

# **TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE**

Tuesday 2 June 2009

Session 3

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# CONTENTS

Tuesday 2 June 2009

Col.

<b>CLIMATE CHANGE (SCOTLAND) BILL: STAGE 2 .....</b>	<b>1823</b>
<b>BUDGET ADVISER .....</b>	<b>1883</b>

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## TRANSPORT, INFRASTRUCTURE AND CLIMATE CHANGE COMMITTEE 15<sup>th</sup> Meeting 2009, Session 3

### CONVENER

\*Patrick Harvie (Glasgow) (Green)

### DEPUTY CONVENER

\*Cathy Peattie (Falkirk East) (Lab)

### COMMITTEE MEMBERS

\*Rob Gibson (Highlands and Islands) (SNP)  
\*Charlie Gordon (Glasgow Cathcart) (Lab)  
\*Alex Johnstone (North East Scotland) (Con)  
\*Alison McInnes (North East Scotland) (LD)  
\*Des McNulty (Clydebank and Milngavie) (Lab)  
\*Shirley-Anne Somerville (Lothians) (SNP)

### COMMITTEE SUBSTITUTES

Alasdair Allan (Western Isles) (SNP)  
Gavin Brown (Lothians) (Con)  
David Stewart (Highlands and Islands) (Lab)  
Jim Tolson (Dunfermline West) (LD)

\*attended

### THE FOLLOWING ALSO ATTENDED:

Jim Hume (South of Scotland) (LD)  
Liam McArthur (Orkney) (LD)  
John Park (Mid Scotland and Fife) (Lab)  
Peter Peacock (Highlands and Islands) (Lab)  
Stewart Stevenson (Minister for Transport, Infrastructure and Climate Change)

### CLERK TO THE COMMITTEE

Steve Farrell

### SENIOR ASSISTANT CLERK

Alastair Macfie

### ASSISTANT CLERK

Clare O'Neill

### LOCATION

Committee Room 2



## Scottish Parliament

### Transport, Infrastructure and Climate Change Committee

*Tuesday 2 June 2009*

[THE CONVENER *opened the meeting at 13:31*]

### Climate Change (Scotland) Bill: Stage 2

**The Convener (Patrick Harvie):** Good afternoon. If everybody is settled, we can proceed. Welcome to the 15<sup>th</sup> meeting this year of the Transport, Infrastructure and Climate Change Committee. I remind members and everybody else present that mobile devices should be switched off. We have received no apologies. As yet, no non-committee members are present, but I gather that some may attend later.

We have two items on the agenda today, item 1 being continued consideration of amendments at stage 2 of the Climate Change (Scotland) Bill. I welcome once again the Minister for Transport, Infrastructure and Climate Change, Stewart Stevenson; Philip Wright, deputy director for climate change; Fiona Page, the bill team leader; Frances Beck, solicitor; Max McGill, assistant Scottish parliamentary counsel—and do we have David Henderson-Howat with us?

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** He will come to the table later.

**The Convener:** Thank you, minister.

I remind members of the situation, as I explained it at the start of our previous meeting, regarding the use of the casting vote and the procedures that we will use. The situation is no different from last week.

#### Section 19—Meaning of advisory body

**The Convener:** Amendment 187, in the name of Des McNulty, is grouped with amendments 188, 189, 192 and 197.

**Des McNulty (Clydebank and Milngavie) (Lab):** Amendment 187 adds “duty under section 2” to

“functions under sections 5, 7, 8”

in section 19. That is explicitly to allow the relevant advisory body, whether it be the United Kingdom Committee on Climate Change or a Scottish climate change committee, to advise ministers on the interim target, should they require that. Putting

something into the bill to allow that process to take place seems sensible and worth while.

Amendments 188 and 189 are, in a sense, probing amendments. I want to be sure that the advisory body is in a position not just to give ministers “advice on climate change” in general terms—such advice could be defined in a variety of ways—but to give ministers

“advice on the effectiveness of the Scottish Ministers’ proposals and policies for achieving the interim and 2050 targets”.

There must be dialogue between the advisory body and ministers, not just on the task of tackling climate change but on the mechanisms that ministers employ. I presume that ministers intend to allow the Committee on Climate Change or a Scottish committee on climate change to give advice on the effectiveness of their policies and proposals. My amendments would include a provision on that in the bill, so I will be interested in the minister’s response.

Amendment 192 uses a similar form of words to that in an amendment of mine that we discussed at our previous meeting. The aim is to ensure that the advisory committee considers the way in which the trajectory of cuts in emissions is maintained, particularly to achieve the interim target. The form of words was accepted in a previous amendment, so I hope that it will be accepted again today.

Amendment 197 is probably the most important of the five amendments. It would require a report to be produced in 2015 on progress towards meeting the interim target. That will give the Parliament a break point to identify how we are getting on and, I hope, to put in place any measures that are needed to ensure that we meet the interim target. I hope that amendment 197 will receive the support of my fellow committee members.

I move amendment 187.

**Stewart Stevenson:** I am glad that Mr McNulty said that he regards amendment 197 as the most important one in the group, because I am pleased to say that I am content to support it. It will place a duty on the Scottish ministers to report on progress towards the interim target. The proposed content and timing of the report are sensible. It is reasonable that it should be laid by the end of December 2015, which is about the midway point between the commencement of the annual emissions targets in 2010 and the date of the interim target in 2020.

I appreciate Mr McNulty’s intentions in lodging amendment 197 and the remaining amendments in the group, but we have minor difficulties with those other amendments. Although we support the policy direction in which Mr McNulty is trying to

take us, I cannot currently support those amendments.

Amendment 187 seeks to add to the functions of the advisory body the function of giving advice on the Scottish ministers' duty under section 2 to ensure that the interim target is met. I can understand why members might want to add that to the advisory body's functions, but amendment 187 goes about that in the wrong way. In a real sense, the advisory body already has that function under the bill.

The advisory body's functions are listed in section 19(3). The sections that are listed in section 19(3)(a), which are all in part 1 of the bill, place a duty on ministers to request advice or a report from the advisory body. Section 2 contains no such duty, but section 8, which is listed in section 19(3)(a), contains a duty on ministers to request from the advisory body a report on our progress towards the achievement of the interim target. Although that is not framed as a duty to request or give advice, in essence it amounts to the same thing. Therefore, amendment 187 is not necessary.

Amendments 188 and 189 are well intentioned. I would like to accept them, as I appreciate their aim of adding an extra element to the functions of the body that provides advice, but I suggest that a more suitable place in the bill to achieve what amendment 188 seeks is section 19(3). The amendment would insert material into section 19(4), but that would not guarantee that the advisory body had that function. Section 19(4) lists things that "may" be included in an order under section 19(3)(c). Amendment 188 would therefore not guarantee that the function was conferred on the advisory body. However, I am perfectly happy to take the view of the committee on that and to consider in advance of stage 3 how we can amend the bill to take that policy point forward in a way that is effective and consistent with the bill as a whole.

I can see the intention behind amendment 192. It follows amendment 38, which the committee agreed to last week and which inserted similar words into section 3. However, amendment 192 would require the advisory body to provide advice on the consistency of achieving the interim target after 2020. I therefore cannot support amendment 192, but I am happy to work on tightening up the wording and to lodge an amendment at stage 3 to achieve Des McNulty's aim.

**Des McNulty:** I am minded not to move amendments 188 and 189 and to work with the minister to find a sensible way of delivering the intention behind the amendments. The minister made the same offer in relation to amendment 192, and I am happy to co-operate in that and not to move amendment 192.

I was not entirely convinced by what the minister said about amendment 187. The amendment would allow the advisory body the opportunity not just to contribute to whether the target is achieved but to consider the target in the round. That is why the particular form of words was chosen—it was to expand the capacity of the advisory body beyond the bill's intention. I therefore intend to press amendment 187.

**The Convener:** The question is, that amendment 187 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### AGAINST

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 187 agreed to.*

**The Convener:** Amendment 105, in my name, is in a group on its own.

The amendment is intended to give the advisory body the function of providing advice, analysis, information and assistance to members of the Scottish Parliament, including committees composed of members of the Scottish Parliament.

We have previously been told on the record during our formal meetings, and it has been stated in other public forums, that the UK Committee on Climate Change—the existing body—will have some form of relationship to the Parliaments here and at Westminster. It will not have a direct relationship just with Government. Amendment 105 seeks to formalise that system to some extent.

The committee has expressed some surprise that the Scottish Government decided not to seek formal advice from the UK Committee on Climate Change in advance of the passage of the bill and that it argued that such a move would be inappropriate. It is possible that a future Scottish Government might seek to take a different approach to climate change from that which is recommended by the advisory body or supported by the Parliament. In that situation, it would be of great value if the Parliament, or a successor committee to this one, were able formally to seek advice on the same basis from the advisory body. That is all that amendment 105 seeks to achieve.

It is consistent with the approach of giving the advisory body a degree of independent status. Having a slightly formalised relationship with Parliament outside of the relationship to Government would be helpful.

**Stewart Stevenson:** Will the convener take an intervention?

**The Convener:** That is all I was going to say. The minister will have the opportunity to contribute to the formal debate on the amendment.

**Stewart Stevenson:** I just wondered whether, as the mover of the amendment, you are able to inform us as to the cost to Parliament.

**The Convener:** The cost to Parliament?

**Stewart Stevenson:** Of having access to the advisory body or committee. Those who have access to and take advice from that committee will have to pay for it and to provision that body accordingly.

**The Convener:** I would suggest that that is a case-by-case scenario. The Parliament, in making such approaches, would consider the implications at the time.

I move amendment 105.

13:45

**Des McNulty:** Amendment 105 seems to be very widely drawn. It would allow "any" individual member of the Scottish Parliament to seek

"advice, analysis, information and other assistance"

from the UK Committee on Climate Change or the Scottish climate change committee. The body that ought to provide advice to individual members is probably the Scottish Parliament information centre. If committees, as parliamentary bodies, wish to seek advice from the relevant advisory body, they should be allowed to do so, but through a proper process. That might be through a response to a report, an invitation to give evidence or some other such mechanism.

There are other amendments later in the marshalled list that allow that process to take place, and I am reluctant to support amendment 105, given how widely it is drawn. There are perhaps more suitable mechanisms for delivering an appropriate interface between parliamentary committees and the UK Committee on Climate Change or a Scottish climate change committee.

**Stewart Stevenson:** Mr McNulty has made many of the points that I too would make. SPICe is certainly the in-house source of advice here, and it can commission advice on behalf of parliamentarians. The committee and Parliament would need to consider it carefully if they were to remove responsibilities that SPICe might be

thought to have in that respect and to place them elsewhere. The associated costs would have to be considered. If the source of the questions was from Parliament, it would properly be for Parliament to pay for the advice that it received, just as the Government has to pay out of its own resources for the resourcing of any committee or body that provides advice to ministers. Those are issues that bear further thinking about. I encourage committee members not to support amendment 105.

I should also point out that committees have the power, which they have exercised in many instances, to appoint their own advisers. That has often provided a useful way of getting the particular expertise that committees wish and of developing a more intimate, on-going relationship with the sources of advice than would be likely to be possible with a UK or Scottish advisory committee.

**The Convener:** In response to the financial question, I entirely concede that the consideration of cost would have to be taken seriously, although I do not think that it is a reason for prohibiting members of the Scottish Parliament from seeking advice, on a formal basis, from the advisory body. Such decisions would have to be made on a case-by-case basis, and permission should be given for them to be taken at the time.

In response to Des McNulty's comments, I will say that I deliberately did not restrict amendment 105 to parliamentary committees. If the amendment were agreed, parliamentary committees would certainly be able to seek advice formally from the advisory body. However, as the committee has acknowledged on a number of occasions, climate change is such a cross-cutting issue that individual members will have a clear interest in it, even if they are not members of a committee with a particular remit for climate change. I therefore intended to make amendment 105 broad so that it includes individual members who are not members of a committee with a specific remit.

Amendment 105 would simply give permission to members of the Scottish Parliament to seek such advice. I hope that it is not a probability, but it is certainly a possibility that the Government does not put to the advisory body a specific question that members of the Scottish Parliament consider important. Amendment 105 will allow members to ask the question.

