

MEETING OF THE PARLIAMENT

Thursday 17 June 2004

Session 2

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Scottish Parliament

Thursday 17 June 2004

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Business Motion

The Presiding Officer (Mr George Reid): Good morning. The first item of business is consideration of business motion S2M-1491, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, which sets out a timetable for stage 3 consideration of the Antisocial Behaviour etc (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Antisocial Behaviour etc. (Scotland) Bill, debate on each part of the proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended or otherwise not in progress):

Groups 1 to 3 – no later than 40 minutes

Groups 4 and 5 – no later than 1 hour 30 minutes

Groups 6 and 7 – no later than 2 hours and 30 minutes

Groups 8 to 11 – no later than 3 hours and 20 minutes

Groups 12 to 21 – no later than 4 hours and 10 minutes

Groups 22 to 24 – no later than 4 hours and 30 minutes

Groups 25 to 30 – no later than 5 hours and 15 minutes

Motion to pass the Bill – 5 hours and 30 minutes—
[Patricia Ferguson.]

Motion agreed to.

Antisocial Behaviour etc (Scotland) Bill: Stage 3

Bill Aitken (Glasgow) (Con): On a point of order, Presiding Officer. I gave notice of this point of order. As you know, the Conservatives were extremely concerned at being confronted on Tuesday morning with a large number of last-minute Executive amendments to the Antisocial Behaviour etc (Scotland) Bill. We accept that from time to time last-minute amendments, and indeed manuscript amendments, are necessary, but in this case the volume and complexity of some of the amendments caused serious difficulties in trying to separate the wheat from the chaff. Although the amendments were lodged timeously and the Minister for Parliamentary Business was extremely helpful in providing copies of documentation, is it in order that the Executive should lodge at the last moment a number of amendments, the volume and complexity of which are such that other parties are put at a decided disadvantage? That seems to be a discourtesy to the Parliament.

The Presiding Officer (Mr George Reid): I am grateful to Mr Aitken for giving notice of the point of order. He is correct in saying that the amendments were lodged in the name of the Minister for Communities on Monday, which was the last day for doing so. The Executive has a self-imposed target of lodging amendments five days before proceedings on a bill. Clearly, the target was not met in this case, but I point out that it is only a target and that there has been no breach of standing orders.

We move to stage 3 consideration of the Antisocial Behaviour etc (Scotland) Bill. Members should have the bill as amended at stage 2—that is, SP Bill 12A—the marshalled list, which contains all amendments that have been selected for debate, and the groupings.

I will allow a voting period of two minutes for the first divisions this morning and this afternoon. Thereafter I will allow a voting period of one minute for the first division after a debate on a group. The voting period for all other divisions will be 30 seconds.

Section 1—Antisocial behaviour strategies

The Presiding Officer: Amendment 40, in the name of Donald Gorrie, is in a group on its own.

09:32

Donald Gorrie (Central Scotland) (LD): I have promoted myself. I assure members that the red tie that I am wearing is very similar to one that

Charles Kennedy repeatedly wears, so it is a very loyal tie. The colour has no other connotations.

The Liberal Democrats support the bill as part of a package of measures to deal with the grave problem of antisocial behaviour that exists in some parts of the country. Part 1, on antisocial behaviour strategies, sets out many of the other parts of that package and so is important to us. We welcomed the amendments at stage 2 that strengthened part 1.

I remind members that section 1(3) as amended requires local authorities, in publishing their strategy, to set out the extent and types of antisocial behaviour in their area and to

“specify the range and availability in the authority’s area of any services—

(i) for persons under the age of 16 years; and

(ii) for persons generally,

which are designed to deal with antisocial behaviour ... the consequences of such behaviour or the prevention of such behaviour”.

Prevention is an important aspect. Local authorities must also specify their services for helping victims and witnesses and for the provision of mediation, which is also important.

Amendment 40 would add a bit to section 1(3) to include community consultation in areas that begin to be affected by antisocial behaviour. It is important to nip problems in the bud so that the provisions in the bill do not have to be used as much because the problems have already been solved.

Under amendment 40, councils would have to specify arrangements for consulting community bodies, particularly those that involve young people. Collectively, we are not good at consulting and listening to young people, even though they have an important input to make to decisions about the activities and provision in an area that would help to provide legitimate leisure interests for young people so that they do not get into trouble. Amendment 40 relates specifically to local consultation, not necessarily consultation throughout a council area. In areas in which antisocial behaviour is likely to happen, the council would have to take measures to consult people properly.

I urge the minister to make it clear that adequate funding will be provided for all the measures in the strategies so that councils can deliver good services. A lot of money has already been specified and is in the pipeline, but it would help if the minister could reassure us that through the use of either existing money or, if required, additional money, councils will be able to provide good services to tackle antisocial behaviour in many different ways and not only through the bill.

I move amendment 40.

Ms Sandra White (Glasgow) (SNP): I am not sure that I support Charles Kennedy of the Lib Dems, but I certainly support Donald Gorrie’s amendment 40. As he says, local authorities throughout the country have special strategies in place and funding is a key issue for them.

The bill’s remit is to address antisocial behaviour. Part 1 will ensure that strategies are put in place to enable councils to do that. It will allow the police and local authorities to get together to make provision for strategies. It is eminently sensible to involve the communities and people who are affected by antisocial behaviour. I have always taken the view that the bill should be more about prevention than about punitive measures. Amendment 40, which would come near the start of the bill, would go a long way towards preventing antisocial behaviour because it would allow us to address issues with local people and communities.

The Scottish National Party supports amendment 40, because it is sensible to engage with local communities and young people to ask exactly how they are affected by antisocial behaviour and what they would like to be included in the strategy. Amendment 40 would be a good way to start. I urge the Executive to accept Donald Gorrie’s amendment and to show communities and local people that in dealing with antisocial behaviour we are serious about preventive measures and about engaging with communities.

Johann Lamont (Glasgow Pollok) (Lab): There is no problem with amendment 40—everyone is in favour of consultation—but it is worth while to say at the beginning of the stage 3 debate that people in my constituency and other constituencies did not wait to be consulted on whether they thought there was a problem. They were determined to stand up for their communities and to say that there was a problem, and they deserved to be listened to. We are having the debate because people in my constituency and elsewhere had had enough. They did not wait for somebody to ask them what would be a good strategy; they said that what was going on was unacceptable and told us that we had a responsibility to address the problem.

Ms White: I understand Johann Lamont’s point, but I am saying—and I think Donald Gorrie is, too—that the consultation would be an addition to the strategies, not a separate measure. It would let people know that we are engaging with them.

Johann Lamont: I am not against consultation—it has a role—but we should congratulate the people in local communities who demanded that we listen to them. Because we did not listen to people, the problems got worse and

worse until we had a crisis, which was a much bigger and more difficult problem. My point is that, in consulting, we must recognise that people have already expressed strong views. We must ask agencies, police and housing authorities now to listen to what people are saying, and to get people involved at an early stage, so that we do not have more difficult problems later on.

I do not have a problem with supporting Donald Gorrie's amendment, because it is important to talk to young people. However, we have to be imaginative about how we consult people. Some consultations manage to get about 14 people in a room, but when communities organise themselves, they manage to get 1,000 people in a hall. We should not simply speak to those people with whom we feel comfortable discussing such issues. If we speak to people, and offer them solutions, we will perhaps have community harmony in dealing with issues, rather than conflict.

Bill Aitken (Glasgow) (Con): The Conservatives do not find amendment 40 in any way objectionable, but we question whether it is necessary. Consultation is always a good thing, but it would seem that there are already plenty of mediums by which consultation can be carried out, through community councils, local authorities and community groups generally. Therefore, well meaning though the amendment is, we question whether it is particularly useful.

The Deputy Minister for Communities (Mrs Mary Mulligan): Amendment 40 provides further detail in the bill about what local antisocial behaviour strategies—prepared by local authorities and the police, in consultation with other community partners—should contain. I can confirm that the Executive supports the amendment, and I hope that the Parliament will support it too. Local antisocial behaviour strategies are in many ways a significant part of the bill. They are the mechanism by which we will ensure effective engagement of local agencies and local people in the effort to tackle antisocial behaviour at a local level. They will follow on from the pattern established, as Johann Lamont has said, by people taking the issues to politicians and others and ensuring that they are listened to.

The bill already contains a significant amount of detail about what each local strategy should contain. That will be supplemented by the guidance on antisocial behaviour strategies that ministers will issue. A draft of that guidance has already been provided to interested members. However, we agree that it would be useful to make specific provision in section 1 to ensure that strategies contain information about how local agencies will engage with people at the neighbourhood or estate level. As Donald Gorrie

has said, it will be essential that the younger people on our estates and in our communities are also consulted as part of that process.

Donald Gorrie raised the question of resources. The Executive has committed more than £60 million to antisocial behaviour strategies, £50 million of which will come through the local authorities. The rest will be to provide innovative pilots with support. My colleague the Minister for Justice has provided £35 million from her budget, specifically to consider services and programmes for young people. That is a commitment from the Executive that is not just about passing legislation but about ensuring that it is adequately funded so that it delivers the results that we want. I hope that that reassures members, and that they will support amendment 40.

Donald Gorrie: The assurance by the minister about the money is very welcome. I hope that the funding will be continuing. We have a bad habit of starting off good projects and, after two or three years, not funding them. Continuing funding will be very welcome. The amendment will not cure all the ills of the world, but it will improve the position of the strategy, and it will help councils to deal better with the whole issue. Some councils already deal with it better than others do. It will give communities a voice, and it will perhaps get older and younger people speaking to each other.

Elaine Smith (Coatbridge and Chryston) (Lab): Does Donald Gorrie agree that other groups that should be consulted on the strategy include the National Autistic Society and disability groups that represent people with fears about the issues that we are discussing?

09:45

Donald Gorrie: Yes. We will deal with that later on, but it is important for staff in each of those areas to be properly trained. It is important to consult people who have concerns and I hope that they will be involved in local consultations. I hope that the Parliament will support my amendment.

The Presiding Officer: The question is, that amendment 40 be agreed to.

Amendment 40 agreed to.

Section 4—Antisocial behaviour orders

The Presiding Officer: Group 2 is on antisocial behaviour orders for children. Amendment 41, in the name of the minister, is grouped with amendments 42, 44, 47 and 48.

The Minister for Communities (Ms Margaret Curran): The extension of antisocial behaviour orders to 12 to 15-year-olds is one of the headline policies in the bill. From the outset, we have said that ASBOs for under-16s should not replace the

children's hearings system as the primary forum for dealing with children who offend, and they will not. The orders are intended to deal with a small number of persistently difficult young people for whom the hearings system has not proved to be effective in changing behaviour. However, it was clear during consideration at stage 2 that members of the Communities Committee were concerned about the prospect of ASBOs becoming the routine way to deal with under-16s who engage in antisocial behaviour. Clearly that is not what we want, and I agreed to consider lodging amendments at stage 3 to help to alleviate the committee's concerns.

Our starting point was that consultation with the principal reporter, and a requirement for the sheriff to have regard to the view of the principal reporter, was the right approach to take to ensure that the child's wider circumstances are taken fully into account while avoiding unnecessary bureaucracy. That is what was provided by the bill as introduced. Having further investigated the options, and having listened to the committee, we believe that the requirement for a hearing to be convened to give advice to the sheriff before a decision is made on whether to impose an ASBO is a reasonable additional check.

Advice from the hearing would not be required before a court could impose an interim ASBO. That approach ensures that immediate protection can still be provided for the community and that the views of a hearing can be fed into the process before a full ASBO is imposed. Amendment 42 provides for that and amendment 41 is a consequential amendment.

Obviously, we do not want to create an overly complicated system that does little to support children or to protect people and their communities. We have consulted the Scottish Children's Reporter Administration on the amendments, and it assures us that advice hearings for ASBOs could be turned around speedily. Advice hearings already exist for the small number of under-16s who are prosecuted in the criminal courts and they are convened quickly.

We want to ensure that, before granting an interim order, a sheriff takes account of any views that are expressed by the principal reporter, and amendment 44 fulfils that. I know that the provision has the support of the Communities Committee, as it was considered at stage 2, but the amendment was not pressed, as we made a commitment to consider the issue along with the roles of the hearings system and the principal reporter in the ASBO process. I thank members of the committee for the opportunity to consider the options further before stage 3, which was extremely helpful.

In addition to the provisions in the amendments

that we propose today, the sheriff will retain the power when granting a full ASBO to refer the young person to a hearing so that wider support measures can be put in place. I hope that that reassures members. It is our firm belief that children's hearings remain the most appropriate forum for dealing with antisocial behaviour by young people when voluntary measures are not effective and that, when ASBOs are used, the process should be properly integrated with the role of the principal reporter and the children's hearings system. The amendments that we propose protect both communities and the interests of the child.

Amendments 47 and 48 are minor technical amendments to put beyond doubt the fact that the provision made in section 9A to prevent the detention of children for breach of an ASBO applies also to the breach of an ASBO that is made on conviction in the criminal court.

I move amendment 41.

Nicola Sturgeon (Glasgow) (SNP): I warmly welcome the amendments, which address concerns that were raised by the Justice 2 Committee at stage 1 and by the Communities Committee at stage 2 about the marginal role of the children's hearings system in the procedure for granting an ASBO in respect of a child in the bill as introduced. At stage 1, many witnesses thought that if ASBOs were to be introduced for under-16s, the children's hearings system should be the principal decision maker rather than the decision being handed over to a court. At the very least, there was consensus that the children's hearings system should have a central role in the process. The reasoning is that the children's hearings system, unlike any court, has a responsibility to consider all the circumstances of the child, not just the offending behaviour. The children's hearings system is the most appropriate forum in which to deal with children who are offending and I was glad to hear the minister reaffirm that position today.

I am pleased that the amendments in the group go further than the recommendations that the Justice 2 Committee made at stage 1. The committee recommended that after granting an ASBO, the sheriff should require the principal reporter to refer the child's case to a hearing. The amendments will ensure that the hearings system is involved before decisions are made, which is a welcome step forward.

I welcome the amendments, which address important concerns. They will improve the bill, so we will be happy to support them.

Bill Aitken: The amendments are welcome and worth while. As the minister knows, we have concerns about the efficacy of the children's

hearings system in dealing with 14 and 15-year-olds. That battle was lost, but the minister has taken appropriate action by extending ASBO provisions in respect of such offenders.

It remains to be seen whether ASBOs will be as effective as we all hope that they will be. Some concerns have been raised about that route, but what is proposed today is welcome and we shall support the amendments.

Donald Gorrie: I, too, welcome the amendments. The Communities Committee reflected the concern that several people expressed to it that the bill appeared to downgrade children's panels. I know that that was not the intention, but the bill was interpreted in that way. It is important that ministers have reacted to that and that the Minister for Communities has made it clear that children's panels play a prime part. A children's hearing must be held to consider a normal antisocial behaviour order. When an interim order is involved and speed is of necessity, the reporter will have to be consulted. That is right. Several later amendments along the same lines will reinforce the importance of the children's hearings system in the procedure, so they are also welcome.

Colin Fox (Lothians) (SSP): As others have said, the amendments that the minister proposes are clearly a response to those who feel that the children's hearings system will be bypassed or downgraded. I share that concern, which has been a recurring theme in the evidence that various committees have presented.

At the outset of the debate, it is right that we establish and are all clear that the children's hearings system works. I am sure that the minister agrees with that. Bill Aitken has said that the system is failing 14 and 15-year-olds, but I beg to differ. The key is that the children's hearings system must be fully resourced so that when a decision is taken, a choice of interventions is available to deal with the problem, which blights communities throughout Scotland, as the minister said.

It is right to make it clear that communities want relief from the problem and are looking for what works. We know what works: a fully resourced children's hearings system. Unfortunately, my concern is that we do not have that when the delay between a youngster committing an offence and appearing before a hearing is nine, 10 or 11 weeks and when many of the disposals that panels request are not available or are not acted on by the necessary social work, education or other agencies.

I ask the minister to reply to those points and to understand that panel members and—more important—people in the communities that

antisocial behaviour affects are frustrated that the children's hearings system apparently lets them down through those delays and the inadequacy of the disposals and resources that are available.

What is required is not new laws, but more availability of intervention. If resources are the problem and are not available after we have antisocial behaviour orders, why on earth should the orders work any better than what we have now? The problem is that failure to keep to an antisocial behaviour order does not bring the offender back to where they started. A child is not brought back in front of a panel because a decision, verdict or whatever has not been acted on, because breaching an ASBO is a criminal offence. Instead of coming back to where they started, they start on an escalator—the case goes before a sheriff, there is imprisonment and matters get way out of control.

The Executive has assured us that it envisages a low number of ASBOs being sought and used, and that it is not seeking to criminalise youngsters. Frankly, that is not enough. As the minister knows, the same excluded youngsters will be jettisoned into the courts and into custody. Above all, in the long run, ASBOs will not provide the solution that communities seek: relief from the problem and the nuisance that they suffer. I hope that the whole Parliament believes that they are entitled to such relief, but the issue is more about resources than it is about more laws.

Scott Barrie (Dunfermline West) (Lab): I, too, welcome the amendments in the minister's name. As the minister will be aware, they are very similar to amendments that I lodged at stage 2, and I am glad that the minister has brought them back in this fashion, as she said she would. Those of us who support and have an interest in the children's hearings system must see ASBOs as an additional power, not an attempt to bypass the system. Colin Fox has got it wrong—ASBOs will be part of the children's hearings system and any breaches of those orders will be dealt with within the system, rather than in the adult courts. It is important that we remember that.

As the minister said, we were keen to ensure that the system was not overly complicated. We did not want to have both a children's hearings system dealing with under-16s, as is appropriate, and a court system dealing with the same group. We wanted to ensure that the two systems were closely tied together, which is what amendment 42 does. I was glad to hear the minister say in her introductory remarks that the discussions that have taken place with the Scottish Children's Reporter Administration indicate clearly that it is confident that it will be able to bring cases to a speedy hearing, so that there are not undue delays. The key point about using antisocial

behaviour orders for a very small minority of under-16s is that they should be a quick and effective solution. We must not end up with a bureaucratic system that militates against the best interests of children.

I am glad that the Executive has lodged these amendments and am sure that the whole chamber will support them.

The Presiding Officer: I ask members to keep their speeches tight, as we must get through group 3 by 12 minutes past 10.

Elaine Smith: I remain concerned about ASBOs for children. However, given that most of the chamber supports the approach, I welcome the amendments that have been lodged and will support them. I have already expressed my concerns in committee, so I will not reiterate them. Will the minister clarify that the amendments have been lodged in the recognition that children's ASBOs must be different from adult ASBOs? We cannot simply copy the existing system, because children require different responses. Will the minister indicate what the process and penalty will be if children breach ASBOs? It is important for the chamber to hear that.

Ms Curran: This has been an interesting debate. I am happy that the broad consensus is that the Executive has responded to the committee's concerns. It is appropriate that when we hear evidence we recognise the scale of the issues that are flagged up to us. The debate has given me the opportunity to be very clear about the significance of the children's hearings system in dealing with a range of issues that affect young people in Scotland. We want to protect that system.

When the proposals were first made, it was implied that we had a hidden agenda to undermine the children's hearings system. During the bill process, we have clarified that that was never our intention. However, I do not share the complacency that Colin Fox showed in his speech about the serious issues that remain in our communities and that systems and structures have not dealt with properly—either in the interests of those communities or, fundamentally, in the interests of the young people who perpetrate serious acts of disorder. It is not in the interests of those young people to allow such problems to go unchecked.

Undoubtedly, the system can be improved—the Executive is very clear about that. We recognise that in some cases the hearings' recommendations have not been implemented and we are undertaking a full-scale review of the children's hearings system to address that issue.

Members should get away from thinking that resources are always the answer to some of the

profound social problems that we face. Undoubtedly, they are the answer at times and I would be the first to argue for resources when I think that that is appropriate, but there is more at play here. We have to be prepared to marshal the organisations that we have at our hands to ensure that they work more effectively, and that is exactly what we seek to do. Scott Barrie addressed some of the concerns in his comments. If there are more detailed issues, I will respond appropriately to members.

Amendment 41 agreed to.

Amendment 42 moved—[Ms Margaret Curran]—and agreed to.

10:00

The Presiding Officer: Group 3 is on periods for which antisocial behaviour orders may apply. Amendment 83, in the name of Stewart Stevenson, is grouped with amendments 86, 88 and 90.

Stewart Stevenson (Banff and Buchan) (SNP): The amendments deal with a simple issue. Given that the bill seeks to extend the remit and range of ASBOs, it is right that we look at some of the ways in which they work. It is somewhat surprising to many people that ASBOs can be imposed without limit of time. An ASBO can be a life sentence for some, whereas the whole point of such an order is to address behaviour that is antisocial, to ensure that people conform to the standards that society requires of them and to prevent recurrence of the antisocial behaviour. If an ASBO needs to last for the lifetime of a person, we have to ask whether we have reformed the behaviour of that person. If the person continues to misbehave, there are other remedies.

The imposition of ASBOs carries with it a civil liberties danger. If an ASBO is imposed on someone without limit of time—for the rest of their life—and they respond to it by behaving, they might not realise that the ASBO is hanging over them 10 years later when they apply for a position that requires information about their criminal record to be provided to a prospective employer. That would condemn that person's career prospects and involvement in a range of community activities.

I seek to ensure that, when ASBOs are imposed, a specific timetable is attached. If there is a timetable, the order can be renewed if necessary. I do not say that the timetable needs to be specific; if the court thinks that 30 years is the right time limit, so be it. However, it seems bizarre that ASBOs should be a life sentence. I will also move the other amendments in the group unless the minister can come up with some convincing arguments.

I move amendment 83.

Bill Aitken: Amendment 83, as proposed by Stewart Stevenson, has some merit. It occurs to us that an open-ended prohibition is simply not acceptable. As the member correctly says, if an individual is subject to a lifelong ASBO, it would be astonishing if other measures had not been taken against that individual to prevent his behaviour from being a nuisance or threat to wider society. It is draconian to apply an order sine die; we do not consider it appropriate to do so and we shall support Mr Stevenson's amendment 83.

Ms Curran: I am sure that Stewart Stevenson would expect me to come up with convincing arguments in all cases.

Amendment 83 is intended to ensure that antisocial behaviour orders that are made in the civil court will be granted only for a specified period and will not be granted indefinitely. Amendment 88 would have the same effect in relation to ASBOs that are made on conviction in the criminal court.

We resist the amendments because there might be cases in which it is necessary and proportionate for a court to prohibit certain types of behaviour indefinitely. It is intended that an ASBO should protect the public from further antisocial behaviour; the order will be granted only if it is necessary. In our view, the court should have the discretion to make prohibitions that apply indefinitely where that is necessary.

Stewart Stevenson: I invite the minister to give us some examples of where that might be necessary.

Ms Curran: I will pursue my speaking notes and hope to persuade the member.

Guidance on applying for ASBOs states that, when making an application, local authorities and registered social landlords should decide what duration of the order to seek, up to and including an indefinite period of time. The guidance reminds authorities that, in considering what duration to seek, the prohibitions should be those that are necessary to protect the relevant persons from further antisocial acts. Any decision by a court should be reasonable and proportionate, so the length of time for which the prohibition order should apply will be one of the main factors that will need to be considered. In doing that, courts will need to bear in mind the period that has been requested by the authority that applied for the order.

We think it appropriate that sheriffs should have the option of making an indefinite order when the facts and circumstances of the case mean that such an order is necessary to protect others from further antisocial behaviour. For example, it would

be reasonable for an individual to be prohibited indefinitely from verbally abusing their neighbour.

The concern that has been raised appears to be around the conditions that will be imposed. For example, it has been argued that indefinitely prohibiting an individual from entering a certain street would be disproportionate, especially if the prohibition applied to a young person who might be arrested for breaking the on-going condition long after they had grown out of the behaviour that had caused the problem. However, authorities will be required to have regard to the Executive's guidance on the reviewing of such orders. We have provided the Communities Committee with a copy of the draft guidance, which will be consulted on before the new measures are implemented. The draft guidance provides that authorities should review the order regularly—certainly every six months—to assess what effect it is having. I hope that that reassures members.

The draft guidance also requires the relevant authority to consider at least once per annum whether the order could be varied or revoked and formally to record that decision. That will be particularly important for orders of indefinite duration. Because 12 to 15-year-olds are likely to be involved with the children's hearings system, the guidance requires that the reporter and the young person's supervising officer should be consulted when the authority checks on the case. Therefore, safeguards will be in place. It is also important to remember that an individual can appeal the ASBO or make an application for it to be varied or revoked.

Given the cumulative effect of those checks and given the requirement for courts to impose only those conditions that, having had regard to the full circumstances of the case, they believe to be necessary and proportionate, we believe that sufficient safeguards are provided for the use of the option of imposing conditions indefinitely.

Amendments 86 and 90 would amend what should be specified in the records that authorities keep of the ASBOs that are imposed by civil and criminal courts; they are consequential to amendments 83 and 88, which seek to remove the possibility of prohibitions applying indefinitely. In view of what I have said, I ask members to reject amendment 83 and the other amendments in the group.

The Presiding Officer: Mr Stevenson, you have about three and a half minutes to wind up.

Stewart Stevenson: I may not need all that time, Presiding Officer, but I thank you anyway.

The minister gave an example in response to my request and I thank her for that. I will not verbally abuse her for having done so. Of course, no member would in any way, shape or form suggest

that someone should not desist from verbally abusing their neighbour for the rest of their life. However, that is not the crux of the question. The question is whether a lifetime ASBO is the appropriate way of delivering that change in the individual's behaviour.

Johann Lamont: Does the member accept that people deserve protection regardless of whether the behaviour changes? We should be able to prohibit the person on whom the ASBO is imposed from coming near the individual whom they have harassed even if they decide later that that harassment was unfair. I am thinking of women who are victims of domestic abuse. People have a right to be protected from such behaviour even if it seems that the person has changed.

Stewart Stevenson: As Johann Lamont knows, on a number of occasions I have argued strongly for the rights of victims. We will return to those rights time and again, because that subject is absolutely crucial to much of today's debate.

However, if an ASBO is imposed on someone to prevent them from verbally abusing their neighbours, the ASBO should no longer be required if the person reforms their behaviour such that they no longer engage in that behaviour over a period of time. By the same token, when an ASBO is applied to protect victims who are being assaulted and intimidated, the person who is subject to the ASBO could conform to the requirements of the order and reform their behaviour.

The minister quite properly pointed out that the person who is subject to the ASBO has the right to appeal the order and to apply for it to be lifted. In reality, of course, those processes require people to engage legal advice, which will simply not be done in many circumstances.

I come back to the long-term issue. The person who has been made subject to a lifelong ASBO and who has conformed to its requirements might simply forget that the ASBO exists. The ASBO might inadvertently have an impact on them decades later at a point when its conditions are no longer proportionate to the reason why it was granted in the first place.

I will press amendment 83.

The Presiding Officer: The question is, that amendment 83 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Mrs Margaret (Moray) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Milne, Mrs Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Morgan, Alasdair (South of Scotland) (SNP)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

Against

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)

Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 48, Against 66, Abstentions 0.

Amendment 83 disagreed to.

Section 6—Appeals: effect on competence of application under section 5

The Presiding Officer: The fourth group of amendments concerns antisocial behaviour orders in general. Amendment 43, in the name of the minister, is grouped with amendments 84, 85, 45, 46, 50, 89 and 76.

Ms Curran: Amendment 43 is a minor technical amendment to ensure that a person appealing against the making or variation of an ASBO cannot apply to have it varied or revoked while the appeal is on-going. Amendment 45 is a minor technical amendment to remove unnecessary wording, as section 9(7) was removed at stage 2. Amendments 46 and 76 are also minor technical amendments to reflect changes to the Criminal Procedure (Scotland) Act 1995 made by the recent Criminal Procedure (Amendment) (Scotland) Act 2004. Amendment 50 makes it

clear that guidance on ASBOs issued under section 14A does not cover parenting orders made under section 12. Parenting orders made under section 12 will be covered by section 85, which concerns guidance for parenting orders generally.

I turn now to Stewart Stevenson's amendments in this group. Amendments 84 and 89 appear to be intended to ensure that the rights of individuals who are subject to ASBOs are protected. I appreciate the intention behind those amendments, but I consider that they are ultimately unnecessary and could in fact undermine the protection that is being sought by communities.

Amendment 84 seeks to provide that an ASBO is served only if a copy is given to the person subject to the order. The amendment would remove the option of serving a copy on the person who is the subject of an ASBO through sending it to them by registered post or by the recorded delivery service. Amendment 89 would have the same effect for ASBOs made in the criminal court.

The Crime and Disorder Act 1998 already provides the same options as the bill does for serving a copy of the order as made or varied and we have no indication that problems have resulted from that. We do not want to create a system whereby an individual is given a major incentive not to appear in court or to be elusive when attempts are being made to serve copy orders on them. We are satisfied that, in most instances, the orders will be served in person within the court, but it is important that an alternative approach is available where the defendant does not appear or refuses to wait in court for a copy of the order that is made against him or her. On that basis, I hope that Stewart Stevenson will be prepared not to move his amendments.

I move amendment 43.

10:15

Stewart Stevenson: We have no difficulties with the Executive's amendments, which are perfectly sensible. The amendments in my name have been proposed for consideration by the Law Society of Scotland, because it has some concerns about the bill. The argument that the Law Society deploys is simple: because a breach of order could result in a criminal conviction, the Law Society believes that it is essential that the individual is aware of the extent, terms and duration of any order. The Law Society believes that postal citation will not ensure that such information is necessarily communicated to the relevant person, whereas personal citation does not suffer from that disadvantage. On that basis, I will seek, when the opportunity presents itself, to press amendments 84 and 89.

Johann Lamont: I will make a brief contribution on the basis that the amendments cover general issues in relation to antisocial behaviour orders—I will not focus on the technicalities.

I seek reassurance from the minister that the process by which ASBOs are secured and monitored will be kept closely under review. She will be aware that the Scottish Retail Consortium was keen to argue that the police should have the right on their own to promote ASBOs. That proposal was not supported at stage 2, but we want the police to be proactive and to work with others in developing ASBOs where they are necessary.

Although I accept that we do not currently want the police to have that power, I seek reassurance that generally the Executive will keep the process under review and consider evidence from other places, such as England, where the police have that power. If, at some stage in the future, it is felt necessary to review the series of mechanisms around ASBOs, I hope that the Executive will be willing to do that.

Ms Curran: I am happy to give Johann Lamont reassurance that we will keep the series of mechanisms under review. Of course, we want to ensure that ASBOs are properly processed. I say to Stewart Stevenson that there is a straightforward disagreement over the amendments that he and the Law Society of Scotland are proposing. I think that the postal means is an appropriate way of communicating on such a serious issue and he does not—majorities help at times.

Amendment 43 agreed to.

Section 7—Interim antisocial behaviour orders

Amendment 44 moved—[Ms Margaret Curran]—and agreed to.

Section 8—Notification of making etc of orders and interim orders

Amendment 84 moved—[Stewart Stevenson].

The Presiding Officer: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Baird, Shiona (North East Scotland) (Green)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)

Douglas-Hamilton, Lord James (Lothians) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Milne, Mrs Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Morgan, Alasdair (South of Scotland) (SNP)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, John (Ayr) (Con)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Tosh, Murray (West of Scotland) (Con)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

Against

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
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Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

Abstentions

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)

The Presiding Officer: The result of the division is: For 48, Against 64, Abstentions 1.

Amendment 84 disagreed to.

Amendment 85 not moved.

Section 9—Breach of orders

Amendments 45 and 46 moved—[Ms Margaret Curran]—and agreed to.

Section 9A—Breach of orders: prohibition on detention of children

Amendments 47 and 48 moved—[Ms Margaret Curran]—and agreed to.

Section 12A—Short Scottish secure tenancies

The Presiding Officer: Group 5 concerns antisocial behaviour orders and short Scottish secure tenancies. Amendment 49, in the name of the minister, is grouped with amendments 80 and 81.

Ms Curran: Amendments 49, 80 and 81 return to an issue that we debated at stage 2. I hope that members will understand our reasons for seeking to overturn amendments that the Communities

Committee agreed to at that stage. It is not something that Mary Mulligan or I do lightly. Members of the committee will know that this is the only issue in the entire bill on which we have sought to challenge the decisions of the committee at stage 2. I repeat how seriously I take the views of committees on legislation, but we seek to overturn the stage 2 amendments because we believe strongly that it is the right thing to do.

Contrary to the intentions of those who supported the amendments lodged by Elaine Smith and Stewart Stevenson at stage 2, those amendments would mean that more families faced the prospect of eviction from their homes because of antisocial behaviour by one of the family members. I recognise the intention behind Elaine Smith's argument, but I genuinely believe that it would offer a perverse incentive that would be contrary to what she is trying to achieve.

The issue is not straightforward. Before I explain in more detail why we have lodged amendments 49, 80 and 81, I will give some of the background. As members of the committee will know, ASBOs for adults were introduced by the Crime and Disorder Act 1998. The next development was that section 35 of the Housing (Scotland) Act 2001, which I am sure some of us remember very well, allowed public sector landlords, local authorities or registered social landlords to serve a notice on a tenant to convert their tenancy to a short Scottish secure tenancy when the tenant or a person residing with the tenant was subject to an ASBO. It is important to note that that is a power; it is not a duty. Crucially, if a tenancy is converted to an SSST, obligations on the landlord to support the tenant kick in. Landlords must provide support to enable the tenant to convert back to a full Scottish secure tenancy after 12 months. In addition, the tenant has a right of appeal to the courts if they do not agree with the conversion of their tenancy to an SSST. That is the present position; it is where we were before the introduction of the bill.

Members who were involved will remember that considerable discussion took place on section 35 of the 2001 act. However, I recall that, once people understood why we wanted a link between ASBOs and SSSTs, and understood the support arrangements that would be put in place when that link was made, they offered general support for the idea. I believe that that was correct.

From my experience and from what I have heard from other MSPs, I know that landlords have used the link on a number of occasions and have done so responsibly. They have converted a tenancy to an SSST because an adult in the property was subject to an ASBO. They have put in support and successfully changed the difficult behaviour, after which the tenancy has been converted back to an SST. Without that intervention, recourse to an

eviction would have been much more likely.

It is because of such experience that we have sought to allow tenancies to be converted to SSSTs if the ASBO has been made in respect of someone who is under 16 or if the ASBO has been imposed by a criminal court. Let me be as clear about this as I can—that is what Elaine Smith and Stewart Stevenson's stage 2 amendments would prevent. I recognise their motives but believe them to be misguided. Their amendments would not have the impact that they intended.

I strongly defend the need to maintain the option to convert a tenancy to a short SST if ASBOs are made in respect of someone who is under 16. Members should not be under the illusion that preventing the use of SSSTs in cases when an ASBO has been made on a child will protect the interests of that child. On the contrary, without the option of an SSST, landlords who have to deal with the sometimes very difficult behaviour of young people in their properties will move straight for an eviction. That will undoubtedly be their imperative.

Without the link to tenancies in ASBO cases that involve 12 to 15-year-olds, we would be failing to provide a safety net. The short SST provides a buffer and is always backed up by support. When a tenancy is converted to an SSST, obligations on the landlord to support the tenant kick in. We know that that support can work. As I have said, landlords must provide support to enable a tenant to convert back to a full SST after 12 months.

