an amendment that both makes sense and adds something to the bill, it might gain even more support.

We are in the business of scrutinising the bill, not of making statements in order for them to appear in the bill, as the SNP has tried to do with so many of its amendments. I want to put it on the record that SNP members should not be surprised if other Labour members—although I cannot speak for them—and I support the bill, because it is supported by many housing organisations and tenants. In the main, it is a good bill to which some small amendments are required to take account of what was thrown up by the consultation process. I repeat that SNP members should not be surprised if I support the bill.

Ms Curran: I will turn first to the points raised by Sandra White and Fiona Hyslop and then I will make some general comments in the light of what Cathie Craigie has just said.

There is a degree of inconsistency in the arguments made by Sandra White and Fiona Hyslop. The criteria that we are applying in amendment 151 are the same as those applied in relation to grounds for eviction, which Sandra and Fiona did not challenge. Amendment 151 would command widespread support in local communities that have made strong representations to other members and to me.

Members must understand the reality of the situation in many areas where children aged over 16 or lodgers may cause difficulties. We must draw the line of responsibility somewhere—communities expect us to do so. It is appropriate to ensure that people are not allowed to use a get-out clause to avoid taking full responsibility for their behaviour or that of their children. Unfortunately, when one is drafting legislation, one must take difficult decisions and hold people to account. In line with eviction procedures, we believe that it is appropriate that tenants are held to account for the activities of their lodgers or whoever they have in their house.

I will move on to address Brian Adam's comments. It is obvious that, by accepting Karen Whitefield's amendment 308, we are saying that support must be given. I hope that that reassurance is clear—by indicating our intention of supporting amendment 308, it is clear that that is what we are saying. The comments made about whether we accept amendments seemed to me to be rather ungracious.

Yesterday, I went some way towards Mr Sheridan's position, saying that he had made some points that we wanted to take away. It is quite proper for us to put amendments into a coherent framework that is consistent throughout the bill. We have tried to do so, and it is disappointing that those comments were made, as they added a tone to the debate. We are members of different political parties—that is clear. Our political values are different and we adhere to different policies. It is quite inappropriate for members to be ungracious in such a manner. Quality is a clear criterion for the Executive and, as Cathie Craigie said, if quality amendments are produced, we will consider them.

The Convener: I ask Robert Brown to wind up and indicate whether he intends to press or withdraw amendment 183.

Robert Brown: I very much agree with the minister's comments about what Brian Adam said earlier. I will not back down from my view that the job of the committee is to scrutinise the legislation. We have been involved in a learning process as this is the first piece of legislation that the

committee has dealt with. The committee and the ministers have learned how the roles of the committee and of the ministerial team fit together. On occasion, those roles will clash, and it has to be said that I have played my part in such clashes.

Margaret Curran is quite right to point out that the Executive has accepted a number of amendments—mine was not the first, and I believe that another was accepted earlier today—and has accepted the principle of others, giving a promise to return to the issues later. It is possible to argue about the detail of the matter and some might suggest that more amendments could have been accepted, but the Executive has been listening and has made a reasonable attempt to respond to the views of the committee, particularly those that have general support. I would like to dissociate myself from Brian Adam's comments in that regard.

The amendments that we are dealing with require a balance to be struck in relation to the ways in which a short Scottish secure tenancy can be secured, the support that is given once that has been achieved and how the arrangement can be brought to an end or the tenant can be evicted. I am not convinced that we have got the balance right yet, partly because we are fitting the legislation together in bits. Karen Whitefield's amendment 308 moves the argument along and I am glad that the Executive has accepted it. There has been no comment on the fine but important point that I made in passing that the words "as it considers appropriate" should be changed to ensure greater objectivity. I hope that that can be reconsidered later, as it does not go against the principle of the bill.

With the assurances that the minister has given, I am prepared not to press my opposition to amendment 150, which I continue to have some qualms about, as I want to consider the overall balance at stage 3. The issue of rights must also be kept in perspective. Putting people's rights to one side does not advance the cause of dealing with anti-social tenants.

The issue of the six-month period for the tenancy is less important if a slightly different approach is taken on rights of repossession. I will talk about that later. A linkage has to be made, which is why the issue of balance has to be considered. Given that we are not far off the answer to such problems, I seek permission to withdraw amendment 183 and I will not press 184.

Amendment 183, by agreement, withdrawn.

Amendment 308 moved—[Karen Whitefield]—and agreed to.

Section 29, as amended, agreed to.

After section 29

Amendment 150 moved—[Ms Margaret Curran].

The Convener: We come to amendment 150A.