The question is, that amendment 105 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Somerville, Shirley-Anne (Lothians) (SNP)

**The Convener:** The result of the division is: For 1, Against 7, Abstentions 0.

*Amendment 105 disagreed to.*

*Amendment 188 not moved.*

*Section 19, as amended, agreed to.*

### **Section 20—Scottish Committee on Climate Change**

*Amendment 189 not moved.*

**The Convener:** Amendment 131, in the name of Cathy Peattie, is grouped with amendments 132, 134, 135, 237 and 136.

**Cathy Peattie (Falkirk East) (Lab):** The amendments in this group are probing amendments on the relationship between the Scottish Parliament and the advisory body. Ministers will have a role in ensuring that the Scottish Parliament is aware of the establishment of the Scottish committee on climate change, and of its staffing, its role and remit, and its targets and direction. The amendments are about involving the Parliament in every way possible.

Amendment 237 is similar to Patrick Harvie's amendment 105 in that it concerns the right of committees of the Scottish Parliament to call for evidence so that they are aware of issues that may have moved on since the time of the original bill. That could help with inquiries, for example. I want committees of this Parliament to have the right to call the advisory body to give evidence. The committees would then be able to report to Parliament.

I move amendment 131.

**Stewart Stevenson:** The amendments in this group would require the Scottish ministers to consult the Scottish Parliament in specific circumstances before setting up the advisory body or giving it any direction.

If ministers establish a Scottish committee on climate change, it will be a significant step. I would be content to consult the Parliament before introducing an order to establish the committee; I am therefore content to accept the principle of amendment 131. However, the drafting appears to contain an error: it refers to consulting

"Before making an order".

That expression is not appropriate for an order that is subject to the affirmative procedure, as this one would be. The draft of the order will, of course, be presented to Parliament for approval, so Parliament will have an opportunity to scrutinise it and decide whether or not to approve it. I am therefore not entirely sure what is intended by amendment 131.

I am happy to give a commitment to the committee and to Parliament that ministers will consult before bringing forward a draft order—before the start of the 40 days—on establishing a Scottish climate change committee. Under what Bill Aitken has previously described as the mischief of the law, that commitment now has legal force.

Amendment 135 provides for a requirement to consult the Scottish Parliament. Given that the Parliament must scrutinise and approve the affirmative order, it is not clear what additional scrutiny the consultation duty affords, so I will not support that amendment. Although the same applies to amendment 131, I understand the significance of ministers seeking to establish a Scottish climate change committee, which is why I have said what I have.

On amendment 132, I remind the committee that the main purpose of the advisory body is to provide expert advice to the Scottish ministers. The amendment would require ministers to consult the Scottish Parliament before appointing members to the Scottish climate change committee. That would create a division and a potential conflict of responsibilities that would be likely to be unhelpful.

If appointments to the committee were to be agreed by the Scottish Parliament and ministers, accountability would become difficult as the members of the advisory body would be looking in more than one direction. Paragraph 2 of schedule 1 sets out the expertise and experience that the committee should have, and ministers would need to have regard to that when making the appointments. That is a sufficient and normal safeguard, and there are, of course, procedures already in place on public appointments.

To require that the ministers consult the Parliament prior to appointing members would be a departure from existing practice and could potentially deter applicants. It is already difficult in some circumstances to get a sufficient range of good-quality applicants. There are questions about how Parliament would be consulted and whether that would involve all members or only the members of relevant parliamentary committees. What would Parliament do as part of the process? There are a considerable number of questions and



uncertainties, so I do not wish members to support amendment 132.

Amendment 134 requires the advisory body to lay a report before Parliament in each year from the specified year onwards. Section 23(4) already provides for the laying of reports under section 23 and the time limits that are to apply to that. Amendment 134 carries the risk of introducing some confusion, given the provisions that are already in the bill.

On amendment 136, it is appropriate that ministers can give directions to the climate change committee about the exercise of functions without first clearing that with the Scottish Parliament. As is the case with amendment 132, it is not clear exactly how ministers would consult Parliament in a way that fulfilled the duty that the amendment encompasses.

I remind members that section 27(2) prohibits ministers from directing the advisory body as to the content of any advice or report, which protects its ability to publish its expert views unhindered and untrammelled by directions from ministers.

Amendment 237 provides a new duty under section 25 for the advisory body to provide advice, analysis and information on ministers' functions under the act. We have, in some ways, already discussed that in relation to amendment 105. Amendment 237 potentially asks the committee to comment on areas in which it does not actually have, or require to have, the expertise that would enable it to provide information on ministers' functions. In practice, it would be difficult to go down that road, and I ask members not to proceed on that.

I hope that my assurances to Cathy Peattie will encourage her to feel that it has been worth lodging those probing amendments and getting statements from the minister—which I hope she feels are adequate for the purpose—on the record.

14:00

**Cathy Peattie:** The minister is aware that I strongly support the establishment of a Scottish committee on climate change and that I am trying to ensure its success. As I said at the start, my amendments are probing. I am content with what the minister has said and seek leave to withdraw amendment 131.

*Amendment 131, by agreement, withdrawn.*

*Section 20 agreed to.*

### Schedule 1

THE SCOTTISH COMMITTEE ON CLIMATE CHANGE

*Amendment 132 not moved.*

**The Convener:** Amendment 15, in the name of the minister, is grouped with amendments 16 to 18, 139, 140, 145 to 148 and 32 to 34.

**Stewart Stevenson:** These are all minor drafting amendments. Amendments 139 and 140 improve the drafting, which mistakenly refers the reader to the act rather than the part. Amendments 145 to 148 correct the drafting of section 45, on "Programmes for adaptation to climate change", by removing unnecessary references to the section and subsection (2), and repetition of the term "the Scottish Ministers". Amendments 32 to 34 are intended to improve readability and to remove unnecessary words.

I move amendment 15.

*Amendment 15 agreed to.*

*Amendments 16 to 18 moved—[Stewart Stevenson]—and agreed to.*

*Schedule 1, as amended, agreed to.*

### Section 21—Application of sections 22 to 27

**The Convener:** Amendment 190, in the name of Rob Gibson, is grouped with amendments 191, 141 to 143, 214, 144, 215 to 218, 233 and 235.

**Rob Gibson (Highlands and Islands) (SNP):** The Scottish ministers' programmes to adapt to climate change will include their objectives, proposals and policies, and timelines for adapting to climate change. The laying of each programme will be triggered by the receipt of the UK secretary of state's report on the impacts of climate change—the UK climate change risk assessment—which, in turn, will be triggered by the latest scientific evidence from the UK climate impacts programme.

Each programme will have a lifetime of five years, after which an in-depth review will be conducted and consulted on, in preparation for the next five-year programme. Annual progress reports on the achievement of actions in the programme will be provided to Parliament. At that time, any new actions that have been identified for inclusion in the programme can be incorporated. That will ensure that the programme remains flexible enough to incorporate any improvements in our understanding of climate change adaptation.

During each five-year cycle, the UK Committee on Climate Change will provide two independent assessments of the Scottish ministers' progress on implementing the programme. A mid-term assessment will be provided two years into the cycle, and an end-of-term assessment will be provided just prior to the final development of the next programme, so that that programme may be informed by it.

At present, the Scottish Government is developing its first climate change adaptation programme, which is out for public consultation. The programme will run from 2009 to 2011, when it will be reviewed in the light of the first UK climate change risk assessment. The subsequent programme will, therefore, run from 2012 to 2017.

I should say a bit about the UK climate change risk assessment. It will assess the current and predicted impacts in Scotland as well as the rest of the UK. Many risks will be similar throughout the UK, but some will be specific to Scotland or parts of Scotland, for example those associated with deep peat or native pine woods.

The UK CCRA will provide unprecedented information for Scotland by sector and climatic region—those regions are north, east and west. The Scottish ministers have elected to participate in the assessment, as it will be conducted by a consortium of the UK's leading experts and will draw on the knowledge of the adaptation sub-committee of the UK CCC. I realise that there are a lot of UK CCRAs and UK CCCs in this—trust me.

The Scottish Government funds the UK CCRA along with the UK, Northern Irish and Welsh Administrations. To ensure that the assessment meets Scottish requirements, the Scottish Government will continue to play an active role throughout its development. The Government is part of the steering group that directs the work and will also play a leading role in the provision of Scottish data and information for the assessment, and intends to draw on the expertise of the Scottish Environment Protection Agency, Scottish Natural Heritage and others to assist in the exercise.

The first UK CCRA will be delivered in 2011, and subsequent reports will be produced every five years. Adaptation requires a long-term approach, as developments in climate change science run on a more or less five-year cycle and impacts and adaptation measures affect us over the long term.

The findings of the UK CCRA will inform policy development within Scotland. In formulating the Scottish ministers' programme for adapting to climate change, further consideration of the findings will necessarily be carried out by relevant Scottish policy developers, particularly within the Scottish Government and its agencies.

I submit that amendments 190, 191, 215 to 218, 233 and 235 strengthen the Government's approach to adaptation, increase scrutiny of it and accountability for it, and underline the annual reporting on it.

I move amendment 190.

**Stewart Stevenson:** Last week, we focused on numbers and targets; this week, we are starting to engage on the activities that we need to undertake. Adaptation is an important activity, and I am happy to encourage committee members to support all the amendments in the group.

No Government can address climate change alone: adapting to the changes in our environment will require the engagement of every part of our community. The Scottish Government is working to clarify roles for key stakeholders and define how it will work with them. Mr McNulty's amendment 214 is in line with that, therefore I am happy to commend it to the committee.

Adapting to climate change is also vital to laying the foundations for our future economy, environment and social wellbeing. The Scottish Government wants to do all that it can to foster innovation, and this group of amendments will strengthen progress reporting on the Scottish ministers' programme for adapting to climate change. I am therefore content to support all the amendments, but particularly amendments 190, 191, 215 to 218, 233 and 235.

The Government's amendments 141 to 144 are quite straightforward: they simply seek to amend section 45 to give priority to the Scottish ministers' programme for adapting to climate change.

I hope that the committee will see its way to supporting all the amendments in the group.

**Des McNulty:** The proposals in amendment 214 take forward two recommendations that we made in our stage 1 report: the requirement for public engagement and the need to involve stakeholders, particularly employers and trade unions. I am pleased that the minister is willing to accept the amendment. For our part, we are keen to support the amendments in the name of Rob Gibson.

**Rob Gibson:** In winding up, I thank members for their contributions and the minister for his support. Amendment 215 is necessary, because there is an error in the bill. It says that we will receive a report from the UK secretary of state; in fact, we will receive a copy of the report. Amendment 215 corrects that error. I did not mention that earlier; I kept it for last. I wanted to see whether everyone was still awake. I will press amendment 190.

*Amendment 190 agreed to.*

*Amendment 191 moved—[Rob Gibson]—and agreed to.*

*Section 21, as amended, agreed to.*

## **Section 22—Advice on annual targets etc**

*Amendment 106 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 106 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 106 disagreed to.*

*Amendment 107 not moved.*

*Amendment 108 moved—[Patrick Harvie].*

**The Convener:** Can I see all those in favour?

**Alex Johnstone (North East Scotland) (Con):** Instead of moving to a vote, do you not want to put the question, convener? We are agreed—I am agreed.

**The Convener:** You are? Are others agreed?

**Members:** Yes.

**Alex Johnstone:** Show more optimism, convener.

**The Convener:** There is no need to vote on amendment 108.

*Amendment 108 agreed to.*

**The Convener:** Where are we now? You have thrown me. *[Laughter.]*

I call amendment 192, in the name of Des McNulty, which has already been debated with amendment 187.

**Des McNulty:** I think that I had an assurance on the matter from the minister.

*Amendment 192 not moved.*

*Amendment 109 moved—[Patrick Harvie].*

**The Convener:** The question is, that amendment 109 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** Clearly, Alex Johnstone does not want a precedent to be set.

There will be a division.

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 109 disagreed to.*

*Amendment 110 not moved.*

**The Convener:** I call amendment 60, in the name of Des McNulty, which has already been debated with amendment 50. If amendment 60 is agreed to, amendment 19 will be pre-empted.

