

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Wednesday 23 January 2002  
*(Morning)*

Session 1

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# CONTENTS

Wednesday 23 January 2002

	Col.
ITEM IN PRIVATE.....	2603
WATER INDUSTRY (SCOTLAND) BILL: STAGE 2 .....	2604
PUBLIC PETITIONS .....	2661
Opencast Mining (PE346 and PE369) .....	2661

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## TRANSPORT AND THE ENVIRONMENT COMMITTEE 3<sup>RD</sup> Meeting 2002, Session 1

### CONVENER

\*Bristow Muldoon (Livingston) (Lab)

### DEPUTY CONVENER

Nora Radcliffe (Gordon) (LD)

### COMMITTEE MEMBERS

\*Robin Harper (Lothians) (Green)  
\*Mr Adam Ingram (South of Scotland) (SNP)  
\*Angus MacKay (Edinburgh South) (Lab)  
\*Fiona McLeod (West of Scotland) (SNP)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*Des McNulty (Clydebank and Milngavie) (Lab)  
\*John Scott (Ayr) (Con)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Jackie Baillie (Dumbarton) (Lab)  
Bruce Crawford (Mid Scotland and Fife) (SNP)  
Richard Lochhead (North-East Scotland) (SNP)  
Allan Wilson (Deputy Minister for Environment and Rural Development)

### CLERK TO THE COMMITTEE

Callum Thomson

### SENIOR ASSISTANT CLERK

Tracey Hawe

### ASSISTANT CLERK

Alastair Macfie

### LOCATION

Committee Room 2



## Scottish Parliament

### Transport and the Environment Committee

Wednesday 23 January 2002

(Morning)

[THE CONVENER opened the meeting at 09:35]

**The Convener (Bristow Muldoon):** I welcome all members, members of the press and the public to the third meeting this year of the Transport and the Environment Committee. We have received no apologies. However, Des McNulty will be late, as he is experiencing travel difficulties. It seems appropriate that a member of the Transport and the Environment Committee should be having such difficulties along with the rest of Scotland. I also welcome to the meeting some non-members of the committee—Bruce Crawford, Richard Lochhead and Jackie Baillie—who will speak to their amendments to the Water Industry (Scotland) Bill.

### Item in Private

**The Convener:** The first item on the agenda is for the committee to agree to take item 4 in private, which will allow us to consider the possible contents of a draft report on the first phase of the committee's inquiry into aquaculture. Our usual procedure is to take such items in private. Are we all agreed?

**Members indicated agreement.**

## Water Industry (Scotland) Bill: Stage 2

**The Convener:** Agenda item 2 is continuation of our stage 2 consideration of the Water Industry (Scotland) Bill. In addition to the members that I mentioned at the start of the meeting, we are joined by the Deputy Minister for Environment and Rural Development, Allan Wilson, and several officials.

Before we deal with the first group of amendments, I offer the minister an opportunity to speak briefly about a letter that he sent to members concerning an amendment on developers' costs that the Executive intends to lodge at stage 3. The matter is relevant to our stage 2 consideration of the bill.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** The committee is aware of all the other amendments that the Executive will lodge at stage 3, and I wanted to ensure that this particular amendment did not come as a surprise to members.

The intention behind the amendment is to address current arrangements on the reasonable cost obligation that can result in the water authorities making payments to developers in excess of £1,500 per property.

We want to replace those arrangements with an approach whereby Scottish Water will contribute to the cost of developments where such a contribution can be justified by reference to any future revenue and costs that it might incur from the development. The organisation will do so on the basis of regulations made by ministers, which will be the subject of consultation with all interested parties such as the local authorities, the Scottish Environment Protection Agency, the drinking water quality regulator, the water industry commissioner and developers' and builders' representatives. The consultation will allow them to comment in detail on how the principle will be applied in practice.

The other issue is a new approach to first-time connections to the public network in the interests of environmental protection and public health as part of the quality standards exercise. In future, those needs will be considered as part of the process under which ministers will consult on the standards and improvements that Scottish Water will deliver. To allow for that, section 32(4)(d) of the bill explicitly provides that the cost of extending the public networks in accordance with ministers' requirements should be taken into account by the commissioner in the strategic review of charges.

The provisions will allow Scottish Water to target resources for new developments in accordance

with objective cost-benefit analysis or in line with public health or environmental protection priorities as determined through the consultation on the quality standards exercise. I hope that my comments meet with the committee's approval and I will be happy to answer any questions.

**The Convener:** I will accept short questions for the minister on this issue, but I would prefer that any extended questions be dealt with in writing. In any case, we will have the opportunity to consider the issue at stage 3.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I have a short question for the minister. I understand the necessity of bringing forward this issue and I am grateful to the minister for writing to us. The minister mentioned issues such as health as being indicators of whether developments are judged to be good value for money. Will the guidance and direction that is given take into account issues such as local authorities' structure plans for where developments should be targeted? The commitment of expenditure should not necessarily be developer-driven.

**Allan Wilson:** That is a fair point. I hope that the consultation process will highlight such issues. It is not our intention to subvert structure plans in any direction that we may issue. We would expect the factors that Bruce Crawford raises to be taken into account in the process, so the short answer to the question is yes.

**Maureen Macmillan (Highlands and Islands) (Lab):** What impact will this have on remoter rural areas, where linking people to a water supply often incurs high costs?

**Allan Wilson:** Obviously, there is no blank cheque. Our proposal addresses the current problems, and the enabling powers will help us to resolve what constitutes reasonable cost. It is likely that, where there is a strong case for connection in rural or remote areas, connection will be made, but there can be no blank cheque to guarantee connection irrespective of cost factors.

**The Convener:** Before we consider today's first amendment, I ask members to be as disciplined as possible in their contributions. With a fair wind, we should be able to complete our stage 2 consideration of the bill today. I acknowledge that members will want to have full debates on some amendments and I do not wish to curtail those debates. However, other amendments are of less importance to the overall shape of the bill, so I ask members for discipline.

### **Section 35—Collection of charges by local authority**

**The Convener:** Amendment 77 is grouped with amendments 78, 79, 94, 31 and 32.

**Allan Wilson:** Amendments 77, 78 and 79 are drafting changes that are connected to amendments 75 and 76, which were debated last week. The three amendments make it clear that the local authority and not Scottish Water should collect charges for specified services rather than for all the unmetered services that Scottish Water provides. The amendments will increase flexibility in the order-making power and will allow a wider range of circumstances to be dealt with, so I ask the committee to accept them.

John Scott's amendment 94 seeks to involve the water industry commissioner for Scotland in the details of what is, in essence, an accounting mechanism between Scottish Water and local authorities. Local authorities currently collect charges on behalf of the water authorities. We believe that being so involved in operational detail would be inappropriate for the commissioner. Strategic information—on collection rates, for example—would be available through other provisions in the bill. In particular, section 4 gives the commissioner power to obtain from Scottish Water such information as he or she would reasonably require. I therefore ask John Scott not to move his amendment.

Amendments 31 and 32 are minor Executive amendments to provide a mechanism that will allow Scottish Water to move away from the current situation in which all unmetered domestic customers are billed for water services by their local authority. The new section, in amendment 32, gives Scottish Water the power to serve a notice on councils in respect of particular dwellings in their areas. It will mean that councils will no longer need to collect charges for those dwellings because it will be up to Scottish Water to do so. I urge the committee to accept amendments 31 and 32.

I move amendment 77.

09:45

**John Scott (Ayr) (Con):** Amendment 94 is about further checks and balances and the water industry commissioner being made aware of problems faced by individual customers. It further checks that Scottish Water is acting towards its customers in a fair and reasonable manner. I intend to move the amendment at the appropriate time.

**Mr Adam Ingram (South of Scotland) (SNP):** I would like clarification on amendment 32. Could the minister outline the circumstances under which the new section introduced in that amendment will apply on the ground, so to speak? Why has it been necessary to introduce that new section?

**Bruce Crawford:** I am concerned about amendments 31 and 32, which the minister said

were minor amendments. I spoke to officials from the Convention of Scottish Local Authorities last week, and it does not view the proposed change as minor. The officials were very concerned that there had been no consultation with them about the proposal, which allows water bills to be produced by bodies other than local authorities. I am not a committee member, but I find it difficult to reflect on the proposal fairly, given that we have not had the chance to get feedback from COSLA or to find out its perspective on the matter, as it was never officially given the chance to respond to the proposal.

Under those circumstances, I would have difficulty voting for the amendments as the process through which they appeared did not involve a full discussion with the very bodies that will be most affected—local authorities. The measures might be a good thing, but we might have heard other views on the amendments' structure from COSLA, had it officially been asked to provide them.

**Allan Wilson:** COSLA has not made such representations to me, although I am not disputing with Bruce Crawford what its officials said. However, I think that the committee saw merit in moving to the system that the new section would provide.

We do not anticipate a dramatic change, and it would undoubtedly take considerable time to develop the systems and the data integrity required for such a change to the current system. Once fully established, Scottish Water will want to reach a commercial judgment on the decision whether to bill customers directly. In fact, the necessary powers are already provided in the bill. Amendments 31 and 32 put in place a planning framework that would smooth any potential transition. We could envisage a situation in an individual local authority, where collection rates are low or where the council is less efficient or effective than its counterparts in other parts of the country, in which it might be desirable to introduce such a change to billing procedure.

We wish to ensure that councils are treated fairly as a result of any change, and believe that there is appropriate ministerial control over Scottish Water's charging arrangements. As a result of the change, Scottish Water will be able to accept more control over its billing arrangements where that makes commercial sense. I understand that that is in line with the committee's findings as expressed in its stage 1 report.

**The Convener:** If I may inform members, paragraph 65 of the stage 1 report refers to the issue. I will not read out the whole paragraph, but it says:

"While, in principle, we think there may be merit in moving to ... direct billing of customers ... we recognise

that a great deal of work will have to go into this matter before Scottish Water is in a position to make a decision. We do not consider that this will be an immediate operational priority although this will be a matter for the new board to decide upon."

The committee indicated that, in principle, the possibility of Scottish Water moving in the direction of direct billing should be available.

**Bruce Crawford:** I accept that the Transport and the Environment Committee wanted this amendment. However, it would be useful if the minister would consult COSLA on the amendment. If it needs to be tweaked, another amendment can be lodged at stage 3. That would allow the process to be seen to be more transparent.

**Allan Wilson:** I am happy to take on board Bruce Crawford's point and to hear what COSLA has to say. If there is a problem, we will address it.

*Amendment 77 agreed to.*

*Amendments 78 and 79 moved—[Allan Wilson]—and agreed to.*

*Amendment 94 moved—[John Scott].*

**The Convener:** The question is, that amendment 94 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Ingram, Mr Adam (South of Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Scott, John (Ayr) (Con)

**AGAINST**

Harper, Robin (Lothians) (Green)  
MacKay, Angus (Edinburgh South) (Lab)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)

**The Convener:** The result of the division is: For 3, Against 5, Abstentions 0.

*Amendment 94 disagreed to.*

*Amendment 31 moved—[Allan Wilson]—and agreed to.*

*Amendment 95 not moved.*

*Section 35, as amended, agreed to.*

*Schedule 4 agreed to.*

**After section 35**

*Amendment 32 moved—[Allan Wilson]—and agreed to.*

*Sections 36 and 37 agreed to.*

**After section 37**

**The Convener:** Amendment 83 is grouped with amendment 96.

**Richard Lochhead (North-East Scotland)**

**(SNP):** I congratulate the committee on the progress that it is making on a complex and difficult bill. I particularly welcome the committee's commitment to retaining the Scottish water industry in public ownership. One of the primary reasons for ensuring that we keep our water industry in public ownership is that the water industry is seen as a tool by means of which Governments and, indeed, the country can deliver social benefits and social justice in Scotland.

One way of doing that in the past has been to give special help to Scotland's charities through their water rates. Amendment 83 would ensure that the bill contains a commitment to preserve the 80 per cent water rates relief that is currently given to charities in Scotland. The new section, which would be inserted after section 37 of the bill, would provide for a continuation of the current arrangements.

I do not doubt that we have all visited voluntary organisations and charities in our constituencies many times. Last week, I was lucky enough to visit two charities in Aberdeen. One was Cloverfield Grove, which is a residential home that is run by Voluntary Service Aberdeen, and the other was Square One, which is a charity that helps people with a history of mental illness to retrain for work.

On my visit to the residential home, I was struck by one lady who boasted that she would be 90 in March and that she had never been happier. That made me realise how important the service that that charity provides is to people in her position. When I visited the charity that helps people with a history of mental illness, I was struck by one chap that I spoke to who was having his first day working at that charity. He had not worked for seven years since he had had a serious car accident and had suffered a mental illness thereafter. That day was extremely important to him. That made me realise how important that charity is.

Amendment 83 is intended to ensure that the rug is not pulled from beneath the feet of such organisations, which are in all our constituencies the length and breadth of Scotland. Last week, members were visited by representatives of the Scottish Churches Committee, Capability Scotland and St Margaret's hospice, who all support the amendment. They think it essential that the present level of rates relief for charities is continued.

Those bodies all have the same message: if the committee does not pass amendment 83, they will have to cut their services and pull out all the stops to rattle collection cans to raise more cash to make up the difference. In some circumstances, charities may have to close. I do not think that any member of the Scottish Parliament would want the

Parliament to pass legislation that would allow such a situation to arise. I thank Robin Harper and John Scott for signing the amendment.