In a similar way, we are moving to reverse the effect of Stewart Stevenson's stage 2 amendment, which would limit the power to convert a tenancy to a short SST to ASBOs made in the civil court under section 4. The Executive's intention is that the power to convert a tenancy to an SSST should also be available when an ASBO is made on conviction in the criminal court. There is no reason why an ASBO that has been made in a criminal court should not have the same consequences as one made in a civil court. As with other ASBOs, we will ensure through guidance that, when an ASBO that is imposed by a criminal court does not relate to behaviour in and around the locality of the tenancy, the conversion of the tenancy does not take place.

I will now deal with a number of the arguments that have been made about the Executive's position on the proposals. A number of members who have been involved in the debate expressed concern about the principle of the link. They argue that we are punishing innocent members of a household because of the actions of another member, but that is not the case.

First, SSSTs are not about punishment. They

are about the provision of support to improve the behaviour of difficult households. The two members who have been most involved in the debate have consistently argued for support provisions and have spoken about the impact and effect that those can have.

Secondly, those who make the case that we would be punishing the innocent forget that, in allowing the link in relation to adults who are subject to an ASBO, we are providing that the children of the family may live in a house that is subject to an SSST because of the behaviour of their parents.

Thirdly, landlords already have the power to evict where a person residing or lodging in the house with a tenant or a person visiting the house has engaged in an antisocial manner towards people in the locality of the tenancy. Given that that provision applies to children under 16, it would be ridiculous for the power of eviction to be available in the case of antisocial behaviour that was caused by a young person and not to have the power to convert the tenancy of the house in which they reside to an SSST. That is especially the case given that conversion to an SSST with support can be used by landlords as an alternative to eviction. The stage 2 amendment could have the opposite effect to that which was intended. If the option of the SSST and the related support were not made available, more families would face speedier eviction.

Others have argued against our position on the basis that it is unjust that such a tool is available in relation to public sector tenants when no equivalent exists for people who live in private rented accommodation or in their own homes. Again, I am convinced that those arguments are wrong.

Obviously, we have to accept that people live in different types of housing—that is a fact. Because of that, we need to have different tools to deal with antisocial behaviour in those different types of tenure. For example, parts 7 and 8 of the bill relate exclusively to antisocial behaviour in the private rented sector. I do not think that arguments were put forward against those provisions on the ground that they discriminate against private sector tenants.

Another factor that we need to consider in this context is that private sector tenants or owner-occupiers will not have available to them the support that must accompany the serving of an SSST. Again, we are talking about different tools for different situations. Given that more support is available to those in the social rented sector, our position is a reasonable one to take—indeed, it is appropriate.

Finally, our opponents have argued that support

to change behaviour should be available irrespective of tenure and that therefore the support that goes with an SSST is not the strong argument that we have held it up to be. I disagree. A landlord's first priority must be to help to improve the behaviour of their tenants and thereby to protect tenants whose behaviour does not cause problems. The responsibilities of landlords are enshrined in legislation, the principle of which has never been questioned. Although additional support could be provided on its own, the short SST establishes a contract: it makes it clear that there are obligations on the part of the landlord and the tenant. Again, members of the Scottish Parliament have never objected to that principle.

We want to change behaviour for the better. I remain convinced that the option to convert a tenancy to a short SST in the circumstances that an ASBO has been served on a child should be available.

Dr Sylvia Jackson (Stirling) (Lab): The minister talked about the support that would be available. Obviously, that support would be provided by social services. What structures will need to be put in place in housing associations in respect of short SSTs?

Ms Curran: I am afraid that I cannot list off the top of my head the details of those structures. From our work in the registered social landlord sector, we know that short SSTs have been very effective. They work by stopping antisocial behaviour, preventing tenants from going down the road of eviction and allowing them to return to the SST. The detailed interventions have been put in place because they are known to be effective. Although SSSTs can involve a range of support mechanisms, the key factor is that the responsibility is that of the landlord. Because that responsibility was enshrined in section 35 of the Housing (Scotland) Act 2001, it works. I would be happy to give Sylvia Jackson the details of the different models that are used.

Ultimately, the short SST provides an important buffer for tenants and their families. It can help to prevent landlords from moving to evict and it can also change behaviour before eviction is perceived to be the most appropriate option. The SSST protects communities, young people and their families. It must be maintained, which is why I have taken the very unusual step of seeking to overturn an amendment agreed to in committee at stage 2.

I move amendment 49.

The Deputy Presiding Officer (Trish Godman): A considerable number of members wish to speak on this group of amendments, so I would be grateful if they would keep it tight.

10:30

Elaine Smith: As the minister said, amendment 49 seeks to remove the provisions that were inserted by a successful stage 2 amendment that broke the link between ASBOs for children and the tenancy of their whole family. I remain convinced that such a link is unjust, and that it would add to inequality by having one law for the poorer in society and another for the richer; the bottom line is that children in the social rented sector and their families would be treated in a harsher manner than those in owner-occupied houses for the same antisocial behaviour. There are many measures in the bill that should be supported because they will help to tackle unacceptable behaviour in our communities, but amendment 49 adds nothing to that aim. It is discriminatory.

My amendment was lodged at stage 2 to address concerns that had been raised by Shelter Scotland, the Scottish Federation of Housing Associations and Barnardo's Scotland, and it was supported by a majority of the committee. I am not sure what the precedent is for the Executive overturning a successful stage 2 amendment, but the fact that it is seeking to do so is disappointing.

The background is that the Executive seems to be applying ASBOs for children in the same way that it applies ASBOs for adults with regard to tenancy. The minister explained how the Housing (Scotland) Act 2001 linked ASBOs for adults to tenancy, which was contrary to the original concept that ASBOs should impact solely on the individual who performed the behaviour. If amendment 49 is agreed to, that system will be extended to children and the powers that are given to sheriffs to serve ASBOs on under-16s could lead to a child's behaviour impacting on the tenancy of their whole family, including other children, which could lead to homelessness. That would mean that there would be more innocent victims of antisocial behaviour—the people who live with the child.

Although I remain concerned about ASBOs for under-16s, welcome changes have been made, which recognise that children's ASBOs are different from adults' ASBOs. The stage 2 amendment ensured that ASBOs for children would be different from ASBOs for adults in the case of SSSTs, and that they would apply equally to all children. It ensured that a child's ASBO would not constitute grounds for converting a tenancy, which meant that the ASBO would impact only on the behaviour of the child in question, not on the whole family. That would not have undermined the Executive's view of ASBOs as effective measures for children. There would still be robust responses, but they would be the same for all children. Currently, support for adults with ASBOs is provided only when a tenancy is being

converted. For under-16s, it would be more appropriate to link that support to the ASBO, so that all children would be treated the same, whatever housing type they lived in.

In a letter to the Communities Committee, the Deputy Minister for Communities stated:

"The alternative to maintaining the power for social landlords to convert a tenancy to a SSST is that landlords who have serious concerns about the behaviour of young people living in their properties may move straight for eviction. There is no doubt that the ASBO could be used as evidence to support the application for eviction on grounds of antisocial behaviour."

But it is not that easy to evict. The court has to give the go-ahead based on grounds that are given by the landlord, and it would be expected to take reasonableness and family circumstances into account. However, if the tenancy is converted to an SSST, eviction can take place on application without any grounds being given, so eviction is much easier and can be done on the whim of the landlord. That is ironic, given that the Executive, rightly, has just received an international award for having the most progressive legislation on homelessness in western Europe. This creation of the risk of eviction for families does not sit well with the Executive's progressive agenda, which I fully support.

Shelter believes that support is an alternative to eviction and that, as the costs are much the same, it is better to give support. Why cannot support be given without conversion to an SSST? The minister seemed to say that support could be given, so why not do it? That is a bit of a red herring, because if amendment 49 is agreed to, we will not be able to get away from the fact that the parents and family of a child who lives in social rented housing will be treated differently in law from those who live in owner-occupied housing. That is unfair, and it runs counter to the principles of social justice; antisocial behaviour, as we know, is not confined to the children of the working class who live in rented houses, so responses in law to antisocial behaviour should not discriminate on that basis. Surely the perpetrators of the same antisocial behaviour should be treated in the same way, regardless of their social background.

The stage 2 amendment would have put all children on an equal footing in terms of ASBOs, regardless of housing tenure type. If amendment 49 is agreed to, some children will be treated differently from others, depending on whether they live in social rented or owner-occupied accommodation. That is discriminatory and unjust. The stage 2 amendment, which the Executive now seeks to overturn, ensured parity for all children, irrespective of parental wealth and social background. On those grounds, I cannot support the Executive's amendment 49 and I urge other members not to do so.

Stewart Stevenson: I hope that the minister listened carefully to Elaine Smith's remarks, because I found little in them with which I could disagree. Margaret Curran said that this was not a straightforward issue, which I accept absolutely, because it ain't. When we deal with issues that are not straightforward, it is important that we return to the underlying principles and examine the associated complications against them.

A principle to which Elaine Smith referred, which I think is important, is that the effects of criminality on one party should not be borne by non-offending third parties. Members throughout the chamber are likely to support that principle. The argument that the minister deploys is that if a child offends and is subject to an antisocial behaviour order, it is positive for that to impact on the adult tenant. That is a respectable argument in one sense. However, when the principle is examined against the detail, it is relatively difficult to apply, because of the lack of other provisions. The minister differentiated between power and duty in relation to the SSST. It is precisely because we discriminate between categories of tenancy in the existing legislation and do not have similar provisions and duties to support people who choose to own their houses that we end up in this rather complicated morass.

The other important point is that we do not wish to extend the reach of the criminal law in relation to children. In a recent debate on the children's panel system, I made the point that the system needs further improvement; I will make that point again in the future when appropriate. Nonetheless, the system is at the core of the way in which we deal with children. Making it work in relation to ASBOs in a civil context is one thing; making it work in a criminal context is quite another.

Those are some of the arguments that we deployed in committee. We had a good and wide-ranging debate in which members listened to the arguments and were persuaded by them. I accept entirely that it is quite proper for the minister to propose the change to what the committee decided. I do not criticise her for doing so, because the argument was finely balanced. It is perfectly proper that the argument is shared with the wider Parliament and that responsibility for perfection in decision making is not just arrogated to the nine people on the committee. I respect the fact that the minister has understood that things are not clear cut in many other parts of the bill and that she has inserted new powers in relation to secondary legislation because she cannot make up her mind about one or two things, such as holiday homes—we will come to that in due course.

The argument remains in favour of the committee's decision and I will recommend to my colleagues that they vote against the minister's

amendments.

Mary Scanlon (Highlands and Islands) (Con):

We often find at stage 3 that there are strange alliances throughout the chamber. I am pleased to say that the Scottish Conservatives will support Elaine Smith against the Scottish Executive.

As Stewart Stevenson said, there were wide-ranging discussions and arguments at stage 2. We still have problems with amendment 49, despite the case that the minister made. It cannot be right that a law-abiding family with one child who engages in antisocial behaviour should have their housing rights challenged on the basis of that child's behaviour. Surely the ethos of the bill is to address and correct the child's behaviour rather than to punish the family by changing the security of their tenancy and threatening them with eviction, thereby disrupting the family, who might be making every effort to correct the child's behaviour.

Johann Lamont: Will the member take an intervention?

Mary Scanlon: I am sure that the member will have a chance to speak later.

Of all the briefings that we were sent for stage 3, I was probably most moved by the one from Barnardo's, which expressed that organisation's disappointment that the minister is seeking to overturn the amendment that was moved successfully by Elaine Smith at stage 2. The briefing also confirms that it needs to be acknowledged that a person under the age of 16 has no possibility of securing tenancy rights of their own. It says:

"This amendment by the Minister could lead to young people being encouraged to move away from their families in order to protect their parents, or carers' tenancies."

I hope that, before they press their voting buttons, every MSP will consider that point.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I fear that members who have spoken in the debate—and even Barnardo's—do not understand the point that we are debating. Members will be aware—if they are not, they should be—that, under the Housing (Scotland) Act 2001, which roused great interest when it was debated in the Parliament, power was given to local authorities and housing associations to convert tenancies to SSSTs. That power can be applied across the board, even if there is a baby in the house. The measure was provided not as a way of penalising those families who have young people in the house or as a way of getting at the young person, but as a way of inserting an extra measure before a local authority or a registered social landlord moved to eviction. It was intended to be a way of putting in place a package of measures to ensure that the behaviour that was

causing offence to the neighbours and the community could be tackled.

Members such as Elaine Smith have asked why those measures cannot be put in place before the situation has got to that stage. Local authorities and housing associations try to engage with the tenant to get them to take up the package of measures that, as elected representatives, we know are available. However, some people simply do not want to do that and they must be sent a message that they are being given a final opportunity. They need to be told that they have a year in which to sit down and engage with the local authority or the housing association and accept the help that is available.

I understand the sentiment that lay behind the amendment that Elaine Smith moved at stage 2 and I accept that her arguments about the differences between the owner-occupied sector and the rented sector are compelling. However, we must accept that those differences exist and that we will not be able to change that situation with this bill. I have been trying to ensure that the rights of residents in the private and the public sector are maintained and improved. I am proud of the work that the Scottish Parliament has undertaken on behalf of tenants in the social rented sector.

I believe that Elaine Smith, some other members of the Communities Committee and some of the lobbying groups have got it wrong. If we follow their suggestions, we could end up with a situation in which a family with a 10-year-old child who live in a house in which there is a problem with antisocial behaviour could have their tenancy converted to an SSST, but families with children between the ages of 12 and 15 would not have the opportunity to access a support package that could provide them with a final protection against eviction.

10:45

Before members vote on this issue, they should ensure that they understand the full details. Elaine Smith said that, if we support the Executive's amendment, people in the social rented sector will be treated more harshly. Far from that, if we do not support the Executive's amendment, those who have young folk between the ages of 12 and 15 in their families will be denied a vital tool for correcting their behaviour.

In my local authority area, and in Edinburgh, Glasgow and Dundee, I understand that several tenancies have been converted to short Scottish secure tenancies since the introduction of the Housing (Scotland) Act 2001. My information is that, as of last week, none of those SSSTs had

resulted in the person being evicted; in fact, they had been converted back to secure tenancies.

Donald Gorrie: During the committee's deliberations, I found this to be a difficult issue and, rather atypically, I abstained. I still find the issue extremely difficult and some of today's speeches, especially Cathie Craigie's, have been very helpful, as have some of the discussions that we have had outside the chamber.

The objectives are to ensure, first, that people are not evicted; secondly, that the families who need support get that support; and thirdly, that the neighbours are protected from unhelpful people. Party colleagues who represent other areas have given me examples of families who use the delinquency of their children as a sort of smokescreen. They say, "Ha ha, you can't evict me," and the children go on and on antagonising the neighbours. In such cases, the neighbours have to be protected, as do the families who have one tearaway whom they are trying to control, which is what Elaine Smith and others are arguing.

I am persuaded that the Executive's proposal will provide better support for the families and, in the end, will lessen the chances of an eviction taking place. In such instances, we have to take someone's word for it. We are speculating on what effect the laws might have, but I find the evidence of past experience that was quoted by Cathie Craigie to be influential. Although I am convinced by some of Elaine Smith's arguments about treating people equally, we have to help people who have serious problems and the Executive's proposal on dealing with this very difficult issue is marginally better. I might be wrong, but on this occasion I will go with the Executive.

Ms Rosemary Byrne (South of Scotland) (SSP): We are talking about under-16s and children. We already have the tools to support young people who need support. We have the children's hearings system, as we have just heard from Stewart Stevenson. We also have social services. If those tools are resourced properly, I do not see any need to go down the road of taking punitive and draconian measures against families.

If amendment 49 succeeds in removing section 12A, council and housing association tenants will be discriminated against. As we heard from Elaine Smith, they will be treated differently from everyone else. The ability to convert the tenancy for someone who is living in social housing has built a major inequality into housing law. Those who live in social housing could face eviction as a result of the behaviour of a child, while those who live in the private sector would face no such threat. Making a family homeless on the basis of the behaviour of one member of the household, particularly that of a child, is not a just or effective way of preventing, or responding to, antisocial

behaviour. Evicting a whole family, or putting that family under threat of eviction, because of the behaviour of one child will only put the family under more pressure and that is no way in which to protect children.

We should consider the care and protection of our young people and make moves that are not punitive or draconian. We should try to offer support in the best sense of the word, which means supporting the family and the child in the existing system. Shelter Scotland says:

"The link between ASBOs and tenancies can impact not just on those who carry out antisocial behaviour but also on members of their household. This is particularly unjust given that it can lead to homelessness among children who have never carried out antisocial behaviour."

Amendment 49 would represent a backward step. I urge members to oppose it.

Ms White: Two main issues arise in the debate on amendment 49. First, as the Executive admitted, an ASBO would not be granted in relation to a child as a result of a one-off incident. I assume—I think that anyone with a piece of common sense would assume—that a child in respect of whom an ASBO was made would be known to social services, the police and other authorities. As Rosemary Byrne and others rightly said, that is the point at which the help should kick in.

Secondly, Sylvia Jackson asked the minister what packages would be put in place if the link between ASBOs for children and short Scottish secure tenancies is restored, but the minister has not yet given an answer. I hope that she will do so. Surely any package should be in place before a tenancy is converted. After all, if an ASBO were made, families would live under the threat of an SSST before any help was offered. That is an important point.

Cathie Craigie said that it is all about helping people. Surely there are packages that would help kids without threatening the whole family. If someone commits a crime, we do not lock up their whole family.

Cathie Craigie: Will the member give way?

Ms White: I will let the member in in a minute.

Cathie Craigie talked about the rented sector and the private sector. Amendment 49 would create a law that would treat people who live in rented housing entirely differently from people who live in private housing. That cannot be right. Cathie Craigie said that we must accept that there is a difference and she gave an example of how the situation would affect different children. In a block of four flats, a 10-year-old who lives in a rented flat would be treated differently from the kid who stayed across the landing in a bought house.

Amendment 49 is ludicrous. The Communities Committee got it right from the start and it is ridiculous that the Executive is trying to change the bill in this way. I wait to hear what the minister says about the packages that would be put in place, but we cannot create a two-tier society in Scotland. Help is available for kids. I urge members not to support amendments 49, 80 and 81, which are all wrong.

The Deputy Presiding Officer: I call Johann Lamont. You have a tight three minutes.

Johann Lamont: I support amendment 49. We simply have to recognise that there are different tenures. We must ensure that there is a balance of rights across different tenures, but do the members who oppose the amendment think that it would be logical to argue that people in the social rented sector should never be evicted, because there is no process for evicting someone who owns their home?

Ms White: Will the member give way?

Johann Lamont: I cannot take an intervention, because I have only three minutes.

Equally, if taking action against one person in a family has an impact on the rest of the family, does that mean that we should never take punitive measures against anyone who has a family? That does not seem logical.

We must acknowledge that we need to use the levers that are available. I do not recognise Elaine Smith's characterisation of ordinary working-class people as living in the social rented sector and the rich as living in privately owned homes. The reality is that ordinary people bought their own homes because they felt that they were getting insufficient protection when they were tenants. If we are to sustain the social rented sector, we must ensure that the rights of tenants and their families are protected. If my child was being bullied by the youngster next door, I would have the right to ask someone to act.

Tommy Sheridan (Glasgow) (SSP): Will the member give way?

Johann Lamont: I am sorry, but I have only a limited amount of time.

We are not saying that action would be taken against people who have done nothing. Action would be taken only when a serious problem had been identified. For example, when youngsters in a family in Glasgow harassed vulnerable asylum seekers who lived next door, the only option was to move the asylum seekers or to evict the family. Amendment 49 would allow us to address the problem, to create harmony in the community, to work on the issues that are causing difficulties and to give people a chance. Elaine Smith says that if we are putting in place support packages we

should just offer them to people anyway. However, the existence of the provision would concentrate minds.

I would understand the anxiety if we were creating a power to evict people immediately. That is not what amendment 49 would do; it would give a breathing space in which people would be asked to consider their behaviour and the behaviour of their youngsters. That is a protection for youngsters who are in the social rented sector, not a threat. People must be honest about the SSST; it is not a punitive measure, but a supportive one, although it is one step beyond voluntary support. Such measures are recognised in every field that we work in. We should not allow amendment 49 to be characterised in a false debate about equality—it is about protecting those in the social rented sector, not attacking them.

Patrick Harvie (Glasgow) (Green): I am minded to support Elaine Smith. However, I would be wrong to listen to my gut feeling on the equality issue without listening to the minister's argument. So far, sufficient commitments have not been made to convince me that evictions will be less likely to be granted and more difficult to achieve if amendment 49 is agreed to. The minister must be much clearer. The arguments are similar to those about electronic tagging, which has been described as an alternative to custody. Too many people describe such measures as just another tool in the box. There is a danger that the SSST will become just another tool in the box and an additional option instead of an alternative to eviction. I remind members of the vicious cycle of eviction and re-housing, which makes the problem worse. I ask the minister to be more explicit if she wants to convince.

Ms Curran: The debate has been interesting. I am comforted by the fact that the Tories do not support me—I am sure that we will see a few unholy alliances this morning, which I look forward to. I recognise Patrick Harvie's points and Cathie Craigie and Johann Lamont made effective points.

Let me be clear that for the SSST to be used in conjunction with an ASBO, the antisocial behaviour must be linked to the tenancy—it will not be unconnected. If the behaviour is serious enough to justify an ASBO being granted, we must accept that it is our responsibility to ensure that the behaviour is tackled. We cannot just walk away and say, "What a shame for the family, their neighbours and the community. It is a shame that we cannot find an equal system that can deliver." It is incumbent on all members to find solutions to such problems. We must get real about just how serious antisocial behaviour is for some people, such as the asylum seekers Johann Lamont mentioned. Many members have constituents in the social rented sector who feel that their plight is

never properly attended to.

Patrick Harvie focused on the crux of the matter. If we do not allow the use of SSSTs, eviction is the only other option that social landlords will have. There is no doubt that many people would be pressed toward eviction because of a lack of support. We can all sit here and say that support should be provided and that the quality of professional intervention should be high enough to make things happen—

Ms White: Will the minister take an intervention?

Ms Curran: Bear with me while I follow the logic of my argument.

Sometimes, however, we have to make things happen. In the previous session of Parliament, when we debated the Housing (Scotland) Bill, that was the logic that we followed. When we deal with serious antisocial behaviour, we must ensure that support measures kick in before eviction takes place. The Tories supported that argument then—this is not the first time that they have been inconsistent. If we do not make landlords assume responsibility for sorting out the issues, their only option will be to move to eviction. A number of landlords might do that. The Executive is saying not that landlords should go straight to eviction, but that they must provide support and that they have another option in tackling antisocial behaviour.

When somebody accuses us of being unfair and treating people unequally, we take that seriously. However, different tenures exist. If members think that we should not recognise that and address the issues, the logic of their position—as Johann Lamont pointed out—is that we should abolish the social landlords' powers of eviction. Landlords have those powers, and we have all voted for measures that allow them to use them. We must recognise that different tenures exist. In the owner-occupied sector—and there are working-class people who own their homes—lenders sometimes move straight for repossession. That is damaging to owner-occupiers; it is unequal, too, and the Executive seeks to address that. Sometimes there are different realities.

The measure that we propose will not allow people to be unduly evicted, nor is it saying that people in the social rented sector are lesser. We are creating a means of ensuring that antisocial behaviour is prevented and dealt with before the stage of eviction is reached.

The power will ensure that support is provided. It will delay evictions, and it will help to solve antisocial behaviour. That is what we are here today to talk about. If any of us lived with antisocial behaviour, as some people in Scotland do, we would be keen to ensure that solutions were

maximised. That is what this power will do.

11:00

The Presiding Officer (Mr George Reid): The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

abstentions

Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 69, Against 51, Abstentions 1.

Amendment 49 agreed to.

Section 14—Records of orders

Amendment 86 not moved.

Section 14A—Guidance in relation to antisocial behaviour orders

Amendment 50 moved—[Ms Margaret Curran]—and agreed to.

After section 14A

The Presiding Officer: Group 6 is on research in relation to antisocial behaviour orders and the dispersal of groups. Amendment 95, in the name of Stewart Stevenson, is grouped with amendments 96 and 164.

Stewart Stevenson: We come, in this group and the next, to one of the key points of the legislation, which is dispersal. It is an issue that has sharply divided opinion, but we should start by painting some of the background, where I think that there is no real division. It is acknowledged that there is a very real problem, which the powers of dispersal in the bill seek to address. The Communities Committee travelled the length and breadth of Scotland to hear from communities. Every electoral region in Scotland received a visit from members of the committee. In every visit that we made we heard the problems of groups, which differed quite dramatically from region to region. It would be fair to say, without stigmatising in any way, that Glasgow and the west of Scotland had a different character and experienced a more severe impact of the problems. Even in relatively leafy areas such as Lossiemouth, though, people brought real problems to the committee. If members diverge from the solutions that the minister and the Executive propose in the bill, it is certainly not because there is any difference between us in the recognition of the problem.

I have argued from the outset that the dispersal powers will make no difference. However, I do not feel strongly that if we introduce the powers Armageddon will come upon us, social cohesion will break down, the rule of law will be compromised and the whole structure of the Scottish legal system will fall into disrepute, because that will not be so.

Whether or not the powers are introduced, the challenge for the Executive is to demonstrate to people in Scotland that it has taken steps that solve the problem. My amendments 95, 96 and 164 challenge the Executive to show, once the bill's provisions are implemented, that it is solving the problem. We have adopted this tactic in relation to other bills in order to seek greater review of legislation in operation, and I hope that it will find favour on this occasion. The Executive is confident that its proposals will address the

problem and it will therefore have no difficulty in gathering evidence in a study to prove that to us.

However, proving to 129 people in the Parliament that the problem has been solved stands a distant second to proving to people in communities throughout Scotland that the problem has been solved. When the minister talks about dispersal powers in relation to group 6, and indeed group 7, I want to hear her state firmly that legislation is not the only thing that ministers are thinking about. Legislation without resources will leave us not one whit better off.

The minister has spoken to police forces. The police have been vociferous at all levels in their formal responses to the Parliament and its committees and they say that the proposed powers are a waste of time because they already have the powers. Indeed, in some parts of Scotland the police have exercised powers of dispersal within the existing legal framework and it has been possible for agencies and the criminal justice system to collaborate to deliver the results that other parts of Scotland desire so earnestly.

If powers of dispersal are to be introduced, at least let the minister be prepared to test their implementation to see whether they deliver what she claims—that is the objective of my amendments. In the first instance, the amendments refer to research on ASBOs, although I have spent most of my time talking about amendment 96, which refers to dispersal. Amendment 164 is essentially technical—it allows the preparation for research to start when the bill is enacted, before the sections that relate to ASBOs and dispersal powers are brought into force. I am relatively relaxed about the Parliament's attitude to amendment 164, but I will press amendments 95 and 96 with vigour.

I move amendment 95.

Bill Aitken: We listened with interest to what Mr Stevenson said but, frankly, we think that his amendments are unnecessary. Research might be useful and in some circumstances it might be welcome, but the Executive is able to carry out such research without legislation on the matter. It seems that the matter could comfortably be dealt with by parliamentary committees at the appropriate time. We see no merit in the amendments and we will vote against them.

The Deputy Presiding Officer (Murray Tosh): I call Tommy Sheridan. [*Interruption.*] In Mr Sheridan's absence, I call Nicola Sturgeon.

Nicola Sturgeon: Well, there we go—posted missing.

I support Stewart Stevenson's amendments. Aspects of the bill—in particular, parts 2 and 3—have caused considerable controversy, but it is

important to reflect on the fact that much of that controversy has centred on differing views about the likely effectiveness of the provisions. That is not an academic debate. Expectation about the difference that the provisions can make is high in communities around Scotland. As legislators, we have a duty to ensure that what we pass is effective and that people's expectations are not being raised falsely because what we pass cannot live up to their expectations.

As Stewart Stevenson said, there is no disagreement about the objective behind the provisions in part 3 to give the police dispersal powers, for example. Taking action to deal with large or small groups of people who are making life a misery for decent, law-abiding citizens in communities around Scotland is an honourable objective and is the right objective. My problem with what is proposed is that I remain to be convinced that the provisions will be effective, for reasons that we have heard at every stage of the bill from a range of interested parties, such as the police, voluntary groups and politicians. I am sure that we will consider such arguments in relation to the next group of amendments.

My uncertainty about effectiveness gives me grave reservations about going ahead regardless and passing the provisions. If the Executive carries the day, it will be smart government to build into the legislation not only the possibility of testing whether the provisions are effective, but an obligation to do so and to return to Parliament to account not only to us, but to the people of Scotland. I ask the Executive to think carefully about its response to the amendments. Agreement to the amendments might allow those of us who continue to have reservations about part 3 to reserve judgment and to allow the proof of the pudding to be in the eating.

Tommy Sheridan: I apologise for not being present earlier—I was called out of the chamber at an inappropriate moment.

The thrust of the discussion must be about what works. It is not about what we think will work or about who can sound the best and the most sincere about the problems that confront communities throughout Scotland. Those who are at the coalface of dealing with the problems say that the dispersal powers are inappropriate and unnecessary. I hope that the Executive will begin to accept that just because groups of individuals, parties or lobby associations oppose those powers, that does not mean that those groups are less sincerely concerned about the problems that confront communities.

We believe that what is proposed is clearly not the way forward in Scotland. We should not restrict rights or allow young people to be stigmatised, which would allow all young people to be tarred with the same brush when they do not

deserve that. For those reasons, I hope that Stewart Stevenson's amendments will be given the maximum support.

11:15

Ms Curran: I welcome Tommy Sheridan's comments, because the debate has shifted considerably in the past year. I was given responsibility for the bill a year ago, when my primary task was to persuade people that antisocial behaviour existed and was a problem. I am glad that the situation has changed. Mr McLetchie's reaction to the First Minister's legislative programme was that the debate was phoney, but I suggest that he would not say that now—certainly not in Broomhouse, unless he was a brave man.

I turn to Stewart Stevenson's amendments and offer the reassurance that the member is seeking. We have never suggested that the proposals are about just legislation. In fact, we have always emphasised that the opposite is the case. No one measure can deal with the problem of antisocial behaviour. A comprehensive approach is required, as I am sure Stewart Stevenson recognises. Assessment of the effectiveness of the range of measures that we are introducing is critical and essential to what we are trying to do. Bill Aitken had a point when he said that we would conduct such an assessment in any event—we research ASBOs currently. There was a debate in the committee about ASBOs and the fact that they are applied unevenly throughout Scotland and we need to understand why that is the case. I am keen to know why some local authorities perform extraordinarily well in tackling antisocial behaviour through the use of ASBOs, but others do not. There are issues to be considered.

It is critically important that we monitor and evaluate the exercise of the dispersal power. Normally, the Executive's response would be to say that it is doing that in any event and that such provision does not need to be made on the face of the bill. However, given the Parliament's desire to ensure that we analyse appropriately, publish research and engage appropriately with the Parliament—Stewart Stevenson spoke about testing the effectiveness of the power and examining the detail of its use—I am happy to support amendment 95. I hope that that gives the member the reassurance that he was seeking.

We will not support amendment 164, because we argue that some flexibility is needed in the commencement of the provision. That is just proper business management.

The Deputy Presiding Officer: I invite Mr Stevenson to wind up with a quick lap of honour.

Stewart Stevenson: That is very kind. It does the minister great credit that at stage 3, when she has her army behind her, she has recognised the force of an argument put by members from other parties. I thank her for that. I remind the minister that the real report card will be delivered in 2007. Our opinion will not matter one whit if she has failed outside the chamber.

I take on board entirely what the minister said about amendment 164. When the time comes, I will not move that amendment.

The Deputy Presiding Officer: The question is, that amendment 95 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)

MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 MacDonald, Margo (Lothians) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)

Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 104, Against 16, Abstentions 0.

Amendment 95 agreed to.

Section 16—Authorisations

The Deputy Presiding Officer: Group 7 is on dispersal of groups. Amendment 51, in the name of the minister, is grouped with amendments 1, 2, 52, 53 and 3 to 6.

Ms Curran: I have been looking forward to this debate, because the dispersal of groups has been the subject of some consideration and public debate. We now have the proper parliamentary opportunity to reflect and to decide on the matter.

We have never claimed that dispersal powers are the only answer or that they will cure all the problems of disorder on our streets and in our open spaces. We have always made it clear that they are but one part of our approach. However, we will not shy away from doing something to address the real fears and problems that exist among young and old alike in communities throughout Scotland. It is incumbent on the Parliament to ensure that it comes up with solutions, instead of just criticising. Too often, I have heard the fears of local communities trivialised. That is at best irresponsible and at worst downright insulting to those who suffer day and night from antisocial behaviour.

Bill Aitken tried to remove section 16 at stage 2—he failed then and I sincerely hope that he will fail again today. Throughout consideration of the dispersal powers, we have on every occasion sought to emphasise that they would come into effect only in an area where there is clear evidence that antisocial behaviour is an ongoing problem and there is a need to offer those who live in or around that area a period of respite.

I will now tackle the criticism that section 16 will simply create no-go areas. The harsh reality is that we already have many areas that are effectively no-go areas because so many people experience harassment and intimidation and cannot walk their own streets. There are more young people who are frightened to walk down their streets than there are young people who commit antisocial behaviour and it would serve us to ally ourselves with those young people who are afraid. We have to do something to restore calm in their communities and to give those areas back to the people who want to live in peace and quiet and without fear. That applies to communities throughout Scotland—in my constituency, in Bishopbriggs, in rural areas and, I say to Mr

McLetchie, it applies to communities in Broomhouse.

There are those who continue to say that people innocently going about their business—whether they are young or old—will be moved on by the police and find themselves subject to criminal sanction based simply on the opinion of a member of the public who does not like the look of them. Such talk is not only irresponsible and belittling of the real problems that many communities face; it is fundamentally wrong.

We have emphasised all along that the dispersal powers must be seen in the wider context of the local strategy to tackle antisocial behaviour. That strategy—in fact, those action plans drawn up by local authorities and the police in partnership with community groups and others—will cover prevention and diversion as well as enforcement and will be backed up by the resources required to turn strategic plans into action. I say clearly to the Parliament and to the communities that might be listening, that if we introduce dispersal powers not only will we be curing antisocial behaviour, but we will help to prevent it. The powers will do much more for communities and young people than anything that the Tories or the Scottish Socialist Party have ever suggested.

I will be clear about what the bill proposes. Section 16 makes it clear that, in any circumstance, a senior police officer can authorise the use of dispersal only if antisocial behaviour has been a persistent problem and is having a significant effect in an area. The bill also sets out that the authorisation will last for a specific period not exceeding three months. The section refers appropriately to times or days in that period, for example, a Friday or Saturday night. Therefore, the powers will not be employed at the drop of a hat, they will not be used without proper consultation and they will be tightly targeted, time limited and based on evidence of significant, persistent and serious antisocial behaviour.

Tommy Sheridan: If the use of those powers is based on evidence of persistent and serious antisocial behaviour, would it not be better if the police acted there and then to remove those youngsters, instead of applying for a dispersal order?