*Amendment 60 not moved.*

*Amendment 19 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 61 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 61 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 61 agreed to.*

**The Convener:** Amendment 193, in the name of Des McNulty, is grouped with amendments 194 to 196, 137 to 138 and 119.

14:15

**Des McNulty:** Amendments 193 and 119 are, in a sense, similar; the issue is their positioning in the bill. The committee has adopted an approach of asking for the respective contributions that the four main areas of energy efficiency, energy generation, land use and transport should make towards meeting the annual targets. That approach should be identified in section 22, which deals with the giving of advice, because that will provide the earliest indication of what is accepted. I half take the view that if amendment 193 is agreed to, amendment 119 might not be

necessary, but I will leave it to Alison McInnes to make her own case in that regard.

The committee is keen on amendment 193 being incorporated in the bill, as that will carry forward an approach that the committee agreed to in its stage 1 report. On that basis, I commend amendment 193 to members.

I move amendment 193.

**The Convener:** I welcome Liam McArthur, who has joined us.

**Liam McArthur (Orkney) (LD):** Thank you very much, convener.

At the outset, I should probably declare an interest. As committee members and the minister will be aware, there were press reports at the weekend that it is likely that the Orkney island on which I grew up—Sanday—will be uninhabitable by the end of the century as a consequence of climate change. According to some projections, Sanday and the neighbouring island of North Ronaldsay will be completely under water by then. My parents still live happily and healthily at the north end of Sanday, and I am painfully conscious that my prospective inheritance may sink below the waves in the decades ahead.

I represent a constituency that is seen as a bellwether for climate change. That brings home to me the purpose of my amendments and the bill. My amendments seek to ensure that decisions on new electricity generating plants such as coal-fired plants are made with the full understanding of their impact on the budgets and targets that we set for Scotland's overall greenhouse gas emissions. The amendments build on the sound principle in section 29 that recognises the importance of electricity generation to the overall achievement of our climate change targets.

I do not want to put words into the minister's mouth, but he may be uncomfortable with the levels of detail in amendments 195 and 196. However, I argue that the detail can be seen as proportionate, given the importance of electricity generation to our overall emissions and the achievement of the targets that will be set.

Amendments 195 and 196 reinforce Des McNulty's amendment 193 by specifying that the advice should address lifetime emissions against a cumulative budget, not simply against annual emissions. The UK Committee on Climate Change increasingly supports that approach, which is borne out by its decision to assess and recommend average greenhouse gas emissions per megawatt hour of capacity for the UK at several dates in the timeline towards the virtual decarbonisation of the electricity supply. It would clearly be reasonable and useful to seek such advice from the advisory body.

Amendments 137 and 138 reinforce amendment 119 by requiring the reports that are called for also to address the lifetime emissions of new consents and to explain the logic behind granting new consents that are likely to cause concern. Ministers may wish to define an appropriate level through guidance in due course, but I think that the California standard—which measures against the emissions of a modern gas plant—is appropriate, at least in probing the amendments with ministers.

In recent weeks and months, there have been many welcome carbon capture and storage developments from the Governments north and south of the border and at the European Union level. The bill is probably not the place to mandate CCS, but the amendments on advice and reporting would mean that a carbon capture and storage station consent would not trigger a ministerial statement, although an unabated coal permission would. That is a helpful distinction.

**Alison McInnes (North East Scotland) (LD):** Amendment 119 introduces a new subsection. It was lodged in response to a unanimous committee recommendation that the bill ought to contain some broad sectoral targets. The amendment does not get into the matter of what those targets should be; rightly, it leaves that to ministers through the development of action plans. However, it is important for the bill to acknowledge at the outset the role that everyone will play in trying to meet the targets.

In order to meet emissions reduction targets, it will be important for all sectors to contribute, and my amendment 119 will ensure from the start that ministers have a duty to direct the four major contributors to Scottish emissions on the efforts that they have to make towards meeting the overall annual targets. Enshrining basic sectoral targets in the bill will help to ensure that emissions are reduced across the Scottish economy. That is the most efficient way of ensuring that the majority of our reduction targets are met through domestic effort rather than the use of carbon units. Sectoral targets will encourage innovation in those sectors, which might result in the development of new technologies, techniques and policies that can play a role in boosting Scotland's economy as other countries look to adopt those innovations.

I support Liam McArthur's amendments 195, 196, 137 and 138. I support Des McNulty's amendment 193, but I query the need for amendment 194.

**Stewart Stevenson:** I am pleased to confirm that we encourage the committee to support amendment 193 and that, if Mr McNulty feels that it is required, we have no difficulty with amendment 194.

As the committee said in its stage 1 report, energy efficiency, energy generation, land use and transport will be important areas in any strategy to reduce Scotland's emissions. Mr McNulty's amendments 193 and 194 clearly address those issues, ensuring that they are not excluded from any advice that the advisory body gives to the Scottish ministers on annual targets. I doubt that, in practice, they would be excluded, but it is entirely proper that we seek to amend the bill to ensure that they are formally covered.

Alison McInnes's amendment 119 is on a similar subject. We are quite comfortable with the general policy intention that underpins the amendment, but there are some drafting problems that mean that we cannot support it as it stands. It is rather difficult to argue that energy efficiency is a sector of or an area within the Scottish economy, which is where the difficulty lies. However, I am comfortable with the policy direction and, if Alison McInnes is content, I am quite happy to bring forward a Government amendment at stage 3 to achieve the same outcome, however that is done.

On Liam McArthur's amendments 195, 196, 137 and 138, I had not been aware that Sanday and Ronaldsay were going to disappear beneath the waves. It is a statement of the obvious to say that I would not welcome our losing any part of Scotland, but I would also not like Mr McArthur's inheritance to be affected, so we will see what help we can give him on that one.

We have sympathy with the general ethos of Mr McArthur's amendments, because it is worth while to be able to demonstrate how green our electricity generation is, as that can have the benefit of motivating innovation and so on. That was the reason why we included details of electricity consumption in section 29(4). I am therefore content to recommend that the committee support amendment 137, because reporting greenhouse gas emissions that are associated with electricity generation would be a useful addition to the bill. We will want to consider further whether there might be some difficulties around the data that will be available to support and sustain that reporting. If we establish that that is the case, we will seek to fine-tune the bill at stage 3. However, we are content for the amendment to be passed at this stage—we will not try to tinker with the policy intention.

Amendments 195 and 196 present us with some difficulties. Amendment 195 is intended to require the advisory body to provide advice to the Scottish ministers in respect of emission standards for electricity generators. However, the drafting makes it difficult to know what the advisory body would actually be required to include in that advice. There is also a discrepancy with the time

periods in amendment 195. The amendment refers to

"the net Scottish emissions budget for the period 2010-2050",

but is placed within section 22, which requires the advisory body to provide advice in relation to the setting of annual targets. Batches of annual targets will be set in 2010, 2011, 2016, 2021 and so on. Annual target batches will cover 12 to 16 years at any given time, prior to the immediate run-in to 2050. Amendment 195 would require the advisory body to provide advice on electricity generation emissions every time that batches of annual targets were set. That would be done without reference to the annual targets but, instead, with reference to the net Scottish emissions budget for the whole period from 2010 to 2050, which is somewhat at odds with other reporting timescales in the bill.

The proposed new section 22(3)(d)(i) in amendment 195 would require the advisory body, when providing advice to the Scottish ministers on the setting of annual targets, to express a view as to the

"appropriate total lifetime greenhouse gas budget per megawatt hour of generating capacity",

but it is not clear from the amendment whether that would be a single average figure per megawatt hour for the period 2010 to 2020, although we find it difficult to see what else it could be.

The units are also a problem. The term "megawatt hour" is incorrect in the context. Megawatt hours are measures of energy that is generated over time, in other words, power delivered. Energy generation capacity, to which the amendment refers, is measured simply in megawatts—no time factor is associated with it. A budget, which in this context is an amount of emissions over time, cannot be set in relation to measures of energy generated over time.

The proposed section 22(3)(d)(ii) refers to

"appropriate initial levels of greenhouse gas emissions per megawatt hour."

Setting aside the issue of the measurement units, which I have already referred to, the advisory body would have to give its views on that matter at least every five years, and it would not be possible for it to give its views on initial levels of emissions each time.

Amendment 196 also contains a technical flaw as it refers to "the relevant body" but is placed within section 22, which is concerned with advice that the advisory body must provide to the Scottish ministers.

Amendment 138 uses the term

“modern combined cycle gas turbine”

as a reference point. We are not clear what the legal interpretation of the term “modern” might turn out to be, given that the bill is designed to last until 2050. We also have difficulties with the fact that the amendment’s reference point is gas, and does not appear to take other energy sources into account.

We need a balanced energy mix. Reference was made to carbon capture and storage. The post-combustion CCS proposals for Longannet are welcome. We are leading the way on that. That technology and others have the potential to reduce emissions, and the Government has made clear that we place huge importance on that and are committed to the decarbonisation of our electricity by 2030, which follows the recommendations of the Committee on Climate Change.

The factors that I have outlined explain our difficulties with the detail of many of the amendments, which is why we cannot support them, although we absolutely understand why members lodged them.

**The Convener:** I ask Des McNulty to wind up the debate on this group and indicate whether he wishes to press or withdraw amendment 193.

**Des McNulty:** It has been interesting to listen to the minister speak about Liam McArthur’s amendments. I took from that that there is a shared objective, but there are some concerns about the drafting. Perhaps we can come back to that at stage 3.

I hope that the committee will agree to amendment 193. We might consider a revised version of amendment 119 in due course, if that proves to be necessary.

14:30

**Stewart Stevenson:** In case the member missed it, I repeat that we are content with Mr McArthur’s amendment 137.

**Des McNulty:** I did not say much about amendment 194 at the outset. I thought that listing the main sectors in amendment 193, which I hope will be agreed to, militated against the identification of sectors in which there are particular opportunities for contributions to be made. It seems to me that the four sectors are the ones that we need to focus attention on. I am always a bit nervous about Government bodies identifying “winners” and being required to do so for legislative reasons. As good legislative practice, I would therefore prefer us to agree to amendment 194, which leaves out lines 25 to 27 of section 22.

I press amendment 193.

*Amendment 193 agreed to.*

*Amendment 194 moved—[Des McNulty]—and agreed to.*

**The Convener:** Amendment 195, in the name of Liam McArthur, has already been debated with amendment 193. I ask Liam McArthur whether he wishes to move the amendment.

**Liam McArthur:** I am inclined to move amendment 195. Although the minister was sympathetic to the rationale behind it, I am not sure that he made clear whether he proposed to return with wording to address his concerns about amendments 195, 196 and 138. In the absence of that clarification, I move amendment 195.

**The Convener:** The question is, that amendment 195 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 195 disagreed to.*

*Amendment 196 moved—[Liam McArthur].*

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

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 196 disagreed to.*

*Section 22, as amended, agreed to.*

### Section 23—Reporting on progress towards targets

*Amendment 134 not moved.*

**The Convener:** Amendment 111, in the name of Alison McInnes, has already been debated with amendment 9. I point out that if amendment 111 is agreed to, I will be unable to call amendment 20.

*Amendment 111 moved—[Alison McInnes].*

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

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 111 disagreed to.*

*Amendment 20 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 62 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 62 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 62 agreed to.*

*Amendment 63 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 63 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 63 agreed to.*

**The Convener:** Amendment 112, in the name of Alison McInnes, has already been debated with amendment 9. I point out that if amendment 112 is agreed to, I will be unable to call amendment 21.

*Amendment 112 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 112 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 112 disagreed to.*

*Amendment 21 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 135 not moved.*

*Section 23, as amended, agreed to.*

### Section 24—Scottish Ministers' response to reports on progress

**The Convener:** Amendment 64, in the name of Alison McInnes, was debated with amendment 9. I point out that, if amendment 64 is agreed to, I will be unable to call amendment 22, in the name of the minister.

*Amendment 64 moved—[Alison McInnes].*

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

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 64 disagreed to.*

*Amendment 22 moved—[Stewart Stevenson]—and agreed to.*

*Section 24, as amended, agreed to.*

**Section 25—Duty of advisory body to provide advice or other assistance**

*Amendment 237 not moved.*

*Section 25 agreed to.*

*Section 26 agreed to.*

**Section 27—Power to give directions to advisory body**

**The Convener:** Amendment 113, in my name, is grouped with amendment 114.

Amendment 113 amends the section that gives ministers the power to give directions to the advisory body. Once again, I return to the theme of the independence of the advisory body. It seems to me entirely reasonable that ministers should be able to give guidance on specific issues to the advisory body. However, the power to give directions seems to go further than is required and, if we are to agree that ministers should be able to exercise the power to give directions to the advisory body, I would like the minister to give us specific reasons for that.