The issue is difficult for the Government. There was an outcry soon after the Parliament was established when the complete withdrawal of relief from the charitable sector was proposed. In response, the then Minister for Transport and the Environment, Sarah Boyack, delayed withdrawal by one year. The outcry continued, because the problem was not going to go away. The new Minister for Environment and Rural Development postponed withdrawal of relief for a further year, and a few weeks ago, a leaked Scottish Executive memo suggested that ministers were willing to consider a scheme that would exempt organisations with incomes of less than £5,000. Last week, a few hours before we were due to discuss the amendment, which was postponed to this week, the Deputy Minister for Environment and Rural Development made the official announcement that the Government's latest response is to suggest exempting organisations with incomes of less than £10,000.

The chain of events shows that the issue is difficult and that the Government is in a bit of a mess. It is the duty of the committee and MSPs of all parties who feel strongly about the issue to seek a continuation of existing arrangements. The chain of events shows that that is the only sensible option. No matter what scheme the Government has proposed, it has faced opposition from the voluntary sector and offered little to ease its predicament.

I do not doubt that many organisations have contacted all members to say that the proposed scheme to exempt organisations with incomes of less than £10,000 will make little difference. It is unlikely that any organisation with an income of less than £10,000 has any—even part-time—employees. If an organisation has a part-time employee, the chances are that its income is more than £10,000, so it would miss out on any benefits from the proposed scheme. Perhaps more crucially, the scheme would miss out charities such as hospices and residential care homes, which have incomes of more than £10,000 and rely on water for their services.

Shortly before our meeting last week, I received a fax from Mary McGinty of St Margaret's hospice in response to the minister's proposal. She said:

"Our fundraising income is over £1.5 million every year—we need every penny of that to sustain services."

**The scheme**

"makes a mockery of what St Margaret's are doing. We are trying to increase services.

Palliative care needs to develop services and many advances on an on-going basis. Services are frontline and



we have a finite time to get them to patients. You can't promise to give them something next year because they might have died by then. The Hospice is doing the govt's job of providing this service, and our patients have already contributed to the tax system."

The message from Mary McGinty and others in a similar position is that they do not want their charities to have one eye on the water meter when they are washing their patients. It is not feasible.

10:00

There are many other questions relating to the minister's scheme. Perhaps he can tell us what it will cost to implement the scheme and how many charities will benefit from it, particularly those that rely on high water usage.

The biggest condemnation of the scheme can be found in letters from charities in the national press. Yesterday, Richard Hellewell, the director of finance at Capability Scotland, wrote to the national papers, saying:

"The claim that this extends relief to 50% of charities in Scotland is ridiculously irrelevant—how many bodies that small will have a water bill to pay at all?"

A more damning letter appeared in today's press, which was signed by representatives of many youth charities. The letter says:

"there are practically no voluntary organisations who run their own premises with an income of under £10,000. As an illustration, of the 580 Boys' Brigade companies across Scotland only nine have their own premises. Those organisations that are that small (such as the other 571 Boys' Brigade companies) depend on the provision of premises by other voluntary organisations who, if this scheme goes ahead, will have to pass on the new costs to the organisations Wilson claims he is supporting."

I hope that the minister will listen to the outcry from the voluntary sector the length and breadth of Scotland, and realise that the Executive's scheme will do little to address the sector's concerns. The only way forward is a continuation of the current arrangements.

I turn to amendment 96, in the name of Jackie Baillie. I know that Jackie Baillie has the interests of the voluntary sector at heart, but amendment 96 is an attempt to dig the Executive out of a hole. The amendment does not address charities that have a high usage of water—hospices and residential care homes will not benefit from amendment 96—and will miss out a swathe of organisations throughout Scotland. Furthermore, amendment 96 would give rates relief at 70 per cent rather than at 80 per cent, which is the current situation.

For hundreds of years, since the monarchs ran Scotland, charities have been given special help to meet their water costs. When the new Parliament was established in 1999, no one thought that, for the first time in hundreds of years, a proposal to

withdraw water rates relief completely would be put on the table. However, that was the position only a couple of years ago. The latest scheme changes that position very little. It befits any civilised society to give special help to organisations that rely on volunteers, who only want to help the more vulnerable members of our society. I urge the committee to support my amendment.

I move amendment 83.

**Jackie Baillie (Dumbarton) (Lab):** Thank you for giving me the opportunity to speak to amendment 96; I will try to be brief.

The purpose of amendment 96 is quite clear: to provide for all Scottish charities a relief scheme that is based on metered water supplies. I have tried to adopt a practical approach that reflects the committee's deliberations at stage 1 and my understanding of voluntary organisations. Members will be pleased to hear that I will not go back hundreds of years, but will focus on the here and now.

The amendment covers all Scottish charities because I do not think that it is appropriate for charities to be defined in a bill that is about the water industry. The Executive set up the McFadden commission to carry out a fundamental review of charity law and charity law reform. I understand that legislation relating to that is likely to be introduced after 2003. That is the most appropriate vehicle through which to define charities. I also believe that we need a clear and simple definition of charities so that Scottish Water can easily administer a scheme. A complex scheme will not help Scottish Water in any way.

Metering goes with the grain of Executive policy because Scottish Water will, I understand, move to metering all non-domestic supplies by the end of March 2003. Amendment 96 reflects that and proposes the free installation of meters for Scottish charities. The overwhelming majority of Scottish charities have lower levels of actual consumption of water compared to assumed consumption based on rateable value. My aim was to design a policy to cover the majority and not to start from exceptions. I will return to that later for Richard Lochhead.

A number of charities lose 40 per cent relief for the first time on 1 April 2002 and others will lose 60 per cent relief. The date for the installation of meters is challenging, but many voluntary organisations are already metered and I am told that the aim is achievable. The proposal has the added benefit of removing uncertainty and the need for potentially messy interim arrangements.

The current cost of charitable relief is reliably—I use the word advisedly—estimated at £15 million. By metering, there is potential for an estimated £6

million in savings. The proposed 70 per cent relief to cover standing charges and consumption would cost about £9 million. That proposal would begin to achieve parity between domestic and non-domestic charitable users in respect of reliefs.

The suggestion that local and central Government should reflect the withdrawal of reliefs in grant applications is unrealistic. I have no doubt about the Executive's commitment to the voluntary sector in the light of the ever-increasing resources that are being made available for that sector. However, despite additional resources, many local authorities have not provided inflation-proof increases for voluntary organisations. I would like to know what discussions—if any—there have been with COSLA. My fear is that passing on costs with no guarantee that aims will be met will not help voluntary organisations at all.

On exceptions, elderly care homes, children's homes, hospices and day-care facilities for disabled people are high-volume water users. Broadly, they fall under the heading of social care organisations. Everyone in this room would agree that they provide vital services throughout Scotland. They clearly deliver on the Executive's priorities. I did not consider exceptions at this stage because it is difficult to do so while a judgment is awaited in the Clyde Care case, which has been before the courts in Glasgow. As a result of the judgment, the Executive may need to consider introducing emergency legislation. As I said, I have not attempted to consider exceptions, but the Executive may wish to consider the possibility of exemptions that might apply to tightly defined social care organisations. Notwithstanding that, if amendment 96 is passed in preference to the Executive's scheme, even those high-volume water users would be better off than they would otherwise be.

I will deal quickly with other aspects of amendment 96. It states:

"Scottish Water must provide detailed advice on ... minimising water consumption".

We need to get into the good habit of conservation that Robin Harper tries to encourage.

There are references to local authorities because I understand that some local authorities provide water on a one-off basis and assistance with water provision for agricultural shows and village fêtes, for example. Perhaps such provision is predominantly of concern in more rural areas. It has been suggested that a system of reliefs could hamper Scottish Water if it faces competition. English water companies are placed under social obligations—that negates the argument of unfair advantage.

I acknowledge that the Executive's proposal has evolved and I welcome that. In particular, I

welcome the move from attempting to define small charitable organisations to considering premises. I also welcome the suggestion that there should be 100 per cent relief rather than 70 per cent or 80 per cent. I welcome the start date of 1 April, which helps to remove uncertainty.

However, a number of areas need to be developed. The income threshold of £10,000 is insufficient. Some people would suggest that the threshold covers less than 8 per cent of charities in Scotland. Others would suggest that the percentage is lower than that. I am aware of the difficulties that the Executive has in making accurate estimates, largely because it is unaware of the incomes of a range of voluntary organisations, but I do not believe that the Executive intends to benefit such a small number of charities. The approach that has been adopted invites charities to demerge and decentralise and it might lead to calls for a judicial review from charities that exceed the income criteria but are, in every other respect, the same as those that have secured exemption.

The date of eligibility, which is set at 31 March 2002, needs attention. Some charities that have moved premises since 1996—I do not know how many—have lost all reliefs as a consequence of moving. I wonder whether they should also be covered by the Executive's scheme. There is a suggestion that a bill that is intended to deal with the water industry is the correct place to deal with that. I believe that, along with ministerial direction, amendment 96 would remove some of the uncertainty.

I note that charities that are high-volume water users, such as hospices, care homes, village halls and disabled day-care centres and so on—the spectrum of organisations that make up the charitable sector and provide us with valuable and much-needed services—will not, I regret, be helped by the Executive's scheme.

The Scottish Council for Voluntary Organisations has informed me of one unusual potential impact of withdrawal of reliefs. Members will know that New Lanark was designated as a world heritage site just before Christmas. New Lanark is a unique site in that it is led by the voluntary sector. I have been told that completion of the New Lanark project might be delayed as a result of liability for water charges. The bill's impact might be wider than we imagine.

I urge the committee to support amendment 96 and I urge the minister to give serious consideration to the reservations that I have expressed about the Executive's scheme and to act on those concerns.

**The Convener:** I thank Richard Lochhead and Jackie Baillie for their extensive speeches, which

took us all the way from the water industry to charitable relief and the monarchs of Scotland.

I ask members who wish to contribute to the debate to indicate that they would like to do so. It appears that everyone apart from Adam Ingram would like to speak.

**Mr Ingram:** I would like to speak as well.

**Nora Radcliffe (Gordon) (LD):** I listened with interest to both speeches and have sympathy with much of what was said. However, we must think clearly about our aims. The debate is not about the value of the voluntary sector and the work of charities, which is essential and which we value highly. The question is whether the right way in which to support charitable voluntary effort is through a utilities bill. There was some rationale for that when water authorities were local authorities, because the subsidy to voluntary and charitable effort came from public authorities—it was public money from taxpayers. If we give charitable relief through the national water authority, that charge will be borne by other water charge payers, not general taxpayers.

10:15

One of the difficulties that we face is defining what constitutes a charity; the bill is not the place to address that. Also, if we seek to provide water relief for all charities, that relief will be provided to bodies that can well afford to pay their water charges at the expense of people on low incomes who may struggle to pay the charges. There would therefore be an inherent unfairness in the system if we tried to support charities by giving relief for utilities charges.

Umpteen people have written to us about reliefs, but nobody expects the Post Office to subsidise its postal charges. People have phoned us about reliefs, but nobody expects the telephone companies to subsidise their telephone charges. We need to support charitable and voluntary effort, but it would not be sensible to do so through relief for water charges. Governments exist not to do the popular thing, but to do the right thing. We must try to be clear-headed and objective about the right way in which to discharge our responsibilities for the people of Scotland.

Richard Lochhead said that the idea behind having the water industry in public hands was to provide a social benefit. He has carried that argument too far in suggesting that support for charities and voluntary organisations should be part of that social benefit. Water authorities exist to give us clean water and efficient sewage disposal in the interests of public health. We should try to think clearly about whether charitable relief should be provided. It should be remembered that, when the water authorities were set up, all charitable

relief was going to be scrapped. The Government intervened only to give breathing space that would allow charities to adapt, so that they would not face a sudden change in their circumstances.

The Executive's proposal is an attempt to temper the wind to the shorn lamb. It has tried to target relief sensibly to organisations that might be at real risk of going under if they do not get that relief. Someone asked how many people would benefit from the relief and thought that the income levels were too low. I am told that the McFadden report estimated that 33 per cent of Scottish charities had an income of less than £5,000. I hope, therefore, that the threshold of £10,000 will mean that well over a third of Scottish charities will be included.

We must be clear-headed about this. We should think about what we are doing and why we are doing it. The argument is not about whether we should support the voluntary or charitable sector; it is about how we can best do that. When we vote on this group of amendments, we should remember that we are dealing with a water bill and the supply of water.

**John Scott:** I support amendment 83 on behalf of the many organisations that have been in touch with me. Hospices and care organisations in my constituency—such as the Ayrshire Hospice, the Malcolm Sargeant Cancer Fund for Children and Hansel Village—do not accept the Executive's proposals as being fair to the larger charities and voluntary organisations, which are every bit as important as the smaller ones. We all depend on them and we are eternally grateful to them for the good work that they do.

Ross Finnie gave us to believe that a review of charities was being conducted and that he would introduce proposals to address the issue of utilities support for deserving charities. I am unhappy about the fact that that review has not taken place. The Executive's proposals do not deliver that. When Ross Finnie spoke to the committee, members agreed that, if such a review had been undertaken and a proposal had been made to share the burden of supporting charities equally among the utilities, we might not be in the position that we are in today. Because we have received nothing more substantial from Allan Wilson, I support amendment 83.

**Fiona McLeod (West of Scotland) (SNP):** Nora Radcliffe ended by saying that we must be clear-headed about what we do. That is precisely the position that we must take. We must be clear-headed in realising that if we do not support amendment 83, which supports the status quo—the recommendation that was made in paragraph 219 of the committee's report on the inquiry into water and the water industry—the result will be that from 1 April, which is no more than a few

weeks away, many charities will suffer a huge financial penalty.