Robert Brown: The minister said that she would come back with new wording at stage 3. I am happy to accept that undertaking, which will deal with the important aspect that the amendment raises.

Amendment 150A not moved.

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

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)

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

Amendment 150 agreed to.

Schedule 6

GROUNDS FOR GRANTING SHORT SCOTTISH SECURE TENANCY

Amendment 309 moved—[Robert Brown]—and agreed to.

Amendment 151 moved—[Ms Margaret Curran].

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

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)

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

Amendment 151 agreed to.

Amendment 184 not moved.

Schedule 6, as amended, agreed to.

Section 30—Recovery of possession

The Convener: Amendment 310 is in a group of its own.

Tommy Sheridan: Amendment 310 is short, but I hope to show that it is significant, because it provides another barrier of defence for tenants facing eviction proceedings. The amendment seeks to insert the word "only", which would ensure that eviction proceedings raised against tenants could only be by way of the summary cause procedure.

The justification for amendment 310 is that the summary cause procedure is relatively simple and cheap. It is right and proper that anyone facing eviction from a Scottish secure tenancy should not be exposed to a more complicated court procedure, namely, the ordinary cause procedure, which can be, and often is, used when rent arrears are of more than £1,500. The complexities and costs involved in the ordinary procedure often are beyond the means of low-income families and others without legal assistance.

Amendment 310 would not prejudice landlords, which is important, because they could use the summary cause eviction procedure to seek an eviction decree, and raise ordinary cause proceedings if they want to recover arrears of more than £1,500. Currently, summary cause proceedings cannot be used if there is a money claim of more than £1,500. The point is that if a landlord wants to evict someone, they should not effectively be able to up the ante, and expose the tenant to the most complicated and expensive sheriff court procedure, instead of sticking to the simplified and most easily understood sheriff court procedure.

It is worth noting that one of the leading Queen's counsels specialising in Scottish housing, Jonathan Mitchell, made the point that the phrasing of sections of the Housing (Scotland) Act 1987 upon which sections in the Housing (Scotland) Bill are based does not entitle a council to raise ordinary cause eviction proceedings against a secure tenant. The matter needs to be clarified, and this bill is an excellent opportunity to do that. By inserting the word "only" we ensure that in any eviction proceedings, the only procedure used is the summary cause procedure. Amendment 310 is a small amendment, but it is an important one, because it would give an extra line of defence to tenants. I hope that the committee will accept it.

I move amendment 310.

Robert Brown: I support Tommy Sheridan's amendment 310. He has happened upon an important procedural aspect. It is important that the summary cause procedure is used, because such proceedings are much more informal and there is the opportunity to state one's case without using many documents and written answers. There is the problem that if arrears are for more than £1,500, they cannot be pursued by the summary cause procedure, but that does not stop a landlord pursuing a relatively straightforward debt claim—which is really a separate issue at the end of the day—and dealing with it in a separate fashion. It is desirable that people who are facing eviction have a straightforward and uniform basis on which to defend themselves in the proceedings and put their case.

Bill Aitken: It is clearly in the public interest and also in the interest of justice that proceedings for recovery of possession should be disposed of as quickly and as fairly as possible. The summary cause procedure would seem to be ideal in that respect. I am a little concerned that, in some cases, there may be a degree of complexity and that the summary cause procedure might not be adequate to deal with such cases. However, I am at this stage open-minded and I await the minister's reply, which I hope will concentrate on circumstances in which the summary cause procedure would not be thought appropriate to deal with cases of recovery of possession.

The Convener: You wait no longer.

12:30

Ms Curran: Notwithstanding the comments that I made earlier, I hope that we have a degree of open-mindedness. I genuinely wanted to hear the arguments that were advanced on amendment 310. I can reassure Tommy Sheridan our clear intention is for the procedure that is set out in section 30 to be that that will be used for the recovery of possession.

My understanding was that the bill as drafted already provided for that. However, to prove my earlier point, I have asked that the lawyers double-check that. I ask that Tommy Sheridan withdraw amendment 310. We will come back to him with further information. If we agreed amendment 310 as drafted, we would need to make a change in section 12, which we have already debated and agreed, in which there is a directly corresponding issue that relates to the full Scottish secure tenancy. I ask Tommy Sheridan to withdraw 310, because we think that there is an issue that the lawyers need to consider to brief ministers and come back to Tommy Sheridan.

Tommy Sheridan: I am glad that the minister made reference to section 12. The convener will be aware that I tried to lodge a similar amendment for that section, but I missed the deadline. I apologise for that. In the light of the minister's comments, I am prepared not to press amendment

310. I hope that she will consider the issue and that she will tighten up the section, because it is important that the summary cause procedure be used.