We have made it clear all along that we want the Scottish Government's approach to climate change to be science led. As the advisory body will be the principal source of scientific advice on the issue, it is important that that body can exercise its functions in a manner that is at least broadly independent. I am as sure as I can be that the current Government would not wish to frustrate the efforts to tackle climate change. However, we are setting up a system that must be robust whatever future Government might exist and in the face of significant challenges. The ambition to secure substantial and dramatic long-term cuts in carbon emissions and greenhouse gas emissions will result in some difficult decisions being made, and some aspects of what is required will be unpopular. It is possible that a future Government

might want to take a different approach from that which the science suggests is required. Therefore, it seems necessary that the advisory body should be able to exercise its functions independently, and that a future Government is not allowed to take an easy option that may be politically less damaging but environmentally more damaging.

Amendment 113 simply removes the section that allows ministers to give directions to the advisory body.

I move amendment 113.

**Stewart Stevenson:** Amendment 113 would delete all of section 27 apart from the statement:

"The Scottish Ministers may not direct the advisory body as to the content of any advice or report."

The convener appeared to suggest that, without the amendment, ministers could influence the expert advice that is to be provided by the advisory body. However, section 27(2) makes it perfectly clear that that cannot happen.

It might be worth pointing out that the corresponding powers in the UK Climate Change Act 2008 are more broadly drawn. The act says:

"The national authorities may give the Committee"

directions

"as to ... the exercise of ... its functions generally, or ... any of its functions under schedule 1."

With section 27(2), we have ensured that the powers are more tightly drawn and that the advisory body can provide independent expert advice.

Why would ministers wish or require to give directions to the advisory body? One mechanical example of what might happen if the powers were to be deleted—I make it clear that this is as much speculation as a situation in which a minister might wish to damage the body's powers, which of course would not happen under any Administration—is that if, say, the body wished to take over the whole Royal high school campus for its headquarters, the minister would have no power to direct that it should not do so or that it should set itself up at a more appropriate location or in a more appropriate size of building. Once the exclusion in section 27(2) is taken into account, the direction retained is the direction that it would be proper to give to any body. I simply do not think that amendment 113 is directing its fire in the right direction and I encourage the committee not to support it.

**The Convener:** I wanted to draw out the possibility—I stress that it is only a possibility—that in giving directions on what might technically be organisational or operational matters instead of on the content of a report, a future Government that was so minded could impact on the advisory



body's ability to perform its functions. It is, however, worth reflecting on whether the intention behind amendment 113 might be better expressed by taking a different approach to section 27(2), which it seeks to retain.

*Amendment 113, by agreement, withdrawn.*

*Amendments 136 and 114 not moved.*

*Section 27 agreed to.*

### **Section 28—Reports on annual targets**

*Amendment 65 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 65 be agreed to. Are we agreed?

**Members:** No.

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

#### **FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### **AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 65 agreed to.*

*Amendment 115 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 115 be agreed to. Are we agreed?

**Members:** No.

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

#### **FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

#### **AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 115 disagreed to.*

*Section 28, as amended, agreed to.*

### **Section 29—Reports on annual targets: content**

**The Convener:** Amendment 116, in my name, is grouped with amendments 67, 117, 118, 23, 120 and 121.

Amendment 116 relates to paragraphs 66 to 72 of the committee's stage 1 report, which deal with the question of reporting on cumulative emissions. In particular, we recommended that, although a reporting regime on cumulative emissions must be separate from reporting on the targets that the bill will establish formally, the Government should develop an approach on the data for cumulative emissions.

14:45

I acknowledge that several approaches could be taken. It could be argued fairly that Cathy Peattie's amendments 118, 120 and 121 provide a better and more effective method of achieving the aim than my suggestion provides. Either approach would work better alongside the approach that I suggested in other amendments, which was that we should use the form of words a "fair and safe" level of emissions. We might still have time to address the need for that form of words.

We have heard the arguments in favour of reporting on cumulative emissions. The committee is well aware that the emissions in any one year, whether in 2020, 2050 or any other point in time, are not the emissions that have an impact on climate change—that impact is a result of the total emissions over the period. It is therefore a requirement that the committee's recommendation should be taken into account. I am happy to hear arguments for other approaches and to hear the minister's response. However, I hope that, at the end of the debate, a version of our agreed recommendation—that we need reporting on cumulative emissions—is agreed by the committee.

I move amendment 116.

**Des McNulty:** I will leave Cathy Peattie to speak to her amendments on cumulative assessment. I simply say that I broadly prefer her approach to that which was suggested by Patrick Harvie.

Amendment 67 in my name is intended to ensure that we have a record of the extent to which the reduction in the net Scottish emissions account can be accounted for by reductions in net Scottish emissions. In other words, it seeks to include information on the proportion of domestic reductions in the overall reductions that are derived from the efforts that are undertaken.

**Cathy Peattie:** It is obvious from our debates and discussions that there is a fair amount of common ground on the call for cumulative

targeting and measuring. Amendments 118, 120 and 121 are fairly simple, I guess. They would require annual reporting on cumulative emissions from 2010 to 2050, with a breakdown for the periods 2010 to 2020 and 2010 to 2050. We must be clear about how we measure emissions, and we should recognise the importance of cumulative targets. It is vital that the provisions are included so that there is no ambiguity on how cumulative emissions are measured and the role of cumulative targets.

**Stewart Stevenson:** We are relaxed about the amendments in the group, although we particularly commend those in the name of Cathy Peattie as ones that should attract support, as I think the convener acknowledged.

Amendment 23, which is in my name, is relatively technical. There might be occasions when it is necessary for us to adjust the amount of the Scottish net emissions account for a past year, because of either significant changes in emissions or the use of credits. It is important that we can correct the account in a variety of circumstances. The amendment would require the Government to give an account to Parliament of why an adjustment is required and to restate the accounts. As we proceed to 2050, international standards and measurements will change and we will find from time to time omissions or double counting in published numbers, so it is important to have the power but to be accountable for its exercise.

**The Convener:** I welcome the clear recognition that an approach of cumulative emissions reporting is required. I endorse again the approach that Cathy Peattie proposes. On that basis, I seek leave to withdraw amendment 116.

*Amendment 116, by agreement, withdrawn.*

*Amendment 67 moved—[Des McNulty]—and agreed to.*

*Amendment 117 not moved.*

*Amendment 137 moved—[Liam McArthur]—and agreed to.*

*Amendment 138 moved—[Liam McArthur].*

**The Convener:** The question is, that amendment 138 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

#### AGAINST

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)

Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 138 disagreed to.*

*Amendment 118 moved—[Cathy Peattie]—and agreed to.*

*Amendment 23 moved—[Stewart Stevenson]—and agreed to.*

*Section 29, as amended, agreed to.*

### Section 30—Reports on proposals and policies for meeting annual targets

*Amendment 68 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 68 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### AGAINST

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 68 agreed to.*

*Amendment 119 not moved.*

*Section 30, as amended, agreed to.*

### Section 31—Reports on proposals and policies where annual targets not met

*Amendment 69 moved—[Des McNulty].*

**The Convener:** The question is, that amendment 69 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

#### AGAINST

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 69 agreed to.*

*Section 31, as amended, agreed to.*

**The Convener:** I suggest a short comfort break. If members aim to be back at 3 o'clock, that will be extremely helpful.

14:53

*Meeting suspended.*

14:59

*On resuming—*

**The Convener:** I welcome Jim Hume, Peter Peacock and John Park to the meeting. They have joined us for the resumption of our consideration of amendments.

#### After section 31

**The Convener:** Amendment 70, in the name of Shirley-Anne Somerville, is grouped with amendment 124.

**Shirley-Anne Somerville (Lothians) (SNP):** With the exception of specified emissions from international aviation and shipping, Scottish emissions, according to the bill, are emissions that "are emitted from sources in Scotland".

That approach is consistent with the reporting methodology that is required under the protocols of the United Nations Framework Convention on Climate Change. However, measuring Scotland's emissions using that production-based methodology does not take account of emissions that are generated outside Scotland in the creation of goods and services that are ultimately consumed in Scotland. A frequently used example is the closure of the Ravenscraig steelworks in 1991. Scotland's carbon emissions reduced considerably as a result of that closure, but our consumption of steel has increased since 1991 and we use a greater quantity of imports.

The purpose of amendment 70 is to place a duty on the Scottish ministers to produce

"a report in respect of each year in the period 2010-2050", which must

"set out the emissions of greenhouse gases ... which are produced by or otherwise associated with the consumption and use of goods and services in Scotland during that year."

Measuring and reporting emissions on the basis of consumption is a developing area. In its stage 1 report, the committee recommended that any provisions in that respect

"should be flexible enough to take account of developing international understanding of the methodology for consumption reporting."

Amendment 70 provides such flexibility, and it has the support of the Stop Climate Chaos Coalition, which I thank for its assistance in putting together the amendment.

I move amendment 70.

**The Convener:** Amendment 124 is in my name. Like Shirley-Anne Somerville's amendment, it emphasises the importance of finding mechanisms to address consumption-based emissions. The effort to cut Scotland's long-term greenhouse gas emissions will be worth very little if all that we end up doing is exporting emissions to other countries. It is clear to most people that a substantial chunk of Scotland's and the UK's emissions reduction over recent decades is a result of industries moving overseas, rather than of practices changing. Carbon emissions that are moved from one country to another should not really be thought of as reductions in emissions.

The committee explored those issues in its stage 1 report and recommended

"that a mechanism for reporting on consumption should be established which is in addition to, but separate from, the framework of targets set out in the Bill."

Amendment 124 seeks to ensure that the Scottish Government's development of a methodology to achieve that would be put to public consultation. It stands together reasonably well with Shirley-Anne Somerville's amendment 70, which I intend to support. Amendment 70 requires ministers to lay a report containing information on emissions that are produced in association with

"the consumption and use of goods and services in Scotland".

Amendment 124 simply adds that there should be a process of consultation around the methodology. On its own, amendment 124 places a requirement on the Government to come forward with proposals; in association with amendment 70, it makes it clear that the process should happen more or less immediately, and certainly for the 2010 report. For that reason, I think that the two amendments in the group are compatible.

**Stewart Stevenson:** Amendments 70 and 124 address the need for a consumption reporting duty. The production-based measurement that the bill establishes is consistent with international emissions reporting practice, as established under the UN Framework Convention on Climate Change. However, like other members, I recognise that measuring Scotland's emissions using production methodology does not tell the full story, as it does not account for the emissions that are produced by the goods and services that we import. For that reason, I am happy to support

amendment 70, which will help to provide a fuller picture when it comes to calculating and reporting Scotland's emissions.

By contrast, amendment 124 in the convener's name focuses on consultation about possible ways of recording and reporting consumption. If amendment 70 is agreed to, amendment 124 is not necessary because the information to which it refers is a subset of the information that is required under amendment 70.

More fundamentally, amendment 124 deals only with the process of importation and does not deal with any other issues that are associated with the goods and services. Therefore, it is extremely restrictive with regard to the effect of goods and services that have come from elsewhere. The act of importation is but a small part of the carbon cost of such an activity.

Accordingly, I invite the committee to support amendment 70 but not amendment 124.

**Shirley-Anne Somerville:** Given the minister's remarks on amendment 124 and its narrow interpretation, I am reluctant to request that the committee support it.

I stress the fact that WWF Scotland has advised me that, if amendment 70 is agreed to, the bill would be the first to make consumption reporting a legislative requirement. Although we may disagree about whether other parts of the bill are world leading, the proposed new section that amendment 70 would insert truly would be.