On amendment 96, meters will penalise the charities that provide, in essence, personal care services, because they are high-volume water users. Jackie Baillie knows that. If amendment 96 were agreed to, charities with hydrotherapy pools, such as St Margaret's hospice, Craighalbert Centre and five Capability Scotland facilities, would be faced with the dilemma of whether to withdraw their hydrotherapy services in order to save on their water bills. Women's Aid refuges—which provide a vital roof over the heads of families—are in the same position. They would have to consider metering.

In 1996, a Women's Aid refuge in my constituency moved premises and lost its relief as a result. Because of its increasing water bill each year, it has had to consider which services to cut back on. It has already cut back on such things as trips for the children. That is a sad situation to be put in.

On the minister's and the Executive's proposal for the £10,000 threshold, I will read to members from a letter that I received from Martin Sime of the SCVO, which sums up the whole debate. He wrote:

"In many years working in the voluntary sector, I have rarely felt the same level of frustration and anger at the failure of process which has led to the current impasse."

Will the minister address that in his closing remarks? Please tell us how many charities will benefit from the £10,000 ceiling. I refer to another letter from Martin Sime—to the minister—in which he says:

"The claim in your letter to the Committee that larger organisations will be able to pay much increased charges for water from the recent increase in Scottish Executive grants is offensive. The removal of relief from charities will halve the value of direct grants".

The minister must address the fact that hospices, Capability Scotland, Barnardos and so on—which provide personal care and vital, lifeline services that are not provided by anybody else—will suffer under his proposal.

I also want to ask the minister whom he consulted. The SCVO writes of

"misrepresentation and broken promises to consult those who would be most affected by the withdrawal of reliefs."

Whom did you consult? Did you consult the SCVO? Did you consult the voluntary issues unit within the Executive?

Having examined the history of changes in Government policy that Richard Lochhead outlined, I wonder whether the Executive is in a bidding war for the consciences of Labour and Liberal Democrat MSPs—"Let us raise the level to

£5,000. Let us raise it to £10,000. Let us see what will make Labour and Liberal Democrat MSPs vote with the Scottish Executive."

I read through the Transport and the Environment Committee's investigations into the issue and was struck by the fact that, at the end of stage 1, the committee changed the wording that it used from the wording that it had used in its report on the inquiry into the water industry. That was a private meeting and therefore cannot be discussed. Looking back on that, I wonder whether the committee was naive, was duped or was manipulated by the Executive, so that we would move from saying that we should maintain the status quo and keep water reliefs as they are until a properly investigated scheme—with proper consultation—has been introduced. We moved forward in a private meeting to saying that small local charities that are not dependent on local and central Government funding should be the only ones that are considered.

How will members of the committee vote on amendment 83? Will they vote, as the committee first decided, to maintain the status quo? If members do not vote for that, I must ask each and every one of you whether you will make up the shortfall for the charities in your constituencies. Des McNulty—will you meet the shortfall of £14,500 at St Margaret's hospice in Clydebank? Angus MacKay—will you meet the shortfall of £14,500 at Capability Scotland's New Trinity centre? Bristow Muldoon—will you meet the shortfall of £1,000 at the Broxburn family centre? Many adults are also sent from Bristow Muldoon's Livingston constituency to the New Trinity centre in Edinburgh, which I have mentioned.

I must ask the same question of the minister about the Quarrier's home in Ardrossan. Removal of charity reliefs will cost an extra £25,000 throughout Scotland for Quarrier's homes, so we can assume that it will cost the Ardrossan home approximately £2,000 extra. Will Allan Wilson reply to the Arran Council for Voluntary Service, which wrote to the committee saying that

"The Executive's scheme, announced by our local MSP, who happens also to be the water Minister, Allan Wilson, would do nothing for us, as our income is three times the proposed cut-off threshold"?

**The Convener:** Please come to a conclusion.

**Fiona McLeod:** I must ask each and every one of the members of the committee whether, after voting against the status quo and against the committee's original intentions, they will be prepared to go out and raise the money that their local charities need.

**The Convener:** Before I call the next member to speak, I would like to clarify the position of the committee at stage 1. Fiona McLeod referred to

the committee's recommendations. The committee agreed at stage 1 that it favoured

"a relief scheme to charities which have a local remit and which are not heavily reliant on central or local government funding. In the longer term, we consider that where voluntary sector organisations receive funding then the additional overhead costs resulting from water charges should be reflected in funding levels. Separately, we consider that it is incumbent on the Scottish Executive to produce a targeted relief scheme for local organisations which do not receive central or local government funding."

All members of the committee, including Fiona McLeod, agreed to that position.

**Fiona McLeod:** I referred to that.

**Des McNulty (Clydebank and Milngavie) (Lab):** I would like to point out that that was also the position that was adopted in the Transport and the Environment Committee's original report on water and sewerage. Ms McLeod has misrepresented the position of the committee on two occasions.

**Fiona McLeod:** I will quote from recommendation 219 of our report on the inquiry—

**The Convener:** I would like to call other members.

**Fiona McLeod:** I feel that—

**The Convener:** You have made quite an extensive contribution—

**Fiona McLeod:** I hope that the *Official Report* will quote from recommendation 219.

**The Convener:** I would like to call other members. I might allow members to come in again when everyone has had an opportunity to speak. I call Maureen Macmillan.

**Maureen Macmillan:** I agree with other members that Fiona McLeod is misrepresenting the committee's position. I notice that she does not seem to have done any research in the Highlands. I have talked to people at my local women's aid refuge. They tell me that they do not have a difficulty about paying water charges and that, in fact, water charges are paid through housing benefit and not by Scottish Women's Aid.

I would also like to make it clear that the committee recognised that many charitable organisations do not need water relief. I think that the SCVO's position is untenable. That was clear when the SCVO gave evidence to us, but would not say which charities needed the relief and which could do without it. The SCVO obviously has a remit to cover all charities, from Fettes College to football clubs. We must make a distinction when we are considering how we can target relief.

As the convener said, the committee wanted relief for small local charities to continue,

especially where they are not supported by grants to any great extent. We also recognised that there might be a need to replace water relief for some larger charities with increased grants from local authorities or health boards, or directly from the Executive. I know that there can be some discussion on exactly what constitutes a small local charity.

There are too many anomalies in amendment 83. It will not address what must be addressed, which is the targeting of relief at charities that need it. That is important. I support amendment 96, which provides a way of lessening the burden on most charities.

10:30

From discussions with the North of Scotland Water Authority, I know that metering has been a success for many charities and has often led to a reduction in what they have had to pay. I am sure that that is true for the other water authorities. I know that some charities are unsure whether metering would be an advantage to them, but that is why it is important that the water authorities advise organisations on the probable impact of metering and advise them to check for leaking pipes on their premises. It is extremely important that we get into a mindset whereby water is viewed as a utility, like gas or electricity, and not as something that should be provided free.

Obviously, some charities in the social care sector, such as hospices and children's homes, use a lot of water because of the services that they offer. For example, there is a home in my area that provides rehabilitation services for alcoholics. To give another example, Highland Hospice has told me that its water bill will increase over the next five years to about £12,500. The hospice receives 50 per cent of agreed funding through the health board, but that represents only 30 per cent of its total funding. The rest is raised by voluntary donations from the people of the Highlands, who give more than £1 million. Raising another £10,000 through voluntary donations will be difficult.

Amendment 96 acknowledges those issues. The minister's letter addressed one issue—small charities. I welcome that, but I feel that the threshold for the scheme is too low. Many of the groups that the minister wishes to protect—community groups such as scouts and guides and so on—would not be under that threshold. However, perhaps the minister will define further what he means by "income". For example, would "income" include income from fundraising or only income from small grants from local authorities? I would like reassurance and an explanation about that from the minister.

Will the minister give urgent consideration to how charities in the social care sector, such as hospices, can be given financial support to compensate them for loss of relief?

**Des McNulty:** The committee's view has been that it should not agree to the principle of a general relief scheme for charities, which is what amendment 83 proposes. The committee's report on our initial inquiry into water and the water industry recommended that

"a new more targeted relief scheme for voluntary organisations and charities should be established."

In our stage 1 report on the bill, a similar recommendation was fleshed out.

The committee's reasoning was that, although we recognised that changing the reliefs might cause problems for charities in general, there are larger organisations, providing particular services, that are funded by local authorities or by central Government. There should be a better way of compensating for the increased water costs than through a relief system.

As there are many anomalies in the way in which the water rates reliefs are arrived at under the current system, we wanted the Executive to come up with a water rates relief scheme that would meet the requirement of securing the position of smaller organisations, such as those that Maureen Macmillan mentioned. The proposed scheme does not necessarily meet those requirements. The committee never talked about a capped scheme and there is a question whether the cap has been pitched at an adequate level.

We must also consider whether the proposed scheme meets the requirements that we identified. We must consider three dimensions. First, we are particularly interested in how the scheme would affect organisations that are primarily or largely dependent on voluntary fundraising rather than on funds from local or central Government.

Secondly, we must take account of the nature of the services that the charity provides. Fiona McLeod mentioned hospices, about which I have written to the minister. There is a major hospice in my constituency and around 14 other hospices in Scotland. Whatever change arises from the proposals, we must ensure that those organisations are protected. The Executive must consider protecting them by means of a water rates relief scheme or some other mechanism that will ensure that the impact of the change does not affect them adversely. As I said earlier, I am waiting for a response from the minister on that.

The third issue arises where the voluntary organisation is a supplier of commercial services. If a care home place has been provided for a person and someone is paying for that care, the

full costs should be met. A system of water rates relief should not involve water charge payers subsidising the costs of such care provision. That would not be a logical and coherent way to proceed.

The principles in Richard Lochhead's amendment 83 are not those that the committee consistently supported. Committee members recognise the flaw in that argument. There are deficiencies in the minister's proposal. Further research must be done to find a more targeted scheme that will secure the position of voluntary organisations, including the hospices, churches, the Scout Association and the Guide Association, which we mentioned in our report. I hope that the minister will reconsider the scheme in the light of what has been said by the committee.

For all the reasons that we have considered carefully over the past 18 months, we should not agree to Richard Lochhead's amendment 83.

**Robin Harper (Lothians) (Green):** I will address three points: the knock-on effect of the Executive's proposal as it stands; some of the points that Nora Radcliffe made on acceptability; and the relationship between the proposals set out in Jackie Baillie's amendment 96 and Richard Lochhead's amendment 83.

I have received representations that, as charities already raise as much money as they can, they do not have a great deal of flexibility to respond to the Executive's proposal. Any charity that employs staff might have to consider laying off even the one person that it employs or might have to cut back considerably on its services. One estimate suggests that between 6,000 and 9,000 charitable sector jobs could be lost as a direct result of the Executive's proposals. That is because of the relative inflexibility that prevents charities from suddenly raising a lot more money. The Executive can check the figure with the organisations.

Like others, I have received representations from Capability Scotland. I will read an excerpt from a communication that I received today:

"A large, national organisation like Capability Scotland will be affected just as badly by the withdrawal of relief. We would have to raise income to meet water charges, either by asking national and local government for higher service fees or by asking the general public to give more. If these are not forthcoming the expenditure on water charges will mean we may have to cut down our other direct expenditure on some services, with consequences for quality and ultimately, viability."

Capability Scotland estimates that it would have to find another £90,000 per year.

Nora Radcliffe took the view that it is understandable that we should examine water charges in a completely different way. I challenge that view. Water, air and food are all essential—

they cannot be equated with post office and telephone services. I understand that the total percentage of relief amounts to a figure that is at the most between one and two per cent of the water charges. As that is 0.5 per cent or less of the combined council tax and water charges, the amount would be absolutely acceptable to the public, particularly if the figure were included in water bills. In other words, it would be acceptable if people knew that their monthly bill would be, for example, £90 plus 63p or whatever for charitable relief contribution. That is the kind of transparency we want if the committee agrees to amendment 83, which I have supported, or a modified version of amendment 96.

As for the relationship between the two amendments, Jackie Baillie reminded me that I do not like to see any resource being wasted. I am sympathetic to the proposal that all charities should be metered, as it would allow for flexibility when adjusting any future reliefs for charities. We could have a banded, metered rate, depending on the needs of the charities. Indeed, we should be examining the needs and expenses of charities. However, I cannot understand why Jackie Baillie has decided to reduce relief rates from 80 per cent to 70 per cent in amendment 96. That might seem a small percentage to us, but it might make a considerable difference to the amount paid by some charities, particularly those such as Capability Scotland that would have to pay more.

As I have said before, the Executive and the committee need to do more work on the issue. Today cannot signal the end of the discussion on how we provide charity relief. I am absolutely certain that we should provide such relief and therefore cannot accept the proposals suggested by either Nora Radcliffe or the Executive.

**Angus MacKay (Edinburgh South) (Lab):** I am delighted to follow Robin Harper, as his contribution has been one of the few so far to have added light to the debate. I am not sure which terms are unparliamentary, so instead of another I will use the word "garbage". A lot of garbage has been strewn about in today's meeting. I am appalled by the comments made by Richard Lochhead and Fiona McLeod. It is rare to hear remarks that encourage you to change your mind on an issue, but their contributions almost made me change my mind about the need to support relief on water bills for the voluntary sector, mainly because they poured such pathetic party-political arguments into the process. The issue is serious, and deserves a serious hearing.

We must consider the impact of today's proposals on the whole of the voluntary sector in Scotland. Even at this stage, we do not have sufficiently strong evidence to judge how to approach the issue. I am, however, clear that the

Executive must go further than it has done so far and I am equally clear that amendment 83 does not hit the nail on the head. Perhaps I have a slightly jaundiced view of these matters, but from my time as Minister for Local Government and Finance, I recall that we were supposed to be introducing a temporary relief scheme. The issue has grown arms and legs. If SCVO had not made it do so, it would not have been doing its job and I congratulate the council on pushing things forward. We must, however, produce a coherent response, either today or at a later stage of the proceedings, that addresses voluntary sector concerns.