Amendment 310, by agreement, withdrawn.

The Convener: We have reached the end of section 30 and have the opportunity for a brief comment.

Robert Brown: I touched before on how tenancies will be ended under the short Scottish secure tenancy. Perhaps I should have lodged an amendment to section 30, but the matter has only been drawn to my attention recently. If members look at section 30(5), which is about the order for recovery of possession, they will see that possession can be recovered if

"(a) the tenancy has reached the ish",

which is the legal phrase for reaching the six months;

"(b) tacit relocation is not operating",

that is to say, the tenancy is not being continued by agreement; (c) no other tenancy, such as the Scottish secure tenancy, supersedes the tenancy; and (d) proper procedure has been complied with. There is, in short, no discretion against the order for recovery of possession. We will land ourselves in the position, if we are not careful, that we are in in relation to mortgage rights. I ask the minister to examine that.

I received a proposed amendment from Shelter Scotland the wording of which I was not altogether satisfied with. The sort of issues that we had to consider in the instance of certain types of short tenancy, in particular those related to anti-social behaviour, were whether tenants had alternative accommodation and whether tenants had conducted themselves properly during the period of the single short tenancy, as well as a general issue about the reasonableness of repossession in any event.

I know that we are not keen to get into the panoply of the grounds for repossession under the full Scottish secure tenancy, but the position is still that people lose their homes. It is important that there be some sort of residual framework of discretionary right in the court to look at situations in which the request for repossession is a bit over the top, does not match the facts of the position or is purely arbitrary. Such situations will be unusual, but the whole purpose of having discretionary rights is that they be able to be exercised in appropriate cases. I hope that the ministers will consider that with a view to lodging an appropriate amendment at stage 3.

Ms Curran: I am happy to reassure Robert Brown that we will consider issues that are brought to our attention. We genuinely will.

I will respond briefly. I take Robert Brown's point, but we do not wish to undermine having the power of repossession in the first place. We would need to consider his request in that context. I do not want to raise his hopes, but we will give the matter consideration.

Section 30 agreed to.

Section 31—Conversion to Scottish secure tenancy

Amendment 152 moved—[Ms Margaret Curran].

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

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

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

Amendment 152 agreed to.

Section 31, as amended, agreed to.

Before section 32

The Convener: Amendment 153 is grouped with amendments 221, 314 and 315.

Bill Aitken: Amendment 153 deals with the vexed question of anti-social behaviour. I make no apology for saying that we have got the emphasis wrong. I acknowledge that the Executive recognises the problems that anti-social behaviour causes to tenants who are trying to lead normal lives. I do not feel that the measures that are in force are adequate to cope with that growing problem, which is fairly horrendous in some cases. At the other end of the scale, I am seeking to avoid the eviction of families when young children are involved. There is a natural reluctance on the part of sheriffs, which I understand and appreciate, to put families that include young children out on to the street, no matter how badly behaved the family has been. It would take a much harder person than me to suggest that eviction is the appropriate disposal in those cases, although I would have no qualms about evicting single persons or couples whose conduct had become so intolerable to their neighbours that that sanction was necessary.

Amendment 153 seeks to perform the dual function of sending the message to those who are prepared to make life a misery for their neighbours that that behaviour will be tolerated no longer and that they will, at the same time, be given the opportunity to reform. The quid pro quo for their reform would be a return to mainstream housing. On the basis of amendment 308, which has been agreed to, those people would have the opportunity of gaining support from various support agencies to enable them to mend their ways and return to mainstream housing.

That difficult issue causes much angst for many people, including housing professionals and the Executive. However, the people who suffer most are not professional politicians or those in the housing profession, but the vast majority of decent families who must cope with an increasing problem, which is the result of the increase in the drugs difficulties that beset so many of our housing estates.

We must make a two-pronged attack on the problem. We must give people the opportunity to reform, but we must also show clearly that their behaviour is no longer acceptable. I suggest that, taken with the other measures that we have agreed to, amendment 153 is the way forward.

On the other amendments in the group, it is clear that there is unanimity in the committee—and outwith it—that anti-social behaviour must be tackled. However, I do not consider that the other amendments go far enough, which is why I commend amendment 153 to the committee.

I move amendment 153.

The Convener: Amendment 221 is in the name of Kenny Gibson. I ask Brian Adam to speak to it and to the other amendments in the group.

Brian Adam: The Executive was aware that the committee was anxious to try to deal positively with anti-social behaviour. I welcome the variety of amendments that have been lodged so far to deal with the matter.