*Amendment 70 agreed to.*

*Amendment 197 moved—[Des McNulty]—and agreed to.*

### **Section 32—Report on the interim target**

*Amendments 24 to 26 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 120 moved—[Cathy Peattie]—and agreed to.*

*Amendments 27 to 31 moved—[Stewart Stevenson]—and agreed to.*

*Section 32, as amended, agreed to.*

### **Section 33—Report on the 2050 target**

*Amendment 121 moved—[Cathy Peattie]—and agreed to.*

*Section 33, as amended, agreed to.*

### **Section 34—Reports: provision of further information to the Scottish Parliament**

**The Convener:** Amendment 71, in the name of Des McNulty, is grouped with amendments 122, 122A, 72, 73 and 123.

**Des McNulty:** My purpose in lodging amendments 71 to 73 was to attempt to streamline the reporting process so that the Parliament's requirements and the Government's responsibilities mesh. I sought advice from the clerk on the best mechanism to do that, so there is a weight of consideration behind introducing the right mechanisms to trigger reports being sent to the right places and dealt with correctly by the Parliament's committees.

On amendment 122, in the convener's name, and amendment 122A, in the name of Alison McInnes, I seem to remember that the convener was one of the critics of the national planning framework reporting system, and I wonder whether a restricted 60-day consultation period would give all committees in all circumstances the maximum flexibility and opportunity to fulfil their reporting responsibilities. I would prefer the mechanism that I suggest.

I will wait to hear what Alison McInnes has to say on amendment 123, but I fear that the amendment as drafted might inhibit the Scottish Government from doing good things in advance of Parliament holding a meeting to agree to put them in place. I am not sure that the proposed mechanism is the best approach, and I commend instead the approach that I put forward in amendments 71 to 73.

I move amendment 71.

**The Convener:** I will speak to amendment 122 and the other amendments in the group. I acknowledge that the basic model that I am proposing is the one that was adopted in relation to the national planning framework: the idea of a fixed period for parliamentary consideration.

I acknowledge the spirit in which the Government introduced its proposal for a process of communication or debate with the committee conveners. It was broadly recognised that, although that mechanism was not quite the right one for enhanced scrutiny, it was brought forward in the right spirit. The Government recognises that the consideration of the reports is more than a small piece of business that a committee might polish off in one agenda item in an afternoon, and that we require something more.

That was similarly acknowledged in relation to the national planning framework. I argued for the mechanism in that case to be strengthened in some aspects, and there was debate on the length of time that should be allowed, but a more fundamental argument was about whether ministers should approve the NPF or Parliament should approve it through a vote. That argument is perhaps less relevant to the application of the mechanism to the parliamentary consideration of reports in this area. The parliamentary

consideration period of 60 days would allow not only the committee that has climate change as a specific part of its remit—this committee or a successor committee—but other committees that have responsibility for policy areas with a clear relevance to climate change, such as housing, agricultural land use or energy, to consider the report and to produce a report if they saw fit.

I do not object, as such, to some of Des McNulty's proposal, but I am not entirely sure that it adds to what parliamentary committees are already able to do. Committees can call ministers to appear before them—as the minister who is before us today does from time to time—to answer questions. I am not sure what specific benefit arises from expressing that power, which we already have, in the bill. I emphasise the additionality of the mechanism that I am proposing, which requires a pause of 60 business days in which parliamentary committees can conduct a process, after which the minister can bring forward a statement.

I am happy to accept Alison McInnes's amendment to amendment 122, as it clarifies it somewhat. I ask Alison McInnes to speak to amendment 122A and other amendments in the group.

**Alison McInnes:** I support amendment 122, as amended by my minor amendment 122A, which provides a bit of clarity and does not need much further explanation. On a point of principle in relation to amendment 122, I agree that the idea of assessing the situation in the same way as the national planning framework deserves a great deal of consideration and carries a lot of merit. If we are to make the changes that are needed in response to climate change, we need cross-party support and thorough, on-going debate, and we need to encourage the iterative process that will emerge from such debate, to ensure that over the years all members of the Parliament are properly engaged.

15:15

Behind amendment 123 lies an acknowledgement that it is likely that a target will be missed at some stage during the period that the bill covers. Missing a target will have serious implications, not just for the achievement of the long-term percentage targets but because of the quantity of greenhouse gases that will have been released into the atmosphere. Therefore, it will be important to give proper consideration to measures that are proposed in response to a missed target. Amendment 123 would enable enhanced scrutiny of such measures and would give the Parliament the opportunity to help to shape policies aimed at compensating for excess emissions.

The approach would ensure that, although it would remain the responsibility of the Government of the day to develop proposals to compensate for the excess emissions, the Government would be required to take on board the Parliament's views, as happens with the national planning framework. The requirement to gain the Parliament's approval for the proposals should enable us to come up with the most effective approach.

Mr McNulty said that a delay of 60 days would prevent the Government from taking effective action. However, we are talking about a long-term programme. If we miss a target, it will be appropriate to take a little time to reflect on how we can get back on track.

**Stewart Stevenson:** This group of amendments is very much about how the Parliament will be informed. I do not want to be unduly prescriptive about the matter on behalf of the Government, because it is substantially for the Parliament to determine how it wants information to be provided and how it wants to interact with ministers. The point was made that ministers are regularly required to appear before committees of the Parliament. I have done a quick check and I think that I have appeared before six or seven committees so far, and I am sure that other ministers operate on a similar basis.

I am relatively relaxed about amendment 71, in Des McNulty's name. However, amendment 71 would not add a great deal to the bill and there is a risk that its proposed approach is at odds with rule 14.1.1 of the standing orders of the Scottish Parliament, which envisages a single gateway for the provision of information to the Parliament. I suggest to Mr McNulty that the debate will serve the purpose that he seeks to achieve and I ask him not to press amendment 71.

The language of the debate on amendments 122, 122A and 123 was interesting. The convener talked about a mechanism that

"requires a pause of 60 ... days"

and Ms McInnes talked about the need to "take a little time" to consider missed targets. If there is any subject in relation to which the Government has been under intense pressure as the bill has progressed, it has been the need for urgent action.

The approach that is set out in amendment 123 would provide for a pause in circumstances in which a target was missed. It is worth making the point that a report would be laid before the Parliament some two years after the year in which the target should have been met. Amendment 123 carries the risk that ministers would not be able to engage in advance of the report being laid. In general, the missing of a target will be foreseen as a result of early data, which will be available to members and ministers. In any event, failure to

meet a target will be precisely the point at which the urgent action that is asked of the Government will be most needed.

It is certainly the case that, when there is a missed target, substantial account has to be taken of the circumstances and Government response. That said, it would be a particularly inopportune point in the cycle at which to put the handcuffs on ministers and prevent them from taking any necessary actions that might just make the difference. I strongly suggest that we do not proceed along the way that is set out in amendment 123.

Amendment 72 does not add anything significant to the bill, as we attend parliamentary committees already. In fact, the requirements are less onerous than the provision in section 34 that it seeks to replace. We recognise the cross-cutting nature of climate change. Some have suggested that the meetings with conveners would be held in private, but we would be very disappointed if that were the case, as it is important that things are done in public.

On amendment 73, of course, Parliament must hold ministers to account on this subject as it does on so many others. The bill probably goes further than anything that we have done so far to ensure high levels of scrutiny. However, the contents of reports should be a matter for ministers to decide and Parliament should question ministers on what they should include in reports, what their actions are and what reports are about. If Parliament were to control and dictate the content of reports, there would be little role for ministers in defending them and it would be difficult to hold ministers to account for them.

I hope that that is helpful. We take the view that it is fundamentally for the Parliament to come to its conclusions on this matter, but I hope that, in coming to its decisions, the committee will take account of my remarks.

**Des McNulty:** I do not have much to add to what the minister and I have said on amendment 123 other than to say that it is well intentioned but probably not the right thing to do.

On amendment 122, the national planning framework mechanism was deemed appropriate for something that would be brought forward every five, six or 10 years—an event with a process defined for dealing with it. However, that mechanism is being applied here to an annual process of target review. Is the NPF mechanism, with all its associated constraints and timescales, as relevant in this context as it is in other settings?

We have heard that amendments 71 to 73 do not add much to the standing orders. In fact, they are a reflection of standing orders and the mechanism for ensuring that committees get

information and can respond speedily. Amendment 71 contains a requirement for copies of reports to be sent to committee conveners. We are unhappy about the proposed use of the Conveners Group, which meets in private, as the mechanism for scrutiny. We want that task to involve a committee that meets in public.

If we agree to amendments 71 to 73, we will not only get the information but committees will be enabled explicitly to call witnesses before them to give evidence on the report and require ministers to have regard to resolutions or reports from the Parliament or its committees. The proposed mechanism is simple and straightforward. I hope that members support the amendments.

I will press amendment 71.

**The Convener:** The question is, that amendment 71 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

**ABSTENTIONS**

Harvie, Patrick (Glasgow) (Green)

**The Convener:** The result of the division is: For 4, Against 3, Abstentions 1.

*Amendment 71 agreed to.*

*Amendment 122 moved—[Patrick Harvie].*

*Amendment 122A moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 122A be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 122A agreed to.*

**The Convener:** The question is, that amendment 122, as amended, be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 122 disagreed to.*

*Amendments 72 and 73 moved—[Des McNulty]—and agreed to.*

*Amendment 123 moved—[Alison McInnes].*

**The Convener:** The question is, that amendment 123 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Gordon, Charlie (Glasgow Cathcart) (Lab)  
Johnstone, Alex (North East Scotland) (Con)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 123 disagreed to.*

*Section 34, as amended, agreed to.*

*Section 35 agreed to.*

#### **After section 35**

*Amendment 124 not moved.*

#### **Section 36—Duties of public bodies relating to climate change**

**The Convener:** That brings us to climate change duties on public bodies. Amendment 198, in the name of Cathy Peattie, is grouped with amendments 199 to 203, 228, 230, 231, 234 and 236.

**Cathy Peattie:** It will be important that duties are placed on public bodies, to ensure that the ideas in the bill are taken forward.

It is perhaps starting the wrong way round, but amendment 236 seeks to amend the reference to public bodies in the long title. The duties on public bodies in relation to climate change are reflected in this suite of amendments.

The voluntary approach did not work for equalities. Right at the start of the bill team's work, the team told us of the hope that local authorities and other public bodies would accept the commitments on climate change. It took 20 years for commitments on equalities to go through and for public bodies to take on their role; we do not have 20 years in which to be hopeful that climate change will be taken seriously by local authorities and other public bodies. However, many local authorities have done a lot of work so far, so I do not think that they have anything to worry about in this legislation.

Public bodies will contribute to the climate adaptation programme. Amendment 234 mentions the timescale—18 months would be allowed after royal assent. That will allow time for local authorities and other public bodies to organise funding and consider their climate change role. This is not about being prescriptive; it is about organisations considering their duties and what they can do to meet climate change targets.

We think that there needs to be clarity on the definition of a public body. Amendment 198 would make it clear which bodies are covered; the amendment refers to the Freedom of Information (Scotland) Act 2002. The national health service, Scottish Water, SEPA, SNH, Scottish Enterprise and others would be included. All of those organisations will have an important role to play. That might relate to the ethos of the organisation, or to how they use transport. I know that we will hear about the NHS and public procurement later on.

My amendments are about ensuring that the bill contains a broad commitment to the introduction of public sector duties. They will mean that if, in 10 years' time, the Scottish ministers learn of best practice evidence from another country that has better public sector duties, they could decide to adopt one of that country's initiatives. As well as allowing us to look at where we are now, my amendments provide for a timescale and allow for future flexibility as regards public bodies' duties.

I move amendment 198.

15:30

**The Convener:** Thank you very much. I will speak to amendment 202 and others.

I welcome what Cathy Peattie said in her introduction on amendment 198. Section 36(1) will give the Scottish ministers the power to introduce an order to impose climate change duties on public bodies. I recognise the value of the introduction of such duties; in lodging amendment 202, all that I sought to do was to put a timescale on the requirement for ministers to make an order under section 36(1). I have suggested that that should be done within a year of the bill being passed.

However, it seems to me that Cathy Peattie's amendments are preferable, in that they would create a framework for such duties immediately on the passing of the bill. I certainly intend to support Cathy Peattie's amendments and to move amendment 202 only if hers should fall; I hope that they do not.