I do not accept for a minute that voluntary sector organisations will go under if we do not have a water rate relief scheme of whatever shape or size in place. It is not the only part of the financial mechanics of the voluntary sector that matters. We have already heard about telephone bills and other utility costs and the annual vagaries of fundraising. I worked in the voluntary sector for three years as a Shelter employee, so I know a little bit about these things. There is a lot more to the issue than whether organisations will go under because of the size of their water bills. Of course they will not. There is also some vagueness about whether the size of the water bills will affect how those organisations go about their business. On the one hand, SCVO has talked about the impact of the charges on large and small charities from Women's Aid to village halls; on the other hand, Maureen Macmillan has said that the Women's Aid group in her area feels that there will be little or no impact. I am not being critical of SCVO, I am simply underlining the fact that we and those who make the decisions need considerably more evidence about how we should or should not structure a relief scheme. We do not have the evidence that would enable us to make an informed decision today.

10:45

Fiona McLeod argued that if we proceed along the lines proposed by the Executive, or if we agree to Jackie Baillie's amendment, that will have serious consequences for hospices and other parts of the voluntary sector that provide important services. I do not accept that argument, as it applies only if nothing happens in relation to those organisations. Today I am seeking a clear view from the minister on how we will address the position of hospices and the other organisations in question, as well as putting in place a comprehensive general scheme for the voluntary sector. Fiona McLeod's argument pertains to the worst of all possible worlds, which is perhaps not surprising.

I rebut absolutely the notion that we should

listen to people playing little moral gods to the committee and to wider Scotland, lecturing us on how much we must pay to the voluntary organisations in our constituencies and suggesting that if we do not do this one thing today, all civilisation will come to an end. That adds nothing to the debate. It clouds the issue, cheapens the argument of those who support amendment 83 and has no place in the Parliament's committee system. Thankfully, I never served at Westminster, although I assisted Shelter in dealing with a number of pieces of Westminster housing legislation. However, I have rarely heard either at Westminster or in the Scottish Parliament a cheaper form of political argument than the one that has been used today.

There is only one bidding war going on here—the party-political bidding war and the games that are being played by SNP members, in particular. I ask that we leave those at the door—we have plenty of time to kick lumps out of one another in the chamber. Let us deal with the issues here.

**Mr Ingram:** I was not a member of the committee when the bill was being considered at stage 1, which perhaps gives me a little latitude.

The bill seems to entail disturbing the existing charging and relief scheme. That is a historic reality; regardless of whether one thinks that it should be addressed through the Water Industry (Scotland) Bill or by the new Scottish Water, it must be addressed. At issue is whether we can move to a better equilibrium by providing relief for and reducing burdens on charities in general. Can we make them better off? Can we make it easier for them to carry the burdens that they have?

Robin Harper's point that charities do not have flexibility of response to sudden shocks, because they have to raise a large proportion of their funds from voluntary donations, was well made. I also agree with what John Scott said about hospices. Both of us were lobbied at around the same time by Ayrshire Hospice, which is concerned about the impact of the changes proposed in the bill. The hospice would move from a situation in which it was paying roughly £8,000 per annum in water charges, to one in which it was paying £40,000 per annum. In anybody's language, that is a substantial hike. We must be sensitive to changes of that kind.

I see the logic of Des McNulty's support, articulated in his usual manner, for a targeted relief scheme. At issue is whether the Executive's response measures up to the kind of scheme that the committee, Des McNulty and others have proposed. I suggest that it does not and that we need to return to this issue.

**Bruce Crawford:** I wish first to address some of the issues raised by Jackie Baillie's amendment

96, which clearly was lodged with real intent and in an effort to make a difference. I would say to Jackie that some of those issues require further examination. She mentioned some larger organisations that would be impacted upon, and was right to reflect on that. Perhaps she might also consider the impact of water metering on leisure trusts, which are charities, and particularly on those that run swimming pools. That may arise in future. Perhaps Jackie Baillie has already considered what the implications might be.

I turn now to the nub of the Executive's argument about Richard Lochhead's amendment 83. Angus MacKay rightly said that it would impact on various organisations, but I do not think that he was right to say that none would go under. I cite the example of an organisation in my area: Abbot House museum in Dunfermline. As a voluntary sector organisation, it has been struggling. I think that its turnover is in excess of £10,000 and that it will very quickly go bust if it does not get relief on its water bills. That is a real example.

Rachel House in Kinross, the town where I stay, might not go bust, but it will cost the children's hospice based there an extra £10,000 a year to implement the Executive's scheme. Potentially, it will cost the organisation an extra £25,000 a year when it builds its second hospice, in the west of Scotland. There are dreadful impacts for various organisations.

There is a further issue around voluntary sector homes. Could the Deputy Minister for Environment and Rural Development tell us what discussions have been held with Malcolm Chisholm about the increased burden that such homes will bear if they get no relief and have to pay more for their water? If that is the case, I suspect that it will impact on the proposals for care for the elderly. I wish to understand what joined-up thinking has taken place. Frankly, I do not think that it is good enough to say that the local authorities will simply have to take up the burden, because many of them are unable to do so. We cannot pass the buck: we need to sort this out here in the committee, and between the committee and the Executive.

I welcome Des McNulty's constructive comments suggesting that more work needs to be done. I think that Angus MacKay also reflected on that. I want, however, to deal with some of the issues that Angus raised. He accused Fiona McLeod of certain things, using such words as "garbage", and he talked about her making the issue of relief on water bills a political one. He said that this is not a "bidding war", and talked about adding light to the debate.

I agree that we need to shed some light, and I want to shed some light from some documentation that was in the press between Christmas and new year. This documentation sheds a hell of a lot of



light on what is really going on here. On the third way—in other words, the Executive's proposals to produce a new scheme—it says:

"Having spoken to partnership backbenchers it appears that neither the SCVO position nor the Executive position is considered ideal, hence the search for something which will maximise the Executive vote in the Chamber."

That was from a leaked document from within the Executive. I would say to Angus MacKay that if that is not political, I do not know what is. Let us stop playing games.

**Angus MacKay:** Committee members have no knowledge of that document. I do not know why Bruce Crawford has brought it here.

**Bruce Crawford:** I will happily circulate it to other people.

**Angus MacKay:** Why? That is creating a bidding war. We are not involved in that; we are here to consider the issues.

**Bruce Crawford:** We have considered turnover of £5,000 and £10,000 in this context, and both Angus MacKay and Des McNulty have said that they are not happy about the matter. If this is the process of moving things along—and sometimes it takes robust argument to achieve that—so be it.

**Angus MacKay:** This is nonsense.

**Bruce Crawford:** I would like some answers from the minister about these issues. The documentation goes on to say that there are problems with the scheme as it has been devised, whether charities' income levels are £5,000 or £10,000. It says:

"Definition of local organisations is fraught with difficulty and if we seek to subdivide charities we could be subject to judicial review under the 1990 Act. The Water Bill is not the place to sort out the definition of charities; that debate will follow in consideration of the proposed Charity Bill."

That is the Executive's own internal advice. It goes on to say:

"This is an administrative nightmare as this would require a new database, an appeals mechanism, etc. It may also be the case that some creative accounting would be employed by the sector to fit the criteria."

If Des McNulty and Angus MacKay are not right about this, I do not know who is, because that documentation exposes the argument entirely, in terms of what—

**Jackie Baillie:** I wonder whether I could shed some light on this, convener. That is actually my policy paper, not the Executive's—although I am a former member of the Executive. I wonder who leaked the paper to you.

**Bruce Crawford:** It was attached to a minute from Ross Finnie, dated 13 December, which was floating it as an Executive position paper. It is quite clear from the paper—

**Angus MacKay:** No, no. Convener, this is important. Mr Crawford is quoting from a paper that he claims is an Executive document, but that Jackie Baillie says is her own policy position paper. Will Bruce Crawford at least acknowledge that for the record? The partnership members of the committee are being accused of a variety of things. I have no knowledge of that document, its contents or the deliberations that led up to it. It is hard to be party to a bidding war when you do not know what bids have been offered or received.

**Bruce Crawford:** It is quite clear from this—

**The Convener:** I will allow you to continue in a moment, but it would be helpful if you could clarify exactly what the document is that you are quoting from. Committee members are not in your fortunate position of having the document and we are not entirely clear about its origins.

**Bruce Crawford:** I will tell you the paper's exact status in a second, when I find another particular piece of paper. The paper was attached to a note from Ross Finnie, dated 13 December. It was circulated to the Deputy First Minister, the Minister for Social Justice and the Minister for Finance and Public Services. It is quite clear in its intent. It does not really matter with whom it was drawn up—

**The Convener:** Do you know it to be a genuine—

**Bruce Crawford:** The document was circulating among Executive ministers—

**The Convener:** Do you know it to be a genuine document that was circulating among ministers?

**Bruce Crawford:** It was attached to a minute from Ross Finnie. That is what I am explaining.

**The Convener:** So you know it to be a genuine document?

**Bruce Crawford:** It was attached to a minute from Ross Finnie.

**Jackie Baillie:** The paper that was quoted from is my policy paper, and it was not written on 13 December. It was written after that.

**Bruce Crawford:** The paper came round with the minute.

I think that I have exposed the tensions within the Executive. It is clear that there are real issues, as explained in the paper, to do with administrative problems that the scheme will create and with the potential for judicial review, as well as with the Executive's position in trying to get its back benchers on board.

**The Convener:** I note that SNP members of the committee backed the committee's stage 1 report, but that that position seems to be different from the position that has been outlined today.

**Allan Wilson:** I apologise at the outset, convener, but I will have to respond in some detail to a number of the allegations and misrepresentations that have been made concerning the Executive's position. I refer not least to the most recent comments by Bruce Crawford and his colleagues. I apologise if I have to take up a lot of the committee's time, but it is important that we get as much as we can on the record today. I will be happy to answer any questions on the Executive's position.

I begin by pointing out what distinguishes amendments 83 and 96. What Jackie Baillie's amendment 96 says about metering has been denounced by Fiona McLeod quite erroneously. Our proposal gives charitable and voluntary organisations and others the opportunity to secure a metered supply and to choose the lower charge—whether that is the charge for the metered supply or the charge for the unmetered supply. It is wrong and misleading of Fiona McLeod to suggest otherwise.

The Executive has no problem with the proposition on metering in amendment 96. I would like to introduce, within the directions for the scheme, measures for metering provision as laid out in the amendment. Such measures would have substantial benefits for those charities or voluntary organisations in premises that have a high rateable value and a low level of consumption. Those benefits could, in many instances, outweigh the impact of any subsequent withdrawal of relief.

I turn to the more difficult issue. Amendments 83 and 96 are similar in one critical respect: they rely on the same definition of a charity. That poses a real problem because the definition used in the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 would allow many premises owned by universities and local authorities that have been registered as charities to claim relief. Currently, such premises—Bruce Crawford referred to libraries, swimming pools and other sports facilities—do not receive relief and can be very large customers of the water authorities. Thus, were they to become eligible for relief in the future, the impact on Scottish Water's revenues, and hence on customer charges would be highly significant.

11:00

Regardless of any concerns that people may have about relief, amendments 83 and 96 do not provide a feasible way forward. Rather, both schemes would open the way for a massive increase in the number of those eligible to claim relief. Presumably achieving such an increase is the SNP's objective in amendment 83. People must understand that there are about 30,000

charities compared to the 11,000 bodies currently receiving relief. The serious consequences for Scottish Water and thereafter, its charges to customers, can be quantified. If amendment 83 were to be agreed to, costs would increase from £11 million to £30 million. That is the equivalent of a 5 per cent increase in charges for domestic customers.

Robin Harper had the honesty to suggest that that form of compulsory charitable donation should be distinguished in charge accounts. I do not share his view that domestic consumers would welcome the imposition of such charges or of a compulsory charitable donation, particularly if they realised that their donation would sustain golf courses, rifle clubs, tennis clubs and other institutions, including a significant number of private schools and—to name one specific example—Scottish Borders Council town halls. That form of compulsory charitable donation would not be supported by domestic consumers.

The schemes proposed in amendments 83 and 96 would create an incentive for other organisations and individuals in domestic premises to seek charitable status to benefit from relief on their water charges. Again, that would increase the cost to consumers. I do not see how the water authority could be expected to administer such a scheme. That is why we have proposed a scheme that is restricted to those that currently receive relief. There is a fundamental objection that reliefs, which are based on the rateable value of the premises occupied and do not reflect the value of outputs of those charitable organisations, are not a sensible long-term means of providing support to the voluntary sector. That is the principle that underpins what we have to offer.

In my letter to the committee of 15 January, I acknowledge that the Executive has recognised the committee's genuine concerns about the impact of withdrawing relief from water charges. That is why, last week, I announced a scheme to address those concerns. The scheme has two main features. First, it is restricted to organisations that are currently eligible for relief. That is because the aim is to help organisations that would otherwise be adversely affected by the withdrawal of reliefs, rather than to create a whole new mechanism for supporting charities generally. Secondly, the scheme is targeted at small organisations in eligible premises with annual income of less than £10,000 in respect to the premises. By concentrating on small organisations, the scheme seeks to address the committee's concerns about the impact of the withdrawal of relief on local organisations that do not get local or central Government support. Amendments 83 and 96 would not provide relief to such organisations because they are not constituted as charities.