I listened carefully to Bill Aitken's comments and I whole-heartedly endorse his analysis of the situation, and the motivation behind his solution. However, I hope that amendment 153 does not create the impression that eviction will be the solution in every case, although sometimes eviction is the only solution. I can recall some highly publicised examples, particularly a case some years ago in Glenrothes, when an eviction was followed by relocation, but the problems simply continued.

I have some concerns about proposed subsection (1) in amendment 153. For example, it does not specify the circumstances in which the attempt to help individuals to change their patterns of behaviour might be used. That is not to say that the amendment is not worthy of support.

The purpose of amendment 221, in the name of Kenny Gibson, is to give guidance to sheriffs on what to take into account when granting an anti-social behaviour order. Kenny Gibson wants the protection of individuals in an area to be "the paramount consideration". It is always difficult to strike a balance between the rights of the individuals and the rights of society in general, and Kenny Gibson has come down firmly on the side of protecting those who have suffered from the difficult circumstances that might give rise to the granting of an ASBO. I am more than happy to support that position. However, I am also happy to listen to the debate on the other amendments in the section before casting a vote. We must find a positive way forward for dealing with ASBOs.

The Convener: I call Paul Martin to speak to amendment 314 and to the other amendments in the group.

Paul Martin: A number of local authorities have expressed concerns about legal difficulties in connection with the time that it takes to serve anti-social behaviour orders. What appears to be required is some form of interim anti-social behaviour order. Amendment 314 proposes such an interim solution to the very serious issue of time-wasting in courts.

Robert Brown: The amendments in the group raise several different but related points. I strongly oppose amendment 153, but not so much because of the possibility of relocating anti-social tenants. Such relocation cannot happen without recourse to court procedures within a framework of rights, and in that respect Bill Aitken has phrased his amendment unhelpfully. We are dealing with people's homes. Landlords can get things wrong; I have come across cases—as I am sure Bill Aitken has—in which, after a conflict between two prospective tenants, the landlord gets the wrong lot: the antisocial tenant. The problem must be tackled more objectively.

Amendments 314 and 315—which Paul Martin and I have lodged—relate to interim anti-social behaviour orders. I am aware that, within the bill, we can legislate only on the position of the social tenant, rather than on others. I am also conscious that the minister's response will be limited because the matter does not fall entirely within the development department's responsibilities and is partly covered by the justice department. Today's discussions must send a fairly strong message that urgent action is required on some issues and that some form of interim anti-social behaviour order is quite important.

In my experience of other forms of interdicts, the interim interdict has been key. Normal interdicts

rarely go to proofs on their merits. They are dealt with at the interim stage, which usually sorts out the problem. If I am not mistaken, I think that my firm had one of the defining cases on anti-social behaviour, which concerned whether interim orders were possible within existing law. It is important to deal with the issue. The amendments in the group are designed to do that. I hope that we receive a reasonably favourable response, at least in principle, to the policy direction that we are trying to take.

12:45

Ms White: Every member who has lodged an amendment wants to improve the situation regarding anti-social tenants. Regardless of some of the language, on which some members have picked up, the committee agrees that something must be done.

However, I am worried about some of the wording in Bill Aitken's amendment 153. I know that he lodged the amendment to try to sort out anti-social behaviour. New subsections (2) and (3) of the amendment would be fine, but I cannot agree with new subsection (1). I worry that anti-social tenants will be relocated to places that will become no-go areas, as has happened previously. The amendment mentions accommodation that is held by the landlord who requires the tenant to move, or which is held by any other landlord. I worry that we might return to the days when landlords held accommodation in which to put all their anti-social tenants, which created ghettos. That is why I cannot support amendment 153, although its sentiments are fine.

Kenny Gibson's amendment 221 approaches the issue in another way. It would try to protect people of whom I am sure we all know, who may not give evidence, but who speak to somebody about the anti-social behaviour of a neighbour and then become the target of that anti-social behaviour. Kenny Gibson wants the authority to exist that would protect such people. The amendment is worthy.

Paul Martin's amendment 314 is on interim anti-social behaviour orders. I agree that local authorities need such a mechanism, because it takes a long time for a case to reach court and for an ASBO to be delivered. However, I wonder about the civil liberties of people who are accused of anti-social behaviour. Would it be right and proper to issue an interim order before an ASBO had been granted? Perhaps the minister will clarify that.

Robert Brown's amendment 315 is better than amendment 314. I do not have a problem with supporting amendment 315, which goes into the issue in great detail. Amendment 315 is more comprehensive than amendment 314. We must do something about anti-social behaviour, but I do not think that Bill Aitken's amendment 153 takes the right approach.