During stage 1, I was greatly encouraged by the number of public bodies that were genuinely supportive of the idea of having public sector duties. Their attitude was analogous to that of certain individuals in more enlightened parts of the private sector, who argue for clear regulation on the basis that they know that the climate change agenda has to be followed and that clarity is necessary so that they can direct investment in the right direction or set up systems to ensure that their businesses can adapt to it. The enlightened public sector bodies, too, have nothing to fear from such duties and much to welcome from the clarity that they will provide. It will not be enough, a few years hence, to look around the public sector in Scotland and see that there are a few islands of excellence from which other people can learn great lessons. We need to ensure that those lessons are rolled out and implemented across the board, and I think that Cathy Peattie's public sector duties proposal will achieve that.

I repeat that I will pursue amendment 202 only if Cathy Peattie's amendments are not agreed to, which I hope does not happen.

**Des McNulty:** We are discussing a section of the bill on which there are differences of principle between the Government and some of the other parties as regards whether climate change duties should be imposed on public bodies. I am keen that that debate—the debate about the principle—does not prevent us, if Parliament wills that there should be such duties, from having a proper debate about the best mechanism for ensuring that those duties are not inappropriate or unduly onerous. We must make a decision about the principle and then ensure that the mechanisms that are put in place give best effect to that decision.

It is important that I put on record that in supporting the principle of creating climate change duties for public bodies, it is certainly not my

intention—nor, I am sure, is it Cathy Peattie's—to imply that local authorities or other public bodies are in any way deficient. We believe that many local authorities are doing an excellent job in addressing climate change. We want to regularise that position and link it to the Government's broad efforts, rather than see a duty in the bill as a stick to beat local authorities or any other public body. Guidance that binds what is done by public bodies—including local authorities—with what is done by Government is inherently desirable.

Cathy Peattie's amendment 206 could be interpreted as requiring public bodies to make separate annual reports. I do not think that that is Cathy's intention. Public bodies already make annual reports and the idea is that information on how they are getting on with addressing climate change should become an integral part of those reports. There are issues that may need to be tidied up, but I hope that we can progress at both levels: that we can have a decision in principle about whether there should be a public duty, and then a sensible discussion about how to configure that in a way that is supportive and constructive rather than onerous and burdensome.

**Stewart Stevenson:** As Mr McNulty highlighted, this is an area in which—probably uniquely so far—there is a pretty fundamental difference of opinion. In large part, that is driven by the concerns expressed by the Liberal councillor Alison Hay, who speaks for the Convention of Scottish Local Authorities on the subject. I do not wish to overstate this, but on behalf of the local authorities, she believes that the development of a new relationship of partnership, equality and mutual respect between central and local government could be damaged by a return to central Government dictating what local authorities should do.

I put that in the context of the remarks that several who have contributed to the debate quite properly made, which is that local government is making good progress on the subject of climate change. I hope that that puts the issue in context and that there is no suggestion that local authorities are not up for the task—it is clear that they have all signed up to address climate change. The issue is simply a principled disagreement about how local government should come to a conclusion about its contribution.

More generally, though, public bodies for which ministers are responsible are a different matter. To impose duties on such bodies—which is essentially to impose duties on ministers—is quite proper. Des McNulty said that if amendment 198 is agreed to we must not use it as a stick to beat local authorities. I absolutely concur. I know that Des McNulty said that in good faith.



Further, I have no difficulty in agreeing with Mr McNulty when he says that we should have the best mechanism. He referred to the need to tidy up some issues. I hope that we live up to that aspiration. We would certainly not want legislation that was ambiguous or too draconian, or that created difficulties that local authorities felt that they could not manage.

Cathy Peattie's amendments provide for a period for engagement with local authorities. However, that comes from a point of view of mandating the nature of the outcome that must follow that engagement, which is an approach that does not meet my preference.

The convener's amendment 202 would be my preferred option. It places a duty on ministers to activate the powers in section 36(1) of the bill within a year. I would have no objection to that amendment.

**The Convener:** Minister, you say that you are comfortable with activating the powers, as you put it, within a year, but I am a little bit at a loss to understand the principled objection to Cathy Peattie's proposals, which would do exactly the same thing, in a sense, but that bit sooner.

**Stewart Stevenson:** The beginning of section 36 is phrased:

"The Scottish Ministers may, if they consider it appropriate to do so, by order, make provision relating to the imposition ...".

The point is that amendment 202 would give us a year to discuss with local authorities their plans—which will be produced via COSLA, I imagine—for taking the necessary action. It is not about making that imposition in principle at this stage; it is about doing that after the period of consultation.

I suspect that we will end up in the same place on this matter, in the end. I do not seek to make an argument that we should end up elsewhere, as I genuinely think that local councils are up for this. I am giving respect to the strongly expressed opinion—which has been expressed to me as minister on a number of occasions—that COSLA does not wish, at this stage, to have duties imposed upon it before it has been able to do the work to produce its own proposals. It is simply on that relatively fine point that we are likely to continue to divide.

I assure the committee that, whatever decisions it comes to in this regard, the Government will, of course, work with and take forward whatever the outcome of this debate happens to be. I am sure that you would expect me to say that, but I take the opportunity to put it on the record.

**Cathy Peattie:** I feel strongly that amendment 198 should proceed. The minister spoke about our

getting to the same place; I do not think that we can wait for more time to pass, and I do not think that it is enough to be hopeful. With respect, convener, your amendment 202 does not help to move things forward. It would lead to a whole lot of uncertainty, and it smacks of being hopeful.

**The Convener:** Heaven forbid that I should ever be hopeful.

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

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 198 agreed to.*

*Amendment 199 moved—[Cathy Peattie].*

**The Convener:** The question is, that amendment 199 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 199 agreed to.*

*Amendment 200 moved—[Cathy Peattie].*

**The Convener:** The question is, that amendment 200 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)

McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 200 agreed to.*

*Amendment 201 moved—[Cathy Peattie].*

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

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 201 agreed to.*

*Amendment 202 not moved.*

*Section 36, as amended, agreed to.*

**Section 37—Guidance to relevant public bodies**

*Amendment 203 moved—[Cathy Peattie].*

**The Convener:** The question is, that amendment 203 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 203 agreed to.*

**The Convener:** Amendment 204, in the name of Cathy Peattie, is grouped with amendments 210 to 212.

15:45

**Cathy Peattie:** I will not go through the whole discussion relating to my prior amendments, but these amendments say that ministers must give guidance with regard to any advice from relevant advisory bodies, particularly guidance to public bodies in terms of their public duty.

Amendment 205 seeks to ensure that the Scottish ministers require annual reports from public bodies. As we know, such bodies do produce annual reports, but those reports should also reflect plans for addressing climate change and the stage that has been reached in the process.

Amendments 206 and 207 relate to the role of advisory bodies in monitoring the work of public bodies and reporting on their compliance with climate change duties. Amendment 207 seeks to set out the circumstances that would trigger the process of reporting, allowing Parliament to address the issue as part of its consideration of the national planning framework.

I move amendment 204.

**Des McNulty:** The bill contains a precise definition of the term “relevant body” that refers either to the UK Committee on Climate Change or to a Scottish committee. However, the reference to “relevant body” in these amendments could cause confusion, and I seek advice from the minister or his legal staff on whether we need to be aware of any complications that might arise in drafting amendments.

**The Convener:** If members have no other comments, I ask the minister to respond to the debate on this group. [*Interruption.*]

**Stewart Stevenson:** Excuse me—I was taking advice on the legal point.

I point out that the correct term is actually “advisory body” and that the term “relevant body” is not recognised in the bill. The advisory body is the body designated by order initially under the UK Climate Change Act 2008 and could refer to other bodies, including but not limited to any Scottish climate change advisory body that might be set up. I hope that that fully answers Mr McNulty’s question.

**Des McNulty** *indicated agreement.*

**Stewart Stevenson:** In that case, I will move on. I apologise for the slight delay while we ensured that we answered the question properly.

Amendment 212 seeks to require the Scottish ministers to lay before the Scottish Parliament any report that they receive from the monitoring body. I am happy to accept the underlying principle and, indeed, am content to accept the amendment in the interests of open government and to ensure that the Parliament receives full and frank information.

Amendment 204 seeks to require that, prior to giving guidance to public bodies under section 43 of the bill, the Scottish ministers have regard to advice that they have been given by the advisory body—I beg your pardon, by the relevant body. This is where the confusion can arise. The Scottish ministers do not believe that the relevant body should have a direct role in Scottish public bodies' discharge of their climate change duties. Over the next few years, the body in question will be the UK Committee on Climate Change, whose strength lies in giving expert advice that draws on the science and an analysis of what is going on, not in helping us to understand what policies would be appropriate for different parts of the Scottish public sector. That is the role of Government, using the expert advice. On a more technical level, amendment 204 does not work because it does not clearly impose any duty either to seek or to give advice.

Amendments 210 and 211 are similar to amendment 204 in that they risk muddying the functions of the relevant body by placing on it unnecessary and potentially costly duties with respect to the operation of Scottish public bodies. If it becomes necessary to monitor how public bodies are complying with their duties, the Scottish ministers have powers under section 39 to create a monitoring body. Moreover, if ministers ever feel that they need specific advice on the functions of public bodies in relation to climate change, they have powers to request such advice under section 38 of the UK act and section 25 of the Scottish bill. Again, on a technical level, there is neither provision in the bill to require the monitoring body to ask for advice nor any duty on the relevant body to provide advice—there is no provision because it is simply not necessary.

At stage 1—I think in making a more general point—Des McNulty said that he did not want the reporting arrangements in the bill to become overelaborate. This set of amendments carries the risk of overelaboration. We should seek to avoid that.

I am happy to commend amendment 212 to the committee.

**Cathy Peattie:** I understand what the minister is saying, but it is important that public bodies should gain from advisory body advice or reports and ministerial guidance. How can they take forward their work otherwise?

Public bodies have to look at their plans; they need to design their plans over 18 months or so in order to do that. They need to look at what is said at the time, the available advice and how their organisation can take that forward. Amendment 204 allows for that. I press amendment 204.

**The Convener:** The question is, that amendment 204 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
McInnes, Alison (North East Scotland) (LD)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

**The Convener:** As I indicated previously, my casting vote is for the status quo.

*Amendment 204 disagreed to.*

*Section 37, as amended, agreed to.*

### **Section 38—Reporting on climate change duties**

**The Convener:** Amendment 205, in the name of Cathy Peattie, is grouped with amendments 206 to 209.

**Cathy Peattie:** Forgive me, convener, for my error in speaking to amendment 205 earlier in the meeting. My colleague pointed it out and I am grateful for that.

Amendment 205 seeks to ensure that ministers require relevant public bodies to produce reports on an annual basis, including annual reports—obviously they tend to be done on an annual basis.

Sections 40 to 42 are about the monitoring body having regard to the relevant advisory body. I heard what the minister said on the matter and I am willing to hear what more he has to say. Section 42 will trigger the process of reporting powers that are currently used to enable parliamentary consideration of the national planning framework.

Do you want me also to speak to amendment 62, or is it too early for that?

**The Convener:** Speak only to amendment 209.

**Cathy Peattie:** Amendment 209 is an important amendment. The committee discussed equal

opportunities and found that the bill was weak in that regard. Amendment 209 seeks to add public bodies to the list in section 62, referring to the definition of public bodies in a new section that will be created by amendment 198.

I move amendment 205.

**John Park (Mid Scotland and Fife) (Lab):** The thinking behind the amendments in the group is to strengthen the quality and calibre of information that the public sector makes available, and to highlight the important role that the public sector and public bodies play with regard to climate change. I am thinking in particular of the procurement decisions that they make, including on low-carbon energy choices and electric vehicles. There are other examples that we can highlight.

We recognise the importance of workplace policies, and there are a number of good examples in which such policies have driven climate change targets, whether in the workplace or more widely. They also result in culture change that can lead to individuals taking on good habits.

Through amendments 208 and 209 we want to establish a reporting structure that provides an opportunity for such activity to be highlighted so that other bodies can learn from it—not only public sector bodies but private sector organisations, the voluntary sector and Scotland more widely.

**Cathy Peattie:** As I said, the whole issue around public procurement is important and would make a tremendous difference to the legislation. I gave many examples of how the ethos of organisations can be affected in respect of how they operate and how they use transport to get from conferences and whatever. General consideration of public procurement in the national health service and in wider public organisations in relation to climate change would make a substantial difference. I support John Park's amendments 208 and 209.