There has been criticism of the scheme that in practice it will not help many in the voluntary sector. I do not agree. The scheme will help those bodies that have incomes of less than £10,000 and premises that are currently eligible for relief. I cannot say with any precision how many bodies will benefit, because neither the Executive nor the water authorities has information on individual customer income—and nor should they.

However, the purpose of the targeted relief scheme is not to assist a particular proportion of the sector but to assist those organisations in the sector that are on limited income. We were asked to present a targeted relief scheme and that is what we have done. If it turns out that many are in the low income category, many will benefit without restriction or cut-off. I agree with Angus MacKay that there is a dearth of reliable research in this area. The situation is not helped by the fact that, rightly, the water companies do not have statistics to hand on customer income. The most reliable piece of research on the subject is contained in the McFadden commission report on charity law. As Nora Radcliffe pointed out, annexe D of the report says that more than one third of Scottish charities have incomes of less than £5,000 a year and more than half have incomes of less than £25,000. It also notes that income levels vary between legal groups. I have produced an extrapolation—admittedly, it is an unweighted extrapolation—from the list of organisations in the report that shows that between 40 and 50 per cent of charities will benefit from the Executive's proposals. More important, the proposal covers small voluntary bodies that do not have formal voluntary status, such as parent and toddler groups and so on, which are precisely the groups at which the committee asked me to target the relief scheme.

Much has been said about the Scottish Council for Voluntary Organisations. I invite it to provide reliable research that will allow me better to target the scheme. However, I have had no communication from that organisation that would lead me to think that it has research that is more reliable than that to which I have referred.

To demonstrate that there is no prejudice against the voluntary sector, I point out that I have entered into correspondence on the subject of providing £55,000 to the SCVO to enable it to employ an additional employee in the Highlands. That is the sole nature of the business that I have had recently with that organisation.

If it emerges that most of those receiving relief have incomes in excess of £10,000, I believe that, within four years, they will move to paying for their services in the same way as other customers. If the bill were amended in the way that has been suggested, the payments of many domestic

customers on low incomes would increase to subsidise the charities, which would not be fair or equitable. A typical village hall faces a charge of about £200 to £400 a year. I have done a lot of research into the impact on such an institution of the withdrawal of relief. If the owner who is liable for the charge has an income in excess of £10,000, the charge will represent no more than 2 to 4 per cent of that income.

An East of Scotland Water analysis of village halls in the east of Scotland shows that around 100 face a full charge of less than £300 once all reliefs are removed in four years' time. That is the equivalent of a £1-a-week increase in village hall charges in the coming financial year and will be shared among all the users of that establishment, although only the owner will be liable. There is no reason why scout troops or girl guide companies will necessarily have to pick up any proportion of that charge. However, if they did, they would have to pay only a proportion of the £1-a-week increase. Around 250 village halls in the east of Scotland face charges of between £300 and £600 at the end of the four-year period, which is the equivalent of an increase of between £1 and £2 a week in the coming financial year. Only 50 face the prospect of an increase of £2 or more per week as a consequence of the withdrawal of relief. For them, the metering option will be viable and beneficial, because they will presumably be based in premises with high rateable values and low water consumption.

This is the right place to respond to claims that those not occupying premises, such as the scout and guide groups mentioned, will not benefit from the scheme. Those claims are essentially right, because if someone does not occupy premises they do not pay charges on which to get relief. That is one of the benefits of what is proposed. Jackie Baillie referred to the link between relief and premises. By having such a link, we minimise problems relating to income. Charges and relief applications relate not to the income of organisations, but to income in respect of premises.

I remind members that eligible bodies will be entitled to a full four-year exemption—a 100 per cent exemption, as opposed to the 80 per cent exemption that currently applies. Previously, organisations would have to seek renewal of their exemptions. The administrative measure that we have taken is meant to cut red tape and to ensure that organisations receive more generous relief than that which they enjoy at present.

For most organisations, the right approach is for them to take account of water charges in normal negotiations with their funders, just as they would take account of the changing costs of other services. I have referred to telephone charges and

other utility charges. Robin Harper referred to the cost of food, which is not eligible for relief.

The role of the Executive is to ensure that the total resources available to the voluntary sector allow our other objectives to be delivered. As members will know, the Executive has an excellent record of funding the voluntary sector. Direct funding for the sector has risen by £6 million, or 18 per cent, from £33 million last year to £39 million this year. Indirect funding provided through other public bodies, including local authorities and health boards, has risen by £35 million, or 13 per cent, to £304 million this year.

Given that level of funding and the charges that will be paid by most voluntary organisations that receive relief, talk of hundreds or—as Robin Harper suggested—of 6,000 to 9,000 jobs being lost as a result of the phased withdrawal of relief is nothing short of irresponsible scaremongering. Over the past two weeks, a number of references to the possibility of job losses have been made in the press, but in every instance that we have checked those claims have been wildly exaggerated. For those claims to begin to be true, hundreds of organisations would have to be facing increases of more than £10,000 next year. That is not the position on the ground, where the great majority of organisations face increases of hundreds of pounds, at the most, if they face increases at all. As we have said on numerous occasions, the withdrawal of relief is being phased to allow organisations and their funders to adjust gradually to changing circumstances.

A number of members have referred to the situation of hospices. I realise that hospices have been identified as being particularly hard hit by the decision to phase out relief and understand fully why that has attracted such concern. However, we must not lose sight of the facts. Water charges represent a very small part of a hospice's costs—probably less than 1 per cent of the total. Through health boards, the Executive already provides substantial funding for hospices that dwarfs the impact of any increase in water charges. This year that support amounts to £9.5 million, as compared to £9 million last year.

The case of St Margaret's hospice in Clydebank has been referred to. St Margaret's is the largest hospice in Scotland. Fiona McLeod suggested that from 1 April it could face a bill of £14,000 a year. It will not. Its bill in the next financial year is likely to be nearer £7,000 as relief begins to be phased out over four years from 1 April. I am not saying that £7,000 is a negligible sum; nevertheless, that figure should be viewed in the context of health board funding, which amounts to £1.9 million of indirect Executive support for St Margaret's this year. What is true for St Margaret's is also true for the rest of the hospice sector and, more widely, for

the independent care sector. The impact of charges will be measured in thousands of pounds, whereas the total support for hospices and the sector is measured in millions of pounds. By my calculation, the prospective increase will be less than 0.3 per cent of the total Executive support. It is important that that is viewed in its appropriate context.

11:15

The Scottish Executive is clearly committed to ensuring the appropriate funding of voluntary hospices. That is why the Executive is involved in discussions with hospices and health boards on general funding issues. I assure the committee that, following discussions with Malcolm Chisholm, the impact of water charges will be taken fully into account in those discussions on the levels of funding support for hospices.

Bruce Crawford asked me to provide information on the independent care sector. The same principle applies to that sector as applies to others. Providing relief is not an appropriate way in which to support the delivery of our objectives, not least because care homes that are charities will receive relief whereas others that are run commercially will not. The right approach for the Executive to take is to provide money where it is needed, which is what we are doing.

In the care home sector, as in the voluntary sector as a whole, to which we are giving a massive increase in support, the Executive has a good story to tell. It is committed to providing an extra £17.5 million to the sector—£7.5 million this year and £10 million next year—to allow it to meet a range of increased pressures. The impact of the withdrawal of relief must be viewed in that broader context. The Executive is considering care home costs with the national review group that comprises the Executive, COSLA, Scottish care representatives from the voluntary sector and others. Our aim is to produce an agreed framework for determining fee levels that takes account of a range of costs. Such costs will include water charges and fuel costs.

Those detailed discussions are continuing and I am happy to announce that significant progress is being made on the way in which the increases are to be funded. An announcement is expected shortly. That announcement will be based not on a line-by-line analysis of costs, but on the Executive's commitment to fund real-terms increases to the sector over the next three years, irrespective of water charge relief. The context is important. A water charge of perhaps £200 per patient per year should be viewed in proportion against total patient costs to the Executive of £300 to £400 a week.

I apologise for taking up so much time. Members will appreciate, from the level of the detail that I have outlined, the work that is in progress towards fine-tuning the scheme. A great deal of work is under way to meet the committee's objective of introducing a targeted relief scheme that will help organisations on low incomes that are not in receipt of direct or indirect Government funding. That is what we were asked to do. The Executive is considering more widely the impact on the care sector and the voluntary sector of the withdrawal of relief. That work is under way and the assurances that I have given the committee are an example of that.

The Executive has proposed a scheme that offers valuable assistance to those in the voluntary sector that need it. I hope that the committee will recognise that, in contrast, the amendments' reliance on the current statutory definition of charities does not provide a realistic way forward. I hope that Richard Lochhead will withdraw his amendment and that Jackie Baillie will not move hers.

I give the assurance that I have given throughout the exercise that I am happy to meet members and all interested organisations to discuss the principles and to improve the scheme where possible to meet the committee's needs and ambitions. Such discussions would take place in the context of the targeted relief scheme for which the committee asked. In the longer term, wider provision will be made for those charities and voluntary organisations that could be adversely affected and whose substantial water consumption might detract from the benefits that metering will bring. That will be considered in the wider context of Executive funding for the sector and for care homes, hospices and other premises.

**The Convener:** I have given everyone a full opportunity to express their views and have allowed lengthy comments, because the issue is the most controversial that we will debate today. I will allow a little more time, but I ask people to be a bit more restrained in their use of time, because I do not want everyone to use that as an excuse for another 10-minute speech each. Does anyone have direct questions for the minister? I ask for straightforward questions, rather than comments.

**Maureen Macmillan:** Will the minister explain a bit more clearly the definition of

"income of less than £10,000 in respect of the premises"?

Will income from letting premises or using premises be included? If an organisation has a sale of work on the premises and raises £1,000, is that included? I would like more detail about the source of the income.

**The Convener:** Four members wish to ask questions. As the minister is comfortable with the

idea, it will help to take all four questions first and then have the responses.

**Richard Lochhead:** I will be brief, because I know that I will have another opportunity to speak. Has any water customer ever contacted the minister to ask for water rates relief to be removed?

**Robin Harper:** Given the problems that the definition of a charity in section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 seems to pose, is the Executive aware of a more useful definition of a charity that we could use in the bill?

**Angus MacKay:** I understood the minister to have said that in his discussions with his colleague Malcolm Chisholm, it had been said that any costs that fell to hospices as a result of the bill would be offset by financial decisions taken elsewhere in the Executive. Will he say clearly what he will do in relation to other related organisations, and not just to those that could be called hospices? A range of other organisations exists—I am sure that other members will elaborate on that. I would like reassurance on that point.

Given the exchanges that we have had and the minister's acknowledgement that there is a dearth of substantive evidence to underpin the Executive's, the SCVO's or anybody else's position, will the minister undertake to meet the SCVO to discuss the Executive's and the SCVO's positions further, before stage 3, to allow us to consider whether further amendments are required to change or toughen the Executive's position or to revisit the issue?

**The Convener:** Other members have indicated that they want to ask questions, but I will let the minister answer the questions that have been put to him so far, so that things do not get too complicated.

**Allan Wilson:** Our definition of income is income to premises, which would come from a variety of sources. We are using the same definition that is used in the McFadden report, which details voluntary or charitable organisations with an income of less than £10,000—those are directly related to the benefit that would accrue of 100 per cent relief. The estimate in the report is that upwards of a third of charities might benefit from that definition.

On Angus MacKay's point, I am happy to meet the SCVO. There is also a request to meet youth organisations to consider the proposition's impact upon them.

Some misunderstanding exists about who might benefit and how they might benefit, particularly from the provision of free meters and from income being charged to premises as opposed to

organisations. There might be organisations with incomes that are not necessarily chargeable to the premises out of which they operate.

There is considerable evidence from low-income groups relating to the payment of increased water charges and there is resistance to such payment in particular areas of the country. In discussing the bill, everyone would agree that it is not appropriate to discuss the general level of support for charitable organisations, but there is considerable resistance out there to charges that must necessarily be imposed to fund the necessary investment to improve water quality and sewage treatment. Richard Lochhead will be fully aware of that in the constituency that he represents. I believe that consumers of water services would not welcome a further imposition of charges in the region of 5 per cent as a direct consequence of extending relief to private schools and such organisations, as has been proposed.

On the McFadden report, I do not have another definition of a charity that might assist. That is part of the problem—the amendments would exclude voluntary organisations that are not charities, that have low incomes and that the committee would want us to target. The amendments would also include organisations whose aims and aspirations we do not necessarily support. That is the reality. McFadden had to address that problem and will do so in further discussions with the Executive.

I have been in contact with Mr Chisholm about the increased costs for hospices and others and I was assured that the impact of water charges will be taken into account fully in discussions on future funding. As I said, there are substantial increases in funding to those organisations, both directly and indirectly. For hospices, those increases are given through the health boards. This year, there will be assistance of £1.9 million for St Margaret's hospice, with a prospective increase of less than 0.3 per cent of that total to be accommodated.

**The Convener:** Three other members want to ask questions. I ask them to be brief.

**Fiona McLeod:** Will the minister write to us with details of the administrative costs of the proposed scheme? He quoted many figures in his lengthy reply and I picked up on the fact that his figures for St Margaret's hospice are wrong. He should therefore write to the committee and give details of costings and figures.

**Bruce Crawford:** My question relates to administrative costs, to which I referred earlier. A database will be set up to deal with the Executive's proposed relief scheme. That database will need to be secure and robust to ensure that the charities that are included on it should be included, and it will have a cost. Will the minister give full details of the cost of its upkeep

and of any appeals mechanism to resolve disputes?