Karen Whitefield: I have some concerns about Kenny Gibson's amendment 221, because I am not sure what he intends to do. Sandra White said that he intends to protect, but he does not say how he will do that. There is no point in agreeing to an amendment that will do nothing. The point of the bill is to legislate, not to put nice words in law. We all identify with the issue and know how important it is for our constituents. I am slightly concerned that amendment 221 would do nothing to address the problem.

I appreciate where Bill Aitken is coming from and I have considerable sympathy with his approach. Sometimes we need to take a hard line. However, the Executive consulted fully on proposals such as those that Bill Aitken suggests and was slated by housing professionals and local authorities, which said that the proposals were unworkable. We must reconsider how to achieve what Bill Aitken wants to achieve, which we all want. We must do that in a constructive way that delivers for our constituents.

I have considerable sympathy with both Robert Brown's amendment 315 and Paul Martin's amendment 314. The local authority in my constituency contacted me to express concerns about the difficulty that its staff have experienced in relation to the amount of time that it takes to obtain an anti-social behaviour order. I have personal experience of constituents who must often complain repeatedly over a period of months about a tenant's behaviour. The local authority is very much aware of the problem, but it takes 18 months to two years to obtain an anti-social behaviour order. It is about time that we considered how to assist local authorities to address that problem more immediately. I believe that granting local authorities the power to take interim measures is a starting point that is worthy of consideration.

Ms Curran: Undoubtedly, there is a need to ensure effective remedies to anti-social behaviour. As Sandra White said, all members of the committee probably support that aim.

The bill and the amendments that have been agreed to already make a number of proposals. We will suspend the right to buy for anti-social tenants and introduce probationary tenancies for those who have a history of anti-social behaviour. We have also established a link between ASBOs and probationary tenancies through possible conversion when an ASBO has been granted.

I will address each of the amendments in the group. The Executive suggested initially that

alleged anti-social tenants could be moved compulsorily, along the lines proposed in Bill Aitken's amendment 153, without having to prove to the satisfaction of a court that anti-social behaviour had occurred. However, the overwhelming view of respondents was that we had got that wrong and that natural justice demands that landlords should have to demonstrate that nuisance behaviour has taken place before tenants are transferred compulsorily. Indeed, representatives of landlords pointed out that they would not wish to use such a power, even if it were to be made available.

Amendment 153 would not convert the tenancy to a probationary tenancy, and would not benefit from the proposals in Karen Whitefield's amendment 308. We must remember that paragraph 8 of schedule 2 allows the landlord to seek to move nuisance tenants to alternative accommodation. That power exists already and can be used when appropriate. The only difference—it is a significant difference from what is proposed in amendment 153—is that the court must be satisfied that the landlord is acting appropriately.

While I can see that an argument exists—Karen Whitefield made it—I am not quite sure what Kenny Gibson's amendment 221 seeks to achieve. Section 19 of the Crime and Disorder Act 1998 contains a clear public interest test. ASBOs were designed to protect the public against anti-social behaviour that is likely to cause alarm or distress. Under the provisions of the Crime and Disorder Act 1988, that is the key criterion that the courts must apply when they consider applications from local authorities. I appreciate members' wishes to make statements in the bill, but that is not the purpose of legislation. The activity in which we are engaged is quite different.

On the debate about interim ASBOs, I thank Robert Brown and Paul Martin for their amendments 315 and 314. I have a great deal of sympathy with their arguments because, in principle, we see a great deal of merit in some form of interim procedure in relation to anti-social behaviour, if that were to help put an immediate stop to the anti-social conduct while the full ASBO is processed. I have listened carefully to the comments that were made by members today and I understand their perspective. I am aware that, as Paul Martin said, there is strong support for an interim measure, particularly among local authorities, which feel that the process of obtaining an ASBO can take too long. They believe that an interim measure is needed to give immediate relief to the victims of such behaviour, while allowing the perpetrator the opportunity to defend themselves against a full ASBO.

Some members flagged up some of the criticisms that have been made about interim ASBOs. Some people believe that they are not necessary, while others point out that interim ASBOs may not allow the individuals involved to defend their case properly in a full hearing, despite the fact that breaching the terms of an interim order would still attract criminal penalties. I emphasise my sympathy with that position but, as Robert Brown noted, the difficulty facing us is that we would require to discuss the proposals with our colleagues in the justice department. During the stage 1 debate, we said that we were in discussion with our justice department colleagues in relation to other matters. We would be happy to consider these proposals further with our justice department colleagues.