Ms Curran: Here we see the perverse logic of the ultra-left—Tommy Sheridan would rather have us lock up those young people and criminalise them instead of taking preventive action by saying to them, “Think again and think about the impact that you are having”—

Tommy Sheridan: For serious and persistent behaviour, I would.

Ms Curran: Tommy Sheridan should learn to listen to arguments instead of always shouting at

people. We are obliged in this Parliament to listen to different arguments that are proposed to us.

Section 17 ensures that, before an authorisation can be made, reasonable steps must be taken by the police to inform those people in and around the area of their intention. For example, the police must say how long the period of authorisation will last and indicate any specified times in that period; they must also be clear about the area to be covered by that authorisation.

Once the authorisation is in place, sections 18 and 19 will enable the constable to give the group or any member of it a direction to disperse only if he or she is satisfied that their presence or behaviour is likely to result in members of the public being alarmed or distressed. The powers cannot be used simply to move people on who are doing nothing wrong and presenting no risk to others; they may be used if in the constable's professional judgment there is a real possibility that alarm or distress is likely to be caused and that giving a direction would reduce that possibility. He or she can act in a pre-emptive way rather than waiting—as some members would have it—until an offence is committed. Such a preventive measure is not currently available to the police. An individual's refusal to comply with the constable's direction would become an offence under section 19.

Section 20 provides for the issuing of guidance to which the police must have regard when they implement the powers under part 3. Over recent months, my officials have worked closely with the police associations and others to develop practical guidance on the implementation of the provisions. I am grateful for the police's support in ensuring the operational effectiveness of the dispersal powers. We will draw on that work to prepare draft guidance for consultation during this summer.

I want to make it clear again—I hope that I do not offend Patrick Harvie in saying this—that the provisions in part 3 neither provide sweeping new powers nor do they add anything to existing powers. Rather, they offer an additional tool for dealing with the specific problems that are caused by the behaviour of groups in areas that are blighted by persistent disorder. That said, I have listened to genuine concerns. I believe that amendments 51 to 53 will further deflect any criticism by ensuring that the powers can be exercised only in a measured, proportionate and time-limited way.

Amendment 51 seeks to put beyond doubt in what kind of situations the powers could come into effect. As the bill stands, the dispersal powers can be exercised only if a senior police officer is satisfied that antisocial behaviour has been an on-going problem that is having a significantly adverse effect on the area. Amendment 51 will

add "serious" to the tests of "persistent" and "significant". The amendment will thereby further increase the gravity of the antisocial behaviour problems that would need to be present before exercise of the powers could be authorised.

Amendment 53 seeks to provide that the constable must consider whether dispersing the group would have the effect of causing less alarm and distress to members of the public in that area. In addition, amendment 53 seeks to clarify that, whether or not there is any current or likely risk of distress or alarm being caused, past behaviour alone can be a basis for the constable's exercising the power.

Amendment 52 is consequential to amendment 53.

Amendments 51 to 53 will further tighten the conditions under which dispersal directions can be given. As such, I hope that they will provide sufficient reassurance that the powers will not be able to be used as a quick fix for some isolated incident of low-level disorder and will not be deployed indiscriminately against those who are lawfully going about their daily life.

I acknowledge that part 3 has been the subject of some debate and controversy. That is not necessarily a bad thing. I believe that the provisions that will now be contained in the bill demonstrate that we have listened to both sides of the debate.

Despite the scorn of those who have argued otherwise, communities have pleaded for the powers in part 3. We owe it to them to give them the respite that the powers will afford. We cannot afford to let them down today. I hope that the Parliament will approve amendments 51 to 53 and reject amendments 1 to 6.

I move amendment 51.

Bill Aitken: As the minister has obviously anticipated, the effect of amendments 1 to 6 would be to remove part 3 in its entirety. To our mind, the wide-ranging powers in part 3 are, as I have said before, both unnecessary and illiberal. Again, the existing law has been totally disregarded.

When a group of persons congregates in a particular location and causes a nuisance, such nuisance is almost invariably accompanied by noise and/or by threats to local residents. Those are the classic ingredients for a charge of breach of the peace. Quite frankly, the law can deal with those situations.

The problem is that the Minister for Justice and the Executive have manifestly failed to enforce the existing law by issuing the appropriate protection for members of the public. I fully accept that the minister is concerned to provide that protection for the public, but the fact is that our police are under-

resourced. Moreover, our prosecution service has traditionally been under-resourced and the Executive has shown a total lack of willingness to grasp that particular thistle firmly.

Basically, the minister's amendment 53 would mean that, if the police considered that exercising the powers of dispersal would be likely to cause more trouble than it was worth, they could decide not to exercise the powers. That being the case, we must ask why it is necessary to give the police those powers anyway, given that they can already charge the offender with a breach of the peace or with one of the various offences under the Civic Government (Scotland) Act 1982 and other legislation. Why must the Executive always seek to legislate when it already has the existing powers and has simply lacked the courage or determination to use those powers to ease the problems that it has quite properly identified?

11:30

Ms Curran: Can Bill Aitken tell me what he would say to the residents of Broomhouse who say that the existing law has failed dramatically to address the situation that they are dealing with?

Bill Aitken: I would point out to the residents of Broomhouse why the existing law is totally adequate to cope with the problems that they have to face day by day. I would also ask them why they are not asking the Executive why it has manifestly failed to support them in the seven years that Labour has been in power. Labour Governments have simply not been able to cope with problems of disorder and have shown, until comparatively recently, a total reluctance to stand up to the minority of people who make life a misery for the vast majority of decent people. Only now, largely as a result of the clamour from its own back benches, has the Executive been prepared to take any action whatsoever. It is to the Executive's eternal shame that that is the position.

If we look at the technicalities of the bill, we see that some of it is, frankly, disgraceful. Is it not objectionable that as few as two persons can be considered a group? The proposals smack of "Nineteen Eighty-four". How can any police officer, or anyone else for that matter, anticipate the conduct of any individual or group? If there is a pattern of behaviour in a certain area or if certain individuals, particularly young people, look terrifying or as if they might frighten the horses, that does not necessarily mean that the conduct of those people is likely to be of a type that results in police action. I would have thought that a cogent reason for assuming that they are going to cause trouble is what they actually do, not what they might do. The law must, of course, be brought heavily to bear on those who are prepared to make life a misery for other people, but that must

be in response to what they have actually done, not what it is anticipated that they might do.

The police themselves are extremely unhappy about much of the bill. They feel that they do not require the powers and, as I have illustrated, they are quite correct, because the powers already exist. Not only will the legislation not work, but it will succeed in alienating part of our community, namely young people. Scots law has always and rightly proceeded on a presumption of innocence. What the minister is asking us to do is to proceed on an assumption of guilt. There is a restriction of movement and of assembly that is more reminiscent of the South African pass laws than of the type of legislation that a democratic Parliament should be passing.

It would be regrettable if the minister's fairly cack-handed attempt to buy off the Liberal Democrats by the use of amendment 51 succeeded. I would have thought that even the Liberal Democrats would have demanded a somewhat higher price. The bill's repressive nature is unprecedented in Scotland and it should be resisted by the Parliament as a whole.

The Deputy Presiding Officer: A considerable number of members want to speak in the limited time that remains, so I ask members to speak briefly and to the point.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): As with the United Nations Universal Declaration of Human Rights, which enshrines the principle of freedom of peaceful assembly, in section I of the 1947 Liberal Manifesto of Oxford, liberals from 19 countries affirmed the

"Freedom to associate or not to associate".

The manifesto, a founding document of liberal principles for half a century now, states:

"Service is the necessary complement of freedom and every right involves a corresponding duty."

We recognise, I hope, in this Parliament that we enjoy our freedoms because we limit those freedoms to protect others, by choice. While we voluntarily limit our own freedoms because of respect for and duty to fellow citizens, we acknowledge that, at times, those freedoms will be abused by some in society. Statutory responsibilities are then required and that is the responsibility of this Parliament.

In section 16 we are restricting people's freedoms because, by causing alarm or distress to the public, they themselves are infringing the rights of others. As liberals we must ensure that limits and thresholds are set for when dispersal powers are used and that we set them by using this Parliament's powers.

I pay tribute to Donald Gorrie and Margaret Curran for working together to ensure that the thresholds that are set by the Parliament are real. In order for an area to be designated, there has to be evidence of a "significant", "persistent" and—under amendment 51—"serious" problem of antisocial behaviour there. Police constables will then be able to police the area using their own professional judgment—whether that means working with the father of a boy who is traumatised by repeated bullying in one part of a town or working in a small village where people are constantly harassed by a small group of families. I have worked with constituents on both those issues and the police want more powers on both.

Consideration of the bill began with the antisocial behaviour strategies—there is a legal duty to put together solutions to problems. Section III of the Liberal Manifesto of Oxford stated:

"If free institutions are to work effectively, every citizen must have a sense of moral responsibility towards his fellow"

citizen

"and take an active part in the affairs of the community."

That is why I support the bill. The local strategies will promote what is needed for the co-ordination of local agencies and the action plans will put pressure on the agencies to deliver action. Amendment 51 lifts the threshold to provide a more liberal tone throughout the entire bill. I support the amendment.

Colin Fox: I begin by assuring the minister that I fully understand the strength of feeling in communities throughout the country about the need to address and solve the problems that are associated with groups of young people carrying out offending behaviour in their areas.

Like the minister and the First Minister, I have been to Broomhouse this week. I spent Monday there meeting the save our scheme campaigners, who are grappling with what the minister calls the real issues. The people of Broomhouse, like those of many other schemes in Edinburgh and throughout Scotland, are grappling with two decades of being told that there is no chance of getting a community centre, a youth programme or facilities. I am sure that they were honoured to have a visit by the First Minister, who probably confirmed the same message.

I welcome the minister's statement that a comprehensive range of measures is needed to solve the problem. I also welcome the remarks attributed to the First Minister when he was in Broomhouse, which were to the effect that antisocial behaviour orders on their own will not solve the problem. It is recognised across the board that a wide range of measures is required. Perhaps the Executive is showing signs of having

been listening to others in the debate over the past year. I welcome that.

I dissented on the issue in the Justice 2 Committee because I felt that virtually all the evidence that was put before the committee—I appreciate that that evidence was different from that received by the Communities Committee—stated that the powers of dispersal were not needed and were not helpful in addressing the issue. As the minister knows, the proposal was widely criticised on numerous grounds at committee. Among the criticisms was the anxiety that it sends a message that we do not want to send to young people. We do not want to send a message to the vast majority of young people in Scotland—who, as the minister and the Parliament know well, are a credit to the country and to the communities that they live in—that there is a danger that they will be caught up in the dragnet when they are doing nothing wrong and will be dispersed from an area. That is a very dangerous signal to send. The police and young people's groups made the point that the measure could set back a long way relations between the police and the young people with whom they work.

Ms Curran: I recognise the point that Colin Fox is making. I assure him that when we drew up the power and when we reflected on any amendment that we would bring at stage 3, we did not want to send any signals to the vast majority of law-abiding young people who, as he says, make a very important contribution. I ask him to acknowledge that the very people who suffer from disorder on the streets are young people because they cannot use community centres. I visit schools in my constituency and I guarantee that the first thing that I am asked—

The Deputy Presiding Officer: Minister, please speak more closely to your microphone.

Ms Curran: I am sorry—my voice usually carries.

Young people ask us to do something to reclaim their streets for them. I ask Colin Fox whether he knows of any comment that I have ever made that stigmatises all young people.

Colin Fox: I welcome the minister's recognition that it is young people themselves who suffer more than any other group in our community. That leads me on to another point of which the minister is aware. People talk about the young people in the children's hearings system as offenders, but the overwhelming majority of young people in the system initially went there because of welfare considerations, not because they were offenders.

In my last minute, I want to take up the point that the minister touched on—the right of young people to assemble. That is a human right and it is part of young people's civil rights. I am sure that the

Parliament will want to ensure that powers of dispersal do not alienate young people or take away their right to assemble. We must also ensure that we do not simply disperse problems elsewhere. In Broomhouse, in Inch, where I live, and in all the communities that the Communities Committee has discussed, people would prefer us to give young people something to do that is better than hanging about on street corners. If the Executive did that, it would get the whole country's support.

Johann Lamont: I welcome the opportunity to contribute to the debate on this aspect of the bill. Some of the opposition to it has been overblown, overstated and unhelpful. It is reasonable to talk about giving young people something better to do, but some things are going on in our communities that are simply unacceptable. We should not try to make excuses for that behaviour, no matter how bored people are.

I agree with Tommy Sheridan that we need to consider what works, but we should not squeeze our views on what is happening in our communities into a preset view of the world. When I first became an MSP, I was stunned to discover that the police found it difficult to police this kind of problem. We have to confront that issue and consider how to make progress.

The problem is that groups gather and cause serious and persistent problems in communities. We are not talking about young people who gather and do nothing wrong and we are not talking about a problem that is exaggerated by intolerant older people. We are not being anti-young. Indeed, the people who have come to me on this issue are mums, dads, grans and granddads, all of whom are committed to giving children a better chance. People talk about stigmatising young people, but we ought not to stigmatise people in our communities who have the courage to raise their voices and say that there is a problem.

People are intimidated, silenced and in fear. I accept that such things do not happen throughout the country, but in some places in Scotland we have, in effect, outdoor youth clubs. It is part of the youth culture for people to gather there. They gather in places that are near youth facilities and they do so after they have used those facilities. The reality is that current powers are insufficient and cannot deal with the kind of group disorder that is occasionally generated.

Tommy Sheridan says that the police should simply clear those young people away. I have asked the police why they do not do that and they say, "But we can't stop them coming back." We therefore end up in a cycle with the young people going round and round.

The Tories tell us that we already have breach of the peace provisions. However, the groups to my left in the chamber are uncomfortable with the use of such provisions because they do not regard those provisions as being specific enough or as offering enough protection. In addition, the provisions do not deal with the particular issue of group disorder. The police have told me of the problem of not being able to get witnesses. They say that it is difficult for them to identify the individuals responsible. The cumulative group effect leads to particular problems. That is why we are talking about a specific power to deal with group disorder.

The Tories also say that there are not enough police. I will fight hard to get sufficient policing into my community to enforce these measures. However, the police tell me that even when they target an area and send in lots of police, they still cannot deal with problems. The difficulty is not just to do with police numbers but to do with the structures under which the police operate.

We are saying that enough is enough. The measure that is being introduced is preventive: it will warn people to keep away, giving communities some respite; it will prevent poor behaviour from escalating into something more serious; and it will prevent the exploitation of some young women who are drawn into groups. Do not imagine that if groups gather, there are not some predatory people round about them. We have to send out the message that harassment is unacceptable. Even if behaviour is defended under the guise of youth culture, we do not want to live in a Scotland where young men in particular are encouraged to believe that gang culture is in any way acceptable. In some communities, we are seeing a move from one culture to the other.

We have to strive at all times for a balance of rights in our communities. None of us has an absolute right to do whatever we want. I am comfortable with putting the argument to the young people in my constituency that we may have to restrict them a little if we are to protect people elsewhere.

The approach that is being taken is a modest one. The bottom line is that it allows communities a clear point of negotiation with the police and other agencies. Where there is a problem, it allows the community to say to the police and other agencies, "There is a power. Can we now work together to deal with the problem?"

11:45

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Two issues in the bill have caused real difficulties: the first is the carte blanche approach that the Executive took to the

electronic tagging of children; and the other is the power of dispersal.

I am happy to say that the Executive saw sense on the first issue. It returned to what was said on the subject of tagging in the partnership agreement between the Liberal Democrats and the Labour Party. Tagging will be available only on the same criteria as those which are used for secure accommodation. I congratulate the Executive on amending the bill at stage 2 in respect of the electronic tagging of children.

However, I am afraid that in the amendments that it has lodged for today's debate, the Executive has not addressed the real issue that lies behind the power to disperse. It is not the designation of the area that is the problem but the second stage, which is the action that is to be taken against individuals who have done nothing wrong.

When the Justice 2 Committee took evidence on the bill, no one came forward to support the power to disperse. For instance, Douglas Keil of the Scottish Police Federation said:

"Every police officer to whom I have spoken has said that there are more than enough powers".—[*Official Report, Justice 2 Committee*, 6 January 2004; c 435.]

The Association of Chief Police Officers in Scotland is also against the power to disperse, as is the voluntary sector.

Karen Whitefield (Airdrie and Shotts) (Lab): Will the member give way?

Mike Rumbles: No. [*Interruption.*] Members should just listen—it helps if people listen.

Charities that have approached me to oppose dispersal include Barnardo's Scotland and ChildLine, both of which are against the power to disperse. If the power is supported in the Parliament today, it will drive a coach and horses through the evidence-based approach to legislation that the Parliament is supposed to have adopted.

Many people are specifically concerned that our hard-won right to peaceful assembly is under threat. I have heard no valid reason why we should support this draconian measure. Ministers accept the fact that the power to disperse was never part of the partnership agreement—or at least the First Minister does.

Karen Gillon (Clydesdale) (Lab): Will the member take an intervention?

Mike Rumbles: No.

It has been said that, given that the power to disperse will not be used, opposition to it is unnecessary. That argument is indefensible. What self-respecting Parliament would introduce legislation on the basis that it will not be used? I

am worried that the power will indeed be used. If it is, it will serve simply to exacerbate the problem. The power to disperse will be counterproductive and will worsen relations with our young people.

Last year, in a debate in the Westminster Parliament, MPs examined a similar power to disperse. Simon Hughes lodged an amendment to remove the power from the UK Government's Anti-social Behaviour Bill. The Conservatives at Westminster supported the power to disperse and voted against the Liberal Democrat amendment, but I am pleased that the Scottish Conservatives have not adopted the stance that was taken by their Westminster colleagues.

I can do no better than to quote what Simon Hughes said when he was trying to have the power to disperse removed from the Westminster bill. He said:

"I will not sign up to legislation that allows the perception of one person, the views of one person or the reaction of a group of people to determine who shall be on our streets, in our parks or at our bus shelters. The reality is that the provision will most often be used ... by groups of adults who do not like young people hanging around outside somewhere near them. Sometimes they may go further than that. They may use it because of prejudice, because of the hairstyles of a group of people, or because of what they do, or because of their colour ... it would be unacceptable, in a country that prides itself on civil liberties ... to legislate to prevent people from being present in our public places if their presence alone causes distress to someone else."—[*Official Report, House of Commons*, 24 June 2003; Vol 407, c 931.]

Nicola Sturgeon: Bill Aitken said that the provisions smack of "Nineteen Eighty-Four". I reassure him that none of us wants to return to the time when the most illiberal Prime Minister of modern times was in office.

Part 3 contains the most controversial elements of the bill. I made it clear earlier that the SNP does not take issue with the objective of the provisions. It is absolutely right that more should be done to prevent groups of people—whether large groups or small—from making life a misery for law-abiding people who live peacefully in their communities, but we have doubts about the likely effectiveness of the proposals in part 3. We have a duty to raise those concerns and bring them to the attention of Parliament to have them fully aired.

There is a concern, not just in the Parliament but elsewhere in Scotland, that the provisions promise much more than they can deliver. My concerns throughout the process have been two-fold. First, although I do not agree with everything that Mike Rumbles said, like him I am concerned that the provisions will be counterproductive. In effect, the bill will give the police an additional power to disperse groups of people. The police already have the power to move on people who are committing an offence, but if the proposals are

passed, the police will be able to move people on simply because they are gathering in a designated area. The concern is that a power that allows the police to disperse people who are committing no offence will undermine valuable and essential relationships between the police and young people.

My second concern, which I touched on in the debate on the previous group of amendments, is that the powers may be ineffective. We all want the police to deal more effectively with groups of people who make other people's lives a misery, but the police themselves—to whom we should listen—have said that they need not extra powers but the resources that will allow them to use their existing powers more effectively. That means more police officers on our streets, not more powers that they will be unable to use because they do not have enough police officers to use them. That is what the police are saying.

The SNP remains to be persuaded that part 3 will have the desired effect, but we are not the only ones. The weight of evidence to the Justice 2 Committee at stage 1 was sceptical. The important point—which every single one of us has a duty to reflect on—is that who is right and who is wrong in the debate will not be decided by politicians talking to one another in the chamber today; it will be determined in the months and years to come in the communities that the bill is designed to help.

The proof of the pudding will be in the eating, which is why amendments 95 and 96, in the name of Stewart Stevenson, are so important. In accepting them, the Executive has at long last recognised the legitimate concerns of many people. Those amendments will place a duty on the Executive to evaluate the effectiveness of the proposals, which is extremely important.

I said earlier that if those amendments are passed we will reserve judgment and I stand by that. If the Executive really believes that the bill's provisions will make a difference and will not be counterproductive, and if communities want them to be given a chance—and I accept that there is some evidence that that is the case—it would be wrong to deny the Executive the opportunity to put the provisions to the test. Johann Lamont is right that we should never allow preset views to stand in the way of gathering the evidence that will test the arguments, which is why we have said what we have said today. However, I make it clear that if the Executive is wrong, it will be held to account.

The Deputy Presiding Officer: I will call Patrick Harvie and Cathie Craigie, but I am afraid that I can give them only two minutes each.

Patrick Harvie: The other day, I asked a representative of Strathclyde police what his thoughts were as the bill came up for stage 3. He

said, "We are still against the power of dispersal and we still want it taken out of the bill, but if it is passed, it won't really matter, because we are not going to use it. Why would we jump through additional bureaucratic hoops to set up a dispersal area, when powers already exist to move on people who are causing a problem, and they are the only people we would want to move on?"

Karen Gillon: Will the member give way?

Patrick Harvie: Let me develop my argument. I have only two minutes.

Unlike Mike Rumbles, I am not convinced that the powers will be used indiscriminately to move on every group of people who are not causing a problem, but the powers risk giving a false promise to every community—whether it has a serious problem or not—that its local difficulties will be solved. They will not be solved, because neither the Executive nor the Communities Committee in its evidence taking has got to grips successfully with what the barriers are to the use of existing powers to solve problems. The dispersal power is characteristic of the whole bill; it fails to get to grips with causes, motives and reasons and deals only with symptoms.

Jeremy Purvis: Will the member give way?

Patrick Harvie: I am sorry, but I really do not have time; I was given only two minutes.

Stewart Stevenson referred to 2007. I do not know whether what he said was meant just as a party-political jibe, but it has more meaning than that. The Executive has heavily oversold the entire bill and the dispersal power in particular as a solution to genuine problems. People have been sold a solution to their problems, but if they find that those problems remain, they will not easily forgive the Executive.

Cathie Craigie: I will not be able to say all that I want to say on part 3 in the short time available. I support much of what my colleague Johann Lamont said earlier in the debate.

Elected representatives have a duty to deal with the facts, but a number of members who have spoken in this part of the debate have certainly not done so. Some members, such as Nicola Sturgeon, Mike Rumbles and Bill Aitken, have suggested that people will be moved on simply for gathering, which is just not true. I do not know how much clearer the minister could have made that in her opening remarks. I hope that she will say again when she sums up that it is simply not the case that people who are gathering lawfully will be asked to move on.

Nicola Sturgeon: Will the member give way?

Cathie Craigie: No, I am sorry, but I do not have time. No doubt the member will get time later on.

Mike Rumbles mentioned all the people and all the professional organisations that said in evidence that they were against giving the police the power to disperse. However, he failed to highlight all the communities that have said in evidence to the Communities Committee and the Executive that they want the police to have the power. Mike Rumbles failed to point out that the people whom we meet in our constituencies daily who work in those professional organisations tell us that they do not have enough power and that they support the police having the dispersal power. He did not tell us about the representatives of the Union of Shop, Distributive and Allied Workers who gave evidence on behalf of people working in shops and who also said that they support the power. I ask members to support the measures in the bill, which are only a small part of dealing with the bigger picture.

The Presiding Officer (Mr George Reid): I apologise to members who were not called. We are working to a timetable. I have left four minutes for the minister to wind up.

Ms Curran: I am surprised at the tenor of some of the debate. Bill Aitken got a wee bit over-exercised; that is usually my department, so I was a bit annoyed with him. His comparisons to pass laws were staggering. I will not embarrass him with the details of where his party stood on South Africa and where my party stood on South Africa.

If the laws that we are seeking to introduce are so draconian, I wonder why the Tories supported similar laws at Westminster. Bill Aitken has some explaining to do.

Bill Aitken: Will the minister give way?

Ms Curran: No. Bill Aitken had his time.

Michael Howard was not heard to excuse antisocial behaviour as a rite of passage, so Mr McLetchie might be in bother with the higher ranks of the Tories, given what he has said. The Tory members have to explain why their party thinks that it is okay to give the powers to communities in England and Wales, but not to communities in Scotland; 2007 is a date that lingers for the Tories too.

Mike Rumbles talked about evidence. He should remember that USDAW gave evidence that it strongly supported the power of dispersal. As Colin Fox said, of course we have to listen to the evidence that is presented to committees, but we reserve the right to disagree with it. As we try to modernise and change Scotland, somewhere along the line we will have to disagree with professionals. We have to represent communities

and get professionals to respond to changing circumstances. The fundamental question for today is whose side we are on. The power of dispersal is proportionate and means that we will take action in communities that have to date been abandoned.

12:00

This is not just about the dispersal power; it is about the actions that are consequent on that power. Why have certain agencies left those communities with no place to go to complain except their MSPs? Why have the police not answered the calls to deal with the plight of those communities? On that point, I say to Patrick Harvie that I have never met a police officer who would not obey the will of an elected Parliament. If we pass this dispersal power today, I have a categorical assurance that the police will implement it.

I ask the Parliament to say fundamentally whose side it is on. Members should be on the side of the victims of antisocial behaviour and should line up to ensure that we have the courage of our convictions and start solving the problems arising from antisocial behaviour in Scotland instead of displaying the complacency and defeatism that has marked the arguments of the Opposition in this debate.

The Presiding Officer: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)

Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 97, Against 24, Abstentions 0.

Amendment 51 agreed to.

Amendment 1 moved—[Bill Aitken].

The Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)

Sheridan, Tommy (Glasgow) (SSP)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 34, Against 63, Abstentions 20.

Amendment 1 disagreed to.

First Minister's Question Time

12:03

Cabinet (Meetings)**1. Mr John Swinney (North Tayside) (SNP):**

To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-922)

The First Minister (Mr Jack McConnell): The agenda for next week's meeting of the Cabinet will, as usual, be agreed tomorrow.

Mr Swinney: Does the First Minister have any explanation for a justice system that imprisons the innocent, releases the guilty and cannot submit basic court papers on time?

The First Minister: What we have in this country is a justice system in which many of the practices are out of date and many of the agencies, departments and organisations responsible do not co-ordinate their activities well enough. The laws and provisions that govern the system require modernisation. Until recently, our justice system far too often failed the victims of crime and those who are witnesses to crime. That is precisely why during the years of this devolved Government we have not only systematically introduced comprehensive witness support services and comprehensive support for the victims of crime, but sought to modernise our laws and to ensure that the system itself is modernised, freeing up the time of those who serve our communities in the police force so that they can do the job that they signed up to do. At the same time, we are making sure that our prisons, sheriffs and other officials in the legal system co-operate more successfully and deliver a more comprehensive and successful justice service.

Mr Swinney: I remind the First Minister of some of the details. James McCormick, a convicted murderer, is in custody today only because he gave himself up after being released by Reliance. Angela Kennedy was freed by a Scottish court and put back into prison by Reliance. The Minister for Justice tells Parliament that the Executive intends to appeal against a slopping out judgment, but fails to get the court papers in on time. Murderers walk free, innocent people are locked up and millions of pounds of public money are put in jeopardy.

The First Minister said that there are problems with the justice system and that there is a lack of co-operation and a need for modernisation. What has the Labour Government been using the past seven years for if that is the current situation in the prison service?

The First Minister: What we have been doing, particularly during the past five years of devolved government, is securing the lowest recorded level of crime in Scotland for 25 years and the highest clear-up rate that Scotland has ever known, tackling crime on the streets of Scotland and ensuring that Scotland has a justice system that can deliver for the victims of crime and that those responsible are not only locked up but properly rehabilitated so that they do not offend again. That job is not yet done. We have a long way to go, but there is no doubt in my mind that the delivery of witness and victim services, co-operation and co-ordination among the different elements of the system, improvements in the operation of our courts, new laws that back the victims rather than the perpetrators of crime and all the other measures that we are introducing—including the contracting out of prison escort services to get police officers back on the beat in Scotland—are the right measures. They are making a difference and will continue to do so.

Mr Swinney: The problem with the First Minister's answer on the crime rate is that just as fast as the police are catching the criminals, Reliance is letting them back out on to the streets of Scotland. I do not know how the First Minister can have any confidence in his long litany.

In the past few months, the First Minister has set up inquiries into why the Reliance contract was signed, why murderers have been released, why individuals have been wrongly imprisoned and why court papers cannot be submitted on time, as well as inquiries into the handling of outstanding warrants. Has he done too much inquiring and not enough delivering on the promises that he made to the people of Scotland to deliver safer streets and safer communities?

The First Minister: One of the great benefits of the new policy of contracting out escort services is that we are able to find out what the problems that Mr Swinney mentions are and so are able to investigate them.

If Mr Swinney talks to anyone who works in the system—police officers, court officials, lawyers, prison officers and anyone else who has had to deal with the system during the past four years—he will get a list of incidents in which not only have people been released but all kinds of errors have been made from the top to the bottom of the system. The system needs a comprehensive overhaul and that is what is going on in Scotland today, not just through the contracting out of those prisoner escort services, which is putting police officers back on the beat in Scotland, but through ensuring that our courts operate properly and on time, that we are not wasting the time of witnesses, victims or police officers and that we deliver witness and victim services in each of our

courts. Most important of all, the range of policies that we are pursuing is delivering the lowest crime rate in Scotland for a very long time and probably the highest crime clear-up rate that Scotland has ever known.

Prime Minister (Meetings)

2. David McLetchie (Edinburgh Pentlands)
(Con): To ask the First Minister when he next plans to meet the Prime Minister and what issues he intends to raise. (S2F-928)

The First Minister (Mr Jack McConnell): I have no plans to meet the Prime Minister in the near future.

David McLetchie: Perhaps when the First Minister and the Prime Minister next meet, the Prime Minister will remind the First Minister of something that he said not long ago in relation to our health service. The Prime Minister said:

"Competitive pressures and incentives drive up quality, efficiency and responsiveness in the public sector. Choice leads to higher standards. The over-riding principle is clear. We should give poorer patients ... the same range of choices the rich have always enjoyed."

Does the First Minister agree with the Prime Minister that patient choice should be at the heart of any reform strategy for the health service?

The First Minister: A good-quality health service that delivers for patients should be at the heart of the overall management and policies that govern the health service. I strongly believe that patient choice is an important element in delivering that quality of service.

David McLetchie: The First Minister's claim that patient choice is important is about as credible as Frank McAveety's testimony.

The record of the First Minister and the Minister for Health and Community Care shows that they could not care less about patient choice. The money that goes into the health service reflects the decisions of bureaucrats, rather than the choices of patients, and accountability within the system is to the Minister for Health and Community Care, rather than to the patient. Malcolm Chisholm's legacy is a reduction in the options and services that are available to patients. Throughout Scotland, acute services and maternity units are threatened with closure. Acute services are threatened at Stobhill hospital and the Victoria infirmary in Glasgow, the Queen Margaret hospital in Dunfermline and the Belford hospital in Fort William. Maternity units are threatened in Caithness, Perth, Greenock, Melrose and Stirling—the list seems endless. Is not it the case that Chisholm's choice is in reality Hobson's choice—that is, no choice—for the patients of Scotland?

The First Minister: That is untrue. The Minister for Health and Community Care has introduced more reforms to bring about more patient choice than any health minister in my lifetime has done. He has introduced choices in doctors' surgeries, where patients can now access information about where individual waiting times are lowest or highest, so that they can make choices in consultation with their general practitioners about where they are to be referred. Malcolm Chisholm has made more use of the private sector in Scotland to ensure that people are treated more quickly and effectively and do not simply have to wait for capacity in the public sector to expand. During the past two years in particular, there have been reforms in a number of other areas of which Malcolm Chisholm can be very proud and which are exactly in line with the need to deliver a high-quality health service in Scotland that has the interests of patients at its core.

At a time when the Tories are talking again about perhaps being back in government, Mr McLetchie has a brass neck to talk about the health service and to compare our record with the 18 years of Conservative rule in Scotland and throughout the United Kingdom, when the health service was run down and lacked capital investment, the numbers of doctors, nurses and other medical staff were run down and the introduction of the internal market meant that we witnessed the most bureaucratic system ever to be introduced in the health service in this country.

David McLetchie: Perhaps the First Minister will briefly tell us why the Queen Margaret hospital, which was built and opened under the Conservatives, as were so many other hospitals, is threatened with closure by the Executive.

The First Minister: As Mr McLetchie knows, that decision has not been confirmed.

It is important to remind Mr McLetchie and the Tories of the record hospital-building programme that has taken place since 1997. The new hospitals in the Western Isles, Lanarkshire, Aberdeen and elsewhere, which are delivering in our national health service, would not have been built under the Tories.

The Presiding Officer (Mr George Reid): There are no urgent and important back-bench questions, so we go straight to question 3.

Cabinet (Meetings)

3. Tommy Sheridan (Glasgow) (SSP): To ask the First Minister what the main priorities are for discussion at the next meeting of the Scottish Executive's Cabinet. (S2F-940)

The First Minister (Mr Jack McConnell): One of the priorities at the next Cabinet meeting will be a discussion on antisocial behaviour. We will

discuss protecting public safety by putting more police on the streets, getting the courts back on the side of the victim, dispersing groups of intimidating and disruptive teenagers and keeping undesirable characters off airline flights.

Tommy Sheridan: I hope that in the discussion about undesirable characters on airline flights, the First Minister will ensure that their dress mode is appropriate.

One issue that the First Minister unfortunately missed out of the list of priorities is the health service. Does he accept that, even after the extra £70 million that has been announced this week, 12 of the 15 health boards in Scotland are running with serious deficits and have proposed serious cuts in services? Three health boards, including Greater Glasgow NHS Board and Argyll and Clyde NHS Board, are facing deficits of more than £100 million. Does he agree that it is time for a crisis summit involving health unions, health professionals and user groups to save the health service, which is in a critical condition under his Executive?

The First Minister: The health service in Scotland is not in a critical condition, although I agree that there is genuine concern about deficits in health boards. In the areas in which the management has kept control over budgets over the years, the managers deserve praise. I believe strongly that the managers of the boards in other areas must get their budgets under control. I will defend in the chamber and elsewhere the policies of the past few years, which have led to the pay increases and new contracts that are delivering a fairer deal for those who work in the health service. The better, more flexible contracts will also deliver more for patients. Patients come first, but staff must be properly rewarded and given decent contracts that make demands of them as well as give them rights. Throughout the health service, we need more staff in every area to ensure that our health service capacity is built up in the way that everybody wants.

Tommy Sheridan: The people of Scotland support 100 per cent the proper rewarding of staff in hospitals and throughout the health service. The question is the funding crisis, which means that the city of Glasgow is facing the loss of Stobhill hospital, the Queen Mother's hospital, the Victoria infirmary and in-patient beds at the homeopathic hospital. At the Vale of Leven hospital in Dunbartonshire and in Wick, Jedburgh and Coldstream, serious cuts in services are being proposed. Is the First Minister not being complacent by not even considering the health service as one of his priorities for discussion? Is not it about time that he stopped doing too little well and started to use his authority and funding to address the critical condition of the health service?