**John Scott:** Does the Executive still intend to produce post-McFadden proposals that will define charities and that will honour Ross Finnie's statement to the committee—and, I think, in the members' business debate on the subject—that the Executive would consider the distribution of support for charities among the utility companies? Does the Executive's present proposal supersede the commitment that was given by Ross Finnie?

11:30

**Allan Wilson:** "Yes" is the short answer to Fiona McLeod and Bruce Crawford. We opted for the proposed scheme partly because it would be less of an administrative burden than the proposed widespread extension of relief, which would obviously impose greater administrative burdens on the company and would result in greater increases in charges to domestic customers.

I have drawn up a targeted scheme of relief, which the committee asked me to do. That was the commitment that Ross Finnie gave to the committee. I believe that consultation is taking place on the report by the McFadden commission and that the Executive will respond to it in due course. I repeat my willingness to meet the organisations that will be affected to fine-tune the scheme. That process will have to be within the principles of a targeted relief scheme, which I understand have been agreed with the committee. More widely, relief in the sectors affected will be channelled through Executive support.

**The Convener:** That is the end of questions. Richard Lochhead will have the opportunity to wind up. Members who have a pressing desire to respond briefly to the debate may do so, but I ask for contributions that are not extremely lengthy, as we have spent an hour and a half on the debate so far and still have further to go. I will give Jackie Baillie the opportunity to speak, as amendment 96 is her amendment.

**Des McNulty:** I have three quick points. I welcome what the minister said about the position on hospices, which he has undertaken to address. My view is that hospices should suffer no disadvantage from the withdrawal of relief and I hope that that will be the result.

I urge that discussions be held with church organisations as well as with other voluntary sector bodies. Churches formed another group that the committee focused on in its deliberations.

I repeat that I am not sure that the capped system for qualification for eligibility is necessarily what the committee had anticipated. I would prefer something that took account of several different

dimensions or criteria—a matrix for qualification. I hope that the minister's discussions with all bodies take account of the fact that the way in which the scheme is targeted is not the best way of achieving the committee's aspirations.

**Jackie Baillie:** I will comment on McFadden because much has been quoted from that report, and I will offer some insights into funding.

First, I will deal with Bruce Crawford's apparent concern that he has a leaked document from the Executive in his possession. I remind Mr Crawford that I ceased to be a member of the Executive some time ago—I was not doing a homer for the Executive. I am glad that he can read from my policy paper.

**Bruce Crawford:** As long as you can persuade the rest of your colleagues of your view, I am happy.

**Jackie Baillie:** It is helpful when the Scottish National Party adopts Labour positions.

If I may offer some insights into funding, let me say that—as the minister will know—the Executive has a set of mutually agreed priorities with the voluntary sector about service delivery and core objectives. In previous years, as well as at the moment, payments for water have not been included within those objectives. I am happy to hear that that will change but, as the term “indirect support” implies, we cannot direct the £300 million funding to which the minister referred. We cannot guarantee that the money will be passed on to voluntary sector organisations. In our experience, that does not happen. Although we can trade what the charges will cost in percentage terms, the point is that we are talking about not only hospices but a whole section of social care organisations that need to be considered.

If I may stick with McFadden for a moment, we all agree that the Water Industry (Scotland) Bill is not the place to define charities. Both the Executive and Richard Lochhead are confused on that point. Suggesting that we would not want to benefit certain organisations is a bit mischievous, given the public benefit test that will come from McFadden. That test will mean that some more deserving organisations will be included as charities and others, such as quasi-public sector bodies and private sector companies, will be excluded. The committee was right to be concerned about that issue, but the issue will be addressed. A bit more clarity and less confusion would be helpful.

Subject to the minister reconsidering the £10,000 threshold—I think he said that he would do so—I would be happy not to press amendment 96. The minister would also need to reconsider the date at which the scheme will kick in and how the scheme will affect the high-volume water users

such as social care organisations, which Angus MacKay mentioned. The minister would also need to meet the SCVO. He would need to do all that on a very tight time frame before stage 3.

**The Convener:** I invite Richard Lochhead to wind up. I realise that he is responding to an extensive debate, but I ask him to be as focused as possible.

**Richard Lochhead:** The debate has been interesting and at times heated, and it is right that the Parliament has spent a great deal of time on it. Living in Aberdeen in the north-east, I have substantial knowledge of all things fishy, but this is the first time that I have seen a whole shoal of red herrings presented to a parliamentary committee.

If I understood Nora Radcliffe correctly, she said that the bill was not the right place to help charities. I remind her, and other members, that before we started debating amendment 83 we agreed to a section entitled “Reduced charges”. Indeed, the minister has proposed an Executive scheme that recognises the need to intervene in charities' water bills. We already have a scheme in place that intervenes to bring down the water bills of low-income households.

The minister made a number of interesting points, some of which have been addressed by Jackie Baillie. The definition of charities is a complete and utter red herring. As other members have said, the bill is the place not to define charities but to enshrine the principle that charities should be helped to pay their water bills.

It has been said that golf clubs and other such organisations should not be given help but, given that the Government was elected in 1997, it has had ample opportunity to introduce legislation before now to amend the definition of charities. Why must we wait for a new bill, when we have had years to do that? The Executive cannot use that argument after waiting several years. The argument is a red herring.

The Executive set up the McFadden commission to examine the issue, but the Executive chose not to find legislative time to address the definition of charities. It is therefore proper that the definition be made in other legislation. I remind the minister that the McFadden commission recommended that the existing arrangements to help charities with water rates relief should continue.

Maureen Macmillan said that, on the one hand, she welcomed the Executive scheme because it would help most charities. Why does she welcome the fact that it helps most charities rather than all charities? Where does she draw the line? A charity is a charity. If you want to change the definition of a charity, that is fine but, for the purposes of the bill, a charity is a charity. If you think that some charities should be helped, you

should help all charities.

It was said that the difference could be made up by the health boards and local authorities. I think that the minister will find that the health boards and local authorities are struggling to deliver existing commitments from their existing budgets. The last thing that they will want to hear is that they must pay the charity sector's water bills as well.

The minister returned to the argument that 50 per cent of charities would benefit from the proposed scheme. However, we are not talking about charities that have premises. The point that was made in the letter from the youth charities, which was published in *The Herald* today, is that charities that do not have premises—the 50 per cent of charities to which the minister referred—will be hit by the scheme because they use premises such as church halls. The costs that those premises will have to pay will be passed on to the Boys Brigades and youth clubs of this world.

The Government has said, in the past, that assistance to the voluntary sector would be increased from £33 million to £39 million. The minister referred to that in his letter to the committee. The increase will be more than wiped out if amendment 83 is not passed today. Ross Finnie, the Minister for Environment and Rural Development, gave me an answer that said that, in the Executive's estimation, £11 million would be lost to charities. That figure more than wipes out the increase that has been given to the voluntary sector in recent times.

The issue of meters is important. As Robin Harper highlighted, cutting down waste is important. I remind the committee that the basic charge for water has increased. We are talking not only about removing reliefs for water rates from charities. In recent years, in some parts of the country, the basic charge has increased by several hundred pounds. That is a double whammy. Charities are taking initiatives to cut down their waste but, under the scheme, high-volume water users will continue to lose out.

Voluntary Service Aberdeen wrote to me to say that it had installed water meters in two of its high-usage residential care units. The organisation now finds itself in the position that £57,000 will be added to its charge of £9,462. Although Voluntary Service Aberdeen installed meters and is a charity, it will have to pay £57,000 more in water charges.

Des McNulty said that more research is required. I remind him that, although he may be right, the scheme that the minister advocates and the removal of reliefs are to be introduced on 1 April. There is not much time left. It would be better for us to stick to the status quo—that is the

most sensible option.

Angus MacKay showed us his nasty side for the first time. He did not make a particularly constructive contribution. The message that I took from it was that the committee could not support amendment 83 because the Labour party did not lodge the amendment. That is enough about Angus MacKay's contribution.

For the average customer, the £11 million that Ross Finnie, the Minister for Environment and Rural Development, said would be lost to charities works out at 42p per month. Customers have not been lining up to say that they do not want to make a contribution of 42p each month to help charities. The proposal that the minister and the water authorities have cobbled together is the wrong proposal and it was made at the last moment. We cannot make legislation by cobbling together last-minute panic measures. We have to do what is right for the charities.

This issue is real and it affects real people. I am not making political points—Angus MacKay advocated doing that. We have all been contacted by charities that have real, tough decisions to take. I ask the committee to bear that in mind and to do the right thing for the charities. Let us stick to the status quo and support amendment 83. I was happy to move the amendment, as it is by far the most sensible option and the voluntary sector expects no less.

**Des McNulty:** I want to be clear. Richard Lochhead asks us to support the status quo, but I understand that amendment 83 is not the status quo. Can we have clarification of that?

**The Convener:** I believe that that is the case. Richard Lochhead's amendment would extend relief to many organisations that do not receive relief at the present time. Des McNulty is correct to say that amendment 83 is not the status quo.

**Richard Lochhead:** In terms of the level of reliefs—

**The Convener:** We have had the debate. We move to the question, which is, that amendment 83 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Ingram, Mr Adam (South of Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Scott, John (Ayr) (Con)

**AGAINST**

MacKay, Angus (Edinburgh South) (Lab)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)



**ABSTENTIONS**

Harper, Robin (Lothians) (Green)

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

*Amendment 83 disagreed to.*

**The Convener:** Does Jackie Baillie wish to move amendment 96?

**Jackie Baillie:** If the minister confirms that he will re-examine the areas of concern, I am happy not to press the amendment at this stage.

**Allan Wilson:** I gave that assurance during the debate, with the proviso that, in terms of wider relief, I would need to do so with other departmental colleagues.

*Amendment 96 not moved.*

**The Convener:** That brings us to the end of the section that deals with charitable relief. Given that we have been going for two and a quarter hours, I propose that we have a brief, five-minute adjournment. I ask members to return promptly, so that we can make progress with the remainder of the bill.

11:45

*Meeting adjourned.*

11:56

*On resuming—*

**The Convener:** We devoted a lot of time to the previous debate and, given the strength of the views that were expressed, it was right that we did so. However, we are now considerably behind schedule. I therefore propose that we leave agenda item 4, which is the aquaculture inquiry, until next week. We should continue to make progress on the Water Industry (Scotland) Bill until approximately 12.50 or 12.55. If we do not manage to conclude those discussions, I propose that any remaining amendments be carried over to next week. At the end of today's meeting, we will deal with the other item on our agenda—the petitions on opencast mining. I do not expect that item to take too long.

So that we make progress on the less controversial amendments, I ask members to be brief.

### **Section 38—Duties and powers relating to finance**

*Amendment 97 moved—[John Scott].*

**The Convener:** The question is, that amendment 97 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Ingram, Mr Adam (South of Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Scott, John (Ayr) (Con)

**AGAINST**

Harper, Robin (Lothians) (Green)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)

**The Convener:** The result of the division is: For 3, Against 5, Abstentions 0.

*Amendment 97 disagreed to.*

*Sections 38 and 39 agreed to.*

### **Section 40—Guarantees**

*Amendment 88 not moved.*

*Section 40 agreed to.*

### **Section 41—Directions as to payment and investment**

**The Convener:** Amendment 98 is grouped with amendments 89, 99 and 90. If amendment 89 is agreed to, I will not call amendment 99, as it will have been pre-empted.

**John Scott:** I will speak to amendments 98 and 99 together. The amendments are about preventing the raiding of the children's piggy bank. They are intended to stop the Government directing Scottish Water to give it what is Scottish Water's cash. One can envisage a situation—perhaps all too readily—in which the Executive is strapped for cash whereas Scottish Water, by prudent management or for whatever reason, has a cash surplus. I do not want ministers to direct Scottish Water to give the Executive its cash surplus—it is as simple as that. Both amendments are intended to stop the Government saying to Scottish Water, "We'll have that pot, because you don't appear to need it."

I move amendment 98.

12:00

**Bruce Crawford:** Amendments 89 and 90 are essentially probing amendments—although whether I move them depends on what I hear from the minister. I find that I am having to lodge probing amendments to get answers to questions about the bill. I am not sure that that is the best process, particularly for those officials who have to draft some quite concise arguments to rebut them. Perhaps the committee could reflect on whether there should be an informal process whereby officials are asked about the meaning of certain words or particular sections. That would save the

minister and officials many problems. I say that constructively for the future, not for the purposes of this bill. I apologise for taking up time in saying that, but it was necessary to do so.

On amendments 98 and 99, there is already a process dealing with surplus—or profit, as it is now called under resource accounting. Ministers can already use some of that profit. I am sure that the minister will allude to that.

I am not entirely clear about the circumstances under which Scottish Water would require to use a sum from its own pot for something unrelated to its core business. My suspicious mind wonders whether such a provision could be used to give funds to a private company in order to build a private dam to provide private water—I am afraid that that is the nature of the beast that we are dealing with. That is why I lodged an amendment to remove that possibility. Will the minister explain the circumstances under which the provision might be used? That would be useful and would perhaps allow me not to move amendment 89.

**Allan Wilson:** Section 41 is a restatement of section 86 of the Local Government etc (Scotland) Act 1994, which set up the three water authorities. Its purpose is to provide a means for dealing with any unexpected surpluses. We do not expect to have recourse to section 41 in the normal course of events, given that the purpose of the strategic review of charges is to limit the revenue that Scottish Water may raise to meet its statutory obligations and any additional ministerial obligations that may be imposed.

However, section 41 as it is drafted is still needed, if ministers are to have the flexibility to respond to circumstances that will, by their very nature, be difficult to predict. Because we are discussing exceptional circumstances, John Scott's amendments are not necessary, and, arguably, would be unhelpful, in that they would in effect introduce a new category, which we might call double-exceptional circumstances. I therefore hope that he will agree to withdraw amendment 98 and not move amendment 99, whose provisions are covered in the bill's wording.