**Stewart Stevenson:** We commend Cathy Peattie's amendment 207 to the committee. It seems eminently sensible that Scottish ministers should be able to require any relevant public body that is found to be failing to comply with its climate change duties, following investigation by the monitoring body, to prepare a report on the actions that it is taking to secure future compliance with those duties.

On John Park's amendments 208 and 209, I acknowledge his long-term interest in procurement. We are well disposed to the principles that underpin the amendments. Procurement policy is an area in which public bodies should have scope to make improvements that contribute to tackling climate change. To focus minds by making reporting on that a specific

requirement would be no bad thing. However, there are one or two drafting problems with the amendments as they stand. The use of the word "wider" creates a problem, because it suggests that procurement policies are a narrower form of workplace policy. That could create some difficulties, because that is not necessarily the case. Workplace policies include such things as employee relations, but procurement is an economic activity, as distinct from a workplace policy. I am simply exploring some of the difficulties in the drafting: we would be happy to lodge at stage 3 a Government amendment that will achieve John Park's policy intention, if he feels that that will be helpful.

On amendments 205 and 206, I think that Cathy Peattie is imagining that Scottish ministers will seek to let public bodies off the hook by imposing climate change duties and then not ensuring that they are met. The bill as a whole, of course, gives Scottish ministers every reason to wish that actions are being taken across Scotland. In practice, it is highly likely that wherever Scottish ministers impose statutory climate change duties on public bodies, they will also impose a duty to report on compliance. However, to require in primary legislation that that must be the case in every circumstance and—more to the point—that the reports must be annual, is inflexible and somewhat disproportionate. For those reasons, I cannot suggest that the committee should support amendments 205 or 206.

**Cathy Peattie:** As I said, I think the amendments are important, but I understand what the minister is saying, so I would like not to press amendments 205 and 206. That will give me an opportunity to hear what the minister has to say in the future and—if I am not happy—to bring back the issue at stage 3.

*Amendment 205, by agreement, withdrawn.*

16:00

*Amendment 206 not moved.*

*Amendment 207 moved—[Cathy Peattie]—and agreed to.*

*Amendment 208 moved—[John Park].*

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

**Members:** No.

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

**For**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 208 agreed to.*

*Amendment 209 not moved.*

*Section 38, as amended, agreed to.*

*Section 39 agreed to.*

**Section 40—Investigations**

*Amendment 210 moved—[Cathy Peattie].*

**The Convener:** The question is, that amendment 210 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 Somerville, Shirley-Anne (Lothians) (SNP)

**The Convener:** The result of the division is: For 4, Against 4, Abstentions 0. The status quo is the bill as it stands, so the casting vote goes against the amendment.

*Amendment 210 disagreed to.*

*Sections 40 and 41 agreed to.*

**Section 42—Reporting by monitoring body**

*Amendments 139 and 140 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 211 moved—[Cathy Peattie].*

**The Convener:** The question is, that amendment 211 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)

**AGAINST**

Gibson, Rob (Highlands and Islands) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 Somerville, Shirley-Anne (Lothians) (SNP)

**The Convener:** The result of the division is: For 4, Against 4, Abstentions 0. Again, the status quo is the bill as it stands, so the amendment falls.

*Amendment 211 disagreed to.*

*Amendment 212 moved—[Cathy Peattie]—and agreed to.*

*Section 42, as amended, agreed to.*

*Sections 43 and 44 agreed to.*

**After section 44**

**The Convener:** Amendment 213, in the name of Alison McInnes, is in a group on its own.

**Alison McInnes:** Amendment 213 links strategic environmental assessment more closely with the Climate Change (Scotland) Bill. It is intended to ensure that, when strategic environmental assessments identify that Government plans and programmes will have a large climate change impact, they will be reported on and scrutinised to ensure that they are compatible with the climate change targets. The idea is that, when a minister is minded to approve a plan or programme and the strategic environmental assessment has identified a significant greenhouse gas emission, the minister will be obliged to seek advice from the relevant body on whether or how the plan or programme could be made compatible with the annual targets. Any decision on such a plan or programme could not be made until the advice was given. If the minister wanted the plan or programme to proceed, it could proceed but the minister should make a statement to Parliament setting out why, how the targets would still be met and what other measures would be taken to ensure compliance with the annual targets.

It would be useful to hear whether the minister agrees that the strategic environmental assessment process must be properly aligned with the bill.

I move amendment 213.

**Des McNulty:** I have some questions about the possible impacts of the amendment. I will use a couple of projects in north-east Scotland as examples, as I know that they will be relevant to both the minister and Alison McInnes. In the event of a future Trump development requiring a strategic environmental assessment, would the provision in amendment 213 require that the decision be made in Parliament rather than by the planning authority? Would that be a good thing? The implication for such developments is not clear to me. Furthermore, would the provision be a barrier to the go-ahead of the Aberdeen western peripheral route, which also requires a strategic environmental assessment? Would either Alison McInnes or the minister regard that as a good

thing? I ask those questions simply for clarification and detail.

**Stewart Stevenson:** None of my remarks should be taken as applying to the private sector project to which Des McNulty referred, for which planning applications were, I believe, submitted yesterday. Ministers may be involved in making decisions on that project at a later stage.

Des McNulty mentioned the AWPR project, for which the Government is responsible. One of the key questions that are being asked is what would be the effect of the additional provision in amendment 213. We estimate that its effect would be to delay decisions by something in the region of six to nine months. It would also be necessary to increase significantly the resourcing of the UK Committee on Climate Change for that to be reflected in its business plan and to ensure that it would be in a position to undertake the work that would be involved. It is clear that the amendment would create a significant, and unnecessarily cumbersome and unhelpful, layer of bureaucracy.

It is worth revisiting the Environmental Assessment (Scotland) Act 2005, which requires that those who prepare public plans, programmes and strategies that are likely to have a significant impact on the environment—that includes on climatic factors—outline measures in an environmental report to prevent, reduce and, as far as possible, offset any significant adverse effects. People with an interest in or who are likely to be affected by the plan, programme or strategy will then have an opportunity to express any concerns or to make suggestions at the appropriate point in the consultation process. It is a mandatory requirement that those who prepare strategic environmental assessments under the 2005 act must consult Scottish Natural Heritage, the Scottish Environment Protection Agency and Historic Scotland for their expert advice during its preparation.

The post-adoption statement that the 2005 act requires means that responsible authorities, which include the Scottish ministers, already have to outline how their environmental report, and the consultation responses that have been received on it, have been taken into account in preparing the final plan, programme or strategy. In addition, if planning permission or other consent is required to which the Environmental Impact Assessment (Scotland) Regulations 1999 apply, it is likely that an environmental impact assessment will also be required. Scottish ministers must also lay before Parliament a significant report on proposals and policies to meet annual targets each time annual targets are set.

The safeguards do not stop there. As members will be aware, the Scottish Government is developing a carbon assessment tool to calculate

the carbon impact of all Government spending decisions. That information will be available to Parliament and will undoubtedly inform debate and decision making on the budget bill each year.

Amendment 213 contains problematic language. I presume that the term “plan or programme” is used with the intention of importing that term’s meaning under the 2005 act, although that is not specified. However, the bill uses the words “plan” and “programme” in different contexts, so there could be significant confusion.

In addition, amendment 213 contains no timescales. Regardless of that, it is inconceivable that it could be implemented without delaying the preparation and delivery of vital plans, programmes and strategies.

The bill’s overarching objective is to reduce Scotland’s greenhouse gas emissions. That is why it places duties on Scottish ministers to ensure that Scotland’s emissions are reduced to meet statutory targets.

I hope that members have been reassured that amendment 213 is unnecessary. Members can think of the effects on a number of projects. An answer that I recently gave to a parliamentary question, for example, indicated that the original evaluation of the Edinburgh tram system showed that it would have a carbon cost of 177 kilotonnes. It is clear that that project would have been significantly delayed if the process in question had been in place. I leave it to others to consider whether that would have been a good or a bad thing.

**Alison McInnes:** I thank the minister for his thorough response. It would be utterly remiss of us to ignore strategic environmental assessments so I lodged amendment 213 in an attempt to align the processes. However, I accept that there are drafting and timescale issues and I will not press the amendment, although I do not want to jeopardise the opportunity to consider the matter at stage 3. We must accept that business as usual cannot continue. Mr McNulty and the minister cannot say on one hand that we need strong targets and on the other that we must do nothing that might slow down the process or make us rethink our approach. We must start to align our thinking with our ambition.

*Amendment 213, by agreement, withdrawn.*

#### **Section 45—Programmes for adaptation to climate change**

*Amendments 141 to 143 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 214 moved—[Des McNulty]—and agreed to.*

*Amendments 144 to 148 moved—[Stewart Stevenson]—and agreed to.*

*Amendment 215 moved—[Rob Gibson]—and agreed to.*

*Section 45, as amended, agreed to.*

#### **After section 45**

*Amendments 216 to 218 moved—[Rob Gibson]—and agreed to.*

**The Convener:** Amendment 219, in the name of Peter Peacock, is in a group on its own. Peter Peacock has been waiting patiently to speak to his amendment.

#### **Peter Peacock (Highlands and Islands) (Lab):**

As members know, the Rural Affairs and Environment Committee, of which I am a member, is a secondary committee in the scrutiny of the bill.

The dilemma of competing land uses has become apparent during the committee's recent work. For example, when we considered the serious implications of the increasing incidence of flooding resulting from climate change, a ready conclusion was that the restoration of peatlands, the creation of marshlands and the planting of upland forests can make a considerable contribution to flood management. Similarly, reconnecting rivers to their flood plains and planting on river banks, on land that is currently cropped, can help to stem the flow of water. However, if we take a food security perspective, we might come to very different conclusions about how the same piece of land should be used. There are competing public policy objectives.

Land use came up again strongly during the committee's scrutiny of the forestry provisions in the bill. There is no question but that the extension of forestry has a role to play in managing climate change, but where we plant trees and on what types of soil we do so are critical considerations. If we add to the mix the need for land for wind farms, hydro power and so on, we end up with a rich cocktail of policy questions, some of which are in conflict.

16:15

Other climate change issues come into play in the context of agriculture, which is a principal use of land. Although it accounts for about 25 per cent of Scotland's greenhouse gas emissions, agriculture also acts as a greenhouse gas sink through sequestering sufficient carbon dioxide emissions. For example, grassland cropping can offset nearly 20 per cent of agricultural emissions, while an estimated 300 million tonnes of carbon are stored in our deep peatlands. That is about 20 times more carbon than is stored in all the UK's forests and is equivalent to 190 years' worth of

Scotland's total emissions. It has also been suggested that UK agriculture and land use change could mitigate around 6 per cent of current greenhouse gas emissions by 2012 and nearer 25 per cent by 2022, and that emissions from agriculture could by 2050 be around 50 per cent of 1990 levels if high feasible abatement potential is fully achieved.

Given those figures and the potential for delivering land use-related climate change action with the right policy drivers, I think it makes sense for the bill to address the agricultural and other wider policy issues. As it is becoming increasingly clear that better strategic consideration of land use is necessary, and that a land use strategy would be an important tool in creating a framework for reconciling the various aspects, amendment 219 seeks to place a duty on ministers to produce, consult on and lay before Parliament such a strategy. It would also require that the strategy contribute to achieving ministers' wider climate change duties under the bill.

Amendment 219 also seeks to give effect to Parliament's decision on 19 March to ensure that

"all forestry proposals in future must be part of an integrated land-use strategy"

and to call on

"the Scottish Government to introduce a comprehensive sustainable land-use strategy".

I am aware that the Government has been exploring the issues around a land use strategy, and I very much welcome its consideration of the matter. However, amendment 219 seeks to put beyond doubt the production of such a strategy after consultation, and to ensure that successive Administrations are required to keep it up to date.

I will listen very carefully to what the minister has to say but, notwithstanding his comments, I hope that the committee will approve amendment 219 to make clear the will of Parliament on this issue. If the minister wishes to come back at stage 3 with any technical improvements to the amendment I, like everyone else, will be happy to listen to his proposals. I live in hope—though not in expectation—that he will accept the amendment.

I move amendment 219.