The First Minister: This week, a debate has taken place publicly about the fact that, to pay for the new contracts and the increased wages and salaries—which are deserved and right, not just for recruitment purposes but for fairness in our national health service—there may be a slow-down in the introduction of new services. I hope that Mr Sheridan welcomes rather than condemns the inference that new services are being introduced into the health service. It is important that we do not create an atmosphere that might lead to a backlash against staff in the health service being paid properly and having contracts that deliver for patients. His suggestion of holding a crisis summit because people in the health service are being paid properly and have new contracts is a daft idea.

We need serious solutions to serious problems. There are serious problems in the health service in Scotland, particularly with delivering rural health services. In this modern, technological age, we must ensure that we find solutions that are right and flexible, partly through the new contracts, partly through better management and partly through a more flexible approach from staff in order to continue to deliver services in rural Scotland.

ScotRail

4. Richard Baker (North East Scotland) (Lab):

To ask the First Minister how the new ScotRail franchise will help develop an integrated transport system. (S2F-931)

The First Minister (Mr Jack McConnell): The new ScotRail franchise contains conditions to ensure improvement in rail services for the travelling public. It is designed to reduce overcrowding and improve reliability and punctuality, which will make a direct contribution to the successful integration of the transport system.

Richard Baker: FirstGroup's success in bidding for the ScotRail franchise is welcomed in the north-east as a huge achievement for an Aberdeen-based company. However, does the First Minister agree that what would be most welcome throughout Scotland is a new franchise that delivers a public transport system that is better integrated through routes and schedules and, as a result, is more efficient for passengers?

The First Minister: The integration of the service is important, regardless of which company has won the franchise or the final details. The integration of services across all transport modes is a key objective of the Executive's transport policy. It has driven the decisions that we have taken in relation to not just the ScotRail franchise contract but the road and rail improvements that Scotland is starting to experience after many years of underinvestment.

Mr Kenny MacAskill (Lothians) (SNP): Does the First Minister accept that the award of the franchise to FirstGroup creates a monopoly situation in much of the country? Given that, quite properly, we regulate the rail industry to protect the public interest, is it not time to reregulate the bus industry to protect commuters and travellers?

The First Minister: It is right that, prior to reconsidering that option, we see what progress is made with the legislation passed by the Parliament for quality contracts for local bus services. There has been little progress on that at a local level over recent years, and there should be more. We hope that our new transport agency will assist with that, as noted in the white paper published this week by Nicol Stephen. Integration across services is vital and means much more than simply one company working well internally or companies working well with one another.

David Mundell (South of Scotland) (Con):

What is the current status of the Scottish Executive's discussions with Her Majesty's Government about the United Kingdom rail review? How will the outcome of that review impact on the new ScotRail franchise?

The First Minister: The Executive is involved in discussions with the UK Government about the rail review. The UK Government indicated at an early stage that it was prepared to discuss the role of the devolved Administrations in Scotland and Wales in relation to the future management of the railways throughout the United Kingdom. We believe strongly that there is a need for clear integration of rail services north and south of the border and throughout the United Kingdom, and we have entered those discussions very positively. We expect to reach some conclusions over the coming weeks. I believe that the target at Westminster is for it to try to conclude its view on those matters before its summer recess. When we have reached a conclusion, we will inform Parliament in the normal way.

Paul Martin (Glasgow Springburn) (Lab):

Does the First Minister agree that the rail franchise should benefit not only passengers but Scottish companies? I bring to his attention the Alstom Railcare group in my constituency, which can provide its services to FirstGroup. Will he ensure that FirstGroup gives Scottish companies such as Alstom every consideration?

The First Minister: There will be all kinds of rules and regulations about that, not least the European Union legislation governing procurement. It is important that companies that operate with public money in Scotland should be aware of the need to make a contribution inside Scotland. I am sure that those who hope to have the franchise for rail services in Scotland will have taken note of Mr Martin's comments.

Iain Smith (North East Fife) (LD): As a result of FirstGroup being the preferred bidder for the franchise, when the Scottish Executive considers the integration of public transport will it have discussions with the Competition Commission to ensure that we do not get the perverse situation that occurred in relation to FirstGroup's bus operations in which, following requirements placed on the company by the Competition Commission, it became more difficult for FirstGroup to provide integrated services?

The First Minister: That is a good point. I hope that, in its final considerations, the Competition Commission will take account of factors other than the fact that FirstGroup could now have responsibility for so many bus and rail services throughout Scotland. I am not sure whether it is taking those factors into account already, but we can check that and let Mr Smith know.

Chris Ballance (South of Scotland) (Green): Now that the franchise has been announced, will the Executive be in a position, before the recess, to introduce integrated transport to the Borders by supporting the Waverley line?

The First Minister: The Executive is considering the value-for-money case in relation to that project. We will make an announcement to Parliament in the normal way when we have carried out that analysis.

G8 Summit

5. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the First Minister what discussions the Scottish Executive has had with Her Majesty's Government in respect of the G8 summit at Gleneagles in 2005. (S2F-924)

The First Minister (Mr Jack McConnell): We have had good discussions and I am delighted that the United Kingdom Government has decided that the G8 summit should be held at Gleneagles in 2005. It will be a privilege for the people of Scotland to host the world leaders. We have worked closely with the UK Government on plans for the summit and we will continue to do so during the next year. I am confident that the event will be a great success and that it will bring lasting benefits for the people of Scotland. To ensure that we maximise those benefits—particularly the benefits of the publicity that Scotland will receive before, during and after the summit—we have established a special Cabinet sub-committee to plan and execute our promotional and educational plans. I, for one, am very pleased that the top table is coming to Scotland.

Murdo Fraser: I warmly thank the First Minister for his response. I am pleased that he is joining local representative organisations such as the council, the local chamber of commerce and the

local tourist board in welcoming the summit to Gleneagles, with its potential spin-off benefits for the local economy. I am sure that he is looking forward to welcoming world leaders to Gleneagles, including, of course, our Prime Minister, Michael Howard.

However, the First Minister should be aware that there are local concerns about the disruption that will be caused by the summit and the additional pressure that will be put on infrastructure in the area. The Executive has just published its report on the A9 junctions that serve communities such as Blackford and Auchterarder, which sets out a case for upgrading some of those junctions. In light of the summit and the extra traffic, will he examine the junctions report closely with a view to the early implementation of some of its recommendations so that we minimise local disruption and the risk of traffic accidents caused by extra congestion on the roads at the time of the summit?

The First Minister: I suspect that Murdo Fraser had a little bit too much to drink last night at the annual journalists dinner, but I welcome his optimistic approach to the world. I hope that he does not feel too much disappointment when he is let down this time next year. I am sure that the contest that will take place in Perth between the nationalists and the Tories at the general election next year will be suitably enhanced by the nationalists' complete opposition to the world leaders' visit to Scotland. Apparently, the nationalists do not want us to be on the world stage at all. That said, we will consider all matters in relation to preparations for the summit very seriously indeed and we will take the necessary decisions to make sure that the summit is a success.

Roseanna Cunningham (Perth) (SNP): The First Minister referred to my concerns, and the concerns that I reflect from my constituents, about the forthcoming G8 summit in my constituency. He needs to be aware that although there is benefit to be gained from such events, there is nevertheless a serious downside, given the nature of the event and the disruption that it is likely to cause. What arrangements will be made to compensate my constituents—the farmers, the business people and the residents of the wide area that will be affected—who are seriously inconvenienced or, worse, whose property and/or livelihood is damaged by the event next July?

The First Minister: All those matters are already under consideration. Consultation panels have been set up and organised and there are discussions involving not only local groups but the local authority and Tayside police. All those people have warmly welcomed the announcement of the summit and want to be part of making it a success.

not just for Scotland but for Perthshire. I hope that the local MSP will seriously reconsider the stance that she has taken and that she will embrace this fantastic opportunity. It is estimated that the 2002 summit in Canada resulted in an input into the local community of about \$250 million. That is the prize that is available to Scotland and Perthshire. I hope that the local MSP will reconsider her position and join us in welcoming the summit.

Mike Watson (Glasgow Cathcart) (Lab): Does the First Minister agree that it will be Prime Minister Blair, of course, who welcomes next year the other world leaders, including President Kerry, and that the benefits that will flow will include the further opportunity for Scotland to be portrayed throughout the world as a destination for major events? Will the First Minister ensure that EventScotland—the organisation that in its first year has attracted the MTV Europe music awards and the rugby under-21 world championship to Scotland and the mountain bike world cup to Lochaber—has sufficient resources to build on its work and to benefit fully from the G8 summit next year?

The First Minister: We will involve EventScotland, VisitScotland and all the other agencies that will be important. We will also try to ensure that youngsters in Scotland benefit from the experience, too.

The Cabinet sub-committee that we have established to co-ordinate our efforts on the summit will be chaired by our minister with responsibility for external relations, Andy Kerr, and will involve our enterprise ministers, the Minister for Tourism, Culture and Sport and, given the interest in public safety, which is important, the Minister for Justice. The sub-committee will also involve education ministers, because we want to ensure that schools throughout Scotland are engaged in the work of the summit well in advance, especially given the summit's subject matter, which will be third-world development and support for Africa. Scotland as a country and a people has had a proud record on that subject for many years. Next year, we can help to provide a fresh impetus for international efforts on that.

Marches

6. Donald Gorrie (Central Scotland) (LD): To ask the First Minister whether the Scottish Executive will take steps to address the impact of marches on local people, the police and community relations. (S2F-942)

The First Minister (Mr Jack McConnell): We hope to appoint before the end of this month an independent expert to review the licensing system for marches and parades. That review will explore with councils and other interested organisations the frequency, number and routes of marches. It

will also consider the rules that govern decisions on marches and parades and how local communities' needs can be considered as part of a reasonable and fair system.

Donald Gorrie: That is a welcome response. Will the First Minister confirm that the initial approach will be to secure local voluntary agreements to reduce the number of marches and to make their routes and timings more acceptable to communities? Will he confirm that decisions will not be imposed from the centre and that local agreement will be sought, so that communities can live in peace better than they do at the moment?

The First Minister: I believe strongly that the best decisions will be made locally by local authorities and local police forces through engaging communities. I do not want Scotland to have what has been described elsewhere this week as a parades tsar or somebody who would make such decisions nationally.

We need an independent person to consider the current rules and regulations, but the objective of doing that will be to ensure that local rules and regulations that govern decisions about marches and parades—particularly those of a sectarian nature—are designed more effectively to regulate the number and routes of marches and especially to encourage an atmosphere in which voluntary agreements can reduce the number of marches locally without animosity and without increasing community tension. That should be our objective and that is the course on which we will set ourselves later this month. I hope that we can have cross-party agreement to do something about the issue after many years during which most of us have wanted to do something. It is now time to act.

The Presiding Officer: That concludes questions to the First Minister. I remind members that the First Minister and I will now present in the chamber the prizes to the winners in the national youth parliament competition. Members who are staying for that should remain in their seats, please, while the students come down.

12:34

Meeting suspended until 13:30.

13:30

On resuming—

Question Time

SCOTTISH EXECUTIVE

The Presiding Officer (Mr George Reid): Welcome back. The early start means that the chamber is somewhat denuded. We will see where we can get to.

Enterprise, Lifelong Learning and Transport

Public Transport (Antisocial Behaviour)

1. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive what measures it is taking so that public transport is less vulnerable to crime, vandalism and antisocial behaviour. (S2O-2741)

The Minister for Transport (Nicol Stephen): I congratulate Murdo Fraser on being the only member of the Opposition in the chamber.

The Scottish Executive works with local authorities, transport operators and the police to make public transport safer and more attractive. Reducing crime and antisocial behaviour will be crucial if we are to encourage more people to use public transport. Recent initiatives include the installation of closed-circuit television at railway stations throughout Scotland and on buses in places such as Edinburgh, Dundee and Glasgow.

Bill Butler: I am sure that all members who are present would support that approach and such initiatives. What measures is the Executive taking to deal with the very worrying increase in the number of children who are accessing railway lines, and to deal with the equally dangerous and illegal practice of individuals shooting at trains with air guns?

Nicol Stephen: Those incidents are alarming and potentially very dangerous. We work closely with the transport police on those issues. Later this month, national route crime week will be launched, which will be a full week of media activity, promotion and advertising that will highlight the dangers of such crime.

We have set up a new reporting mechanism called backtrack, whereby the British Transport Police, Network Rail, the Rail Passengers Council, ScotRail and Her Majesty's railway inspectorate have two-weekly meetings to consider and take action on all the incidents that have been reported across the rail network in Scotland. For example,

the CCTV cameras that I mentioned in my first reply have already been used effectively in Glasgow to detain people in situations such as those which Bill Butler described. I hope that more such activity will be successful and that it will lead to convictions. The most important thing is that we reduce the levels of crime, vandalism and antisocial behaviour on our rail network.

Air Services (Tiree and Barra)

2. Maureen Macmillan (Highlands and Islands) (Lab): To ask the Scottish Executive how the recently announced lower air fares to Tiree and Barra are expected to impact on tourism and the local economy. (S2O-2649)

The Minister for Transport (Nicol Stephen): Lower fares on the air services that are supported by the Scottish Executive between Glasgow and Barra and between Campbeltown and Tiree are aimed at making transport links more affordable for everyone who travels to and from those communities. The fares are expected to have a significant positive impact on tourism and the local economy.

Maureen Macmillan: Does the minister agree that we must expand air services in the Highlands and Islands and reduce the cost of flying if we are to sustain those vulnerable communities? Furthermore, does he agree that the United Kingdom Government's air transport strategy is making that possible?

Nicol Stephen: I agree. A range of initiatives are aimed at improving affordability and availability of what are, in many cases, lifeline air services, which are essential to the communities that they serve. Traditionally, the costs have been very high, which is why one of the core proposals of the Highlands and Islands strategic transport partnership—HITRANS—is the development of a public service obligation network across the Highlands and Islands. The Scottish Executive is giving support to the development of those plans.

We are also concerned about the impact of some of the safety and security measures as they apply to some of the smaller and more remote airports in Scotland. We have made representations on that issue. I believe that, with the steps that we have taken on Barra, Campbeltown and Tiree airports, developments in the Highlands and Islands mean that we can look forward to a more secure, and a lower-cost, network in the future.

George Lyon (Argyll and Bute) (LD): There is deep concern in Campbeltown, Tiree and Islay that the impact of security charges will cancel out any benefits to communities from the reduction in air fares. I welcome the suspension of the introduction of the charges until 1 July, subject to

the Executive's reviewing them, but can the minister say when the review and his discussions with Her Majesty's Government on the security issues will be completed?

Nicol Stephen: That is an important point. We were determined to ensure that the reductions in air fares through the PSO contract that was agreed with the Executive were not wiped out by increased security charges. There is real concern that the cost of the improvements to airport security and safety arrangements should not be focused solely on the small airports about which we are talking, because the effect on fares would be disproportionate. That is why we asked Highlands and Islands Airports Ltd to suspend the introduction of increased fares and to consider how to spread costs fairly across the network, rather than focus on individual airports. That review is not yet complete and suspension of the proposed charges will continue while it continues. I am determined to resolve that issue as quickly as possible in a matter of weeks and soon after the Parliament returns in the autumn in its new location, and I am determined that we have a solution that is fair throughout the Highlands and Islands.

The Presiding Officer: I am obliged to call questions if members have not withdrawn them. Question 3 is in the name of Pauline McNeill, who is not present, so we move to question 4.

Park-and-ride Sites (Edinburgh)

4. Mike Pringle (Edinburgh South) (LD): To ask the Scottish Executive how it is encouraging the development of park-and-ride sites in Edinburgh. (S2O-2684)

The Minister for Transport (Nicol Stephen): The Executive strongly supports local authority provision of park-and-ride facilities. Significant funding, totalling more than £14 million, has been given to assist park-and-ride sites at Newcraighall, Todhills, Hermiston, Straiton and Ferrytoll.

Mike Pringle: As the minister is aware, Edinburgh's new park-and-ride sites, in particularly the one at Straiton, which is adjacent to my constituency, have simply not happened yet, even after years of talk by the City of Edinburgh Council. Will the minister intervene and ensure that they are built as soon as possible, because the delay is hampering the overall transport development of the Lothians and the Borders? It is time for the Executive to act against the City of Edinburgh Council.

Nicol Stephen: As Mike Pringle is aware, the Straiton scheme was held up initially because of planning difficulties. An appeal was lodged on 1 October last year, and the Scottish Executive reporter upheld that appeal and granted

permission on 9 February 2004. I understand that acquisition of the land for the site is now proving to be difficult, but if there is anything that I, as Minister for Transport, can do or that the Executive can do to resolve those issues, we will be pleased to intervene.

I agree with Mike Pringle's general comment that it takes too long for us to develop new park-and-ride proposals. The same is often true for new bus-lane proposals. We must do more to secure bus priority measures more effectively.

Mark Ballard (Lothians) (Green): I welcome the minister's support for park-and-ride schemes, his commitment to do everything that he can to encourage the City of Edinburgh Council to develop such schemes and his support for the council in doing that. However, does he agree that, in addition to park-and-ride schemes, congestion charging is needed to reduce traffic congestion in Edinburgh? Is he aware that Friends of the Earth Scotland passed a motion at its annual general meeting last weekend criticising him specifically for his lack of leadership on the introduction of congestion charging in Edinburgh, and criticising the Liberal Democrats in Edinburgh for their opposition to congestion charging? When will the minister join the First Minister in encouraging congestion charging, just as he has said he will support and encourage park-and-ride schemes in Edinburgh?

The Presiding Officer: That was three questions for the price of one, but as we have time, Mr Stephen may address them.

Nicol Stephen: I was aware of some of what Mark Ballard said. On congestion charging, I have made it clear in Parliament on a number of occasions that, provided that the scheme is appropriate and that there is clear evidence of local support for it, I am prepared to approve a congestion charging scheme under the Transport (Scotland) Act 2001. There should be no doubt about that. A public local inquiry on the Edinburgh scheme is on-going, so it would be inappropriate for me to say anything further. I will be asked later to receive the recommendation from the reporter and to reach a decision on the scheme.

Croy Station (Parking)

5. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the Scottish Executive what action it is taking to ensure progress on the provision of additional parking at Croy station. (S2O-2735)

The Minister for Transport (Nicol Stephen): The provision of additional parking at Croy station is being delivered by Strathclyde Passenger Transport, with financial support from the Scottish Executive. We have already expressed our concerns about the significant delays that have

been caused by land acquisition problems. We are working closely with SPT to resolve those problems.

Cathie Craigie: The minister is aware that Croy station is an important link on the route between Glasgow and Edinburgh for travellers from the area. He will also be aware of the success of the station since the introduction of services between our two main cities calling at Croy every 30 minutes. The popularity of the station has resulted in the need for many more parking places. Does the minister appreciate the frustration that many people feel when they are unable to find a parking place at the station?

The aim of the Executive is to encourage people to use public transport more; many more people would use Croy station if more parking were available. Will the minister use the power and weight of his office and of the Enterprise, Transport and Lifelong Learning Department to ensure that SPT, the private landowner who is involved and North Lanarkshire Council are able to deliver on the promises that the Executive has made?

Nicol Stephen: Yes, I would be pleased to do so. The situation is similar to that in Edinburgh. I believe that there is a real opportunity to create park-and-ride sites on the main corridors into Glasgow and there are not enough such facilities at the moment. I would like to see them built soon and I would like them to be high-quality sites. The problems in the case that Cathie Craigie highlights are typical of those that have arisen elsewhere in Scotland. I believe that, wherever possible, such problems should be resolved through negotiation and a partnership approach, and through the public sector working closely with local landowners.

SPT has compulsory purchase powers, as do the Scottish Executive and local authorities. If it is proved to be necessary to use compulsory purchase powers to deliver park-and-ride schemes, we will need to consider making use of those powers where appropriate.

The Presiding Officer: Question 6 is withdrawn.

Specified Tertiary Education Providers

7. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive what representations it has received in respect of its proposals to set up specified tertiary education providers as part of its consultation process into merging the higher and further education funding councils. (S2O-2728)

The Deputy First Minister and Minister for Enterprise and Lifelong Learning (Mr Jim Wallace): The Scottish Executive published its proposals and draft bill to merge the funding councils on 30 April. We will not have a full picture of the responses to the range of issues that have been raised until the consultation closes on 15 July. I should make it clear that, contrary to some early misleading reports, the Executive has no plans to change or to replace the distinctive bases on which universities and colleges in Scotland are currently established.

Alex Neil: I welcome the fact that the proposal from the former Enterprise and Lifelong Learning Committee to merge the funding councils will be the subject of a bill. However, does the minister recognise the folly of the proposals to divide the old and new universities into different categories? One of the key recommendations of the Enterprise and Lifelong Learning Committee's report on lifelong learning was that we should not make such divisive delineations in higher or further education. Will he admit that he got it wrong in that respect?

Mr Wallace: First, I acknowledge Alex Neil's role as convener of the Enterprise and Lifelong Learning Committee in session 1 of Parliament. He is right to say that the proposals that we are bringing forward flow very much from the valuable work of the Enterprise and Lifelong Learning Committee, which proposed the merger of the funding councils. As I have explained to some university sector representatives, the draft Tertiary Education (Funding etc) (Scotland) Bill contains a legally correct definition of the various institutions that was included for legislative drafting purposes. I acknowledge the concern that it has caused and I have made it clear that I will not lose any sleep if that part of the bill is amended.

Murdo Fraser (Mid Scotland and Fife) (Con): Does the minister accept that there is concern in the university sector about some aspects of the draft Tertiary Education (Funding etc) (Scotland) Bill, which its representatives see as being centralising and taking more powers for ministers? Will the minister assure us that he recognises the autonomy of the universities, that he values their independence and that he will not seek to centralise more powers within his department?

Mr Wallace: I am aware that such concerns have been expressed. What is important in the consultation is to try to find out where concerns lie and to address them as well as possible. In addition to the formal consultation and responses, a number of meetings have been held in different centres around Scotland. Those meetings have sought to engage people from the universities and further education colleges and I intend to have meetings with principals of the FE colleges and

universities before the conclusion of the consultation. I know that what Murdo Fraser described is an issue. However, I take the opportunity to say that I am a firm supporter of academic freedom and the independence of the universities, and that I recognise that the draft bill will extend academic freedom to further education colleges, which do not enjoy it at the moment.

Dennis Canavan (Falkirk West) (Ind): What rocket scientist invented the term “specified tertiary education providers”? Will the minister assure us that universities and colleges will continue to be referred to as such and that they will not be reduced to a mere acronyms such as STEPs?

Mr Wallace: It was not a rocket scientist, but—with all due respect—a parliamentary draftsman who was responsible for that term. The intention was to ensure that, rather than repeat the phrase “specified tertiary education providers” throughout the bill, there would be a shorthand way of referring to them. In fact, there has been criticism of the length of the bill; I suspect that if we used the longhand term every time, the bill would be even longer.

I assure Dennis Canavan and Parliament that there is no question of that noble institution on the South Bridge—the University of Edinburgh, of which I am a graduate—being referred to as “the oldest Edinburgh STEP”. That is certainly not the intention. The acronym is a legislative device. However, if a particular form of words is causing problems, finding a different form of words that does not cause offence will not detract from the bill’s impetus, intention and purpose.

Christine May (Central Fife) (Lab): Will the minister join me in welcoming the closer co-operation in Scotland’s college sector, as demonstrated by last week’s announcement of the merger of Glasgow College of Building and Printing and Glasgow College of Food Technology, and the proposed merger of Fife College of Further and Higher Education in Marilyn Livingstone’s constituency and Glenrothes College in my constituency? Will he ensure that the merged funding councils will facilitate other such close partnerships where they are appropriate, and will he say what measures are being taken by the Executive, the funding councils, the universities and the colleges to ensure better integration of provision?

Mr Wallace: There are two issues in the question, one of which is formal mergers. I was delighted to be able to announce last week, and to lay before Parliament the order for, the merger of the two Glasgow colleges that will become the Glasgow metropolitan college on 1 August. Obviously, I must be careful because the matter will ultimately come to ministers for a decision, but

I also note the proposal to merge Fife College and Glenrothes College. The important thing in both cases has been the groundswell of opinion in the colleges themselves. The colleges have progressed proposals themselves, which I certainly encourage colleges to do.

There is another point about integration of services that relates to greater collaboration that may fall well short of merger, but which nevertheless involves further and higher education institutions working more collaboratively to find out where joint working can produce greater effects than their working individually. That may well involve their pooling resources to gain depth in resources and expertise, which will make joint working more attractive and competitive than their undertaking events on their own.

George Lyon (Argyll and Bute) (LD): During the passage of the bill, I wonder whether the minister will address a concern that was raised by the Auditor General for Scotland in the report on the Scottish Further Education Funding Council and which has been supported by the Audit Committee. That concern relates to an accountability gap between the funding council and individual colleges. It is clearly a matter of concern that there is apparently no accountability of individual colleges to the funding council in respect of how they spend public money. Will the minister undertake to look closely at that matter during the forthcoming passage of the draft Tertiary Education (Funding etc) (Scotland) Bill?

Mr Wallace: I am certainly aware of the reports by Audit Scotland and the Parliament’s Audit Committee. Off the top of my head, I do not know whether the proposed long title of the bill will be wide enough to incorporate the concerns that George Lyon expresses, but I will certainly reflect on the matter. There are opportunities as the bill is about to come before Parliament; the Audit Committee itself may wish to make points about that matter and the scope of the bill as introduced.

Justice and Law Officers

Positive Parenting

1. Shiona Baird (North East Scotland) (Green): To ask the Scottish Executive what steps it has taken to promote positive parenting and alternative disciplinary tactics. (S2O-2747)

The Minister for Justice (Cathy Jamieson): The Scottish Executive supports a wide range of programmes because we want parents to be confident, competent and well informed. We want to help parents to feel strong and secure in promoting positive behaviour and to be positive role models for their children.

Shiona Baird: During the stage 1 debate on the Criminal Justice (Scotland) Bill, the Scottish Executive confirmed that

“we cannot legislate alone on hitting—there has also to be effective promotion of positive parenting. If we do not do the second part, the first part will be worthless.”—[*Official Report*, 18 September 2002; c 13853.]

Will the minister please detail exactly how much money has been invested in that work, and her projected time frame? Will she please explain how she will monitor the effectiveness or otherwise of the current strategy? Can the minister also outline what improvements the Executive's public information campaign has made in changing adults' attitudes towards hitting children?

Cathy Jamieson: I will try to give as brief an answer as possible, although a considerable amount of work has been done. Members will remember that the Criminal Justice (Scotland) Act 2003 outlawed several forms of physical punishment of children, including hitting on the head, shaking and punishing with various implements. Those provisions were arrived at following research and consultation with the Scottish people. To coincide with the new legislation, we prepared for parents an information leaflet that describes the change in the law. It is important that the leaflet also promotes other non-physical methods of disciplining children and encourages positive parenting more generally.

About 700,000 copies of the leaflet have been distributed through schools, nurseries, general practitioners' surgeries, health centres and libraries. Additionally, funding for organisations such as ParentLine Scotland, the Parent Network Scotland, Positive Parenting, Home-Start Scotland and One Parent Families Scotland, and for various other initiatives to allow voluntary organisations, including the Aberlour Child Care Trust, to undertake a national parenting development project to develop parenting programmes for parents of children and young people aged six to 16 years, shows that the Executive is committed to ensuring that parents have the right information and, crucially, the support to deal with what can be very difficult situations.

Drug Driving

2. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive how many individuals have been convicted of driving whilst under the influence of drugs in each of the last three years. (S2O-2720)

The Minister for Justice (Cathy Jamieson): The figures for convictions involving drugs alone are not available. However, the total numbers of offences of driving while unfit through drink or drugs that resulted in a charge that was proved in court in 2000, 2001 and 2002 were 441, 477 and

596 respectively. It is planned that information for 2003 will be published in November.

Bill Aitken: Is the minister aware of serious public concern that the offence of driving while under the influence of drugs is on the increase and that many such offences go undetected? Is she aware that the problem surrounds the lack of appropriate technology? Does she agree that one of the Executive's priorities should be the development of technology that works on a similar basis to that of the breathalyser unit from the Carand Medical Instrument Company Ltd—CAMIC—which would ensure that those who behaved in such an irresponsible manner could be caught and dealt with appropriately?

Cathy Jamieson: I recognise the concerns that Bill Aitken raises and we take the matter seriously. Policy and legislation relating to drug driving are reserved, but the UK Parliament has introduced powers for the police to require drivers to provide specimens for screening and to participate in roadside co-ordination tests. Those powers will commence when the screening devices are available. We will continue to take the matter seriously.

However, that is not the only solution. We must ensure that we continue to raise awareness of the problem. Back in 2001, we funded research into recreational drug use and driving, which provided some significant findings. The research showed that men were more likely than women to have driven under the influence of drugs, that cannabis was the most commonly used drug in drug driving and that knowledge of the legal position on drug driving was very poor. That is why we will continue with advertising and public awareness campaigns, including a campaign that will be organised by the Scottish Road Safety Campaign around the time of the T in the park festival, in July.

Brian Adam (Aberdeen North) (SNP): The minister mentioned road safety campaigns in her response. Given that she does not provide a breakdown of accidents that have been caused by drugs and those that have been caused by alcohol, can she tell us whether conviction rates have a seasonal pattern? If they do, does she intend to review the times when those campaigns are maintained?

Cathy Jamieson: As I have said, it has not, because of the nature of the legislation, been possible to meet the request to provide a breakdown of the number of accidents that are caused by drugs and the number that are caused by alcohol. However, as I have pointed out, we know that drink-driving becomes a problem at particular events and times of the year. We should try to utilise such events to secure the maximum publicity for road safety campaigns.

Of course, it is not just a question of trying to catch people when they are breaking the law. We must continue to ensure that we advocate and promote responsible driving. Indeed, in the past few days, we have clearly seen that speed cameras are making a difference in changing drivers' behaviour by cutting down the risks that people take on our roads and, as a result, reducing the risk to life.

The Presiding Officer: Question 3 is withdrawn.

Eurojust

4. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive how Eurojust is making a contribution to tackling serious and organised crime. (S2O-2671)

The Lord Advocate (Colin Boyd): Eurojust was established in 2002 to improve investigation and prosecution of serious cross-border crime in EU member states by co-ordinating investigations and facilitating mutual legal assistance and extradition. It consists of a prosecutor from each of the 25 member states; Scotland is represented by a deputy prosecutor from the Crown Office.

Irene Oldfather: What is Scotland's particular contribution to Eurojust? What benefits can the people of Scotland expect as a result of the progress that is being made?

The Lord Advocate: As I said, we have seconded a fiscal to Eurojust to serve as one of the two deputy prosecutors to the British prosecutor. That secondment has very much raised the profile in Europe of a distinctive Scottish jurisdiction and has facilitated the exchange of information between Scotland and other European member states.

Perhaps I can answer the member's question about Eurojust's benefits for Scotland with a particular example. The seizure of a very large quantity of drugs in Scotland within the past month was the result of a co-ordinated investigation across Europe that involved Europol surveillance in the Netherlands, Belgium and Spain. Eurojust was invoked to overcome some difficulties that were experienced in exchanging information; I am pleased to say that that led to a successful conclusion. I am also pleased to say that Eurojust will launch its annual report in Scotland on 28 June.

Dangerous Driving

5. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive what consideration has been given to revision of the law and sentencing policy in respect of death caused by dangerous driving in aggravated circumstances. (S2O-2673)

The Minister for Justice (Cathy Jamieson): Road traffic law and sentencing policy are reserved to the UK Government. The penalty for the offences that the member mentions was increased to 14 years from 27 February 2004. Moreover, since January 2003, there has been a presumption that all prosecutions in Scotland under section 1, which concerns causing death by dangerous driving, and section 3A, which concerns causing death by careless driving when under the influence of drink or drugs, of the Road Traffic Act 1988 will be indicted in the High Court.

Cathy Peattie: Does the minister agree that, although all deaths and serious injuries that are caused by road accidents are tragic, those that are caused by drivers and vehicles that should not be on the road are particularly offensive? Given the large number of uninsured and banned drivers and untested or unroadworthy vehicles on our roads, should not we make it clear that such recklessness will compound the offence?

Cathy Jamieson: As Cathy Peattie understands, road traffic law is reserved to the Westminster Parliament. However, a Home Office-led steering group was established in 2003 to continue the review of offences for bad driving and to consider ways of updating the law on serious driving offences, particularly when death and injury occur. Officials from the Justice Department and the Crown Office are members of that group, which hopes to publish a consultation paper containing proposals in due course.

Phil Gallie (South of Scotland) (Con): I actually cancelled my request to speak because Cathy Peattie more or less covered the points that I wanted to make on drivers who drive knowing full well that they are not covered by insurance and that they are, perhaps, already banned from driving. There is a perception in Scotland that the courts do not take full account of the seriousness of such offences. Can the minister and the law officers assist in that?

Cathy Jamieson: As I supplied an answer on that to Cathy Peattie, I am sure that Phil Gallie will recognise that we will keep that matter under review. However, anybody who drives a car knowing that it is in poor condition, or anyone who drives without the appropriate insurance or without ensuring that they comply with the law is taking a risk not only on themselves but, more important, on members of the public. It is right and proper that the law will be used to deal with them.

Justice System (Staff Suggestion Schemes)

6. Stewart Stevenson (Banff and Buchan) (SNP): To ask the Scottish Executive, further to the answer to question S1W-23156 by Colin Boyd QC on 14 March 2002, whether staff suggestion schemes now operate in any part of the criminal justice system. (S2O-2706)

The Solicitor General for Scotland (Mrs Elish Angiolini): At the end of this month, the Crown Office and Procurator Fiscal Service will launch the over to you scheme, which will provide staff with the opportunity to make suggestions, raise issues or ask questions about any aspect of the department's work. In addition, each Scottish police force operates a staff suggestion scheme in some form.

Stewart Stevenson: I thank the Solicitor General for Scotland for her answer. Does she think that the absence of staff suggestion schemes may have contributed to a lack of appropriate feedback from front-line staff? Such feedback might have prevented a number of the difficulties that the Minister for Justice has readily acknowledged and that we have discussed at length in the chamber over recent months. In relation to the police schemes that are in operation, can the Solicitor General tell me approximately how many suggestions have been made in recent times?

The Solicitor General for Scotland: I would readily agree that communication in a department such as the COPFS is crucial. Certainly, it was symptomatic of some of the department's difficulties that communications were not as they should have been. However, a suggestion scheme is not a panacea for good management and good communications. Clearly, the scheme that is to be launched is only one part of a wide-ranging series of initiatives that have been taken, including new internet facilities for communication, team briefing systems and much more extensive training for managers throughout, to ensure that staff know that they are appreciated and valued and that they are developed to their maximum potential.

I am not aware of the number of suggestions that have been made in the police schemes, but I am aware that all eight police forces have suggestion schemes in place. On initiatives that have been taken forward from suggestions, the implementation of a suggestion by one police officer to Dumfries and Galloway constabulary's suggestion scheme to introduce mobile police stations has increased access in rural locations to police services. Indeed, the idea of having crimestoppers advertisements on Strathclyde police vehicles came from a suggestion in that force's suggestion scheme for staff.