We would have to consider many matters that I would have to draw to your attention—for example, whether there are possible European convention on human rights problems, particularly if a penalty is attached to a breach of the order; the precise effects of the order and the terms on which it is granted; the implications of the order for court procedures; and whether we are restricted in the scope of the bill to introducing a measure that is limited to tenants, as both amendments are. We have discussed that in the committee today.

Perhaps we would need to consider alternative options that may be an opportunity for more comprehensive legislation. Nonetheless, members should appreciate that we are very sympathetic to the proposals. I am disappointed that I cannot give any absolute, firm commitments, but I can assure members that we will give the matter great consideration. I give my personal commitment to pursuing the matter with my colleagues in the justice department, because I well understand the circumstances that have motivated members to raise the matter.

On that basis, I ask Paul Martin and Robert Brown not to press amendments 314 and 315 so that we can move forward in the way that I suggest.

The Convener: I invite Bill Aitken to wind up and indicate if he wishes to press amendment 153.

Bill Aitken: I intend to press amendment 153.

A number of issues arise. The drafting of the amendment took into consideration the fact that there was a reasonable and safe assumption that the provisions for probationary tenancies would go through and that the provisions that are outlined in amendment 308 would go through. That answers Brian Adam's point about the alternative measures that would be available to assist people who found themselves in such a situation.

I note Robert Brown's views on rights and I understand where he is coming from. However,

the decent majority have rights too—frankly, they have a rather greater claim to having those rights recognised than those who are causing so much difficulty. There is, of course, the appeal procedure of judicial review.

I note the minister's view that, when the proposals went out for consultation, they were slated by housing professionals. In most instances, the housing professionals do not have to live beside those who cause so much difficulty. Perhaps there is a lesson to be learned.

I want to avoid evictions, which are very traumatic, particularly for young children. I also want recognition that the decent majority should have rather greater priority than the anti-social in what the bill aspires to do.

The argument is encapsulated in a somewhat heated but customarily amusing exchange that I had with the Deputy Minister for Social Justice at stage 1. She asked me if I would locate the anti-social beside me. The answer to that must be no. They would not be located beside me, beside her, or beside any of the constituents whose representatives are in the committee today. The situation has been far too intolerable for too long to be allowed to carry on. That is why I am firm in wanting to press amendment 153.

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

Members: No.

The Convener: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)

AGAINST

Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)

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

Amendment 153 disagreed to.

The Convener: Amendment 311 is the last with which we shall deal today.

Ms White: Amendment 311 sets out to state exactly what Scottish secure tenancies will, I hope, achieve. The amendment states:

"The purpose of the Scottish secure tenancy is to protect and support the right to rent in the public interest, and to secure the rights of tenants within that tenancy."

The amendment would insert that statement at the end of the sections on the Scottish secure tenancies. Interpretations are included at the end of each section of the bill; that was why I lodged the amendment. It defines the purpose and limits of the Scottish secure tenancy.

I do not wish to rehearse the debate that we had yesterday about the right to rent. That will come later—I have lodged an amendment. In discussing the Scottish secure tenancy, we must make a statement. Cathie Craigie and Karen Whitefield said yesterday that the bill is not the place to make statements. However, it is a fact of life that we should have a decent right to rent. That is why I want to include in the bill the purpose and limits of the Scottish secure tenancy. The amendment is not innocuous. It would enhance the ending of that part of the bill, and I hope that it will be accepted in the spirit in which it has been presented.

I move amendment 311.

13:00

Cathie Craigie: I do not want to go over what was said yesterday. However, I thought that, in the light of what happened yesterday, Sandra White might think about not moving amendment 311. The object of the bill is to secure a better deal for tenants, and the purpose of the Scottish secure tenancy is to give the tenants of local authorities and RSLs the same basic rights. I do not understand why the statement in amendment 311 should be included in the bill.

Karen Whitefield: I do not want to rehearse old arguments either, but Sandra White will not be surprised by what I have to say. We are here to draft legislation and it is not appropriate for a bill to be full of political ideals. A purpose of legislation is to translate those ideals into laws. If we sat here and spent hour after hour simply ratifying statements, we would not achieve any of those ideals. That is not why I am here and I do not believe that it is why Sandra White is here. She genuinely wants to change things. We might disagree about the things that need to be changed, but the point of our being here is to draft legislation, which is why I feel obliged to comment. Amendment 311 is simply a reiteration of the argument that we had yesterday, and I do not believe that it is necessary. Every member of the committee believes that there should be socially rented housing in Scotland. That is why we are producing the bill.