Bruce Crawford made a point about the use of probing amendments. We would prefer an arrangement whereby probing amendments are dealt with in advance of committee consideration and therefore do not take up committee time unnecessarily, but the nature of committee consideration of proposed legislation probably precludes that.

Amendment 89 would curtail our flexibility to cope with the unexpected by removing the power to direct Scottish Water to invest surplus sums of money. An additional investment that did not immediately concern Scottish Water's core

function might still facilitate the exercise of its core functions in future. We require the flexibility to invest surpluses, perhaps in stocks or gilts, so that their potential for use in future financial years can be realised. It is better that the company should have that flexibility and be held accountable to Parliament for it in the unusual event of the company's being asked to exercise it. On the basis of that explanation, I ask Bruce Crawford not to move amendments 89 and 90. If he is not willing to do that, I ask the committee to oppose the amendments.

**The Convener:** The question is, that amendment 98 be agreed to. Is that agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Scott, John (Ayr) (Con)

**AGAINST**

Ingram, Mr Adam (South of Scotland) (SNP)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McLeod, Fiona (West of Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)

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

*Amendment 98 disagreed to.*

**The Convener:** Does Bruce Crawford wish to move amendment 89?

**Bruce Crawford:** I am not sure that I have received from the minister the explanation that I sought; in fact, he has probably clouded the issue. However, if the minister is prepared to write to me with a full explanation of the circumstances in which the power under section 41(2) may be used, I will not move the amendment. I am genuinely seeking information, but I am not sure that I have been given it.

**Allan Wilson:** I am happy to write to Bruce Crawford with the information that he seeks.

**The Convener:** The minister has made a commitment to respond in writing to Bruce Crawford. It would be helpful if he could copy that letter to other members of the committee.

*Amendment 89 not moved.*

**The Convener:** Does John Scott wish to move amendment 99?

**John Scott:** I would like the minister to write to me with the same explanation that he is planning to provide to Bruce Crawford. If he undertakes to include me in that correspondence, making clear his true intentions, I will not move my amendment.

*Amendment 99 not moved.*

**The Convener:** Bruce Crawford has indicated that he does not wish to move amendment 90.

**Bruce Crawford:** It is consequential on amendment 89.

*Amendment 90 not moved.*

*Section 41 agreed to.*

#### **Section 42—Accounts and audit**

**The Convener:** Amendment 100 is grouped with amendments 29, 30 and 115.

**John Scott:** Amendment 100 would introduce a further check allowing not just ministers but Parliament to see how Scottish Water is performing. That is why I have lodged it.

I move amendment 100.

**Allan Wilson:** Amendment 100 is unnecessary and inappropriate. The bill already requires Scottish Water's accounts to be laid before the Parliament. All accounts that are sent to the Auditor General for Scotland for auditing—as Scottish Water's accounts must be, under section 42 of the bill—are submitted to Scottish ministers, who must lay them before Parliament and publish them. That is required under section 22 of the Public Finance and Accountability (Scotland) Act 2000. As provision for the scrutiny of Scottish Water's accounts by the Parliament already exists, I ask John Scott to withdraw amendment 100.

Executive amendments 29 and 30 will put beyond doubt the fact that Scottish Water's half-yearly report need not include audited accounts, but may be simply a statement of accounts. That will expedite the report's production.

Amendment 115 provides for Scottish Water to send any report that it is required to produce under section 50(3) to the water industry commissioner and to the convener of the customer panels, as well as to Scottish ministers. That is a useful addition to section 50 and will ensure that the information that is relevant to the commissioner and the convener is sent to them at the earliest time. That is a useful proposition and I am pleased to recommend that the committee accept amendment 115.

**John Scott:** I thank the minister for his information on amendment 100. I did not find a requirement to lay the accounts before Parliament, but that was my mistake. In the light of the information that the minister has given, I will be happy to withdraw amendment 100.

*Amendment 100, by agreement, withdrawn.*

*Section 42 agreed to.*

#### **Section 43—Acquisition of land by agreement**

**The Convener:** Amendment 27 is grouped with amendments 28, 101, 91 and 102.

**Allan Wilson:** The group of amendments relates to the sections that deal with Scottish Water's acquisition and disposal of land. Executive amendments 27 and 28 will make technical changes to section 43 and restate the existing position on the acquisition of land by water authorities for their functions or for another person who provides a public water supply or sewerage services.

The power as drafted places constraints on the terms, and particularly the price, on which Scottish Water can acquire land by agreement. If that were not altered, it would mean that Scottish Water could pay only an amount that was close to the market value as determined by the district valuer for the land involved. Such constraints are appropriate when land is being acquired for Scottish Water's core functions or to allow another person to provide a public water supply or sewerage system, but in other circumstances, Scottish Water should not be placed under such constraints. Amendment 27 will deal with that.

The power to acquire land will continue to be the subject of direction under section 49. That will ensure the proper use of resources. For example, it might make business sense to pay over the market price to obtain a small piece of land. The bill should provide for such situations, so that Scottish Water has that option.

Amendment 101 would alter the historical position that was designed to cover situations in which, for operational reasons, the only practical site for Scottish Water's core functions is common land, open space or land held by the National Trust for Scotland. The amendment would prevent the acquisition of replacement land by compulsory purchase order and might mean that land of equivalent public value could not be provided in exchange. Although likely to be required only rarely, that provision is desirable. In the case of National Trust land, it is necessary, because the trust cannot voluntarily sell its land. We urge John Scott not to move amendment 101, because it would delete the power that allows Scottish ministers to use compulsory purchase in specific circumstances to acquire land to exchange for other land.

**The Convener:** I call John Scott.

**John Scott:** That was—

**Allan Wilson:** I have still to speak to amendments 91 and 102.

**The Convener:** Sorry.

**Bruce Crawford:** On a point of order. I apologise for not being in the room when I should have spoken to amendment 91.

**The Convener:** You can still speak to amendment 91—you have not missed the opportunity.

**Allan Wilson:** I am moving the lead amendment in the group, so I will speak to all the amendments first.

Amendment 91 would place an impractical burden on Scottish Water. It would require Scottish Water to involve customer panels in purely operational decisions to dispose of land. I cannot see what added benefit would be gained from consulting customer panels.

12:15

Amendment 102 is unnecessary. It seeks to ensure that Scottish Water gets appropriate professional advice when disposing of land, but it is implicit in the duty imposed by section 45(2) that professional advice is required. Amendment 102 would weaken the existing provision by reducing the duty on Scottish Water to dispose of land at the best price that can reasonably be expected. The amendment would introduce a subjective test of the price that Scottish Water considers it could obtain, rather than an objective test. I urge John Scott not to move amendment 102.

I move amendment 27.

**John Scott:** Amendment 101 is intended to do exactly what the minister said that it would. I believe it to be excessive for Scottish Water to have powers of compulsory purchase for what is an excambion. I was unaware that Scottish Natural Heritage is unable to sell its land voluntarily.

**Allan Wilson:** It is the National Trust for Scotland.

**John Scott:** I beg your pardon. I am averse to companies that are essentially public having the easy option of compulsory purchase, when that is not absolutely necessary. That power is excessive, which is my reason for lodging amendment 101.

Amendment 102 would ensure that the intention of section 45(2) is met. The requirement to have the district valuer's agreement that land that is disposed of is sold at the best open-market price would ensure that all deals are above board. Amendment 102 is a further way of looking after the public interest.

**Bruce Crawford:** The primary purpose of amendment 91 is to ensure that land that is owned by the water authority, but which has a wider common use other than the core business—for

example, Loch Katrine and the surrounding land, which Sylvia Jackson has rightly mentioned on several occasions—is not disposed of without consultation. Although the sale of Loch Katrine is not being considered, one can envisage circumstances in which the water authority wishes to sell land that is used for purposes other than its core purposes. Given that, in response to Des McNulty's amendment 58, the minister agreed to consider how to make Scottish Water more socially responsible, amendment 91 is helpful and would allow issues of social responsibility to be taken on board.

I understand the aim of amendment 101. In my experience of the public sector, the power of compulsory purchase is used rarely and only in exceptional circumstances in which the purchase is for the common weal and will meet the public's aspirations. I cannot understand why Scottish Water is different from other public sector organisations that have social requirements and must bear them in mind when making compulsory purchases.

**Des McNulty:** On amendment 91, it is a good principle that Scottish Water should consult before it disposes of land. I am not sure whether the water customer consultation panel is the best body to consult. For example, if Scottish Water wanted to dispose of a block of land that contained a former site depot or something like that, the nearby neighbours or the people in the local community would be the most appropriate consultees. I hope that the general principle of consultation will be taken account of elsewhere, rather than by agreeing to amendment 91.

**Allan Wilson:** That is precisely the point that I was going to make in response to Bruce Crawford's queries. The customer and the community might on occasion have a commonality of interest, but on other occasions they might not. In the instance of the disposal of land, it would be appropriate to consult the community interest. We will make specific provision for that in the code of conduct, which will be given statutory power. That is the way to deal with the requirement to consult with community interests on the disposal of land—it is better than imposing an unrelated requirement to consult with the customer panel, whose interests may not equate with those of the local community.

*Amendment 27 agreed to.*

*Amendment 28 moved—[Allan Wilson]—and agreed to.*

*Section 43, as amended, agreed to.*

#### **Section 44—Compulsory acquisition of land**

**The Convener:** I ask John Scott whether he wants to move amendment 101.

**John Scott:** I understand the minister's difficulty with the National Trust for Scotland, but if he gave me an undertaking that that matter could be resolved, I would be happy not to move amendment 101; otherwise I am inclined to move the amendment.

**The Convener:** I am unclear as to what you are asking the minister to give an undertaking on.

**Allan Wilson:** It would be in entirely exceptional circumstances that there would be a requirement for Scottish Water to buy National Trust land. The National Trust cannot voluntarily sell its land; ipso facto, the power that amendment 101 would remove is required.

**John Scott:** I appreciate that fact, but the power extends beyond the ability to deal with National Trust for Scotland land. That is what I object to.

**The Convener:** Do you want to move amendment 101?

**John Scott:** No.

*Amendment 101 not moved.*

*Section 44 agreed to.*

#### Section 45—Disposal of land

**The Convener:** Does Bruce Crawford want to move amendment 91?

**Bruce Crawford:** I shall refrain from doing so, but I will seek one more assurance from the minister, because I was heartened by what Des McNulty said and how he phrased it. The slight difference that I have with him is that I envisage the customer panels becoming the legitimate voice of the customers because, whether they are in the community or not, people are all customers of the water industry and there is no other democratic voice that they can go to.

Will the minister ensure, through the code of practice, that the customer panels recognise that they are also the legitimate voice of the community? Perhaps it is too strong to say that the panels are the legitimate voice of the community, because there might be a difference between what the community says and what the customer panels say. However, the panels should be required to take on the views of the communities before they make their minds up on any response that they give to Scottish Water.

**The Convener:** Can you offer Bruce Crawford that reassurance, minister?

**Allan Wilson:** Bruce Crawford poses a hypothetical question. I refer to what I said earlier. It would be easy to think of a situation in which the customer panel might consider it to be in the interest of the customer that a particular piece of land be acquired or disposed of, but that might not

equate with the community interest. Therefore, the answer to his request is no.

**Bruce Crawford:** In that case, I move amendment 91.

**The Convener:** The question is, that amendment 91 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ingram, Mr Adam (South of Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)

#### AGAINST

Harper, Robin (Lothians) (Green)  
MacKay, Angus (Edinburgh South) (Lab)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Scott, John (Ayr) (Con)

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

*Amendment 91 disagreed to.*

*Amendment 102 moved—[John Scott].*

**The Convener:** The question is, that amendment 102 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ingram, Mr Adam (South of Scotland) (SNP)  
McLeod, Fiona (West of Scotland) (SNP)  
Scott, John (Ayr) (Con)

#### AGAINST

Harper, Robin (Lothians) (Green)  
MacKay, Angus (Edinburgh South) (Lab)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Muldoon, Bristow (Livingston) (Lab)  
Radcliffe, Nora (Gordon) (LD)

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

*Amendment 102 disagreed to.*

*Section 45 agreed to.*

#### Section 46—Interests of customers

**The Convener:** Amendment 111 is grouped with amendments 107 and 108.

**John Scott:** Amendment 111 is intended to ensure that rural areas are catered for—I should therefore declare an interest.

It is important that amendment 111 be agreed to but, I am sorry to say, I have lost my note on it so I will leave my comments at that.

I move amendment 111.

**The Convener:** For the sake of the record, and to protect yourself, could you elaborate on the interest that you declared?

**John Scott:** I live in a rural area and might benefit from the amendment.

**Bruce Crawford:** Amendments 107 and 108 started off as probing amendments. I need to clarify whether the legal definition of “persistent medical condition” also includes disability. If it does, there is no need for amendment 107; if it does not, there might be a requirement for the bill to conform to the Disability Discrimination Act 1995 and to recognise that disability is not necessarily a medical condition. Some clarification of the matter would be useful.

Amendment 108 would insert the words “or remote” after the word “rural” in section 46(b). That is because there is no definition of “rural” in the bill. I have seen many definitions of the word in various Executive documents and legislation. Does Cambusbarron, a village that is close to Stirling, count as a rural community? The purpose of the amendment is to secure a definition of the word “rural” and to allow the minister to explain why the needs of rural communities are given prominence over those of other communities—I am sure that Maureen Macmillan will explain that in a moment. I am sure that there is a good explanation.