Reliance Custodial Services (Training)

7. Michael Matheson (Central Scotland) (SNP): To ask the Scottish Executive what training has been provided to staff employed by Reliance Custodial Services. (S2O-2721)

The Minister for Justice (Cathy Jamieson): Under the terms of the contract, the service provider must maintain a training policy and programmes to ensure that staff have the knowledge, skills and competencies to undertake their role. Staff who perform the role of a prisoner custody officer under the relevant legislation must be certificated by the authority. The 30 required training units for prisoner custody officers are set out in a detailed table in schedule 1 to the published contract.

Michael Matheson: The minister will be aware that the Scottish Prison Service continues to provide training and support to staff within Reliance Custodial Services. Has the SPS fully accounted for the costs to the public purse of providing that training and support? If it has not done so, why not? Does she believe that any costs that are incurred by public agencies in supporting and training Reliance Custodial Services staff should be met by Reliance rather than by the public purse?

Cathy Jamieson: The member will be aware that we have had considerable debate in the chamber on that issue. It is important to recognise that monitoring of the training is on-going and that any gaps in the training will be filled. The SPS and others have a valuable role in ensuring that Reliance staff have the appropriate skills and qualifications to do the jobs that they are contracted to do. Having seen the information that we published, the member will be aware of the exacting nature of the contract. Together with the SPS, I will ensure that the appropriate penalty clauses are invoked whenever Reliance does not deliver on the contract in the way that it should.

Dr Sylvia Jackson (Stirling) (Lab): What structures does the minister plan to put in place to learn from the shortcomings that have been highlighted by the Reliance contract, given that some shortcomings may involve procedures in other parts of the criminal justice system?

Cathy Jamieson: Sylvia Jackson has highlighted a critical point, which is that several agencies are involved in the issue. At the moment, those agencies are working together in a number of ways, including through the working group that I established to examine the process of transferring prisoners between the different courts. The group is also considering issues surrounding warrants and issues around the Scottish Court Service. When the group reports, I expect that it will make some firm recommendations on how we can

improve the system to deal with those issues, which in some instances have been long-standing problems that have not been quantified to date.

Civil Litigation (Court Deadlines)

8. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the Scottish Executive which individual is responsible for compliance with court deadlines in connection with any civil litigation in which the Executive is involved. (S2O-2697)

The Lord Advocate (Colin Boyd): Civil litigation is conducted by different parts of the legal offices of the Executive and by private firms that act on behalf of the Executive.

Fergus Ewing: I had expected an answer to the question that I asked. If a solicitor in private practice had missed a deadline for lodging an appeal, the solicitor would not only be negligent but would be held responsible for the consequences, especially if those were financial consequences. Surely there are three people who could be responsible: the Lord Advocate, the civil servant who is in charge of the department or the Minister for Justice. Does no one in the Executive accept individual responsibility? Is no one ever to blame? Does the buck never stop?

The Lord Advocate: As was explained to the court, and as has been explained in the letter that Cathy Jamieson and I sent to the conveners of the justice committees, the error occurred in the office of the solicitor to the Scottish Executive. That office reports to me and I have ministerial responsibility for it.

Police (Funding Review)

9. Richard Lochhead (North East Scotland) (SNP): To ask the Scottish Executive when it will announce the results of the review of police funding. (S2O-2646)

The Minister for Justice (Cathy Jamieson): I expect to receive the final report of the police grant-aided expenditure working group in the next few weeks and to announce the results after that.

Richard Lochhead: For the past few years, Grampian police and the local community have pinned their hopes on the review, which it was hoped might tackle the force's chronic underfunding. The area has some of the highest crime rates in Scotland, but it has the lowest level of police officers per head of population. The force also has extra responsibilities that other police forces do not have. Having been told to expect the results of the review last year, we were then told to expect them this spring, but the minister is still unable to give us a date. Will she take the situation seriously by telling the Parliament and the people of Grampian what extra evidence she

requires before she appreciates that the force is chronically underfunded?

Cathy Jamieson: In my letter of 23 March 2004 to the clerk to the Grampian joint police board, I reminded board members that the GAE working group had already recognised that Grampian's share of the funding per head of population had been lower than that of other forces. Following the group's interim recommendations, which were submitted to ministers in late 2002, the GAE calculations that were reflected in the local authority funding announcement in December 2002 included additional funding for some forces. For Grampian police, the additions were £724,000 for 2003-04, £1.614 million for 2004-05 and £2.5 million for 2005-06.

As Richard Lochhead will appreciate, population figures are not the only factor that needs to be taken into account. We need to consider issues such as levels of deprivation and rurality as well as crime rates and other circumstances. Those are difficult issues. When the group publishes its recommendations, I hope that all those issues will be covered and that I will be able to make a positive announcement that will benefit policing throughout Scotland.

Tricia Marwick (Mid Scotland and Fife) (SNP): I remind the minister that Fife constabulary has 200 fewer police officers than our population deserves. I know that Fife Council is concerned about the situation, as is the Fife police authority. Can the minister give us any hope that, at long last, Fife will get an increase in its police?

Cathy Jamieson: As I said to Mr Lochhead, the working group has taken very seriously a number of issues, looking right across the board at the various pressures that police forces in each area face. I will not pre-empt the results of that working group coming to me by making any announcement in the chamber today, but I assure Tricia Marwick that all the points that have been raised in the chamber previously and today are being taken into account in the work that the group is doing.

General Questions

Housing Stock Transfer

1. Shona Robison (Dundee East) (SNP): To ask the Scottish Executive whether it has any plans to review its policy on housing stock transfer. (S2O-2732)

The Minister for Communities (Ms Margaret Curran): A review of the transfer process was undertaken last year and a new framework is now in place to deliver housing transfers. No further review is currently planned. Transfer to community ownership remains a key means for many councils to achieve the Scottish housing quality standard while keeping rents affordable.

Shona Robison: Is the minister aware of the Westminster select committee report that was published last month calling for a level playing field to be created for tenants who vote against transfer, so that they are not penalised? If tenants in Dundee or in other parts of Scotland all vote no to stock transfer, why should they then be denied the necessary investment in the housing stock? If they vote no, is not the minister duty bound to review the current policy on stock transfer in order to give those tenants a level playing field, which is surely nothing less than they deserve?

Ms Curran: I am sure that Shona Robison is well aware of the consideration that we have given to housing policy in the past few years. We have opened up a number of routes for local authorities to meet the housing quality standard, which they all subscribe to and consider appropriate. They can do that through housing stock transfer, through the prudential regime or through an increase in rents within their own resources—it is properly a matter for local authorities to decide how they meet the standard.

In my attempts to promote community ownership, I have always made it clear that two matters are of the utmost importance. One is the involvement of communities in the management of their houses. I think that that is a significant dynamic that leads to the improvement of communities. The other is ensuring that we lever extra investment into housing and that we create opportunities to do so. Shona Robison might wish that I had the power to manufacture money, but sadly I do not.

We must ensure that we maximise all investment opportunities that are available and I urge local authorities to ensure that they do that, because the consequence of not doing so will be to put the onus back on to tenants and to increase rents—we do not think that that policy, which has been used in the past, is acceptable. We believe that, by working in partnership with tenants and by using the range of options that are available, local authorities have a proper, progressive and thorough way of managing and improving housing stock in Scotland.

Elections (Voter Participation)

2. Richard Lochhead (North East Scotland) (SNP): To ask the Scottish Executive what steps it will take to encourage increased voter participation in elections. (S2O-2647)

The Minister for Finance and Public Services (Mr Andy Kerr): I shall take a serious, statesmanlike approach to that question. We recognise the small increase in turnout at the recent European elections, but there is clearly still a lot more to do. There is no one solution to the problem, which members must recognise is not

just a Scottish one, as the turnout in other European countries has shown. The partnership agreement commits us to increasing voter participation at local council elections and we are seeking to do so in a number of ways, including through piloting all-postal ballots and, in the longer term, investigating electronic voting.

Richard Lochhead: Although all politicians in Scotland—and, indeed, throughout Europe—will want to reflect on the low turnout in last week's European elections, does the minister share my surprise that Alistair Darling, the Secretary of State for Transport and Scotland, raised the prospect of an all-postal ballot at the next Holyrood election? Was Mr Kerr consulted before the secretary of state made that announcement? Does he agree with the many members in all parties in this chamber that any such decision should be taken by the Scottish Parliament and not by London?

Mr Kerr: I cannot resist mentioning that some people—most of the SNP MSPs—are reflecting more on the election results than others are.

We have regular dialogue with our Westminster colleagues, but those matters remain between ministers.

David Mundell (South of Scotland) (Con): Does the minister agree that voter participation is about more than people turning up on the day? It is also about their vote being rendered admissible. Is he as concerned as I am by the fact that in London, where an attempt was made to run an election in which people voted with a cross and using a preference system, more than 167,000 ballots were rendered inadmissible? Will he rethink his determination to run the Scottish Parliament elections and the first single transferable vote local government elections on the same day?

Mr Kerr: We constantly reflect on experiences throughout the United Kingdom and in the rest of the world with regard to electoral policy and strategy. The member has made me aware of his views on those matters. I have tried to reassure him that promotion and publicity that accompanies any future election in Scotland will seek to ensure that the electorate are well educated in the purpose of voting and in how to vote. I have confidence—as I am sure others have—in the electorate's ability in that respect.

Iain Smith (North East Fife) (LD): Does the minister accept that the case for all-postal voting has certainly not been made by the experiments in the European elections in England last week and that there are still significant concerns about the administration of such elections and about fraud, which perhaps denies some people their vote? Will he give an assurance that Scotland will not go headlong down the all-postal route and that we will

continue to consider other options, such as alternative voting days and extended voting hours?

Mr Kerr: The Executive does nothing in a headlong fashion—it acts in a carefully considered manner on every occasion. We must reflect on what happened with the all-postal ballots. Ninety-nine per cent of the postal ballots were out on time—by 1 June. There have been accusations of fraud and those are being investigated. The Electoral Commission will report on the experience in December—that will be the time to reflect on what occurred down in England. The other matters that the member raises are appropriate and we will, of course, consider them.

Schools (Exclusions)

3. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Executive what mechanisms are in place to monitor the impact of its inclusion policies on the number of exclusions from schools and on teacher absences due to stress. (S2O-2675)

The Minister for Education and Young People (Peter Peacock): The Executive collects data on exclusions from school, but we do not hold data on the category of illness causing teacher absence.

Brian Adam: I appreciate that the minister might find it difficult to give an answer on whether his policies have had an impact on the number of exclusions. However, does he have specific methods of monitoring those figures? If not, why not? Although we need to have devolved school management, it can lead to the number of exclusions being managed to take account of teacher stress or a number of other factors. That is no way in which to run a coherent education service.

Peter Peacock: Are my policies having an effect on exclusions? I hope so, because we have tried to free up head teachers to make decisions about exclusions. I have made it clear that I will not second-guess the difficult judgments that head teachers have to make every day in their schools on those issues; it is up to them to decide when it is appropriate to exclude pupils.

The most recent census showed that the number of exclusions was falling: the figure fell by 4 per cent in Scotland as a whole. In Mr Adam's city—Aberdeen—exclusions fell by about 50 to fewer than 1,000 pupils. Progress is being made through the good actions that schools are taking to keep kids in school and to help them to get the education that they require. At the same time, it is necessary to have the freedom to exclude kids if that is necessary.

Local authorities have a duty to ensure that their employment and occupational health policies take

account of teacher stress. They have a duty to do that in supporting teachers in their activities.

Lord James Douglas-Hamilton (Lothians) (Con): Does the minister agree with the view expressed by the president of the Educational Institute of Scotland that none of the Executive's initiatives on education

"will be of any value unless the problems of pupil indiscipline are openly and properly addressed"?

Peter Peacock: I read what the president of the EIS said. He certainly drew attention to the continuing challenges in schools on discipline matters. However, he also kept the matter firmly in context—which I have to say is something that Lord James Douglas-Hamilton does not always do—by making it clear in his speech to the EIS that the problem must be kept in proportion and that we must ensure that we address it when it arises.

That is exactly why we have been taking a range of actions. We have made it clear to head teachers that, if they require to exclude pupils, they are free to do so, and we have made it clear that they have to consider the interests of the majority in their classes. We have introduced staged-intervention processes into schools and we have introduced master-classes so that head teachers can share good practice and good experience in the management of discipline problems. We have introduced restorative practices into schools and we have introduced programmes offering alternatives to exclusion.

A whole range of actions is being taken to manage such problems effectively. We should not talk down the good work that goes on in Scottish schools. We should ensure that schools can manage such problems as effectively as possible.

Central Heating Programme (Eaga)

4. Miss Annabel Goldie (West of Scotland) (Con): To ask the Scottish Executive whether it is satisfied with the way in which Eaga Partnership Ltd administers its central heating programme. (S2O-2678)

The Deputy Minister for Communities (Mrs Mary Mulligan): We maintain a close working relationship with Eaga with a view to assessing and improving its performance in delivering the central heating programme. Since the programme began in the private sector in September 2001, Eaga has met, or exceeded, its targets, installing more than 21,000 systems to date.

Miss Goldie: The minister may not be aware that I have been in correspondence with her colleague Margaret Curran in connection with the problematic issue of mobile homes that are permanent residences for pensioners. Early

difficulties arose in identifying whether such homes were eligible and Eaga has had to take a fairly arbitrary decision to exclude certain homes. Was it the Executive's intention to exclude pensioner families whose permanent residence is a mobile home, albeit one that remains static? Is that the essence and purpose of the programme?

Mrs Mulligan: I am aware of the member's correspondence with my colleague Margaret Curran. Unfortunately, the central heating systems and the insulation that is provided with them are unable to bring such houses up to an acceptable standard. That is why we decided that mobile homes should not, at this stage, be included. However, we continue to review the matter, because we appreciate that some pensioners have mobile homes as their permanent residence. Should we find ways of ensuring that we can reach an acceptable standard of heating and insulation in such properties, we will consider the matter again.

Rhona Brankin (Midlothian) (Lab): Does the minister share my concern that Eaga contractors such as McSence Ltd in my constituency are expected to absorb a 20 per cent increase in the cost of insulation materials? That could have a serious effect on the Scottish Executive's warm deal programme. Will the minister raise that issue with Eaga's management with a view to resolving the problem?

Mrs Mulligan: I am not aware of the particular circumstance that Rhona Brankin refers to. However, from discussions on the funding for this year's programme, I am aware of the increase in the cost of providing services. When we started in 2001, the cost of installing a system was approximately £2,500; this year, the cost is roughly £2,800. I am aware of rising costs and will be happy to pursue the matter further with Eaga on the member's behalf.

Gaelic Language (Scotland) Bill

5. Mr Kenneth Macintosh (Eastwood) (Lab): To ask the Scottish Executive how many replies it has received to the consultation on the proposed Gaelic Language (Scotland) Bill and what action it is taking to address the issues raised. (S2O-2717)

The Minister for Education and Young People (Peter Peacock): We received more than 3,000 submissions in response to the consultation and I have had a number of meetings with Executive officials and interested parties to consider the issues that have emerged.

Mr Macintosh: I congratulate the Executive on what is clearly a welcome and positive bill. However, does the minister acknowledge that the bill will have to be accompanied by continuous action and a range of other measures? An issue

addressed in the consultation is the shortage of Gaelic-medium teachers. Will the minister consider the possibility of running a national recruitment campaign along the lines of campaigns to address similar shortages in subjects such as modern languages and science?

Peter Peacock: I will be happy to consider that issue. Ken Macintosh raises an important point. Notwithstanding legislation to provide for the future of Gaelic—to promote it and to ensure that it survives and thrives—we cannot legislate to turn on a tap and get more teachers. To do that, we will have to persuade people to apply to be teachers and we will have to provide training places. However, we have been successful at ensuring that we have no cap on the number of places in our institutions that train Gaelic-medium teachers. We are making it clear that such training is a continuing priority for the Executive. Indeed, new forms of training are being established in the Highlands and Islands under which teachers can be trained on a part-time basis, closer to their homes. That is one way in which we can try to ensure that we meet supply needs. However, we require to do more. We need to ensure that the big blockage in Gaelic education is not about legislation and, on the supply of teachers, I will, as I said, be happy to look at the member's proposal.

Ms Sandra White (Glasgow) (SNP): I take great comfort from what the minister has just said. He will be aware of the success of the Glasgow Gaelic School, whose new building is to open in 2005. My question is similar to Ken Macintosh's. Gaelic-medium education is so popular in the area that people who want to send their children to the Glasgow Gaelic School are being told that there is no funding for remedial teachers to enable those children who have got to level 1 in Gaelic to continue their education at the school. Will the minister put additional resources into encouraging not only more Gaelic-medium teachers but remedial teachers, so that children who have a smattering of Gaelic can attend the Glasgow Gaelic School and such schools elsewhere in the country?

Peter Peacock: I am interested in the point that Sandra White made about remedial teachers. I am not familiar with the specifics of the case that she mentions in relation to the Glasgow Gaelic School, but I am happy to look into the matter in response to her question.

Over the past few weeks, we have made the biggest step forward ever seen in respect of Gaelic-medium education in Glasgow, with my announcement that the Executive is prepared to make significant resources available to Glasgow City Council to ensure that, for the first time, Gaelic-medium secondary provision can be made available in the city. The investment recognises

the success of the Glasgow Gaelic School by providing continuity of education into secondary level and it will strengthen our capacity to attract more teachers into the profession, as people will know that they will be able to have a career in the teaching of Gaelic.

Mr Jamie McGrigor (Highlands and Islands) (Con): Bearing in mind the fact that there is no dedicated Gaelic-language television channel, what is the minister doing to support his colleague Brian Wilson, who is making efforts at Westminster to achieve one?

Peter Peacock: I have been in regular dialogue on the matter with Brian Wilson and Anne McGuire, as, indeed, has Frank McAveety. There are a number of issues on which we are working in order to try to find a way forward. The Parliament will be advised of what they are in due course.

Eleanor Scott (Highlands and Islands) (Green): The minister mentioned the scheme to encourage Gaelic speakers to train as teachers. Eventually, however, we will run out of people who come into that category. Is the Executive considering a parallel programme that would encourage people who are already trained teachers to bring their Gaelic up to fluency?

Peter Peacock: Yes, indeed. We also provide support to organisations in Scotland that help with that. There are Gaelic speakers who want to improve their proficiency in Gaelic and who are currently teaching through the medium of English. We want to encourage them to move across into Gaelic-medium teaching. Indeed, we will have to address that issue in the attempt to expand Gaelic-medium secondary provision. We know that there is a large number of Gaelic speakers who are teaching in our secondary schools in and around Glasgow through the medium of English. We need to consider how we can attract them to teach through the medium of Gaelic. The suggestion that the member made is one of the mechanisms that we will use.

Housing (Gas Safety)

6. Phil Gallie (South of Scotland) (Con): To ask the Scottish Executive whether there are any plans to introduce legislation to enable rent officers and officials of housing authorities who administer housing benefit to ensure that gas safety regulations are in place. (S2O-2734)

The Deputy Minister for Communities (Mrs Mary Mulligan): We have no plans to introduce legislation to change the rent officer's role or that of local authorities. As the member is aware, the administration of housing benefit is the responsibility of the Department for Work and Pensions. Gas safety regulations come under the control of the Health and Safety Executive.

Phil Gallie: My understanding of the way in which the Scottish Parliament works is that we are about joined-up government and partnership. Health and safety inspectors are experiencing difficulties in relation to the need to ensure that buildings comply with the gas safety regulations. We could take the opportunity to enable those who set fair rents for private lets and those who make arrangements for housing benefit to look at whether the regulations are in place. The opportunity is open to us to allow them to work as a team in order to ensure the safety of the people who move into those let homes.

Mrs Mulligan: I recognise Phil Gallie's concern, but we have to be aware of the different responsibilities of the different work forces that would be taking part in the inspections. Phil Gallie will be aware that one of the provisions of the Antisocial Behaviour etc (Scotland) Bill, which we are discussing today, is about registering landlords as "fit and proper" people—if they do not comply with the regulations on things such as gas installations, they would not be considered as fit and proper people. That may be one way in which we can tackle the issue. I hope that, when we come to that part of the bill, Phil Gallie will feel able to support our proposals.

Antisocial Behaviour etc (Scotland) Bill: Stage 3

Resumed debate.

14:30

The Presiding Officer (Mr George Reid): We return to the Antisocial Behaviour etc (Scotland) Bill.

George Lyon (Argyll and Bute) (LD): On a point of order, Presiding Officer, which I notified you of earlier. In the last division this morning, on amendment 1, in the name of Bill Aitken, for some reason my vote was not recorded, and I am down as having not voted. I make it clear that I voted no. Could you assure us that the consoles are being checked and that they are operating properly?

The Presiding Officer: Yes, the consoles are now being checked and your no vote is duly on the record of Parliament.

Pauline McNeill (Glasgow Kelvin) (Lab): On a point of order—[*Interruption.*]

The Presiding Officer: Order.

Pauline McNeill: First, I ask you to accept my apologies for not being here when you called me earlier. I did not appreciate that there would be an early start.

I am in the same position as George Lyon, in that I voted against amendment 1 but my vote has not been recorded. Four weeks ago I reported a console two along from me that would accept a no vote but not a yes vote. I would appreciate it if the consoles could be checked.

The Presiding Officer: I understand that the consoles have been checked, but I do not know the results of the check. I take the matter seriously. Members' votes should be duly recorded at the time. I will continue my investigations.

Section 17—Authorisations: supplementary

Amendment 2 not moved.

Section 18—Powers exercisable in pursuance of authorisations

Amendment 52 moved—[Ms Margaret Curran].

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a two-minute division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)

Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Tosh, Murray (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 86, Against 19, Abstentions 0.

Amendment 52 agreed to.

Amendment 53 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)

Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Tosh, Murray (West of Scotland) (Con)

The Deputy Presiding Officer: The result of the division is: For 86, Against 20, Abstentions 0.

Amendment 53 agreed to.

Amendment 3 not moved.

**Section 19—Powers under section 18:
 supplementary**

Amendment 4 not moved.

**Section 20—Guidance in relation to dispersal
 of groups**

Amendment 5 not moved.

After section 20

*Amendment 96 moved—[Stewart Stevenson]—
 and agreed to.*

Section 22—Interpretation of Part 3

Amendment 6 not moved.

Section 23—Authorisation of closure notice

The Deputy Presiding Officer: We come to group 8, on the closure of premises and the circumstances in which authorisation may be granted. Amendment 97, in the name of Irene Oldfather, is grouped with amendments 98, 87 and 73.

Irene Oldfather (Cunninghame South) (Lab): The purpose of amendment 98 is to add to the definition of “premises” footpaths, roads and open spaces. In conjunction with amendment 97, it would provide for the serving of closure notices in respect of footpaths, roads and open spaces that are not being used for the purposes for which they were intended. The principle behind the amendment is to give power and voice to communities that are suffering at the hands of youths who congregate on disused pathways and

waste ground and disrupt the peace of people living in the neighbourhood. In this instance it seems to me that prevention is better than cure, as the minister said, and that we need to consider providing for the closure of such areas instead of people needing to call out the police night after night.

In my constituency, one community is extremely frustrated that the council is unable to close off a pathway to a derelict garage site, where youths regularly indulge in antisocial behaviour. In Scotland, it is possible to close public paths by one of two routes—under either section 34 of the Countryside (Scotland) Act 1967 or section 68 of the Roads (Scotland) Act 1984—but neither allows closure because the property concerned is affected by antisocial behaviour.

I acknowledge the complexity of the matter, but local residents want an assurance that access to derelict ground can be stopped where it is having a negative impact on communities.

In a sense, amendment 97 is a probing amendment that identifies a problem. I would welcome the minister's views on the best route by which local authorities can pursue the matter. At present, there appears to be a gap in the legislation.

I move amendment 97.

Stewart Stevenson: We have no difficulty with Irene Oldfather's proposals and will listen to what the minister has to say in that regard. I suspect that we will have no difficulty with amendment 73, unless the minister persuades us that we should have.

The Law Society of Scotland asked me to lodge amendment 87 for reasons that I think are quite right and proper. The simple position is that the licensing acts provide for the necessary powers and the Law Society of Scotland believes that it is a recipe for confusion to provide an alternative power that involves a different set of decision makers in closing premises that are licensed and so which are covered by the licensing acts.

The argument is that licensed premises appear to fall within the definition of “premises” in the bill. In particular, the Law Society highlights difficulties with how the bill's provisions might interface with any future changes that might be made in line with the recommendations of Sheriff Principal Nicholson. It suggests that licensing boards are the bodies that are best placed to deal with licensed premises.

I lodged amendment 87 in the belief that the Parliament should discuss the issue and dispose of it as necessary to ensure that we are quite clear about the situation in relation to licensed premises. I will listen with interest to the minister's response

before coming to a final conclusion about how I wish to pursue the matter with which the amendment deals.

Mrs Mulligan: Amendment 97 seeks to add extra conditions that must be met by a senior police officer before he or she is able to authorise a closure notice in respect of a premises within the extended definition of premises offered by amendment 98. Before a closure notice could be served on such premises, the senior police officer would have to be satisfied, and have received confirmation from the local authority for the area in which the premises are situated, that the premises

“are not being ordinarily used for the purposes for which they were originally intended.”

Amendment 98 seeks to extend the definition of “premises” to include: any footpath, within the meaning of section 192 of the Road Traffic Act 1998; any road, within the meaning of section 192 of the Road Traffic Act 1998; and any open space, within the meaning of section 336 of the Town and Country Planning Act 1990. The definition of “premises” in the bill is already widely drawn to include any land or other place—whether enclosed or not—and any outbuildings that are, or are used as, part of the premises. Although premises are already widely defined for the purposes of part 4, other provisions in part 4 clarify that the provisions are aimed primarily at dealing with premises in which people live or that people own. We do not think that the powers would readily be adapted for use in relation to footpaths and roads. In policy terms, we do not believe that that is the appropriate means of addressing the concerns raised about disused footpaths or roads.

I am aware of several situations in which local authorities have received requests from residents—individuals and groups—to stop up a pathway because of perceived problems of antisocial behaviour, and I can well understand the reasons behind such requests. For the most part, we would encourage the use of alternative remedies to deal with antisocial behaviour before paths are closed, such as improved lighting or the range of powers that are available to deal with crime and antisocial behaviour, including powers elsewhere in the bill.

14:45

However, provisions are available for the stopping up of paths. While none of those is specifically for the purpose of preventing crime and antisocial behaviour, local authorities can make a case in response to complaints. In particular, section 34 of the Countryside (Scotland) Act 1967 allows for a public path to be closed on the ground that it is no longer required for public use. When commenced, the Land Reform (Scotland) Act 2003 will also be relevant. Section

28 of that act allows for judicial determination, by way of summary application to a sheriff, of the existence and extent of access rights and rights of way. Several other considerations would also apply, such as whether the indicated right of way had been established or was merely asserted and whether there would be any detriment to the wider community by stopping up the path.

Following this morning’s debate, I suggest that the dispersal of groups power could also be relevant, although it will be a matter for the police and local authorities, engaging with members of the community that is affected by antisocial behaviour, to consider the most appropriate solutions to the problems in an area. Equally important is the requirement in the bill for authorities, the police and registered social landlords to prepare local antisocial behaviour strategies that will have a strong focus on prevention as well as enforcement as a means of reducing the incidence of disorder.

Therefore, I suggest to Irene Oldfather that a range of options exists for dealing with the problem that she seeks to address. Having said that, I can say that we are prepared to consider the issue further in conjunction with local authorities and other key stakeholders, with a view to seeing whether anything more can usefully and practically be done, particularly in the context of the planning regime. On that basis, I hope that Irene Oldfather will be prepared to withdraw her amendment.

Stewart Stevenson’s amendment 87 seeks to exclude licensed premises from the closure powers. I expect that the first forum for persistent antisocial behaviour associated with pubs and clubs would be the licensing system—local licensing boards are best placed to deal with licensed premises. However, the licensing system is not primarily concerned with the prevention of antisocial behaviour. When antisocial behaviour takes place on licensed premises, there is no reason why it should be treated differently from antisocial behaviour elsewhere. Pubs and clubs should not be excluded from the provisions of the bill. Of course, I understand that it will be important for the new provisions to interface with the current licensing system and with the recommendations that result from the review of licensing law carried out by Sheriff Principal Nicholson.

A similar amendment was lodged by Donald Gorrie at stage 2 and it was rejected by the Communities Committee. I have listened to the arguments made then and today for excluding licensed premises. As a former councillor, I am not in the business of taking away councils’ powers. It is essential that those powers should be available for the police to use in relation to any premises that are likely to become the epicentres of

outbreaks of serious and persistent antisocial behaviour.

Amendment 73 seeks, as a result of a commitment given by me at stage 2, to make the regulation-making power of Scottish ministers under section 23(2) subject to the affirmative rather than the negative resolution procedure in the Parliament. Section 23(2) gives ministers the power to specify by regulations premises or descriptions of premises in respect of which an authorisation may not be given. We acknowledge that there will be some premises that should not be subject to the provisions, and that is why the bill includes regulation-making powers, which will allow us to get the detail right and will give us the flexibility to respond to changing circumstances. We will consider carefully which premises should be exempted from the provisions and the Parliament will have the opportunity to consider such regulations in due course.

I invite the Parliament to approve amendment 73, I ask Irene Oldfather to withdraw amendment 97 and not to move amendment 98, and I ask Stewart Stevenson not to move amendment 87.

Bill Aitken: Irene Oldfather's amendments are certainly interesting and I think that they underline a genuine difficulty. However, we are not satisfied that amendments 97 and 98 provide the solutions.

It is obvious that amendment 97 would require local authority involvement, which would complicate matters unnecessarily. In situations in which there are problems of the kind that Irene Oldfather has properly identified, speedy action is required. In my experience, nothing to do with local authorities results in speedy action. That is a difficulty.

In amendment 98, Irene Oldfather is perfectly correct to draw attention to the fact that many of the loci of disorder are paths and footways, especially when they are in isolated areas. Something should be done to tackle the problem. I heard what the minister said and I think that, on balance, it represents the best route forward.

Mr Stevenson lodged amendment 87 at the behest of the Law Society of Scotland. That puts me in a quandary because, although I disagree frequently with Mr Stevenson, I seldom disagree with the Law Society of Scotland. However, a point has perhaps been missed. It is true that the licensing boards can take sanctions against people who run their premises in a disorderly manner; the ultimate sanction in that respect is the withdrawal of such people's licences. I point out to Mr Stevenson and, through him, to the Law Society that licensing boards up and down Scotland tend to sit on a quarterly basis. If one is to cope with a difficult situation, speed is of the essence. We should bear it in mind that, if there

are objections to the renewal of a licence, due notice has to be given to the licensee. That means that four months could pass between the inception of trouble and its resolution. Therefore, I think that the matter is best left to the legislation.

Amendment 73 is acceptable.

Johann Lamont: I thank Irene Oldfather for her ingenuity in seeking to incorporate an important issue in the bill. I recognise the issue that she has highlighted, as I have had to deal with it in my constituency. Although I acknowledge what the minister has said, it is important that we obtain a commitment that the matter be re-examined.

I will provide an example from my area of a problem with private lanes. The fact that the lanes are private means that they are not maintained, lit or kept safe, but the fact that they are lanes means that they are deemed to be rights of way and so cannot be closed off. Local people in my constituency have got together and have managed to secure the agreement of the police, the fire service, the environmental health department and, more generally, the council itself that the lanes should have gates at either end of them, both because they have become a place for people to gather and because a great deal of difficulty is being caused in neighbouring properties, which are being damaged and subjected to graffiti.

The difficulty is that, in order to put up the gates, which they are happy to pay for, the local people have to seek planning permission. To do that costs a significant amount of money and there is no guarantee that planning permission will be obtained, because the lanes could be deemed, technically, to be a right of way—even though everyone acknowledges that they are the site of a social problem. The fact that we are asking the planning system to address that situation is nonsense.

The minister said that we could use other powers, such as the power to disperse groups but, if we were to put gates at either end of the lanes, we would not need to police them in the way in which they are being policed at the moment. No matter how good the group dispersal power will be, it lacks that simplicity of approach. If a simple, practical measure such as putting up gates could be used, we should make it easy for communities to do that. That is not what happens currently.

In another part of my constituency, there is a private lane beside an estate. Although the lane has become a vehicle for young and older people to abuse the residents, it is not possible for the residents to pay for a gate to be put up to prevent the difficulty, even though it would cost them to do something different. I do not agree that, when such situations become antisocial behaviour problems, we should try to find a solution—at the

cost of residents—in the planning system. I understand the technical issues that the minister raised, but I ask for a commitment that the Executive will return to what is an important issue. People are not looking for the police to carry out hard attacks on such problems; they have come up with simple solutions that they are happy to facilitate, but the system works against their doing that.

Donald Gorrie: Johann Lamont has dealt well with the issue of footpaths. We must all have experienced that problem, and it is important that it is dealt with so that the amount of antisocial behaviour that is associated with footpaths is properly dealt with. A lot of planning separated pedestrians from cars, which is good, and gave us nice footways to walk along, but unfortunately, those footways attract the wrong sort of people, and that must be dealt with.

On excluding pubs from the closure powers, it is important that the potential confusion be dealt with, but I accept the argument that it would be reasonable to have something on the statute book until we legislate on Sheriff Principal Nicholson's recommendations, which will take a wee while. I also accept that, even when licensing laws deal with the matter, there may be merit in covering it in the bill, which would enable it to be dealt with more quickly if a serious misuse of a pub were to arise. On reflection, I accept the argument for keeping pubs in the bill, but I hope that the matter will be dealt with more fully in the forthcoming legislative proposals on licensing. At the moment, I oppose Stewart Stevenson's amendment.

Irene Oldfather: I am pleased that the minister recognises the problem and is willing to consider how we can address it. Some of her suggestions under the Countryside (Scotland) Act 1967 have already been tried by my local authority. North Ayrshire Council tried to effect a closure under that act, but it was refused by the reporter and, subsequently, the Scottish ministers. An approach was then made to the Executive with a view to attempting to make an order under the Roads (Scotland) Act 1984, but the council was advised that that, too, could be problematic. There is clearly a problem, but I hear what the minister says about wanting to work with the local authorities to find a solution, and if she can give me a commitment to do that, I would be happy to withdraw the amendment.

Mrs Mulligan: I am more than happy to examine the matter further with Irene Oldfather, and if she has not had a satisfactory reply, we need to examine that. However, we are introducing a number of measures that could be effective, such as the antisocial behaviour orders for under-16s and the dispersal powers. I am more than happy to work with Irene Oldfather and

Johann Lamont to find ways to address the problem.

The Deputy Presiding Officer: Ms Oldfather, are you seeking leave to withdraw amendment 97?

Irene Oldfather: Yes.

The Deputy Presiding Officer: Do members agree?

Members: No.