Fiona Hyslop: Karen Whitefield makes an issue of amendment 311 being just a statement. Nevertheless, by declaring in the bill that the right to rent is in the public interest, the Parliament would be protected from future challenges, under the ECHR, over right-to-buy issues. That is a legislative issue, not a political statement—or it can be both.

Ms Curran: Fiona Hyslop has consistently raised the issue of the ECHR and the right to buy, and on every occasion she has received the same answer. We have clarified the position of the right to buy in relation to the ECHR—it is clearly compliant. I will check, but I think that the Presiding Officer has written to clarify that.

I want to make it absolutely clear that the bill is not about empty assertions about us and what we aspire to; it is about creating the means to deliver the change that we see fit. Unfortunately, we are having a repetition of yesterday's debate about the purpose of legislation. It is frustrating to have to sit here and make the same points about encouraging members to make their activities in committee fit for the purpose of devising appropriate legislation.

I received some criticism earlier for not accepting constructive amendments from certain parties. Amendment 311 hardly constitutes a constructive amendment. When members make detailed, constructive proposals, we will consider whether they are consistent with the policy framework that we are trying to deliver. Amendment 311, however, is an example of an empty assertion that takes us nowhere at all.

The Convener: I invite Sandra White to wind up and to say whether she intends to press amendment 311.

Ms White: I intend to press the amendment. I acknowledge what members have said, which is a reiteration of most of what they said yesterday.

Amendment 311 is not just a statement. The fact of the matter is that we are at the end of a section on Scottish secure tenancies, so it is right and proper to include a statement to say that the purpose of the Scottish secure tenancy is to protect and support the right to rent. That statement should be included in the bill.

I cannot for the life of me understand the attacks that have been made by the Labour party. I know that the minister has mentioned the fact that constructive amendments will be accepted, but this is the first time that an amendment has actually been accepted from anybody in the Opposition without it going to a vote—[*Interruption.*]

By Opposition amendment, I meant Robert Brown's amendment, which did not go to a vote—[*Interruption.*]

The Convener: Could we avoid a dialogue?

Ms White: I am sorry.

The Convener: You do not need to apologise—you are entitled to speak just now. I am asking everybody else to calm down.

Ms White: Thank you.

The statement that is proposed in amendment 311 should be included in the bill. I see no harm in that, as it would enhance the bill and send the message that the Scottish Parliament and this committee are committed to the right to rent and to protecting and supporting the tenants. I will press the amendment, although I am sure that it will not be agreed to.

The Convener: The question is, that amendment 311 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)

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

Amendment 311 disagreed to.

Section 32 agreed to.

Section 33—Application of sections 18 to 28 to other tenancies

Amendment 294 moved—[Ms Margaret Curran]—and agreed to.

Section 33, as amended, agreed to.

Robert Brown: Have we voted on amendment 221, in the name of Kenny Gibson?

The Convener: No, we will deal with it later.

Robert Brown: It is just that the marshalled list that I have has it under "Before section 32".

Lee Bridges (Clerk): In the fourth and fifth marshalled lists, amendment 221 has been moved back to section 95, along with an amendment in the name of Paul Martin.

Section 34 agreed to.

Section 35—Interpretation of Chapter 1

Amendments 154 and 155 moved—[Ms Margaret Curran]—and agreed to.

Section 35, as amended, agreed to.

The Convener: We have reached the end of section 35, which is as far as we announced we would be going today. I thank members for their contributions and suggest an adjournment of one minute to allow those who do not wish to stay for the next part of the meeting to leave.

13:07

Meeting adjourned.

13:08

On resuming—

The Convener: The next portion of the agenda deals with the timetabling of future meetings on the Housing (Scotland) Bill. Members will have a paper that was prepared by Lee Bridges. Members should note that, because of the number of committees that are meeting on Tuesday 8 May, this committee will not be able to meet that day.

I am happy to have a brief general discussion. If there are objections to the proposals, we will have to think about formalising how we will manage that.

Ms White: I want to ask about days 5 and 6 in the schedule, particularly Friday 11 May. At the previous meeting, when I mentioned that Tuesdays are not suitable because certain folk attend Parliamentary Bureau meetings and because some of us get invited to constituency bits and pieces, I was told that Mondays and Fridays are constituency days. As a result of that, I have not taken on any commitments on a Tuesday. The schedule of meetings includes Friday 11 May. The dates are for discussion are they not?

The Convener: At the previous meeting, we agreed that we had to meet twice a week. The Tuesday of next week is not available. The Monday is a public holiday and it is also the May day holiday, which in some people's minds is slightly different from every other public holiday. If we do not meet on a Friday next week, it would not be possible to meet twice in that week.