**Rob Gibson:** I very much welcome this chance to discuss this proposal for a land use strategy, particularly given that a bill on crofting reform is about to be introduced. For many years, people have struggled with the concept of land use in crofting areas and have come to realise that much of its potential has been underutilised. Such considerations would fit in well with an assessment of what would be required in a strategic land use policy which would, after all, touch on food production and the need to protect

areas of high natural value. Indeed, as far as the crofting bill is concerned, local discussions about what would comprise the best land use strategy would be valuable to many communities in ensuring that we do not perpetuate the kinds of monocultures that have not been good to the land.

I could mention other issues, but that is a good example of an area in which we must work carefully towards a conclusion. In any case, I think that a strategic land use policy is a very good idea.

**Stewart Stevenson:** Mr Peacock will not need any “notwithstandings”, because I am entirely content to support amendment 219. However, I have a certain amount to say about it.

Amendment 219 seeks to place on Scottish ministers a new duty to produce a new land use strategy. I am aware of the very significant support for such a move, although I should make the rather obvious points that we are talking about a general rather than a rural land use strategy and that in legal terms “land” covers inland waters, waterways and estuaries, all of which it would be appropriate to cover in such a strategy.

As committee members will be aware, several significant initiatives on various aspects of land use in Scotland are already under way. In August 2008, the Scottish Government launched its rural land use study with the aim of providing an integrated evidence base for the contributions that Scotland’s land might make to delivering sustainable economic growth and underpinning the implementation of policies such as the Climate Change (Scotland) Bill and the food policy. The research, which consultants are undertaking in three workstreams, is supported by stakeholder advisory groups, which include representatives of farmer and landowner groups as well as non-governmental conservation organisations, Scottish Natural Heritage and the Scottish Environment Protection Agency. The study’s findings will be discussed and debated at a rural land use summit that is scheduled for November 2009, which will identify how Scotland’s rural land contributes to a wide range of objectives, where the key conflicts and complementarities between different objectives lie, and in what ways such aspects can be addressed by policy and practice.

In implementing the European Union’s water framework directive, we introduced a new system of river basin management planning to enable Scotland to develop an integrated ecosystem approach to managing the impacts on our water resources. The proposed land use strategy could be a useful tool in delivering successful river basin management planning by ensuring that we strike the right balance between protection and sustainable use of our valuable natural resources.

As a major land use, forestry has a strategy of its own; however, it is important to see forest use and management in the wider land use context. Moreover, “The Scottish Soil Framework”, which was published in May 2009, sets out the Government’s vision for Scottish soils and ensures that they are recognised as a vital part of our economy, environment and heritage, and are to be safeguarded for existing and future generations.

All those areas of work are important. However, I agree that a comprehensive land use strategy could usefully pull together those and other key strands of strategic land use policy including crofting across the Scottish Government and could helpfully focus them on climate change.

I support amendment 219 and commend it to the committee.

**Peter Peacock:** I will not detain the committee any longer. I am grateful for the support of the minister and Rob Gibson and remind Alex Johnstone, who is seated on my immediate left, that the Conservatives supported the parliamentary motion that I mentioned. I will press the amendment and hope that the committee agrees to it.

*Amendment 219 agreed to.*

#### **Section 46—Variation of permitted times for making muirburn**

**The Convener:** Amendment 149, in the name of the minister, is grouped with amendments 150 to 152.

**Stewart Stevenson:** In discussions on the bill that officials held with key stakeholders during stage 1, NFU Scotland, the British Association for Shooting and Conservation, the Tenant Farmers Association of Scotland and the Game and Wildlife Conservation Trust expressed concern that the enabling power provided for in proposed new section 23A of the Hill Farming Act 1946, as inserted by section 46 of the bill, could be used to shorten the muirburn season. That concern was then mirrored in the Game and Wildlife Conservation Trust’s written submission.

Amendments 149 to 152 seek to address those concerns. Amendment 151 limits the order-making power in proposed new section 23A(1) of the 1946 act to ensure that the power is not exercised to reduce the length of the muirburn season to less than that provided for in section 23 of the act.

Addressing a commitment made in my additional written evidence at stage 1, I confirm that amendment 152 requires that an order made under proposed section 23A(1) of the 1946 act is subject to affirmative parliamentary procedure.

I move amendment 149.



**Rob Gibson:** A fire at Dunnet Head in April, which affected several hundred acres of ground where seabirds nest, might well have been covered by this set of amendments. The fact that the muirburn code did not seem to have been applied in that case caused disaster. The muirburn proposals will be helpful to clarify matters, so I hope that the committee will accept the amendments.

**The Convener:** I invite the minister to wind up and to press or withdraw amendment 149.

**Stewart Stevenson:** I wish to press amendment 149. Legislation is but part of the solution. Mr Gibson referred to the muirburn code, and it is important that everyone who carries out muirburn as part of their conservation activities takes full account of that.

*Amendment 149 agreed to.*

*Amendments 150 to 152 moved—[Stewart Stevenson]—and agreed to.*

*Section 46, as amended, agreed to.*

#### **Section 47—Power to modify functions of Forestry Commissioners**

**The Convener:** Amendment 220, in the name of Jim Hume, is grouped with amendments 221 and 153.

**Jim Hume (South of Scotland) (LD):** The amendments relate to the power to modify the functions of the forestry commissioners. The recent consultation and proposals to lease off around a quarter of the Forestry Commission estate revealed many concerns. They also highlighted the importance of the forestry estate in its diverse uses not just in providing a possible carbon sink to help to tackle climate change but in securing a supply of timber for industry and in providing benefits for recreational sport, tourism and access to forests, biodiversity and for the communities that live in and around those areas.

I lodged the amendments to ensure that the forestry estate is valued and protected for the many benefits that it provides. It is not simply an asset, nor a debatable carbon sequestration tool—as Peter Peacock mentioned, it is well known that planting in peat releases a huge amount of carbon into the atmosphere.

I agree that the Forestry Commission could benefit from joint ventures and that, therefore, it should have the power to progress its functions. I ask members to consider the benefits that the Forestry Commission has brought for tourism with the likes of the 7stanes mountain biking project in the south. The 7stanes trail would not have happened without co-operation from the Forestry Commission and stakeholders.

To safeguard the biodiversity of our forests, amendment 221 would ensure that the commission's functions or any body and person that is formed with them—whether through a joint venture or not, including for renewable energy projects—takes biodiversity into account. Amendment 221 would make that duty explicit.

It is also important that any variation of the Forestry Commission's functions takes into account the sustainability of developments. Some soils—I have mentioned peat-based soils—are inappropriate for tree production. The Forestry Commission also owns moorland, peat bogs and some biodiverse pasture land. There is a need to preserve and improve those areas, and the many functions of the forestry estate must be protected and enhanced. That is what amendment 220 would do.

Amendment 153 would remove the possibility of the Forestry Commission entering into long-term leases, which has been shown to be unpopular and unlikely to deliver long-term benefits. The Minister for Environment is on record as saying that she will not pursue the leasing proposals. Amendment 153 would ensure that such proposals would not be pursued by future Governments and ministers.

I move amendment 220.

**Shirley-Anne Somerville:** I advise ministers and Mr Hume that I have been in intensive discussions on the possibility of introducing a general sustainable development duty for ministers in respect of the functions under the bill. Although I do not object to the principle behind amendment 220, I think that the creation of an overarching sustainable development duty would be preferable. I worry that agreement to a specific amendment at this stage would result in a clash with the overarching duty that I hope to propose. My discussions are almost complete, and I hope to lodge within the next day an amendment that creates a general duty. I appreciate that it would have been better if the amendment had been available for Mr Hume to look at today, but I ask him to consider withdrawing amendment 220. If my amendment is not to his liking or the committee does not agree to it next week, he will be free to lodge his amendment again at stage 3.

16:30

**The Convener:** As no other members wish to comment, I invite the minister to respond.

**Stewart Stevenson:** I wrote down the point that Ms Somerville made and will respond to it later.

As we submitted an identical amendment to amendment 153, it will come as no surprise that we will support it. I am happy to confirm that we

are content not to proceed with the forestry leasing proposals that were initially planned. We support the removal of section 47(4).

Amendment 221 seeks to apply the biodiversity duty under the Nature Conservation (Scotland) Act 2004 to any body corporate or trust formed by the Forestry Commission. Although we agree that any such body would need to comply with the commission's continuing duty to further the conservation of biodiversity on the national forest estate, amendment 221 is unnecessary and could lead to confusion and legal conflict.

The 2004 act defines the public bodies to which the biodiversity duty applies. The definition includes any person who exercises functions of a public nature, which could include private sector bodies established by the commission. Section 1 of the 2004 act therefore already applies to private bodies that exercise functions of a public nature, so we feel that amendment 221 is unnecessary and could lead to conflict between different pieces of legislation.

The principles of amendment 220 cause us no difficulties at all, but if Ms Somerville can lodge for debate next week an amendment that creates an overarching sustainable development duty, provided that the committee is happy with the details of that amendment, it is likely to commend itself as a preferred alternative.

**The Convener:** I ask Jim Hume to wind up and to indicate whether he wishes to press or withdraw amendment 220.

**Jim Hume:** At this stage, I will seek to withdraw amendment 220, although I leave open the possibility of lodging it again at stage 3 if Ms Somerville does not lodge an amendment of the kind that she has described. I agree that it would be better to cover the whole bill, so I do not have a problem with what she has proposed.

I will move amendments 221 and 153. I am glad that the minister has accepted amendment 153, but I still believe that amendment 221 is important, as it would make it absolutely explicit that any bodies, trusts or persons appointed by the commission are covered under the 2004 act.

**The Convener:** We will come to amendments 221 and 153 in a moment.

*Amendment 220, by agreement, withdrawn.*

*Amendment 221 moved—[Jim Hume].*

**The Convener:** The question is, that amendment 221 be agreed to. Are we agreed?

**Members:** No.

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

## FOR

Gordon, Charlie (Glasgow Cathcart) (Lab)  
Harvie, Patrick (Glasgow) (Green)  
McInnes, Alison (North East Scotland) (LD)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Peattie, Cathy (Falkirk East) (Lab)

## AGAINST

Gibson, Rob (Highlands and Islands) (SNP)  
Johnstone, Alex (North East Scotland) (Con)  
Somerville, Shirley-Anne (Lothians) (SNP)

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

*Amendment 221 agreed to.*

*Amendment 153 moved—[Jim Hume]—and agreed to.*

*Section 47, as amended, agreed to.*

**The Convener:** That ends our consideration of amendments for stage 2—I mean, for day 2 of stage 2. *[Laughter.]* We can see light at the end of the tunnel but we are not quite there yet.

I remind members that the deadline for all amendments for the rest of the bill is noon this Thursday—so it will be BlackBerrys out on Thursday morning for all of us on the election trail.

We hope to be able to consider all the remaining amendments in one further meeting. As happened today, next week's meeting will start at 1.30.

## Budget Adviser

16:36

**The Convener:** In the second item on our agenda, members are invited to consider whether we wish to seek approval for the appointment of a budget adviser. The Parliamentary Bureau has asked all subject committees whether they wish to seek such an appointment this year, and it would like to consider all such requests at the same time. Do members have any comments on the paper that has been circulated?

**Des McNulty:** In principle, I believe that we should have a budget adviser. Having an adviser has served us quite well in the committee's first two years this session and, as a former convener of the Finance Committee, I know that well-informed submissions from committees supported by advisers have proven useful to the Finance Committee.

I guess that the question arises of whether we want to focus our work on a particular area of our business, although I am not sure whether this is the right time to make that decision. However, I agree in principle with the idea of having an adviser.

**The Convener:** You are quite right—today's decision is simply on whether to have an adviser. If we agree to have one, a further paper will be prepared on the different approaches that we might take. That paper might include potential nominees.

**Cathy Peattie:** I agree with Des McNulty; it is very important that we move forward. In the past, we have had problems in finding a suitable person, so it will be important that we move quickly—perhaps getting a list before the summer break of the people whom we might consider.

**The Convener:** If no other members wish to comment, are we agreed in principle that we would like to consider a future paper that explores the options for having a budget adviser?

**Members indicated agreement.**

**The Convener:** We have come to the end of our agenda. I remind members that we will receive a briefing tomorrow at 1.15 on the carbon assessment mechanism that the Government is currently working on. The briefing will be in room Q1.04, with lunch.

*Meeting closed at 16:38.*



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