The Deputy Presiding Officer: In that case, the question is, that amendment 97 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Canavan, Dennis (Falkirk West) (Ind)
Cunningham, Roseanna (Perth) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Gibson, Rob (Highlands and Islands) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
Morgan, Alasdair (South of Scotland) (SNP)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Byrne, Ms Rosemary (South of Scotland) (SSP)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Frances (West of Scotland) (SSP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North East Scotland) (Con)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Finnie, Ross (West of Scotland) (LD)
Fox, Colin (Lothians) (SSP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gillon, Karen (Clydesdale) (Lab)

Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 17, Against 93, Abstentions 0.

Amendment 97 disagreed to.

Section 27—Application: determination

The Deputy Presiding Officer: Group 9 is on the determination of applications for closure orders. Amendment 54, in the name of the minister, is grouped with amendments 55 to 57.

15:00

Mrs Mulligan: Amendments 54 and 55 seek to bring Patrick Harvie's equivalent stage 2 amendments into line with the drafting style that is adopted elsewhere in the bill. Those amendments added factors to which the sheriff must have regard before making a closure order in respect of the premises concerned. The intention was that the sheriff will take into account the interests of occupants—particularly any vulnerable occupants—of residential premises that are the subject of an application for a closure order.

I explained at stage 2 that we did not believe that those amendments were strictly necessary in order to ensure that those occupants' interests are considered. In any circumstance, we are confident that the police and the local authority would not pursue action that would increase a person's vulnerability, unless there was an overriding need for action to protect the community. However, the Communities Committee was of the view that Patrick Harvie's amendments would offer an additional protection to the vulnerable and I am happy to concur with that view.

Amendment 56 is a minor drafting amendment, which seeks to bring the drafting into line with section 24(5)(b)(i), which refers to

"a person who habitually resides in the premises".

Amendment 57 does two things. First, it seeks to make a link with the change that is proposed in amendment 56, so as to make the drafting more consistent. Secondly, it seeks to alter the wording slightly, as

"has not been responsible for antisocial behaviour which has occurred in the premises"

did not seem to be quite right. For example, a vulnerable tenant could be bullied into allowing others to use their property in a manner that gave rise to antisocial behaviour. That could allow doubt as to whether that tenant could be said to be "responsible" for the behaviour. We think that that would be best avoided by using wording that is more consistent with that which is used elsewhere in part 4, where we refer to a person who

"has engaged in antisocial behaviour".

Therefore—[*Interruption.*]

The Deputy Presiding Officer: Just one moment, please, minister. Could members please keep quiet?

Mrs Mulligan: Thank you, Presiding Officer. Therefore, we could refer to persons who have not “engaged in antisocial behaviour” on the premises, which would provide a much clearer link to the committing of the antisocial act. I invite the Parliament to support the amendments in this group.

I move amendment 54.

Patrick Harvie: Without wanting to take up too much time, I wish to place on record the fact that I still believe that the amendments to which the Communities Committee agreed at stage 2 provide an additional safeguard. I also put on record my appreciation of the fact that the Executive has not sought to overturn them. I thank the minister for that.

Amendment 54 agreed to.

Amendments 55 to 57 moved—[Mrs Mary Mulligan]—and agreed to.

Section 35—Procedural rules

The Deputy Presiding Officer: Group 10 is on closure orders in general. Amendment 58, in the name of the minister, is grouped with amendment 59.

Mrs Mulligan: Amendment 58 seeks to delete section 35, the purpose of which was to clear up any doubt about whether, for rule-making purposes, proceedings under part 4 are civil proceedings. On reflection, we do not believe that there is in fact any scope for doubt and it therefore seems sensible to drop the section.

Amendment 59 seeks to add a general guidance provision to cover part 4 in a similar vein to provisions covering parts 2 and 3. The guidance will apply in relation to persons discharging functions and can include persons who are performing duties as well as those who are exercising powers.

I said at stage 2 that we would be reinforcing various points in relation to closure powers in guidance both to the police and to local authorities, for example, in relation to the police’s obligation to consult the local authority before authorising a closure notice. It will be important for the local authority to consider the financial impact on, and welfare of, the household affected, including how it would deal with a homelessness application. I hope that making the guidance statutory provides further reassurance that those responsible for implementing the provisions will have to give due regard to the needs of the vulnerable.

I move amendment 58.

The Deputy Presiding Officer: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)

Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Sheridan, Tommy (Glasgow) (SSP)

The Deputy Presiding Officer: The result of the division is: For 103, Against 6, Abstentions 0.

Amendment 58 agreed to.

After section 35

Amendment 59 moved—[Ms Margaret Curran]—and agreed to.

Section 36—Interpretation of Part 4

Amendments 98 and 87 not moved.

Section 46B—Meaning of “relevant place” and “relevant property”

The Deputy Presiding Officer: Group 11 is on interpretation of noise nuisance. Amendment 99, in the name of Pauline McNeill, is in a group on its own.

Pauline McNeill: I welcome the provisions in part 5, which deals with noise nuisance. That unwarranted noise is included in the bill is a very welcome part of the antisocial behaviour strategy. Noise can cause problems and disruption in communities and many of my constituents certainly suffer from unwarranted noise.

In general, the complaints that I receive fall into three categories. First, there is domestic noise, which is generally internal noise in properties. I have received letters from throughout Scotland about a motion that I lodged in the Parliament that mentioned wooden and laminate flooring. The noise in question is amusing to some people but is a real problem and is the number 1 domestic complaint for Glasgow City Council.

The second type of complaint relates to marches and processions and people on them being able to gather so early in the morning. The matter is covered by the Civic Government (Scotland) Act 1982, which specifies that it is a matter for the police and the local authority to determine the date, time and route of a march. The complaints that I am talking about involve the times at which marches can happen—7.30 am on a Saturday morning is a regular starting time on Dumbarton Road in my constituency of Glasgow Kelvin. *[Interruption.]* Are you finished, Duncan?

The third problem that has been relayed to me is that of construction noise. Industrial noise can continue for six or seven days a week. The matter is dealt with under the Control of Pollution Act 1974. *[Interruption.]* Duncan McNeill is putting me off—I say to Margaret Curran that that is antisocial behaviour.

There are various acts that deal with the serious problem in question and I have outlined the three categories into which complaints fall.

The issue is not necessarily about curbing or stopping construction or marches and processions. I want to ensure that the powers that local authorities have to determine when a level of noise is permitted are entirely a matter for them. The guidance to the various acts—and it is only guidance—means that all local authorities are observing the limits of Monday to Saturday, 7.30 am until 10 pm. However, for some communities it can be a big issue if they are enduring a high level of noise. Some local authorities feel that if they were to vary from the guidance, they might be challenged. I want to ensure that local authorities have the absolute power to determine, in every circumstance in which they think that it is appropriate, both the time when the noise is permitted and its extent.

I put on record my thanks to the clerks of the Communities Committee for assisting me in drafting the amendment, although I am sure that

the minister will say that it does not achieve what I am trying to achieve. To that extent, it is a probing amendment. I am looking for a commitment from the Executive that it recognises the real problem of external noise in communities and that it will give both the police and the local authorities the powers to deal with it.

I move amendment 99.

Ms White: The first ASBO should go to Duncan McNeil.

Members: Hear, hear.

Ms White: Well, there are ASBOs for the over-16s—and I am not talking about his weight. [*Laughter.*] A bit of hilarity is at least welcome noise.

Section 46B is very important not just for the reasons that Pauline McNeill mentioned. I want to make sure that, if someone is sitting in their garden and someone else is playing loud music, or even if they are in their flat or house and a car is parked outside with music blaring out of it, the guidance can be enforced. However, I would like clarification of amendment 99, which Pauline said is a probing amendment. I am concerned that if the amendment were agreed to, every local authority could have a different way of looking at noise coming from accommodation that was “under construction”.

As someone who sometimes feels as though she lives in the middle of a building site, I have been woken up at 7 o'clock in the morning by the noise of scaffolding construction and so on. I am sure that many other people have had that experience, too. It is not just the scaffolding and the construction noise; there are also workmen who like a bit of hilarity—as does Duncan McNeil—and who talk loudly and play loud music in the building. It is very difficult to find out exactly where the noise is coming from in the middle of the town.

I would welcome the minister's clarification of whether it is possible to make such amendments to the bill that would enable local authorities to tell construction companies and builders that they cannot start work at 7 o'clock in the morning and at weekends. The noise is a nuisance not just between Monday and Friday, but on Sunday mornings as well sometimes. I would like the minister to tell us whether there is some way in which we could give the local authorities that power—if not in this bill, in some other form of legislation.

Bill Aitken: In the course of this debate, I have been convulsed with an amusing mental picture of people causing tremendous noise with pneumatic drills and, simultaneously, playing flutes. I do not think that the amendment will be agreed to, but it

raises some interesting points. There is a genuine issue with regard to construction noise, although people who live in glass houses should not throw stones. With work on the Holyrood building going on 24 hours a day, we should perhaps be considering our neighbours down there.

Although there is an issue, I am not convinced that amendment 99 is the best way of addressing it. It seems a bit over-prescriptive, although it is interesting nonetheless. We will listen with interest to what the minister has to say. There is possibly a way in which the aim of the amendment could be achieved, but I am not certain that the amendment is that way.

15:15

Ms Curran: I speak with some degree of trepidation, as the debate has been particularly lively. I mean no disrespect, but it has been unexpectedly lively. I promise Pauline McNeill that I will pay attention.

I will take members through the difficulties with amendment 99 and, I hope, propose some possible solutions for addressing the matter. After all, it is a genuine issue. Indeed, Pauline McNeill has raised a number of issues that we should respond to because they are serious for the people who experience them.

Although we know that certain issues stem from noise on construction sites, part 5 is intended not to deal with that type of noise but to tackle the problem of antisocial noise that is emitted from existing buildings and structures, primarily domestic premises. We foresee some difficulty in covering noise from construction sites in part 5 and consider that existing provisions deal more appropriately with that type of noise. For example, we might face one or two practical difficulties in deciding who should be served with a warning or a fixed-penalty notice. As the penalty limit of level 2 on the standard scale is geared to domestic noise offences rather than commercial offences, the offences set out in the amendment would take us on to a different scale.

Sections 60 and 61 of the Control of Pollution Act 1974 set out a regime to deal with noise from construction sites. For example, a person can apply to a local authority under section 61 of that act for prior consent to carry on construction works. Alternatively, section 60 enables a local authority to serve a notice that imposes requirements on the way in which construction, alteration or maintenance works on buildings or structures are carried out. That notice may specify the plant or machinery to be used, the hours during which the works may be carried on or the level of noise that may be emitted.

When either granting consent under section 61 or serving a notice under section 60, the local authority must have regard to certain matters including any code of practice issued under part III of the 1974 act and the need to protect people in the locality in which the premises are situated from the effects of noise. Nonetheless, as it is clear that some outstanding issues have to be addressed, we must find out whether the existing provisions are operating. As a result, I want to give further consideration to how we pursue the matter.

Pauline McNeill's point about the noise from marches—no matter whether that means from flute playing or from the other things that people do on marches—was significant. The member will be aware that we are embarking on a broad review of how marches impact on our communities and that might be a better place to explore a number of her points. As a minister who will be involved in that review, I give a commitment to do that properly.

Pauline McNeill has rightly assessed that we will ask her not to press amendment 99. However, given the scale of the concern across the chamber, it is appropriate that I give a formal commitment to meet her to go through the detail of this matter and find the proper vehicles to pursue it. In response to Sandra White, I have to say that I believe that it might be more appropriate to use guidance in this respect.

Pauline McNeill: Although I appreciate that the substance of amendment 99 does not fit neatly with what the bill is trying to achieve, I felt that lodging it provided a good opportunity to probe the Executive on the matter. I am quite delighted with the minister's response that there is a genuine problem and that, although powers to address it exist, we might need to check whether they are as strong as they can be and that they cannot be challenged. As far as I understand it, local authorities have the same guidance and it is entirely a matter for them whether they use it. It would be useful to find out whether they have all the powers that they need and whether they are able to exercise them. On that basis, I seek the chamber's leave to withdraw amendment 99.

The Deputy Presiding Officer: Pauline McNeill seeks the chamber's leave to withdraw amendment 99. Are members agreed?

Members: No.

The Deputy Presiding Officer: We will then have to take the decision on the amendment. The question is, that amendment 99 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Byrne, Ms Rosemary (South of Scotland) (SSP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Gibson, Rob (Highlands and Islands) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Kane, Rosie (Glasgow) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
McFee, Mr Bruce (West of Scotland) (SNP)
Morgan, Alasdair (South of Scotland) (SNP)
Neil, Alex (Central Scotland) (SNP)
Robison, Shona (Dundee East) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Canavan, Dennis (Falkirk West) (Ind)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North East Scotland) (Con)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Finnie, Ross (West of Scotland) (LD)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Gillon, Karen (Clydesdale) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Johnstone, Alex (North East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
MacDonald, Margo (Lothians) (Ind)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)

McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 22, Against 84, Abstentions 6.

Amendment 99 disagreed to.

Section 53—Antisocial behaviour notices

The Deputy Presiding Officer: Amendment 100, in the name of the minister, is grouped with amendments 101, 102, 104, 115, 118, 120, 121, 123 to 131 and 133 to 138.

Ms Curran: I take the opportunity to apologise to Bill Aitken on the point of order that he raised during this morning's meeting. I would, in all circumstances, attempt not to lodge amendments late and I genuinely apologise for doing so. We were responding to a range of issues that came up at the committee stage, so there is an explanation. We tried to communicate with the committee, but I accept the point that Bill Aitken made and I put on record our apology to him.

This group of amendments deals with minor technical and drafting changes in parts 7 and 8. Because of our response to the committee and the scale of the changes that the committee's recommendations have enforced on the Executive, I must propose a range of technical amendments. I hope that members will bear with me as I go through them.

The bulk of the proposed changes avoid using the term "agent" and refer only to persons who act for a landlord in relation to a lease. By removal of the term "agent", we seek to eliminate the possibility of confusion arising from its use. The term has a specific legal interpretation that has been the subject of much legal debate. We feel that the best way to refer to those who act for a landlord in relation to a lease is simply to describe them as persons. Retaining the term "agent" would add nothing and could raise more questions than answers.

The only amendments in the group that are not concerned with the term "agent" are amendments 100, 104 and 138, which are just technical ones to ensure consistency in terminology or to make minor corrections.

I move amendment 100.

Bill Aitken: I thank the minister for her generous apology, which is entirely accepted.

I am slightly bemused by the amendments in the group because the law of agency is not particularly complex. I wonder whether the minister's advisers have become hung up on the idea that an agent must be a solicitor, a property agent or an accountant and so feel that individuals or persons may fall through a bureaucratic crack in the floor. As Mr Jackson will no doubt confirm, recent case law defines the fact that an agent does not have to fulfil the terms of the law of contract, which is that there be capacity and consideration and other necessary ingredients.

Anybody acting on behalf of another is, by virtue of so doing, an agent. If I asked the minister whether she wanted a cup of coffee and went to the tea bar to get her one, I would be acting as an agent on her behalf. Therefore, I wonder whether the amendments are particularly necessary. If the minister is satisfied that the law is as she states, that is fine and we will agree to this multiplicity of amendments. Doing so will save time, apart from anything else. However, I am not satisfied that we are correct here.

Cathie Craigie: Those of us who have been involved with legislation for the past four years of the Parliament are always happy when we can make legislation say exactly what it means. The Executive is happy that people will understand that "a person" will act for a landlord. That definition will be clearer to the public. I am happy to support the Executive's amendments.

Ms Curran: Bill Aitken is clearly enjoying himself this afternoon.

I have been advised clearly that the amendments in the group are appropriate for ensuring clarification. I would not have lodged amendments on such a scale for members' consideration if I had not thought that they were appropriate. I hope that I can appeal to Bill Aitken's better nature and that he will agree with us.

Amendment 100 agreed to.

Amendments 101 and 102 moved—[Mrs Margaret Curran]—and agreed to.

The Deputy Presiding Officer: For group 13, which deals with the application of part 7 to holiday lets and the disregarding of use for part 8, amendment 103 is grouped with amendments 122 and 160.

Ms Curran: Amendments 103, 122 and 160 will give Scottish ministers powers to change the primary legislation by order.

Amendment 103 follows on from a stage 2 amendment that was agreed to by the Communities Committee. That amendment allowed the antisocial behaviour notice powers in part 7 to apply to holiday lets. Having consulted on the issue, we are satisfied that the use of such notice powers could help to address situations that can constitute a significant problem. For example, members will be aware of the increasing popularity of stag and hen weekends and the increasing unpopularity of such weekends among neighbours who have to get up in the morning to go to work.

Given the considerable variation in types of holiday let, the operation of the antisocial behaviour notices for which the bill provides is unlikely to be effective for all such lets. As antisocial behaviour notices are geared to operate in premises that are under continuing occupation rather than in short-term use, the purpose behind amendment 103 is to allow the notice provisions to be modified by order so as to make the notices suitable for application to holiday lets. That will make the Communities Committee's amendment to the bill more workable.

Amendment 122 responds to the committee's suggestion that resident landlords should be excluded from registration. We heard arguments both for and against that suggestion. On the one hand, it was argued that the tenants of such landlords should have the same protection as other tenants. On the other hand, it was pointed out that it would be difficult to enforce registration in this informal end of the market. It was also argued that supply would be more likely to be affected than in mainstream letting and interests from across the spectrum said that they were not

aware that there was a particular problem with resident landlords.

Having taken those points into account, we have decided to seek powers to modify the categories of houses that are excluded from the registration scheme. We intend to use the powers to exclude resident landlords from the start of registration. If in future, from our increased knowledge of private sector letting, it becomes clear that there is a problem with such landlords, we will be able to include them in the registration provisions by using the power that will be provided by amendment 122. That power will also allow us to modify other categories under the registration requirements if that proves necessary. Amendment 122 should reassure a number of sectors that had some concerns about the issue.

We recognise that the powers that amendments 103 and 122 seek should be subject to a high degree of parliamentary scrutiny. For that reason, amendment 160 will provide that both types of order will be subject to the affirmative procedure.

I move amendment 103.

The Deputy Presiding Officer: We have a considerable number of groups of amendments to get through, so I would be grateful if members could try to be brief.

Mary Scanlon: I welcome the fact that any such orders laid before the Parliament will be subject to the affirmative procedure, but I seek further clarification from the minister.

It is difficult to make a judgment just on the basis of the minister's remarks, but I am concerned about her comment that antisocial behaviour notices are for houses under continuing occupation rather than for short-term lets. As a member for the Highlands and Islands, I am concerned that, even with the best will in the world, those who let holiday homes cannot always guarantee the behaviour of those who rent from them, particularly given that many holiday cottages are let through the internet.

I am not fully aware of exactly what the minister is planning, but she said that she might introduce an order to regulate the landlord's role in the situation. However, I think that it would be wrong to punish the landlord. For example, when someone who books a week in a holiday cottage causes havoc in the local community, should that issue not be dealt with by the police, given that it is a short-term problem? We need to consider the fact that we are talking about houses that are in short-term occupation and houses that are in continuing occupation.

Another point is that, if the landlord is punished, other tourists who have booked the holiday cottage could end up losing out on the opportunity

of a holiday because of the bad behaviour of a few. We could use the current example of football fans who have caused havoc in hotels in Portugal. No one suggests that we should close down the hotels or punish them for having badly behaved guests.

I welcome the fact that the orders would be subject to the affirmative procedure, but we need more clarification in relation to short-term lets or continuing occupancy of holiday homes.

15:30

Stewart Stevenson: I think that we are dealing with the first matter in relation to which the general issue around making substantial amendments to bills at stage 2 arises. When such amendments are made, committees of necessity do not always consider the subject fully. The detail on registration appeared too late for the Communities Committee to be able to consider and take evidence on it at stage 1, so it was more or less inevitable that the proposals would have to be fine tuned. I am pleased by the minister's useful response and I welcome the protection that will be afforded by the provision that the instruments will be subject to the affirmative procedure.

Mary Scanlon might want to consider some of her remarks at greater length. Landlords have responsibilities, not just to their tenants but to the wider community. Her argument might lead her to suggest that a pub landlord should not be penalised for the behaviour of the people who use his premises, but I think that there is wide acceptance among members of all parties that pub landlords have a duty to the community. By the same token, holiday lets and other forms of landlordism place responsibilities on landlords in exchange for the profits that they undoubtedly seek and are justified in seeking.

Donald Gorrie: The issue of holiday houses exercised the committee. The position that is proposed is a slight cop-out, in that holiday lets will be neither fully in nor out of the bill, but ministers will be able to adjust the operation of antisocial behaviour notices that relate to such lets.

Misbehaviour must be persistent to justify the use of antisocial behaviour measures and obviously someone who has taken out a short let will be gone before anything can be done about their behaviour. However, some landlords or owners of holiday houses might make a habit of allowing unpleasant or unsuitable friends and colleagues to be their tenants. Those people should be dealt with accordingly, so I support amendment 103, which deals with the matter.

Amendment 122 gives the Executive the power to modify section 64B(6) and leads us into the issue of the dwellings that can be registered. It is

important that ministers should have that power. The committee raised the issue of people who rent out rooms in their own homes and most members thought that such people are in a different category from those who rent out a whole house and that they should therefore not be subject to the registration requirements. I understand that the purpose of amendment 122 is to deal with that matter, and I hope that it will be dealt with faithfully in due course.

Some of my colleagues have expressed concern about problems with other types of houses that might need special treatment, but I think that the minister would be able to address any such problems through regulations. I welcome amendments 103 and 122.

Cathie Craigie: I support amendment 122 and I am grateful to members of the Communities Committee who raised the issue during stage 2. I have no personal experience of resident landlords who cause difficulties in Cumbernauld and Kilsyth. Probably the only resident landlord of whom I have any knowledge is Mr Rigsby in "Rising Damp". He might have been a bit eccentric, but we would not have wanted to put in place legislation that would have forced him to close shop.

One of the biggest problems with private landlords—and the motivation behind my lodging amendments at stage 2—is that all too often it is difficult to contact them when there is a problem. Resident landlords, however, can easily be contacted by local authorities and the police, who know where those landlords are. I hope that the Parliament will support the Executive and agree to amendment 122.

Ms Curran: I am grateful to colleagues for clarifying the position and I hope that they have addressed some of the issues that have been raised. Cathie Craigie, Donald Gorrie and Stewart Stevenson were absolutely bang-on—it has been an interesting afternoon, overall.

The power under amendment 103 would be used when a landlord could, but is not, managing antisocial behaviour in the area of holiday lets, whether they are short-term or long-term lets. The provision is to be adjusted if necessary so that orders are effective in such situations. People make money out of holiday letting and we all know of episodes in which some landlords take no responsibility for certain behaviour that takes place, which causes frustration for everybody else. Donald Gorrie articulated that clearly.

To reassure Donald Gorrie, Executive amendment 122 will ensure that different categories of housing could be dealt with, such as tied housing. The exemption could refer to such housing and to tied workers, if appropriate.

Amendment 103 agreed to.

**Section 56—Failure to comply with notice:
order as to rental income**

Amendment 104 moved—[Ms Margaret Curran]—and agreed to.

The Deputy Presiding Officer: Amendment 105, in the name of the minister, is grouped with amendments 110, 113, 114, 116, 117, 132 and 139.

Ms Curran: This group of amendments brings together various changes to the notification requirements in the bill.

During stage 2, the Communities Committee felt that it would be better if there were clear provision in the bill for the notification at various stages of tenants and any person acting for the landlord, such as a letting agent, of the processes for antisocial behaviour notices and registration. We expected to deal with such notification through guidance to local authorities, but in view of the discussion in committee, we are happy to specify the notification requirements in the bill. That makes notification more certain in situations that could be particularly significant for the tenant.

I appreciate that a large number of notifications might need to be made when dealing with registrations. The intention is that the running costs of the scheme will be met from registration fees. I also intend to consider using powers under section 64N, as necessary, to ensure that the resources are in place to support the initial costs of establishing the scheme, which might, for example, include building notification into information technology systems.

Cathie Craigie: Perhaps the minister will go on to expand on this point, but one of the issues that the Convention of Scottish Local Authorities raised with me was about resourcing. We want the scheme to be self-financing, but there will be initial set-up costs and I hope that the Scottish Executive will look favourably on the pleas from COSLA for funding to cover those initial costs.

Ms Curran: The next word in my speaking notes is COSLA, with which I have had discussions. We pay serious attention to the points that it has raised with us and I am grateful for the constructive and effective partnership that we have had on housing issues in recent times. I have arranged to meet Pat Watters to discuss those aspects of the bill so that we can develop proposals to address some of the issues that face local authorities in a way that meets all our concerns effectively.

In the context of an order that no rent is payable being made under part 7, amendment 105 requires the local authority to notify the tenant and any person acting for the landlord as regards the lease that such an order has been made. Amendment 110 requires similar notification when the order is revoked. That ensures that the tenant and the agent know when rent payments should stop and when they should resume. The equivalent changes in relation to an order that no rent is payable under part 8 are contained within the more substantial amendments in group 21.

Amendments 113, 114, 116 and 117 ensure that the implementation or revocation of a management control order by the local authority is not prejudiced if it cannot identify precisely who is entitled to occupy the house under the lease or occupancy arrangement established by the landlord. Notification in those circumstances is to be where the local authority is aware of the name and address of the occupant under a lease.

Amendment 132 makes sure that the household and any person acting for the landlord as regards the lease are notified where the landlord's application for registration has been refused, and amendment 139 ensures notification of the same people of a landlord's removal from the register.

I move amendment 105.

Stewart Stevenson: How much does the minister expect the registration fees to be? That is a matter of some concern to a wide range of people. If landlords have extra costs, we can expect those costs to be transmitted on to tenants. An indication of the fees would be welcome.

On previous occasions, I have referred to large and late amendments at stage 2. I simply make the observation that we are seeing the consequences of such amendments today.

Donald Gorrie: The indication in amendment 139 that tenants are to be kept informed is very important. The committee asked for that and I hope that the amendment will achieve its objective.

I want to raise a general point about this part of the bill. Because it was introduced at stage 2, a number of housing organisations that support the broad principles of the bill felt that things were being rushed and not enough consideration was being given to the details. Will the minister assure us that there will be proper consultation and that measures will be introduced in an orderly way, so that the various participants fully understand what they have to do and are funded and have good systems in operation?

Ms Curran: I am sure that members throughout the chamber have a lot of sympathy for ministers in their duties, but sometimes we are damned if

we do and damned if we don't. If we consult, we are told we consult too much; if we do not consult, people say, "Please consult." It is a difficult job to keep all members happy. Nevertheless, I take Donald Gorrie's point. I can give him and housing organisations the reassurance that they seek. Ministers have had many discussions on a range of issues through, for example, the housing improvement task force and the work that has been done in preparation for the proposed private sector housing bill. It will not be a surprise to the sector that many such issues are under discussion.

We would not want to rush inappropriately or to introduce measures in a disorderly fashion. I can reassure Donald Gorrie on that point.

Stewart Stevenson will not be surprised to learn that I will not give him a precise figure today. However, I assure him that we will consider the matter in a reasonable way and will discuss it with COSLA. I am sure that we can deal with all requirements appropriately. We will work effectively with local authorities.

Amendment 105 agreed to.

Section 56A—Appeals against orders under section 56

The Deputy Presiding Officer: We move now to group 15. Amendment 106, in the name of the minister, is grouped with amendments 107 and 108.

Ms Curran: This group of amendments deals with the situation in which an order that no rent be payable has been made under part 7 of the bill and the landlord appeals against the order. Amendment 107 responds to the suggestion made at the Communities Committee that additional protection should be given to tenants in such situations by making suspense accounts available.

If a landlord appeals against such an order and is successful, it is possible that back-rent will be payable from the time when the order was made. The tenant may not be aware of the appeal and may not set money aside in order to be able to pay the back-rent, if necessary. The bill already provides the protection that the tenant should be notified by the landlord that the appeal is being made, failing which the court cannot order payment of back-rent if the appeal is successful. Amendment 107 allows for the further protection that Scottish ministers may prescribe other circumstances where the court could not order that back-rent be payable.

We envisage the power being used to ensure that, where appropriate, a landlord makes a suspense account available into which the tenant may pay the equivalent of rent until the appeal is determined. In that way, if the appeal was

successful, the tenant would have the money available to pay back-rent and would be encouraged to avoid financial difficulty. The landlord would also have greater assurance that the tenant would be able to pay money that was lawfully due to the landlord.

Suspense accounts are not appropriate in all circumstances. If the tenant receives full housing benefit, the benefit is simply backdated if the landlord is successful in an appeal. Other tenants may prefer to put money aside in other ways. We do not think that it would be appropriate to make a blanket requirement.

We will seek through regulations to make arrangements that will be the most effective in the situation that I have described. We think that the requirement to provide suspense accounts would be better made of the landlord than of the local authority as the account will be a mutual protection related to the contractual arrangement between the landlord and the tenant, to which the local authority is not a party. However, we will consider that point further after consultation.

Amendment 108, read with amendment 106, limits any appeal that may be made against the making of an order as to rental income by the sheriff court to an appeal to the sheriff principal. The provision is appropriate, because the purpose of making an antisocial behaviour notice and of seeking an order that no rent is payable is to make the landlord take appropriate action to address an identified problem of antisocial behaviour. The landlord should be entitled to an appeal against the sheriff's decision, and that is provided for by the appeal to the sheriff principal. In the circumstances, the appeal should go no further than that.

I move amendment 106.

15:45

Mary Scanlon: The Conservatives have problems both with the amendments in the group and with the whole ethos of section 56A. Basically, the provisions reward a bad tenant; in fact, it could be said that, if someone is allowed to live rent free, the provisions would create an inbuilt incentive for bad behaviour. The full obligations of the antisocial behaviour notice are placed on the landlord and yet the focus and the priority of action should be on the tenant.

Surely a basic principle in the legislative process is that sanctions should be brought against the miscreant. The Executive amendments in the group, however, would produce the bizarre situation in which those who are involved in antisocial behaviour are rewarded and the landlord is punished.

Cathie Craigie: I am sure that Mary Scanlon will accept that, if a landlord had been working with a local authority, it would be very unlikely that the local authority would want to move for no rent to be payable. Can she explain how a tenant could live rent free?

Mary Scanlon: As I understand it, the tenant will not pay rent, which means that he would be living rent free.

I listened to what the minister had to say about the provisions that are being made for back-rent to be payable and for benefits to be backdated. I understand that there will be further consultation on the provisions—that has to be welcomed—and the Parliament will scrutinise the regulations that will come before it. The area is one that requires further discussion, and I welcome the discussions that will take place in the fullness of time.

Ms Curran: Cathie Craigie has clarified a number of issues. There is perhaps an ideological difference between the coalition parties and the Conservatives on the issue, and I am sure that we will debate that further when we come to debate other groupings. The difference is that the Conservatives are free marketeers, whereas we believe in appropriate regulation under which the interests of ordinary people can be protected from exploitation.

Mary Scanlon rightly said that sanctions should not be brought against a landlord who is not guilty of an action. However, there is clear evidence that landlords in the private rented sector are exploiting tenants, some of whom are being asked to live in completely unacceptable circumstances. Landlords should not be allowed to make profits on the back of such neglect—it would be improper for them to do so. That point takes us to the heart of the difference in political thinking about the amendments in the group.

The Deputy Presiding Officer: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)

Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)

Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 88, Against 16, Abstentions 0.

Amendment 106 agreed to.

Amendment 107 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)

Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)

Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 88, Against 15, Abstentions 0.

Amendment 107 agreed to.

Amendment 108 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 108 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)

May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 89, Against 15, Abstentions 0.

Section 57—Orders under section 56: revocation and suspension

The Deputy Presiding Officer: We come to group 16, on the revocation and suspension of rental income orders. Amendment 109, in the name of the minister, is in a group on its own.

Ms Curran: Amendment 109 is a clarifying amendment. Section 57 provides for the revocation or suspension of an order that no rent is payable, once either the action required in the original notice has been taken or when it would be unreasonable for the order to continue in the circumstances. It is not the intention for the revocation to completely undo the effect of the order, back to the date that it was made. That would mean that the landlord's rent had simply been delayed, providing little real incentive for the landlord to comply promptly with the antisocial behaviour notice. Amendment 109 puts it beyond doubt that when the no-rent order is revoked, rent becomes payable from that point on and is not backdated.

I move amendment 109.

The Deputy Presiding Officer (Murray Tosh): The question is, that amendment 109 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)

Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 95, Against 12, Abstentions 0.

Amendment 109 agreed to.

Amendment 110 moved—[Ms Margaret Curran]—and agreed to.

Section 58—Failure to comply with notice: management control order

The Deputy Presiding Officer: Group 17 is on management control orders and the failure to comply with notice. Amendment 111, in the name of the minister, is grouped with amendment 112.

Ms Curran: This group of amendments deals with management control orders. Such orders can be made by the court on application by the local authority, where a landlord does not comply with the requirements in an antisocial behaviour notice. Amendment 111 will ensure beyond doubt that the management control order applies even where the original tenancy ends and the landlord lets to a new tenant. A management control order is obtained because the landlord is not managing a particular antisocial behaviour problem. If the tenant leaves, the problem may be resolved or it may be repeated with the new tenant. The management control order should therefore continue on a change of tenancy. The landlord is always free to apply to have the control order revoked on the grounds that he or she has taken the action required in the notice or that it is no longer reasonable for the notice to be in place.

Amendment 112 will ensure that the local authority can recover any money that has been paid to the landlord that should have been paid to the local authority because a management control order was in place. It does not matter whether the payments were made to the landlord by coercion or simply by mistake.

I move amendment 111.

Bill Aitken: The minister said quite correctly that there would come a point in the debate where there would be deep philosophical differences between us. This is as good a point as any at which to underline that. The provisions to which this group of amendments refer are a classic illustration of the Executive going over the top on private landlords and seeking to have them do what Government agencies should be doing—namely, policing the control of their premises.

We are all aware that just as there are very good landlords, there are very bad landlords. It is surely the ultimate irony that under amendment 111 the minister seeks to transfer the rights and obligations of the private landlord to the local authority. The painful experience of most of us who have been councillors tends to suggest that one of the principal difficulties that arises in the

public sector, particularly in local authority housing, is the fact that local authorities sometimes do not control the way in which their houses are occupied to the extent that they should. It is a bit rich for the minister to seek to pass control of the errant private landlords' property to the councils, which have failed manifestly in many respects to cope with their own properties.

The basic tenet of the Executive's thinking is that a landlord can control his premises. Of course, any sensible landlord will take every possible measure to ensure that those people to whom any house is let are likely to behave in a reasoned and reasonable manner. However, sometimes even where landlords show due diligence in leasing premises, the property is occupied by those whose conduct is objectionable to neighbours. Mary Scanlon raised that point with regard to holiday accommodation. I have to ask the Executive whether it is reasonable to penalise the landlord if it transpires that his tenants are not behaving in a reasonable manner, despite the fact that he has taken all proper precautions to ensure that his tenants are reasonable and are not likely to cause concern to the neighbours. After all, the landlord has done everything reasonable to ensure that he has leased the flat on the basis of reasonable inquiries.

Johann Lamont: Does Bill Aitken agree that there are also landlords who do not take responsibility in that way? Sometimes we cannot find them to make them responsible and if we make contact with them we are subject to abuse. The point that we are addressing is that although not all landlords are like that, some are. The measures that we are talking about will protect good landlords and hunt down those who are not interested in providing any service to anybody in their community.