Ms White: Friday 11 May is a problem, because Mondays and Fridays are constituency days.

The Convener: I appreciate that. I also have a number of constituency engagements on that Friday. However, we are placed under the constraint of meeting twice a week.

Karen Whitefield: I appreciate Sandra White's concerns as I have similar difficulties. I am speaking at Energy Action Scotland's conference on the morning of 11 May. If we agree to that date, I will have to cancel that engagement. However, as the convener said, we have made a decision that the committee needs to meet twice a week. We cannot meet on the Tuesday because there is a public holiday on the day before. For that reason, on this occasion, we are forced to give up a constituency day. No one is more concerned about spending less time in their constituency than I am.

The Convener: I should clarify that we cannot meet on the Monday because it is a public holiday. We cannot meet on the Tuesday because the full number of committees is already meeting in the morning and the afternoon of that day and security and official report support would not therefore be available to us. It is not because of the bank holiday Monday that the Tuesday is out.

Ms White: I understand that.

Brian Adam: I would like to raise a slightly different concern. Meeting for the whole day on the Tuesday of the following week might be less than productive by the time we get to the afternoon. We do not need that many meetings, as we have caught up with the backlog. I suspect that not quite the same weight of amendments will be lodged for the other sections of the bill, although that is only a guess.

The Convener: Would it be reasonable to give members a commitment, as I did yesterday when it was clear that we were overtaking the business more quickly than we had expected, that it is not compulsory for us to stay to 5 o'clock? It is within my discretion for us to be able to finish earlier, if it is clear that we are getting through the business. Having said that, Wednesday 16 May is indicated as a meeting "if required". If it is at all possible, I am keen for us to complete on the Tuesday. If it was clear on the Tuesday morning that we were overtaking the business, that would free us on the Wednesday.

Brian Adam: Can I—

The Convener: A number of other members have indicated that they wish to speak. As I said, we will have this discussion and we will then move on to something more formal. I will allow Brian Adam back in to speak after Bill Aitken and Robert Brown have spoken.

Bill Aitken: I am reasonably encouraged by the fact that we are catching up and that progress is being made. For the reasons that were outlined by the convener, we are stuck with next week's schedule and we have to go with what is proposed. For reasons of other commitments and possibly for selfish reasons, what appeals to me is that if we are not required on the Wednesday morning—the indications are that that is likely—we could meet on the Tuesday morning, not on the Tuesday afternoon, and on the Wednesday morning. I am aware that what suits me might not suit others, but let us knock that idea about a bit.

Robert Brown: The only observation that I would make is that members have been considerate of my Tuesday morning commitments. I am concerned more about Tuesday mornings. We should look at it again after we see where we get to on Friday 11 May. I would prefer to go for the Wednesday slot. We are at a point where it is

reasonable to assume that we will finish by then. We can see where we stand after Friday 11 May.

The Convener: My only observation is that we have tried to share the pain among everyone. There are issues for us all in the way these things are being logged. We have to make a decision today, particularly because there are implications for lodging deadlines and so on. Also, there are pressures on the clerks, particularly because of the bank holiday next week.

Members will see that we have a lunch hour of two hours on the Tuesday, so we may be able to carry on for longer in the morning. We can see how the meetings pan out and use that information to address the problem that has been identified by the Tuesday afternoon people—if I may characterise them in that way—which is that the key time for them is between 1.30 pm and 2.30 pm. It is possible to be flexible and I guarantee that I will be. I am committed to being flexible in managing things, but I am keen that we should not revisit this matter again next week. I hope that members will endorse the suggestions that have been made, following the commitments that I have given. Is that agreed?

Brian Adam: I assume you are saying that for the Tuesday afternoon people, as you put it, you will do all that you can within the schedule to allow us to fulfil our other duties.

The Convener: With the proviso—and I am in the same position in relation to the Parliamentary Bureau, although I am not there as often as Brian Adam and Bill Aitken—that the key time is the pre-meeting between 1.30 pm and 2.30 pm. None of us is allowed to say anything at the Parliamentary Bureau, so we have a slightly different role. Do members endorse the suggestions?

Members *indicated agreement.*

Lee Bridges: Because the office of the clerk is closed on Monday, it is not a sitting day, so amendments for next Wednesday have to be lodged by Friday. If the Procedures Committee's report is approved by the Parliament tomorrow, the deadline for lodging amendments on Friday will be 2.00 pm, not 5.30 pm as it is now.

The Convener: We should record our thanks to the clerks, who have had to deal with this double-header meeting. I am sure that it involved a great deal of work of which we are not aware.

Meeting closed at 13:17.

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