There might be a definition in the bill of the word “rural”, but if there is not, those who would use the bill when enacted could draw widely differing interpretations and that could cause difficulties.

**The Convener:** We are disappointed that you have not brought your dictionary with you, Bruce—we enjoyed that the last time you had it with you.

**Maureen Macmillan:** Amendment 108 would mean that Scottish Water must have special regard to the interests of people who live in rural or remote parts of Scotland. However, I cannot see why it should say “rural or remote”. Surely “remote” contains the meaning of the word “rural”.

I understand that Bruce Crawford is trying to include a definition of rural. I think that the Land Reform (Scotland) Bill defines the word in terms of density of population. I was worried that Bruce Crawford was about to suggest that there were urban places that were remote. If he had done so, I was going to challenge him to name some towns or cities that were remote.

**Bruce Crawford:** London.

**Maureen Macmillan:** That is right, but it is not rural.

It would be useful if the minister were to offer a definition of the word “rural”.

**The Convener:** Callum Thomson has offered the suggestion that Perth in Australia is remote, but not rural.

12:30

**Allan Wilson:** I can see why John Scott lodged amendment 111 to strengthen the duty on Scottish ministers to always act to protect the interests of the vulnerable customers who are identified in section 46. However, amendment 111 would make section 46 disproportionately restrictive. For example, it would prevent Scottish Water from acting in an emergency or from taking a balanced operational decision that might benefit urban customers to the slight disadvantage of rural customers.

That brings us neatly on to amendments 107 and 108. As drafted, section 46 places a duty on Scottish ministers and Scottish Water to have special regard to vulnerable customers’ interests. In our judgment, that wording is as strong as is appropriate. For that reason, I urge John Scott to seek to withdraw amendment 111. However, our judgment is that amendments 107 and 108 are helpful additions for customers whose interests should receive special regard by Scottish ministers and Scottish Water. We should have regard to the interests of customers who have a persistent disability as well as those who have a “persistent medical condition”. The two are not the same, and widening the definition to include disabilities that would not be considered to be persistent medical conditions is to be welcomed.

On amendment 108, we had a debate earlier on rural versus remote. I suppose that a small industry, such as a creamery on an island, might not be considered to be rural but could be considered to be remote. Likewise, perhaps the main town on an island would not be considered to be a rural location but it could receive special consideration on grounds of remoteness. That would ensure that the needs in remote areas are considered as well as those in rural areas that are not remote, and should ensure that any remote areas that are not rural are also given special consideration. I think that we have the matter covered whichever way we turn. If the committee accepts that definition, we are pleased to accept amendments 107 and 108.

**John Scott:** I welcome what the minister said, and in particular the fact that section 46 will be strengthened by his acceptance of amendment 108. That goes some way toward achieving what I was trying to achieve. However, there is a need to protect fragile rural areas and to provide them with services that are similar to those in urban areas, provided that such provision is within the constraints that are outlined in the minister’s letter on developers’ costs that we received today.

I have some difficulty in seeing why amendment 111 would mean that rural customers would have to be favoured over urban customers in an emergency. I cannot see the logic behind that. For that reason—bearing it in mind that I have declared an interest—I press amendment 111.

**The Convener:** The question is, that amendment 111 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Scott, John (Ayr) (Con)

**AGAINST**

Harper, Robin (Lothians) (Green)

Ingram, Mr Adam (South of Scotland) (SNP)

MacKay, Angus (Edinburgh South) (Lab)

McLeod, Fiona (West of Scotland) (SNP)

Macmillan, Maureen (Highlands and Islands) (Lab)

McNulty, Des (Clydebank and Milngavie) (Lab)

Muldoon, Bristow (Livingston) (Lab)

Radcliffe, Nora (Gordon) (LD)

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

*Amendment 111 disagreed to.*

**The Convener:** Bruce, do you wish to move amendment 107?

**Bruce Crawford:** It would be a bit of a shock if I said that I was not going to move it. I thank the minister for giving a better argument for it than I did.

*Amendments 107 and 108 moved—[Bruce Crawford]—and agreed to.*

*Section 46, as amended, agreed to.*

### **Section 47—Environmental matters**

**The Convener:** Amendment 112 is grouped with amendment 113.

**John Scott:** Thank you for your forbearance, convener.

Amendment 112 would allow the public full access to places of interest, in exactly the same way that it is to be granted under the Land Reform (Scotland) Bill. One can envisage that areas other than those that are specified in section 47(2) would be of public interest. That is why I have lodged amendment 112.

I turn to amendment 113. The addition of the words, “or scientific” to section 47(2)(b)(iii) neatly strengthens the bill’s provision for the protection of our natural heritage. I know that section 48 deals with that, but we could be unaware of other areas of scientific interest that are not designated as being protected by Scottish Natural Heritage. I believe that amendment 113 could afford such

areas protection before such designations are put in place. The amendment would, in essence, establish another duty of care on Scottish Water, which is not unreasonable.

I move amendment 112.

**Angus MacKay:** When I was considering the effects of amendments 112 and 113 in particular I understood why John Scott lodged them. I understand what he is looking to strengthen in the bill, particularly with amendment 112, on public interest.

If the minister is not proposing to agree to amendments 112 and 113, I would like an indication of why he thinks that public interest more generally is already covered. The addition of the word “scientific” by amendment 113 is worth considering. I am interested to hear how any scientific interest is already encapsulated in another way.

**Allan Wilson:** I had a not dissimilar difficulty to Angus MacKay’s in identifying the objective of amendments 112 and 113. I thank John Scott for lodging probing amendments, because they made us consider what we were trying to do. They also gave us an opportunity—as Angus MacKay said—to explain why we consider that section 47, on environmental matters, is correctly drafted and would not be improved by amendments 112 and 113.

Section 47 places a duty on Scottish Water and Scottish ministers to have regard to the desirability of preserving public access and protecting and conserving particular aspects of the environment. Section 47(2)(a) lists specific areas, such as forests, moors and lochs. It then provides the catch-all provision of

“other places of natural beauty”.

That is in line with both the specific descriptions that have gone before and the environmental focus that we seek to introduce through section 47.

John Scott, in amendment 112, proposes adding to section 47(2)(a) the phrase “public interest”. We cannot see how that adds anything useful. I do not think that John said, in moving amendment 112, how it might do so. It does not relate to environmental matters and it is not clear how it would work in section 47(2)(a) as it stands. I assume that the public interest to which John Scott refers relates to a natural feature, in which case the section as constituted deals with the matter. It might relate to a building, object, or site

“of archaeological, architectural or historic interest”,

in which case section 47(2)(b) deals with it.

Amendment 113 would cause us not dissimilar problems, by seeking to insert general terms

alongside other terms that are more specific and directly relevant to section 47's focus on environmental matters. The term "scientific interest" is generic and sits uneasily alongside the phrase

"archaeological, architectural or historic interest",

each element of which could be described as a specific science or social science; as a result the meaning of "scientific" in that context is unclear. To add "scientific interest" as Angus MacKay suggests would cause uncertainty and would not add to the provision.

I understand John Scott's intention behind amendment 112, but the amendment would not add to the section. We believe that we have struck the right balance in identifying the interests that are referred to generally in the catch-all phrase,

"other places of natural beauty",

and those that are referred to specifically as buildings, sites or objects

"of archaeological, architectural or historic interest".

**Fiona McLeod:** On amendment 112, what is the position for a route that has become an accepted right of way—a place where the public walk—but is not considered to be a site of natural beauty? Would not amendment 112 ensure that that right of way continued to exist?

**Angus MacKay:** Perhaps I can say something while the minister considers what the answer to Fiona McLeod's question—which hit the nail on the head—might be.

I can offer an example from my constituency where there is a worked-out quarry, which has been used for many decades by people of all ages as a place of recreation—there are people walking dogs, mountain biking, playing on the quarry slides and so on. No one would describe it as an area of natural beauty but, on the other hand, people would want to retain a right of access to it for recreational purposes.

I understand why the beginning of section 47(2)(a) says:

"the desirability of preserving for the public any freedom of access".

However, that is then specified by a list of particular areas and

"other places of natural beauty".

The quarry in the example that I gave is neither specified on the list, nor is it a place of natural beauty. Of course, the issue of access rights in such a case might have nothing to do with Scottish Water—as is true of the example that I gave—but there might be other circumstances in which an area does not fall into either category.

**Allan Wilson:** We are making provisions for the specific purposes that are outlined in the bill. The general rights of access to which Angus MacKay refers are provided for elsewhere, in common law and statutory provision. As all members will be aware, we are providing for an extension of access rights through the Land Reform (Scotland) Bill. The statutory provision that Angus MacKay and John Scott seek is to be found elsewhere and should not be incorporated in the provisions in question, which have regard to the purposes of the bill, as outlined in section 1.

**The Convener:** Other members are seeking further clarification.

**John Scott:** Would section 47 as it stands mean that the public would have fewer rights of access to land that is owned by Scottish Water than they would to land that is owned by other people?

**Allan Wilson:** I can see where that question is going. That is not our intention. Perhaps we should re-examine the section in the context of the common law and statutory provision and come back to the committee.

**John Scott:** Angus MacKay made a point that I would like to repeat in summing up. I can take the minister to any number of places that are not listed in the provision and are not places of natural beauty, but which are used by the public. Why should the public not have access to such places? That is the point of including the phrase "or public interest" as a catch-all.

**Allan Wilson:** I propose to reconsider the issue and ask my legal advisers to check the provisions against what is proposed in the Land Reform (Scotland) Bill.

12:45

**The Convener:** I will give John Scott the opportunity to wind up and to indicate whether he wishes to press amendment 112 at this stage, given that the minister has indicated that he is prepared to consider the issue that it deals with.

**John Scott:** If the minister will come back with something, I am happy to withdraw amendment 112. On amendment 113, I rest my case. I believe that the amendment would strengthen the bill and would protect all the things that the committee would want to be protected. I do not accept that amendment 113 is in any way inhibiting—it seeks merely to strengthen the protection of the environment.

*Amendment 112, by agreement, withdrawn.*

*Amendment 113 moved—[John Scott].*

**The Convener:** The question is, that amendment 113 be agreed to. Are we agreed?



**Members:** No.

**The Convener:** There will be a division.

**For**

Ingram, Mr Adam (South of Scotland) (SNP)  
Macmillan, Maureen (Highlands and Islands) (Lab)  
McLeod, Fiona (West of Scotland) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Scott, John (Ayr) (Con)

**AGAINST**

MacKay, Angus (Edinburgh South) (Lab)  
Muldoon, Bristow (Livingston) (Lab)

**The Convener:** The result of the division is: For 6, Against 2, Abstentions 0.

*Amendment 113 agreed to.*

*Section 47, as amended, agreed to.*

*Section 48 agreed to.*

#### **After section 48**

**The Convener:** Amendment 103 is in a group on its own.

**Allan Wilson:** Amendment 103 meets a recommendation from a professional working group led by Professor Cairns. It seeks to put on a statutory footing the current informal relationship whereby water authorities seek public health advice from health boards. As a consequence of the amendment, when it appears to Scottish Water that a significant risk to public health might arise, Scottish Water would have a duty to consult the relevant health board and to have regard to the health board's view on minimising or eliminating that risk.

I move amendment 103.

**Des McNulty:** I welcome amendment 103. A close relationship between Scottish Water and local health boards is vital to ensuring that public health is protected. It is also proper to establish appropriate means of feedback to ensure that Scottish Water responds quickly and effectively to emerging health issues, such as cryptosporidium, which I asked Allan Wilson about on his first day. Giardia is another example of the kind of issue that needs to be dealt with.

**John Scott:** If amendment 103 would protect consumers from cryptosporidium—which is a dreadful thing—I am happy to support it.

**The Convener:** Does anyone else want to speak? Minister, do you want to wind up?

**Allan Wilson:** No.

**The Convener:** You are quite satisfied.

**Allan Wilson:** Yes.

*Amendment 103 agreed to.*

**The Convener:** I propose to conclude consideration of the bill now, because we will not be able to complete it. The remaining amendments will be considered at next week's meeting. We thank the minister and his officials for attending and participating.

## Public Petitions

### Opencast Mining (PE346 and PE369)

**The Convener:** Item 3 is public petitions. Members are invited to consider a paper from the committee reporters that outlines possible next steps on petition PE346 by Scotland Opposing Opencast and petition PE369 by the Confederation of United Kingdom Coal Producers. Members will recall that at a committee meeting in December we agreed to appoint Adam Ingram and Nora Radcliffe as reporters on the application of national planning policy guideline 16 and the cost of monitoring and enforcing mineral permissions. The reporters have prepared a paper that sets out the terms of reference for their work on the petitions and have proposed arrangements for receiving information.

Adam Ingram might want to add to or comment on the paper. He might also want to update the committee on the strategic planning seminar that he attended on Tuesday which, I believe, touched in passing on opencast development. Is there anything that you want to add?

**Mr Ingram:** Not really. It was interesting that at the seminar on Tuesday, the people who are concerned with the extraction of minerals wished to distance themselves from opencast extraction, which they described as the dirty end of the business. That is my feedback from the seminar.

The committee has already discussed the way ahead that is contained in the paper. There is nothing new to bring to the committee today. We just seek the go-ahead for the exercise.

**The Convener:** Do any members want to ask Adam Ingram questions or to comment on the paper? Do members agree to the terms of reference and to seek permission from the conveners liaison group for the proposed meetings?

**Members** *indicated agreement.*

**The Convener:** I thank members for their attendance. Next week we will continue with consideration of stage 2 of the Water Industry (Scotland) Bill and the other business that we did not manage to deal with today.

*Meeting closed at 12:51.*

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