Bill Aitken: I concede that some landlords would meet the criteria that Johann Lamont is describing. However, they are in the minority. It is clear that any sensible landlord is not likely to be so neglectful—

Johann Lamont *rose—*

Bill Aitken: Let me finish this point.

The Deputy Presiding Officer: Do be mindful of the clock, Mr Aitken.

Bill Aitken: On that basis, I cannot let Johann Lamont in. Perhaps I will do so later.

Landlords are not going to run their properties in a manner that is likely to result in their losing money. The bottom line is that the police are the people who should be acting. Once again the Executive, with the tremendous control-freak approach that it takes to practically everything in

life, is trying to get other people to do its job and ensure that it is firmly in control; that is not the answer.

Ms Curran: The ideological debate might come in the next groups; I am looking forward to it. I reassure Bill Aitken that if the landlord has taken all reasonable steps, the order can be revoked, so what we are doing is proportionate and appropriate.

The Deputy Presiding Officer: The question is, that amendment 111 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
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 Finnie, Ross (West of Scotland) (LD)
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 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)

Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)

The Deputy Presiding Officer: The result of the division is: For 99, Against 15, Abstentions 0.

Amendment 111 agreed to.

16:00

The Deputy Presiding Officer: I advise members that, according to our timetable, we have 10 minutes left in this part of our consideration of amendments and that we have a substantial number of divisions to process. As there might be no time for debate on any of the amendments and I will be holding 30-second divisions, I request that members remain in the chamber.

Amendments 112 to 118, in the name of the minister, have all been previously debated. Unless any member objects, I invite the minister to move them en bloc.

Amendment 112 moved—[Ms Margaret Curran].

Section 59—Management control order: notification

Amendments 113 to 115 moved—[Ms Margaret Curran].

Section 61—Management control order: notification of revocation

Amendments 116 to 118 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendments 112 to 118 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)

Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
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 McNeill, Pauline (Glasgow Kelvin) (Lab)
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AGAINST

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 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 98, Against 17, Abstentions 0.

Amendments 112 to 118 agreed to.

After section 63

The Deputy Presiding Officer: Amendment 119, in the name of the minister, is grouped with amendment 154.

Ms Curran: This group of amendments deals with the provision of advice and assistance under parts 7 and 8 of the bill—

The Deputy Presiding Officer: Minister, you will have to be very quick indeed.

Ms Curran: Okay. Amendment 119 allows for Scottish ministers—[*Laughter.*]

Instead of speaking to the amendment, perhaps I should simply reply to points that are raised in the debate.

The Deputy Presiding Officer: There will be no debate to reply to. [*Laughter.*]

Ms Curran: I am sorry that I am providing more hilarity than solutions here.

I move amendment 119.

The Deputy Presiding Officer: We got there eventually.

Amendment 119 agreed to.

Stewart Stevenson: I would like to move a motion without notice to extend this part of the consideration of amendments by 15 minutes. I have discussed this with the business manager for the Executive, who I believe to be similarly minded.

The Deputy Presiding Officer: I am minded to accept such a motion as it will enable members to explore issues more thoroughly. Is it agreed that we take such a motion?

Members indicated agreement.

Motion moved,

That, under Rule 8.14.3, the debate on Groups 12 to 21 be extended by 15 minutes.—[*Stewart Stevenson.*]

Motion agreed to.

Section 64A—Registers

The Deputy Presiding Officer: Amendment 20, in the name of Bill Aitken, is grouped with amendments 21 to 35 and 37.

Mary Scanlon: I will move the amendment in Bill Aitken's name and raise some points that I raised at stage 2.

We supported the draft bill, which highlighted landlord registration for designated areas. There are two basic principles involved in this issue. First, there was no pre-legislative consultation on the 25 extensive and complex amendments that were lodged by Cathie Craigie at stage 2. The second principle relates to the question whether the Antisocial Behaviour etc (Scotland) Bill is the correct place in which to deal with the national registration scheme for private landlords. I refer to the Communities Committee's stage 1 report which says:

"The Chartered Institute of Housing in Scotland and the Scottish Association of Landlords both agreed that full registration of private landlords would be best left to a private sector housing bill, in order to avoid tarnishing what is seen as a very positive move with the negative connotations of antisocial behaviour."

The report also noted:

"The Committee notes the Scottish Executive's commitment to introduce a private housing bill which will provide for the physical standard of a property and for all aspects of the landlord-tenant relationship and therefore accepts that it is inappropriate to include such provision in this particular Bill."

I appreciate that the committee then said, "However," did a U-turn and came up with another paragraph that agreed to include such a provision in the bill, but the basic tenor of the committee's report is that there was no consultation on the registration of private landlords and that this bill is not the right one for such provisions.

The Executive has been commended by all parties and organisations throughout Scotland for its wide-ranging consultation on the bill, but Cathie Craigie's amendments at stage 2 were substantial and complex. I will quote from a briefing of the Council of Mortgage Lenders, which raised

"the principle of a voluntary accreditation scheme which could make a useful contribution towards raising standards in the PRS".

That idea might not be appropriate, but the whole issue requires further debate and a more wide-ranging consultation with all the relevant people, to examine the wider impact on the private rented

sector. Not only did the private sector not have the information to feed in to us, members of the committee did not have that information.

Christine May (Central Fife) (Lab): Will the member take an intervention?

Mary Scanlon: I am very short of time.

Page 15 of the Scottish Parliament information centre's briefing quotes the housing improvement task force's recommendation:

"After considering all options, HITF concluded that local authorities should promote the development of local voluntary accreditation schemes."

The Deputy Presiding Officer: You have one minute remaining.

Mary Scanlon: In the minute that I have left, I will say that my points were supported by COSLA, whose members said that they did not

"think that it is appropriate to have an amendment of this magnitude at this stage of the Anti-Social Behaviour Bill"

and they recommended that the issue be taken care of in a private sector housing bill. In the same briefing to the committee, COSLA said that

"We would strongly urge members of the committee to reject the amendments."

The amendments were also seen by the Chartered Institute of Housing in Scotland as "a step too far".

I ask the minister a question from the Scottish Council for Single Homeless; it relates to part 8 of the bill and the registration scheme.

"Given the difficulties already experienced in a number of local authority areas in tracking down Houses in Multiple Occupation for licensing, how does the Minister envisage the processes to be used in tracking down private landlords who are unwilling to register?"

I move amendment 20.

Johann Lamont: There is no more fundamental issue in antisocial behaviour legislation than that of private landlords. There has been consultation. The committee's pre-legislative consultation came up with something that we did not expect. Throughout communities, people raised the problem of private landlords. The Tories seem to be comfortable when they are talking about individual instances of antisocial behaviour and not addressing some of the structural problems that create, promote and feed on antisocial behaviour. We have to focus on that.

The proposed legislation is not a threat to the private sector; it is intended to protect it. The Scottish Association of Landlords said that it was distressed by the damage to landlords that is caused by the actions of some individual private landlords. There are some private landlords who are not in the business of providing homes for

rent, but are in the business of making money in the easiest of ways, with no responsibility and affording tenants and their neighbours no rights whatsoever.

Some landlords are not known; others are abusive when they are contacted. They must be found and challenged. It is not just about the poor behaviour of individual tenants. In some communities, if we manage to evict an individual problem tenant, the next one who is not being managed causes the same problems because the landlords are not dealing with the problems as they emerge. There are broader problems when people are being driven out of their homes, selling their properties or getting a management transfer if they can because they can no longer live with intolerable behaviour.

I do not know why some people in the social rented sector are saying that the proposal is a step too far. The social landlords in my community are saying that they are damaged by private-landlord lets in their areas, which affect their ability to sustain their properties. In such communities, it is destructive, dispiriting and distressing to find oneself in a situation in which one can neither move, because one's property can no longer be sold, nor stay, because one cannot feel safe. Public moneys are feeding the problem. That situation must be challenged. If people are receiving rent, they have an obligation to act—nothing is for nothing.

It is vital that we address that connection. The obligation should not be on the person who is entitled to housing benefit, but on the person who is in receipt of housing benefit. I would be concerned if we were to set up a scheme that would not allow landlords to receive rent because they were not registered as landlords, even though the housing benefit system will pay someone money so that they can give that money to someone who is not registered as a landlord.

It is important that work is done with Westminster to address that situation. That will concentrate the minds of those people who view the present set-up as being simply a money-making opportunity, to the extent that they stipulate that someone who is in work or is not in receipt of housing benefit cannot hold one of their leases. The behaviour of such people is not in the interests of tenants or communities. Public moneys are working against the grain of the money that has been committed to community regeneration. We must support the proposed scheme, if for no other reason than to address that need within communities. We need to work with the people who have concerns about how the scheme will be implemented on the ground. By breaking the simple connection between owning a property and receiving a rent without obligation,

we will be doing a very good thing for local communities.

The Deputy Presiding Officer: I ask Stewart Stevenson to be brief.

Stewart Stevenson: I am happy to support the principle of registration for landlords. On previous occasions, I have expressed concerns about the complexity and elaboration of the set of amendments that was lodged at stage 2. At this stage, I would have preferred there to have been a simple register that just recorded landlords' names and addresses, so that we could find them. However, we are where we are and the SNP will not be supporting Bill Aitken's amendments.

It is clear from the evidence that was taken at stage 1 that landlords welcome the opportunity to have a regime that will eliminate the rogue landlords from their business and enhance the reputation of the good landlords.

The Deputy Presiding Officer: If Patrick Harvie can be equally brief, I will call Cathie Craigie next.

Patrick Harvie: I share some of Mary Scanlon's concerns. Like her, I expressed them during the committee's discussions at stage 2. Fuller consultation on the proposed measure would have been preferable, as would separate legislation. It would have been interesting if the registration scheme had been pursued through a member's bill rather than as part of the Antisocial Behaviour etc (Scotland) Bill.

That said, the arguments in favour of the scheme are compelling. Although I found the balance between the arguments to be fine, I came down in favour of the stage 2 amendments to insert the relevant provisions in the bill and I will resist the amendments that now seek to remove them. One of the assurances that the Executive provided during our stage 2 discussions was that the bureaucracy of landlord registration and HMO registration could be co-ordinated properly to reduce the burden on landlords. It would be helpful if the minister could repeat that assurance today.

Cathie Craigie: I know that I lodged what could be considered to be substantial amendments at stage 2, but I did not do so just because of my constituency experience of the private rented sector or my long-held views that that sector requires to be regulated. I did so because of my experience as an MSP. I have spoken to the communities that will be affected by the bill and, from 1999, was involved in taking evidence on the Housing (Scotland) Bill during the Parliament's first session, when antisocial behaviour was raised as a significant problem.

Mary Scanlon suggested that there was not enough consultation on the proposal and that it was made only at stage 2, but she might

remember that, in our stage 1 report, the Communities Committee recommended that we should introduce a national registration scheme. That is what my amendments at stage 2 sought to do. The Executive has been able to tidy up the proposed scheme and improve the legislation through the amendments that we are considering today.

The registration scheme is simple, as is the test of whether a person is fit to be a private landlord. I would love to say a lot more, but I can see that the Presiding Officer is indicating that I should sit down. I hope that I will get an opportunity to make my points in the debate on the motion to pass the bill.

The Deputy Presiding Officer: Point noted.

16:15

Ms Curran: I think that members are aware that Bill Aitken's amendments 20 to 35 and 37 propose to remove the whole of part 8 of the bill. There are three key points to remember. The general principle of stronger regulation of the private rented sector has widespread support, as shown in consultations on the bill and in connection with the housing improvement task force's work. Part 8 provides the basic framework to ensure that tenants rent from people who are fit and proper and that there is a public register of landlords, their agents and their properties. The scheme does not involve detailed technical inspection of every house, so comparisons with the HMO licensing system are false. It is a light-touch scheme, although I take Patrick Harvie's point about the burden on landlords and I give him the reassurance that he seeks.

How landlords manage antisocial behaviour will form part of their track record for deciding whether they are fit and proper, so registration will complement the powers to take specific action on antisocial behaviour that are provided for in part 7. It is important to have registration powers in place sooner rather than later for that reason, as well as for the wider benefits that registration will bring.

Registration will allow local authorities to get to grips with the private rented sector in their areas and to understand what the sector provides and the contribution it makes to meeting housing need. It will help them to plan strategically for housing need, to work in partnership with the sector and, if necessary, to intervene to raise the quality of the sector and to drive out the few exploitative landlords about whom members have talked.

I reassure Patrick Harvie that we have had widespread consultation on the measure. We had widespread consultation on the housing improvement task force report and we consulted last summer on selective registration measures for

the bill; officials have met a range of stakeholders.

Although I take Patrick Harvie's points, I will not take the hypocrisy of the Tories, who get in a rage one day condemning the Executive for the amount of consultation that we do and, the next day, say that we are not consulting enough. Moreover, the inconsistencies that the Tories have exposed in their approach today are a bit rich. This morning, they criticised us for being inconsistent in our dealings with the social rented sector as against the private rented sector, but now they do not wish us to introduce measures on the private rented sector.

The clear answer to the Tories' objections is in the evidence that we have from communities. The Tories clearly do not know what is going on in the private rented sector if they do not know the scale of the concern in certain communities, in which the problem is beyond being a housing management issue—it is much more serious than that. Therefore, we should reject Bill Aitken's amendments assertively.

Mary Scanlon: I remind Cathie Craigie that one of the paragraphs in the committee's stage 1 report said that, because of the Scottish Executive's commitment to introduce a private housing bill, the committee accepted that it was inappropriate to include the registration scheme in the bill.

I remind Cathie Craigie and others that the Conservatives are not necessarily opposed to a national registration scheme, but we want it done properly, in the proper bill, with the proper consultation. We are supported in that stance by the Council of Mortgage Lenders in Scotland, the Scottish Association of Landlords, the Chartered Institute of Housing in Scotland, COSLA and the Scottish Council for Single Homeless, not on the basis that the scheme is bad, but on the basis that there has been inadequate consultation and that the scheme is in the wrong bill. That could be a point for the Procedures Committee to consider. If no housing bill were planned for the next 10 years, perhaps we could consider introducing the scheme through this bill, but I understand that a housing bill is planned for early next year.

I remind Cathie Craigie that the consultation document talked about

"Giving local authorities the power to require all privately let property in a defined area to be registered".

That power was included in the draft bill, which we supported, but the Executive did not consult on a nationwide registration scheme for private landlords; let us get it right.

The Deputy Presiding Officer: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
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 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)

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 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
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 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)

The Deputy Presiding Officer: The result of the division is: For 20, Against 71, Abstentions 0.

Amendment 20 disagreed to.

Section 64B—Application for registration

Amendments 120 to 122 moved—[Ms Margaret Curran]—and agreed to.

Amendment 21 not moved.

Section 64C—Registration

Amendments 123 to 126 moved—[Ms Margaret Curran]—and agreed to.

Amendment 22 not moved.

Section 64D—Section 64C: considerations

Amendments 127 to 131 moved—[Ms Margaret Curran]—and agreed to.

Amendment 23 not moved.

Section 64E—Notification of registration or refusal to register

Amendment 132 moved—[Ms Margaret Curran]—and agreed to.

Amendment 24 not moved.

Section 64F—Duty of registered person to provide information to local authority

Amendment 25 not moved.

Section 64G—Registered person: appointment of agent

Amendments 133 to 137 moved—[Ms Margaret Curran]—and agreed to.

Amendment 26 not moved.

Section 64H—Removal from register

Amendment 27 not moved.

Section 64I—Notification of removal from register

Amendment 138 moved—[Ms Margaret Curran]—and agreed to.

Amendment 28 not moved.

After section 64I

Amendment 139 moved—[Ms Margaret Curran]—and agreed to.

Section 64J—Appeals against refusal to register or removal from register

Amendment 29 not moved.

Section 64K—Offence of letting house while not registered

The Deputy Presiding Officer: Group 20 is on offences in relation to registration areas. Amendment 140, in the name of the minister, is grouped with amendments 141 to 146. I invite the minister to speak very briefly indeed to the amendments in this group.

Ms Curran: Will I just move amendment 140?

The Deputy Presiding Officer: There is time for a brief comment.

Ms Curran: I will just move amendment 140.

The Deputy Presiding Officer: That is suitably brief.

Bill Aitken: The same principles apply as previously, which is why we will oppose amendments 140 and 146.

Ms Curran: It is clear that we need those amendments, so I urge the Parliament to support them.

The Deputy Presiding Officer: The question is, that amendment 140 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)

Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)

Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 100, Against 16, Abstentions 0.

Amendment 140 agreed to.

The Deputy Presiding Officer: Does any member object to amendments 141 to 146 being taken together?

Bill Aitken: I do. I request that only amendments 141 to 145 be taken en bloc.

Amendments 141 to 145 moved—[Ms Margaret Curran]—and agreed to.

Amendment 146 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 146 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 100, Against 16, Abstentions 0.

Amendment 146 agreed to.

Amendment 30 not moved.

After section 64K

The Deputy Presiding Officer: Group 21 is on registration areas. Amendment 147, in the name of the minister, is grouped with amendments 148 to 151 and 155 to 157. We are almost out of time, so I must ask the minister simply to move amendment 147.

Amendment 147 moved—[Ms Margaret Curran]—and agreed to.

Amendments 148 to 150 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendments 148 to 150 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)

Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 100, Against 15, Abstentions 0.

Amendments 148 to 150 agreed to.

Section 64L—Order that no rent payable

Amendment 151 moved—[Stewart Stevenson].

The Deputy Presiding Officer: The question is, that amendment 151 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)

Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 28, Against 81, Abstentions 6.

Amendment 151 disagreed to.

The Deputy Presiding Officer: Before we proceed, I advise members that moving the motion to extend the debate that we have just had under rule 8.14.3 has had the effect of extending the deadline on groups 12 to 21, but it could not go further in making any consequential changes to subsequent deadlines. In other words, the extra 15 minutes will come out of the time for the next groups. Therefore, I invite Patricia Ferguson to move a motion on behalf of the Parliamentary Bureau that will revise the remaining stage 3 timetable, to change each subsequent deadline by 15 minutes.

Motion moved,

That the Parliament agrees as a revision to motion S2M-1491 in the name of Patricia Ferguson (Antisocial Behaviour etc. (Scotland) Bill – Business Motion), agreed on 17 June 2004, in relation to the timetabling motion for Stage 3 of the Antisocial Behaviour etc. (Scotland) Bill—

after,

Groups 12 to 21 – no later than 4 hours and 10 minutes

delete all and insert,

Groups 22 to 24 – no later than 4 hours and 45 minutes

Groups 25 to 30 – no later than 5 hours and 30 minutes

Motion to pass the Bill – 5 hours and 45 minutes.—
[Patricia Ferguson.]

Motion agreed to.

Amendment 31 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 31, which is in the name of Bill Aitken and has been moved by Margaret Curran, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)

Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 90, Against 20, Abstentions 6.

Amendment 31 agreed to.

Section 64M—Appeal against order that no rent payable

Amendment 32 moved—[Ms Margaret Curran].

The Deputy Presiding Officer: The question is, that amendment 32, in the name of Bill Aitken, be agreed to. Are we agreed?

Members: No.

16:30

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)

Robison, Shona (Dundee East) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 88, Against 21, Abstentions 6.

Amendment 32 agreed to.

Section 64N—Grants to local authorities

Amendment 33 not moved.

After section 64N

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

Amendment 155 moved—[Stewart Stevenson].

The Deputy Presiding Officer: The question is, that amendment 155 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Godman, Trish (West Renfrewshire) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)

The Deputy Presiding Officer: The result of the division is: For 29, Against 81, Abstentions 6.

Amendment 155 disagreed to.

Amendments 156 and 157 not moved.

Section 74—Amendment of Housing (Scotland) Act 1988

Amendment 34 not moved.

Section 74A—Interpretation of Part 8

Amendment 35 not moved.

The Deputy Presiding Officer: That ends that series of divisions. I do not know about other members, but I enjoyed that.

Section 81—Review of order

The Deputy Presiding Officer: Group 22 is on parenting orders in general. Amendment 60, in the name of the minister, is grouped with amendments 63 and 64.

Mrs Mulligan: Parenting orders are an important part of the bill. They will ensure that the small number of parents who refuse to engage with support to improve their parenting, when that support is in their children's interest, can be held to account. All the amendments seek to improve the way in which parenting orders will operate without involving significant changes in policy.

Amendment 60 provides that a local authority must consult the principal reporter before it makes an application for the review or revocation of a parenting order. That makes sense. As members will be aware, original applications for a parenting order may be made by the principal reporter or by local authorities. If an order is then made by the court, it will be supervised by an officer of the local authority. Section 81 provides that the child, parent or local authority may apply for revocation or review of the order. When the application for the

review or revocation is being considered by the local authority, it is important that the views of the reporter are fed in.

Amendment 63 is a reaction to a query that was made by Stewart Stevenson at stage 2. It provides that the offence in section 83C of publication of information that is intended or likely to identify the parent or child who is involved in the parenting order proceedings includes publication anywhere in the world. That means that it will be an offence in Scots law—triable in Scotland—for anyone to publish such information in the rest of the UK or further afield. I am grateful to Stewart Stevenson for raising the issue and I hope that he is satisfied with our response.

Amendment 64 is a technical amendment that seeks to ensure that a children's hearing may exercise its power to request the principal reporter to consider making an application for a parenting order in the course of a hearing that has been convened to review a supervision requirement. That has always been our policy. However, because of the exclusive reference in section 86 to section 65(1) of the Children (Scotland) Act 1995, a hearing could do that only when it was considering grounds of referral for the first time.

I move amendment 60.

The Deputy Presiding Officer: I call Scott Barrie to be followed by Sandra White. I can give them only a minute for bullet points.

Scott Barrie: I will be brief, Presiding Officer.

The Executive is quite right to lodge amendment 60, which, if it is agreed to, will ensure that the local authority will have to bring forward reviews of any parenting order that has been made. After all, we do not want to make the court system more complex by having a situation in which either the local authority or the principal reporter can bring forward such reviews. Given that local authorities will be responsible for monitoring parenting orders, it is absolutely right that the provision in amendment 60 is agreed to.

The Deputy Presiding Officer: I am obliged to Sandra White for pulling out.

Amendment 60 agreed to.

Section 83B—Account to be taken of religion, work and education

The Deputy Presiding Officer: Group 23 is on the account to be taken of religion, work and education in parenting orders, reparation orders and so on. Amendment 61, in the name of Donald Gorrie, is grouped with amendments 62, 65, 66, 77 and 79.

Donald Gorrie: The amendments seek to safeguard the position of people who do voluntary

work or take educational or training courses by ensuring that they cannot be instructed to appear under a parenting order or community reparation order when they are doing that work or undertaking that training. We want to encourage people to take up such work or training, not deprive them of those opportunities because they are under certain orders. The point is minor, but helpful.

I should point out one minor technicality. Amendment 66 had to be lodged because it appears that, according to the law, universities are not places of education. Perhaps that issue should be pursued at another time.

I move amendment 61.

The Deputy Presiding Officer: I call Sandra White, to be followed by Colin Fox. I ask members for brief contributions.

Ms White: I will be as brief as possible.

I welcome—and the SNP supports—this group of amendments. I have said before that the bill must encourage, not punish. It is eminently sensible to allow someone to do voluntary work as part of the terms of a restorative order without making them take time off to appear in court as a result of a parenting order or some other order.

Colin Fox: I welcome the amendments. I am sure that a primary aim of any youth justice system is to try to get youngsters to face up to the consequences of their offences. Any initiative that allows them to show the community that they have offended against that they are remorseful and prepared to undo some of their damage would be great. Given the vast sums of money that are spent on incarcerating people, the disposal that Donald Gorrie highlights should enjoy widespread support.

I hope that the minister will take into account the fact that the element of compulsion might act as a stigma instead of encouraging young people to get involved in reparation. I would certainly support such an order if it were voluntary. I hope that the minister will give some consideration to the fact that any voluntary order must be thoroughly supported by the agencies. As she knows, the public are losing faith in community service orders because they are not being properly supervised or completed.

In my discussions on Monday with the Broomhouse save our scheme campaign, I was interested to hear about the timebank initiative, which allows people to do voluntary work to rebuild their communities and rewards them with credits towards certain goals and community assets. I wonder whether the minister knows much about that initiative and whether she will consider introducing it in Scotland.

Mrs Mulligan: I am glad to be able to support all Donald Gorrie's amendments in the group. They are all technical, but they are important amendments that will ensure that the bill will define work and educational establishments sensibly for the purposes of parenting orders, community reparation orders, community service orders and supervised attendance orders.

The aim of amendment 61 is to clarify that "work" includes voluntary work for the purposes of section 83B, which provides that, in imposing a parenting order, a court shall try to avoid, as far as possible, the demands of the parenting order interfering with the parent's work or educational commitments. Therefore, it is appropriate that "work" for this purpose includes voluntary work. I am happy to support amendment 61. Amendment 62 is in a similar vein.

Amendments 77 and 79 make identical amendments to the existing provisions in the 1995 act for community service orders and supervised attendance orders. I have to say to Colin Fox that I am not aware that the public are losing confidence in community service orders. The Minister for Justice has been pursuing that route as an alternative to custody, which is something that we would all wish to support.

Amendment 66 provides that the definition of "educational establishment" for the purposes of section 245K is drawn as widely as possible. As with parenting orders, the current definition in the Education (Scotland) Act 1980 would exclude universities. However, as Donald Gorrie said, by leaving the term undefined, a court will give "educational establishment" its normal everyday meaning. I am happy to support amendment 66.

The Deputy Presiding Officer: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)

Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)

Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 95, Against 15, Abstentions 0.

Amendment 61 agreed to.

Amendment 62 moved—[Donald Gorrie].

The Deputy Presiding Officer: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)

Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 97, Against 16, Abstentions 0.

Amendment 62 agreed to.

Section 83C—Restriction on reporting proceedings relating to parenting orders

Amendment 63 moved—[Mrs Mary Mulligan]—and agreed to.

Section 86—Amendment of Children (Scotland) Act 1995

Amendment 64 moved—[Mrs Mary Mulligan]—and agreed to.

Section 88—Antisocial behaviour orders

Amendments 88 and 89 not moved.

Section 88A—Records of antisocial behaviour orders made in criminal courts

Amendment 90 not moved.

Section 89—Community reparation orders

Amendment 65 moved—[Donald Gorrie].

The Deputy Presiding Officer: The question is, that amendment 65 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)

Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)

Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 98, Against 16, Abstentions 0.

Amendment 65 agreed to.

Amendment 66 moved—[Donald Gorrie].

16:45

The Deputy Presiding Officer: The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)

Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)

Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 96, Against 16, Abstentions 0.

Amendment 66 agreed to.

Section 90—Restriction of liberty orders

Amendments 67 and 68 moved—[Mrs Mary Mulligan]—and agreed to.

After section 94

The Deputy Presiding Officer: Group 25 deals with vehicles that are used in a manner causing alarm, distress or annoyance. Amendment 158, in the name of Paul Martin, is grouped with amendment 159.

Paul Martin (Glasgow Springburn) (Lab): The purpose of amendment 158 is to provide the police with the powers to remove and seize vehicles that are used in a manner that contravenes sections 3 or 34 of the Road Traffic Act 1988. The amendment will also apply to quad bikes, which are involved in significant antisocial behaviour in many of our communities. Amendment 158 will provide that a constable may provide information at the same time.

Amendment 159 is a technical amendment that will allow secondary legislation to be introduced.

I move amendment 158.

Mary Scanlon: I ask Paul Martin to clarify some points. First, will people who use quad bikes on their own land be exempt from the proposed provisions? I know that we discussed that issue at stage 2. Secondly, would not it be more appropriate to place the proposed provisions in road traffic legislation? Thirdly, are not quad bikes already covered by road traffic legislation?

Mrs Mulligan: I understand why Paul Martin has lodged amendments 158 and 159, which mirror provisions of the Police Reform Act 2002 that

apply to England and Wales. I am aware of the problems in his constituency, where the use of quad bikes is not only a source of annoyance and concern to residents, but is in many cases dangerous and in some, sadly, fatal. My colleague Margaret Curran has also met representatives of Kirkcaldy esplanade action group to hear at first hand about the problems that have been experienced there.

Clearly, attempts can be made to tackle the problem using existing measures. Traffic calming, road narrowing and speed checks can all have some effect and ASBOs can be used as one option for persistent offenders. However, Paul Martin's amendments will give the police and the courts another option, which I hope will serve as a real deterrent to those who think that they can flout road traffic laws in pursuit of their own enjoyment.

For many people, their car is their pride and joy and they invest heavily in it as a status symbol. Amendments 158 and 159 will ensure that people face a real risk of their vehicle being seized if they persist in bad or inconsiderate driving and ignore police warnings to stop behaving in a manner that distresses others. Similarly, those who choose to ignore the law on off-road driving and who feel that they somehow have a right to take their vehicles across public or private land should face a stiff penalty.

No one is saying that quad bikes and similar vehicles should be banned, but they cannot be above the law. To those who might question the strength of provisions and the proportionality of the sanction to seize an individual's vehicle, I say that no one has anything to fear if they behave in a sensible and law-abiding manner. However, we owe it to those whose lives are made miserable by the offensive behaviour of some to ensure that the law can protect them, and the ultimate penalties that will be available must act as a real deterrent.

I believe that what Paul Martin proposes is a fair balance between the general interest in controlling antisocial behaviour and respect for the rights of the individual. I therefore support amendments 158 and 159.

Paul Martin: I am satisfied with the minister's response and am obviously delighted that she accepts my amendments.

Mary Scanlon referred to those who make use of quad bikes on land that they own. Earlier, I made it clear that the Road Traffic Act 1988 refers to those who cause alarm, distress or annoyance, which is the main reason for the amendments. Those who drive quad bikes on their own land would not cause annoyance, alarm or distress to others.

The Deputy Presiding Officer: The question is, that amendment 158 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)

Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Harvie, Patrick (Glasgow) (Green)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)

ABSTENTIONS

Harper, Robin (Lothians) (Green)

The Deputy Presiding Officer: The result of the division is: For 103, Against 8, Abstentions 1.

Amendment 158 agreed to.

The Deputy Presiding Officer: I call Paul Martin either to move or not to move amendment 159.

Paul Martin: As I explained earlier, amendment 159 is mainly a technical—

The Deputy Presiding Officer: Will you just move the amendment, Mr Martin? It has been debated already.

Paul Martin: I move amendment 159.

The Deputy Presiding Officer: Your enthusiasm is commendable.

Amendment 159 agreed to.

Section 95—Fixed penalty offences

The Deputy Presiding Officer: Amendment 91, in the name of Stewart Stevenson, is in a group on its own.

Nicola Sturgeon: Amendment 91 would delete breach of the peace as an offence for which a fixed-penalty notice can be issued. The expansion of the use of fixed-penalty notices is something that is generally welcomed by SNP members and was welcomed during the stage 1 debate on the bill. It was recognised that fixed-penalty notices have the potential to save police time and to remove some of the burden from the courts system, although it has been said on occasion that that would be the case only in certain circumstances. When they gave evidence to the Justice 2 Committee, witnesses from the Association of Chief Police Officers in Scotland made the point that fixed-penalty notices would reduce bureaucracy as long as they were used as an alternative to full reporting to the fiscal, rather than as a response to behaviour for which people would currently be merely cautioned or warned. That is a salutary piece of advice that should be heeded.

I share the concern that has been expressed that although some offences, such as speeding, are not always but are very often quite clear cut—either the person was or was not speeding—breach of the peace is, by its nature, a very different offence. It is rarely clear cut and it can cover a wide range of offences, from relatively minor ones to quite serious ones; it obviously covers a multitude of sins. To decide whether an offence has been committed will often involve a great deal of evidence and some quite subjective judgments. For those reasons, many people feel that breach of the peace is not an offence that is appropriate for the issuing of fixed-penalty notices, which is why amendment 91 has been lodged.

I move amendment 91.

Bill Aitken: We have no objection to breach of the peace being one of the offences for which a fixed penalty may apply. Our concern is that in many instances fixed penalties are not paid.

I take on board the point that Ms Sturgeon makes about the fact that breach of the peace is very wide and can range from the minor to the exceptionally serious—it is prosecutable on indictment. However, what I imagine is envisaged under the bill—no doubt the Deputy Minister for Communities will confirm this—is that breaches of the peace that will be dealt with in this way are at the lower end of the scale. That being the case, I see no real objection to the proposal and therefore we do not feel able to support Mr Stevenson's amendment 91.

Mrs Mulligan: I was a little surprised to see that the amendment was in Stewart Stevenson's name, because he was quite sceptical about amendments on the issue when we discussed them at stage 2. However, given that Nicola Sturgeon has spoken to amendment 91, I will try again to convince her that we are aware of concerns on the issue and are seeking to address them.

Before I give our reasons for why breach of the peace should remain in the table of offences, I should explain our intention in introducing fixed-penalty notices at part 9 of the bill. We are doing so to free up police time and to reduce some of the burden on the courts of dealing with minor cases. We want to ensure that swift, effective and fair justice is provided when antisocial behaviour offences are committed.

The proposal will not interfere with the independence of the judiciary or the independence of the Lord Advocate. Matters of prosecution of criminal offences in Scotland are in the exclusive jurisdiction of the Lord Advocate.

Tommy Sheridan: On the role of the courts as a whole, is the minister suggesting that there will be a review of breach of the peace so that there is a clearer definition of what it is at the lower end of the scale? The minister has mentioned the lower end of the scale of breach of the peace, but it currently has several scales—some of which can be quite serious. Will an investigation be conducted to produce a new definition of breach of the peace?

Mrs Mulligan: I understand from colleagues that the Solicitor General for Scotland has agreed to examine the offence of breach of the peace. I am aware that breach of the peace covers a spectrum of incidents and that the matter may need further clarification.

It is worth reiterating that the scheme will be piloted and evaluated before there is any wider roll-out. The power to issue fixed-penalty notices is not a blanket extension of power to deal with all cases involving those offences; the power is to deal effectively and efficiently with low-level antisocial offences.

The Lord Advocate, as the head of the prosecution service, will give appropriate instructions to police officers on the use of FPNs, which will take account of relevant factors and the fact that the scheme is designed to tackle low-level offending. I hope that reassures Bill Aitken that we are considering incidents at the lower end of the scale for this scheme. The Lord Advocate's guidance will assist police officers in knowing when it will be appropriate to issue an FPN in respect of minor incidents that might amount to breaches of the peace.

If it is considered at a later stage that breach of the peace, or any of the offences, should not be part of the FPN scheme, we will be able—by order—to remove an entry from the table. It would also be open to the Lord Advocate to instruct that FPNs should not be issued in respect of a specific offence such as breach of the peace.

During the pilot on FPNs for antisocial offences in England and Wales, which ran between August 2002 and 28 March 2003, just over 3,000 notices were issued and almost half of those—49 per cent—were for

“causing harassment, alarm or distress”.

The closest equivalent to that offence in Scots law is breach of the peace.

As I assured members at stage 2, even beyond the evaluation of the pilot, the table of offences will be considered as part of the on-going monitoring of implementation of the bill. Ministers have the power to add, remove or amend an entry in the table by order. If inclusion of an offence is not helpful—whether as a deterrent or as a means of effectively and efficiently administering justice—we will consider removing the offence. That would be subject to affirmative resolution and would therefore have to be agreed by Parliament.

I hope that Nicola Sturgeon will be reassured by what I have said. We will keep these matters under review so that we can take further action in future.

17:00

Nicola Sturgeon: I took such great encouragement from being able to persuade Stewart Stevenson that I have decided to press ahead and try to do the same with the minister. I am surprised that the minister is surprised that amendment 91 was lodged; the issue was discussed during earlier stages of the bill. I said at the outset, and I say it again now, that I have no objection in principle to fixed-penalty notices when it can be shown that they will reduce police time and the burden on courts.

Mrs Mulligan: I gave the example of England and Wales, where 3,000 cases are being dealt with by fixed-penalty notices. That will obviously relieve pressure on the court system.

Nicola Sturgeon: Happy as I always am to learn lessons from south of the border, the legal system is very different in Scotland. We should learn lessons for ourselves.

Because of the nature of the offence of breach of the peace, a great number of such breaches—whether minor or serious—will probably be disputed. There is therefore a question about how much police or court time will be saved. Even

offences at the so-called lower end of the scale—I will talk about what that means in a minute—will often be defended and will often involve hotly disputed evidence.

Tommy Sheridan: Does the member agree that a peaceful demonstration outside Faslane nuclear submarine base at which some 200 people are charged with breach of the peace would result in 200 appeals against fixed penalties and would not save any time?

Nicola Sturgeon: Tommy Sheridan has more experience of the breach of the peace law than I have, and I agree with his point. It was a good illustration of what could happen.

My last point is one that Tommy Sheridan has raised—that of guidance. What constitutes offences at the “lower end of the scale”? I hear what the minister says about the Solicitor General for Scotland issuing guidance, but I would have been much happier if I had seen that guidance and been able to debate it before being asked to sign a blank cheque in Parliament today. For that reason, we will press amendment 91. I hope that members will feel able to support it.

The Deputy Presiding Officer: The question is, that amendment 91 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
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 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 30, Against 81, Abstentions 0.

Amendment 91 disagreed to.

Section 103—Supervision requirements: conditions restricting movement

The Deputy Presiding Officer: Group 27 is on children's hearings and supervision requirements. Amendment 69, in the name of Ms Margaret Curran, is grouped with amendments 74 and 75.

Mrs Mulligan: The amendments in this group are Executive amendments that are consequential on the changes that we made at stage 2 to part 12 of the bill. Amendment 69 is a minor tidying-up amendment. Amendment 74 will ensure that all references to the secure criteria in the Children (Scotland) Act 1995, including those that relate to matters pending disposal by a hearing, are references to the new criteria—now referred to as conditions—that we inserted at stage 2. That will ensure consistent use of the conditions in all circumstances.

Amendment 75 is a minor amendment. It will tidy up references that the bill makes to the definition of relevant local authority in part 2 of the 1995 act.

I move amendment 69.

Scott Barrie: I will talk briefly about section 103 of the bill. The minister is aware that I moved a number of amendments at stage 2 with the intention of widening slightly the scope of the use of restriction of liberty orders. My intention was to ensure that they would not be used only as a direct alternative to secure accommodation. I did not wish to see more children being caught up in the system; indeed, I wish to see them being referred away from secure accommodation.

It is a bit unfortunate, therefore, that we have tied ourselves into the use of RLOs as a direct alternative to secure accommodation, because the orders could be used at some point down the road as a way of avoiding the use of secure accommodation in certain circumstances. I hope that the issue is one to which we might return when we review the children's hearings system.

Mrs Mary Mulligan: I accept the principle that Scott Barrie has maintained in the debate. The

issue will be considered during the review of the children's hearings system and I am sure that he will return to it at that stage.

Amendment 69 agreed to.

The Deputy Presiding Officer: We move to group 28. Amendment 93, in the name of Stewart Stevenson, is grouped with amendment 94.

Stewart Stevenson: I have a very simple pair of amendments in the group, but they have quite wide significance. I hope that, if they are agreed to, they might set a new trend and a new approach.

Basically, the bill contains a power that allows the Executive to enter into contracts for tagging. Not all members may be aware of the existing contract for tagging. We have not heard any particularly bad news about that contract, but it is with Reliance, a company that is—shall we say—under close supervision due to its antisocial behaviour and other matters.

Is the time not right for Government contracts to be a matter of public record? That is what the amendments in the group are about. There are those who will argue that Government contracts contain information that is commercially sensitive, which is undoubtedly true. One of the things that I seek to achieve is to open the door on that commercially sensitive information.

I want to share with the chamber—fairly briefly—a little bit about how contracts work in the real world, in which large moneys are spent by commercial operations. When I wrote large contracts, I used to use a gentleman by the name of Oz Watt. He ran a little company that enabled us to work out what other people were paying for the commodities for which we were writing the contracts. That is fairly common practice when large commercial contracts are being written. I get the faint indication from the Minister for Finance and Public Services that the Executive probably does the same thing—and quite right too.

One of the advantages of opening the books on public sector contracts would be that, when they came up for renewal, the companies that were bidding for them would understand clearly what they had to achieve to secure a contract. As a result, prices would be driven down and quality would be pushed up, as people sought to improve on the quality that they deliver. So there would be economic benefits in opening up the books.

However, it is recent events that have driven me to lodge the amendments in the group. I am thinking of contracts that are signed and then seem to fail. Let us be honest about the matter: some of the discussion around the recent contracts has been, to a degree, abstract, because we did not know the details of the

contract. Frankly, that is not in the interest of the Opposition, the Executive or the wider public.

It is sometimes suggested that, if we had to publish public sector contracts, companies would be reluctant to do business with the public sector. Well, as the biggest spender of money on contracts in the economy, people would have to do business with the Executive if those were the terms of business. It is unfair to disclose contracts without prior agreement, but it is perfectly fair to require that if contracts are entered into with the Government, it is done in the knowledge that they will be published. Amendments 93 and 94 are small, but they lay down a marker for a point of principle.

I move amendment 93.

The Deputy Presiding Officer: I call for brief contributions.

Nicola Sturgeon: In terms of expertise, Stewart Stevenson is to contract law what Tommy Sheridan is to breach of the peace law. I will be even more blunt: amendments 93 and 94 offer us the opportunity to avoid in future the fiasco that we have seen with the Reliance contract in the past few weeks.

When contracts are entered into with private companies for the provision of public services at taxpayers' expense, the presumption should be that the contract will be published and fully open to public scrutiny. It should not be the case that a company has the right to decide, for reasons of its own commercial interest, what will be published and what will remain confidential.

I am aware that the minister might say that, on occasion, there are good reasons for deciding to keep aspects of contracts confidential—for example, for reasons of public safety—and I happily agree with that. Amendments 93 and 94 would not prevent ministers from taking such decisions, subject to freedom of information rules, but they would prevent private companies from having a veto over what is in the public domain and what is not. There is a view that companies would no longer do business with the public sector in such circumstances, but Stewart Stevenson is absolutely right to say that they would adapt.

It is important that we put down a marker in the bill. I am happy to support Stewart Stevenson's amendments 93 and 94.

Mrs Mulligan: Stewart Stevenson will not be surprised to hear that the Executive rejects amendments 93 and 94. They are not needed to achieve the aim of sharing information and they are too narrow to allow full public and parliamentary scrutiny of the arrangements governing electronic monitoring in the children's hearings system.

Let me put on record again the fact that this Government is committed to freedom of information. It is already made clear to all contractors who intend to bid for Scottish Executive contracts that they may be published, in keeping with the code of practice on access to Scottish Executive information and in line with full implementation of the Freedom of Information (Scotland) Act 2002 in January 2005.

I assume that Stewart Stevenson is looking to make quick political mileage from a point about Reliance, which ignores the fact that the Scottish Prison Service and Reliance agreed during contract negotiations to publish their contract, and appropriate provisions were included prior to their signing the deal on 7 November 2003. That was fully in line with the code of practice and the Freedom of Information (Scotland) Act 2002. So again, his approach is not needed.

Of far greater importance to us today than a distracting row about one unrelated contract is how we successfully implement the bill and build confidence in our communities. Let me put on record the fact that ministers will share all information with members and stakeholders as planning for the implementation of the measures develops. Members know that we will do that, because we have done it before. Fast-track hearings were developed jointly with a range of stakeholders, including panel members, service providers, the Scottish Children's Reporter Administration, the police and local authorities. It needed to be that way because the child, not one individual organisation, is at the centre of the hearings system, and we all needed to ensure that services were delivered in a joined-up way. We published the full guidance on the operation of the pilot and included funding and accountability details for all partners. Parliament had the information in full from the outset.

What members need to know is information about the decision-making process and performance and accountability criteria, to allow Parliament and the public to measure the overall success of electronic monitoring and support services in the hearings system. Successful implementation will result from effective team working across the public, independent and private sectors. That matters to all members, because Parliament has been keen to ask us how we intend to build on our guarantee that young people under 16 will have a support package, not just a tag.

That is why amendments 93 and 94 are too narrow; they consider only the potential service requirements, funding and accountability of the tag provider, which is only one aspect of a joined-up service. We need to work with all the stakeholders to consider the whole system and its service to the child and family.

Regular performance information will be published, covering all aspects of the service once phase 1 of the implementation of tagging is in place. Independent evaluation will also be commissioned and published, as it was for fast-track hearings, and its findings will be taken into account for national roll-out. I believe that that represents a good deal for our young people and their communities and I urge members who are interested in the whole-package approach to reject amendments 93 and 94.

17:15

Stewart Stevenson: I was astonished to hear the minister say that my amendments were too narrow. She might find me responding to the challenge at the next opportunity—I suspect that I will take it up in a finance debate at an appropriate point.

The minister talked at great length about performance and the openness with which she will approach the monitoring of contracts. However, that is rather difficult if the detail of the contract against which the performance is to be measured is not known to us. Some of us are familiar with contracts, as my colleague Nicola Sturgeon said. I have to say that, given recent events, it is a shame that one of those who seemed considerably less familiar with the Reliance contract than almost anyone else was the person in charge of the Prison Service, whom one might have expected to know something about the matter.

The Deputy Presiding Officer: The question is, that amendment 93 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)

Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 32, Against 79, Abstentions 0.

Amendment 93 disagreed to.

Amendment 94 not moved.

Section 106—Disclosure and sharing of information

The Deputy Presiding Officer: We come to group 29, on disclosure and sharing of information. Amendment 70, in the name of the minister, is grouped with amendments 71 and 72.

Mrs Mulligan: Amendments 70, 71 and 72 will ensure that disclosure of information can be made where such disclosure is lawful. In its present form, section 106(1B), which deals with onward disclosure of information, could suggest that information cannot be disclosed even where disclosure is permitted under another statute. Amendments 70 and 71 will remove that suggestion.

Amendment 72 clarifies the provision on the disclosure and sharing of information to ensure that local authorities acting in connection with the closure of residential premises, the making of antisocial behaviour notices under part 7 and the registration of landlords under part 8 can disclose information not only to authorities administering housing benefit but to any person carrying out services for or discharging the functions of such authorities. The amendment will simply ensure that the information can be passed to all the appropriate persons and will put beyond doubt the scope for providing information in such circumstances.

I move amendment 70.

Amendment 70 agreed to.

Amendments 71 and 72 moved—[Mrs Mary Mulligan]—and agreed to.

Section 108—Orders and regulations

Amendments 160 and 73 moved—[Mrs Mary Mulligan]—and agreed to.

Section 110—Interpretation: “antisocial behaviour” and other expressions

Amendment 37 not moved.

The Presiding Officer (Mr George Reid):

Group 30 is on the interpretation of “antisocial behaviour”. Amendment 161, in the name of Elaine Smith, is grouped with amendments 162 and 163.

Elaine Smith: The aim of my amendments, which relate to the definition of antisocial behaviour, is to highlight the possibility that such a wide definition could discriminate against people with disabilities. Obviously, that was not the intention of the Executive when it decided on the definition, but it might be an unintended consequence.

Organisations such as the National Autistic Society Scotland, Capability Scotland and Leonard Cheshire, as well as the cross-party group on autistic spectrum disorder, which I convene, have raised concerns that someone with a disability could display strange behaviour that harms no one but which could be interpreted as being behaviour “likely to cause alarm or distress”.

I recognise that the minister has met with groups, including the cross-party group, to discuss those concerns. However, evidence from England, where a similar definition is used, shows that ASBOs are being served on children with disabilities. The National Autistic Society took a call from the parents of a 13-year-old boy with autism. He had been served with an ASBO after neighbours complained about the noise he was making when jumping on his trampoline. Of course, trampolining has been found to be therapeutic for people with autism. It is all very well saying that public bodies should adhere to equal opportunities legislation but, in that case, the local authority was aware that the boy had autism when it applied for the ASBO. That demonstrates that robust safeguards need to be in place to protect people with disabilities from being punished because of behaviour caused directly by their disability.

I am pleased that the Executive has taken note of the recommendation about guidance that was made by the Communities Committee in its stage 1 report and I welcome the publication of the draft guidance for parts 1 and 2 of the bill. I was pleased that the guidance on part 2, relating to ASBOs, states that

“it would not be appropriate to use an ASBO where an individual cannot understand the consequences of their actions”

and goes on to refer to people with autism, developmental conditions and medical conditions. Later, the guidance states that, when a local authority or an RSL receives a complaint, they should consider, among other things, whether the person has a medical or developmental condition that affects their behaviour. Those safeguards are significant, but there is no mention of considering the behaviour of people with disabilities in the draft guidance on part 1.

The measures in the bill could impact negatively on children and young people with disabilities such as ASD, Tourette's syndrome and Huntingdon's disease, as well as on people with learning disabilities. Those people could be subject to a raft of measures, such as fixed-penalty notices and community reparation orders, and their parents could be subject to parenting orders. I would therefore like the Executive to give a firm commitment to the Parliament that the guidance for the whole bill—not just a section here and a section there—will provide for people with disabilities. That has to be a principle that runs through all the guidance. Without such a commitment, the bill will need to be amended to ensure that people with disabilities are protected.

I ask the Executive to address the fact that, although the guidance refers to “developmental conditions” and “medical conditions”, not everyone with a disability will fall into those categories. That means that we could end up with a two-tier system in which people with autism are protected but people with learning disabilities are not. I await the Executive's response on those points.

I move amendment 161.

Stewart Stevenson: We all admire the work that Elaine Smith has done on autism and Asperger's syndrome and I strongly support the amendments in her name.

As an example of the difficulties that can arise in relation to developmental conditions—particularly Asperger's, as people with Asperger's often have a high intelligence quotient but low social and communication skills—I cite the fact that there are people in England with Asperger's who have been incarcerated in institutions for the criminally insane for more than a decade. Often, there is confusion in diagnosing people's conditions and the behavioural difficulties that some people have can be of such a character that their intention and condition are totally misinterpreted.

I think that, with her amendments, Elaine Smith is seeking to ensure that, at the much lower level of concern that we are dealing with today—the domain of antisocial behaviour—people who are unaware of distress that they might be causing to other people are not caught up unintentionally in a situation that is not of their making. We debated

the matter in committee and we have had a good debate today, so now I trust to the maturity of Parliament to support Elaine Smith's amendments.

Mary Scanlon: I, too, commend Elaine Smith for the work that she has done. As she has used at least half my speech, I will just say a few words. I find the issue difficult, because I do not believe that we can achieve perfection—it is not possible. We have to realise that there will always be some kind of problem. Recently in Inverness, someone told me that he was threatened with being done for breach of the peace after he had had an epilepsy seizure. Once that was explained, things were all right.

Attempting to distinguish between intended behaviour and unintended behaviour on the basis of disability undoubtedly provides a challenge. However, Elaine Smith's amendments would improve the definition of antisocial behaviour that is used in the bill and go some way towards forming a more objective definition. We will support the amendments.

Ms Byrne: I will be brief, because most of what I wanted to say has already been said. I thank Elaine Smith for lodging the amendments. If the Executive can reiterate the commitment that it gave at stage 2 on the guidance, that might make a difference. If not, we will have to push on with Elaine Smith's amendments.

Stress is being caused to families who are worried about the situation that Elaine Smith describes. One young man has been charged with breach of the peace because he mistakenly thought that the Asian people he saw, who were dressed like the terrorists he had seen on the television, were indeed terrorists and he kicked up about that. Despite the fact that he has Asperger's syndrome and did not understand, he is going to court. We cannot have such situations; we have to have understanding and I hope that the amendments will help to clarify the issue.

Donald Gorrie: It is important that the Executive should strengthen the guidance. At first sight, the draft guidance is not as strong in this area as it should be, particularly on the training of people such as the police and local government officials who will have to deal with the problems and will need to understand the sort of issues that Elaine Smith is raising. It would be okay if the guidance were better. Nonetheless, there is a problem with Elaine Smith's amendment 161, because the term “intentionally” could provide an escape route for a clever lawyer to get people off who should not be got off.

Mrs Mulligan: I appreciate the points that Elaine Smith has made and I share her interest in the issue, having met the cross-party group on autistic spectrum disorder on several occasions. However,

the amendments would cause further difficulties with regard to the definition of antisocial behaviour. In many ways, this debate should have come at the beginning of the process, when we were discussing exactly what we meant by the bill. However, we are where we are and initial guidance has been shown to members of the Communities Committee.

Elaine Smith has said that she still has problems with the guidance, but I am more than happy to meet her and others who have an interest in the issue to consider how we can tighten it up. The principal aim of the bill is to reduce the incidence of antisocial behaviour and, as we have heard from many, the people who suffer from conditions such as autism are often the most vulnerable to and affected by antisocial behaviour. We have to push on with the measures that are in the bill, but we also want to protect vulnerable groups from discrimination, which we can do through the guidance. I hope that Elaine Smith will feel that she can withdraw her amendment.

Elaine Smith: I acknowledge the minister's intentions and I am pleased that she will discuss the guidance. The final test will be in the practice of the law but I am happy with the minister's reassurance.

Amendment 161, by agreement, withdrawn.

Amendments 162 and 163 not moved.

Section 112—Short title and commencement

Amendment 164 not moved.

Schedule 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Amendments 74 to 76 moved—[Ms Margaret Curran]—and agreed to.

Amendment 77 moved—[Donald Gorrie].

17:30

The Presiding Officer: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)

Byrne, Ms Rosemary (South of Scotland) (SSP)
Canavan, Dennis (Falkirk West) (Ind)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Cunningham, Roseanna (Perth) (SNP)
Curran, Frances (West of Scotland) (SSP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Fox, Colin (Lothians) (SSP)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kane, Rosie (Glasgow) (SSP)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Leckie, Carolyn (Central Scotland) (SSP)
Lochhead, Richard (North East Scotland) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
MacDonald, Margo (Lothians) (Ind)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Robison, Shona (Dundee East) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, Tavish (Shetland) (LD)

Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 98, Against 17, Abstentions 0.

Amendment 77 agreed to.

Amendment 78 moved—[Ms Margaret Curran]—and agreed to.

Amendment 79 moved—[Donald Gorrie].

The Presiding Officer: The question is, that amendment 79 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)

Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

ABSTENTIONS

Morgan, Alasdair (South of Scotland) (SNP)

The Presiding Officer: The result of the division is: For 96, Against 17, Abstentions 1.

Amendment 79 agreed to.

Amendments 80 and 81 moved—[Ms Margaret Curran]—and agreed to.

Schedule 5

REPEALS

Amendment 82 moved—[Ms Margaret Curran]—and agreed to.

Antisocial Behaviour etc (Scotland) Bill

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-1407, in the name of Margaret Curran, that the Antisocial Behaviour etc (Scotland) Bill be passed.

17:33

The Minister for Communities (Ms Margaret Curran): I am pleased to speak in the debate. I wish to draw members' attention to all the measures that are contained in the bill, not just those that are controversial or that have gained the most attention in today's deliberations. As I have said, the bill provides a comprehensive range of measures that are designed to tackle the scourge of antisocial behaviour. They represent a graduated response and emphasise prevention, support and sanction, all of which are required if we are to deliver a step change in the way in which antisocial behaviour is tackled.

I begin with some words of thanks. I thank especially Mary Mulligan, who shouldered the responsibility for the bill's consideration at stage 2 and whose more measured and calm approach was a nice balance to my approach. I thank the Communities Committee and the Justice 2 Committee for their efforts. Consideration of legislation by parliamentary committees is a vital part of the legislative process and one that we have taken seriously and paid due respect to. I am sure that members of the Justice 2 Committee will forgive me if I emphasise the thoroughness of the work of the Communities Committee, which I think has been reflected in today's proceedings.

I ask for the Parliament's indulgence to allow me to draw one member to its attention: Johann Lamont. I do so not because I am frightened of her, but because I wish to pay tribute to her contribution to the debate on antisocial behaviour not only by bringing it to the Parliament's attention and representing her constituents, but in her decided thoroughness in dealing with the bill.

I thank the many agencies that contributed significantly to our thinking. The divide between us is not quite as wide as it has been characterised today. I also thank the team of officials who supported Mary Mulligan and me. Many members will know that we have established an antisocial behaviour unit in the Executive, which has been a useful model in the development of the policy and the bill. Alisdair McIntosh and his team have been expert in their support to the ministers and I acknowledge that their work has been of the highest standard. They went to communities to meet representatives of those communities and to begin to tackle the issues.

I also thank the communities that participated in the consultation process over the past year. I have attended many meetings on antisocial behaviour throughout Scotland and I hope that those who attended from the communities see the results of those meetings in our proposals today. I thank those who facilitated access to people who were perhaps too frightened or too defeated to tell us of their experience and concerns. In particular, I thank the *Daily Record* and the *Greenock Telegraph*, which ran extremely effective specialist campaigns, and I am pleased to note that the *Daily Record* was nominated for a journalism award for its efforts.

There is no doubt that, in discussing antisocial behaviour, we have touched a nerve in the wider population. All the evidence demonstrates the real scale of the problem with antisocial behaviour in Scotland. If the bill is passed, it will provide us with a range of measures—from the antisocial behaviour strategies to the range of orders that will be available—that can and should make a significant impact on communities in Scotland.

Mr Kenneth Macintosh (Eastwood) (Lab): I have a question on some of the bill's measures that we have not had a chance to debate this afternoon: the powers to tackle graffiti. Does the minister acknowledge that some local authorities, including mine, have concerns that the powers over private properties are not as wide as they could be or as some local councils might have envisaged? Will she reassure me that, if graffiti on private properties—including on small shops and businesses—continues to be a problem, she will review the matter and consider bringing it back to the Parliament under the powers that section 51B will give her?

Ms Curran: I give Ken Macintosh the assurance that he seeks. He has raised the issue with us on a number of occasions and we intend to keep the use of the powers on graffiti under review. We have consulted local authorities about how the powers are framed, but I confirm that the bill allows ministers to extend the coverage of those powers in future.

It is an enormous privilege to move the motion that the Antisocial Behaviour etc (Scotland) Bill be passed.

The Minister for Parliamentary Business (Patricia Ferguson): Presiding Officer, I would like to move a motion under rule 2.2.6(d) of standing orders to ask that we should sit beyond our appointed time. I would also like to move a motion under rule 11.2.4 of standing orders to have decision time at 6.15 pm.

The Presiding Officer: I am minded to accept those motions.

Motions moved,

That under Rule 2.2.6(d) the meeting of the Parliament continue beyond 5.30 pm.

That the Parliament agrees under Rule 11.2.4 that Decision Time on Thursday 17 June 2004 be taken at 6.15 pm.—[*Patricia Ferguson.*]

Motions agreed to.

Ms Curran: I come on to my conclusion—I am sure that you are happy about that, Presiding Officer.

The Antisocial Behaviour etc (Scotland) Bill gets the law right on antisocial behaviour. It plugs existing gaps and gives valuable new tools to those who are engaged in the fight to put our communities first, but it does not stand alone. It is part of a broad strategy that includes early intervention, diversion, prevention and effective enforcement. It will be followed by a wide-ranging plan of action to ensure delivery where it matters—on the ground locally—and it is backed up by serious investment. We need all those elements to ensure success.

The bill stands up for the ordinary, decent, hard-working people of Scotland, who are clearly the vast majority. It puts them first, which is exactly where they should be. That is why this is a defining moment for the Parliament; our concerns should always be with the Scottish people's priorities.

With enormous pleasure, I move,

That the Parliament agrees that the Antisocial Behaviour etc. (Scotland) Bill be passed.

The Presiding Officer: We are fairly tight for time but if members stick to the times that I allot them, we should get through everybody. Stewart Stevenson has five minutes.

17:40

Stewart Stevenson (Banff and Buchan) (SNP): It is a pleasure to rise to speak in this stage 3 debate—at last. There have been times during the passage of the bill when ministers have perhaps sought to portray themselves as the only true guardians of the spirit of peace and tranquillity across Scotland. I hope that we have now reached a broad consensus, if not a total consensus, across the chamber that there is a real problem and that there was a real *casus belli* underlying the Executive's determination to pass the bill. We find ourselves with some continuing disagreements, however, about whether the remedies that the bill proposes are proportionate and appropriate. Despite that, my colleagues and I will of course support the bill, because it moves the issue forward.

One of the bill's great achievements is that I am now beginning to feel that Johann Lamont has become almost house trained under my tutelage in the Communities Committee—I am quite sure that I will pay for saying that next week. I make an important point when I say that. Johann Lamont has displayed something a little bit too uncommon in the Parliament: a true and sincere passion. I have not always agreed with her—I still have disagreements with her—but I utterly respect the passion that she has brought to the bill and I congratulate her on her single-mindedness in pursuing the issue. Therefore I ask her, as my convener, whether that will get me credits for next week.

Dispersal remains an issue to which we could apply, at best, that bastard verdict of Scots law, the not proven verdict. The Executive is very much on trial. I am glad that it has accepted the amendments that will require it to undertake early investigation into the success of its dispersal proposals.

There are still some unresolved issues in the area of housing. There is a lack of balance between the various categories of tenure, whether owner-occupiers, tenants in the social rented sector or tenants in the private sector are involved. There are potential difficulties with that lack of balance, which might yet come back to haunt the implementation of the bill. I hope that those difficulties do not destroy the ethos of the bill, which is to address very real problems, particularly in the west of Scotland.

The Parliament deals with about 600 pieces of secondary legislation each year and the bill will bring a very substantial number of statutory instruments. I am in two minds about that. In some cases, it is clear that the minister has put in additional ministerial powers in order to postpone making some difficult decisions. Perhaps that is because the policy is not yet entirely clear in some areas. On the other hand, as was the case during consideration of the Land Reform (Scotland) Bill, when I pushed for certain things to come out of the bill and into the accompanying access code, the approach that has been taken provides the flexibility to respond to developing situations, and increased understanding comes as the legislative environment changes.

I wish the bill good speed. Our communities need it. I have found it particularly interesting to go to parts of Scotland with which I am not particularly familiar. I confess to members that I had been south of Edinburgh only three times in my life before I got married and came here in my 20s. The first time in my entire life that I went to Glasgow was for the Garscadden by-election in 1978, when I was in my 30s. I have had my knowledge of Glasgow updated, and I understand

the real concerns of people in the west of Scotland and in communities in Glasgow.

I congratulate the Executive on finally getting its bill through, but we are still on watch for the implementation.

17:45

Mary Scanlon (Highlands and Islands) (Con):

I, too, associate my party with the thanks that have been expressed to the clerks and to all those who responded to the consultation.

Having a day out with Stewart Stevenson in Lossiemouth was one of the great pleasures of participating in pre-legislative consultation. I will write about that in my memoirs. Bill Aitken told me today that antisocial behaviour in Glasgow is not like that anywhere else in Scotland. There are different stories to tell in Dumfries, Inverness or wherever, and what Stewart Stevenson and I heard was interesting. The first group that we met were elderly people; we met community councils at the end of the day and school pupils in between. It was interesting that people across all age ranges said much the same thing.

Johann Lamont was an extremely fair and reasonable convener of the Communities Committee, even when my colleague Bill Aitken came along with his multitude of amendments. She was very good.

I have two points to make. First, as a young Parliament, we should learn from our experiences. I am not going to repeat everything that I said earlier about the national registration scheme for private landlords, but putting such a scheme in this bill is not appropriate. One amendment is not the same as 25 new amendments that add up to, I think, eight pages in the bill. We are not simply talking about amending what was in the bill as introduced, but about introducing a huge chunk of new legislation at stage 2 and, whatever people say, those measures were not consulted on—I will not mention all the different bodies that we mentioned earlier. I hope that the Procedures Committee will consider that issue. However, the bill is done and dusted now and we must make the best of things. I will certainly look forward to the post-legislative scrutiny in that respect.

Secondly, I would like clarification from the minister either today or in writing in the future about Paul Martin's amendments 158 and 159. After everyone had voted on the amendments, my colleague John Scott asked me how the provisions would apply to farming. Of course, that shows the difficulty of considering substantial amendments at stage 3. John Scott hopes that law-abiding farmers will not be prevented from going about their business—I sincerely hope that that will not happen, as I do not think that they go around causing alarm or distress.

Paul Martin (Glasgow Springburn) (Lab): Will the member take an intervention?

The Presiding Officer: I am afraid that the member is in her final minute. I am sorry, but she will have to continue.

Mary Scanlon: There are persistent complainers as well as persistent offenders and we would like clarification from ministers—I would appreciate written clarification—on John Scott's point.

17:48

Donald Gorrie (Central Scotland) (LD): I support the congratulations that have been dished out to the committee officials and to Johann Lamont, who conducted the committee's work well, which was difficult to do considering how strongly she felt about the issue. The ministers have also responded well.

The whole exercise has been a fruitful learning experience in coalition and multiparty politics in the Parliament. Different groups of people quite honourably come to issues from a totally different angle and gradually learn one another's points of view. They might not entirely share those views, but they understand where other people are coming from and will modify their views accordingly. Certainly, our group has accepted the points that the ministers and others have made about the reality of the problems and we have seriously addressed them. I think that the ministers have accepted some of the concerns that were expressed to the committee and by other means about the ways in which the bill might not work well, and they have tried to address them.

Although the bill is far from perfect, we have learned. The bill process has also emphasised the fact that we have a lot to learn about consultation. A lot of consultation has been undertaken and has produced very different results. We must think carefully about who we consult and how we consult them in order genuinely to find out what people feel about the issues. Obviously, people do not all feel the same, but we want to assess public opinion rather than talk or listen to particular groups that may not be entirely representative.

The timetable has been far too tight, and I hope that the Procedures Committee will pursue the points that were raised by the previous Procedures Committee about loosening up the timetable. That would allow better consultation when a whole new issue is introduced—such as Cathie Craigie's amendments on housing or Paul Martin's amendments on vehicles. That would allow time for more consultation on and discussion of such issues and the bill could proceed with more confidence. The element of rush in today's

proceedings is not satisfactory when we are dealing with a bill. A lot of amendments that are quite important in their small way have not been properly discussed. The whole issue of timetabling must be reconsidered.

However, the bill as a whole—warts and all—will be helpful to Scotland. I hope that it will be interpreted correctly, in which respect the guidance will be very important. The police and other groups must work together and councils must work with the local communities to address the underlying causes of antisocial behaviour. The Executive and local authorities must provide consistent funding to organisations that are tackling antisocial behaviour and providing good things for young people and the whole community to do at a local level. The people concerned can take credit for what they have achieved but, as Stewart Stevenson said, we now have to deliver this improvement in community life in Scotland.

The Presiding Officer: Time is now extremely tight. I will give two minutes each to the Greens and the Scottish Socialist Party because they do not have closing speeches.

17:52

Patrick Harvie (Glasgow) (Green): The advocates of the bill already know my position: we have disagreed and will continue to do so, but I hope that we can end with respectful disagreement.

I hope that members will believe me when I say that I would like to have been able to support an antisocial behaviour bill from the Executive. However, before I could have done so, I would have wanted the review of the children's hearings system and work on a national youth strategy to be completed. We could then have moved on to legislation on antisocial behaviour. Those positive interventions would have gone some way towards dealing with the problem, and anything else could have been dealt with through legislation afterwards.

I do not doubt the Executive's sincerity or the reality of the problem that it seeks to address; indeed, I commend the Executive for seeking to address it. Those of us who have criticised the bill have continually been accused of denying the fact that antisocial behaviour exists or—which is worse—of thinking that the Executive wants to make the problem worse. I do not believe that that is the case and I do not accept the criticism that we want to abandon people to their fate. The Executive should not be accused of wanting to undermine relationships between young people and their communities or of deliberately stigmatising young people. If those are consequences of the bill, they will be unintended

consequences. Let me be clear: those of us who have criticised the bill recognise the scale of the problem, but believe that the bill is the wrong approach to tackling it.

One of the general themes that has emerged in consideration of the bill, which the minister has acknowledged, has been the subjective nature of antisocial behaviour. I have raised the matter continually and it has been a recurrent theme. To call antisocial behaviour subjective is not to trivialise it; it is to recognise that it is defined according to the emotional responses of those who experience it and suffer from it—fear and distress are emotional responses. We are not talking about a specific list of offences. The offence is not defined by the behaviour itself and is not therefore objective, but is subjective. A prescribed set of responses is therefore not necessarily appropriate. That is one of the strong arguments against the bill. It is not an argument against the desire to address antisocial behaviour, but against the bill as the form with which to address it.

I regret that I will not, as a result of those arguments, support the bill.

17:55

Elaine Smith (Coatbridge and Chryston) (Lab): The Communities Committee and the clerking team worked very hard to scrutinise and make many improvements to the bill and I commend the Executive for embracing certain changes. However, the bill is now somewhat flawed because my successful stage 2 amendment has now been overturned, although I acknowledge that the whole Parliament has the right to vote on the matter.

As we know, amendment 49 sought to allow children who are guilty of the same antisocial behaviour and are subject to ASBOs to face different consequences because of the type of house in which they live and their family's social status. That provision is unjust and discriminatory. However, having been assured that ASBOs will not be used as a matter of course for children, I hope sincerely that such discrimination will not take place in practice. As Parliament might have gathered, I feel strongly about the issue and am disappointed by the decision to accept amendment 49.

That said, now that the bill has been amended at stages 2 and 3, many of its aspects will make a difference in tackling antisocial behaviour in our communities. My constituents in Coatbridge and Chryston will expect me to support the bill for that reason and not to throw the baby out with the bath water, even though I feel that it has been somewhat contaminated by the fact that amendment 49 has been agreed to.

As a result, I support the bill with a slightly heavy heart. I hope sincerely that it will make the kind of difference that we all expect it to make in our communities.

17:56

Colin Fox (Lothians) (SSP): I fully support communities in Scotland that are trying their best to build strong and attractive places for people to live in, but which find that their plans and their lives are blighted by petty crime and offensive behaviour. I live in such a scheme. Indeed, as I have already mentioned, I spent Monday in Broomhouse with the save our scheme campaign and I have to say that the good hard-working people of Broomhouse, the Inch and other communities, whom I am sure the Communities Committee met, feel badly let down.

It is worth asking who has let down those communities. Unlike the minister, I do not believe that communities throughout Scotland are crying out for dispersal orders. Instead, they are crying out for a visible community police presence in their area to give them some succour and support. Of course, the Executive's lack of funding denies them that. They are crying out for social work services and community and leisure facilities to support youngsters in their communities and keep them active. After all, they are the reality of the situation.

Surely the minister must accept that, although this is not solely a question of resources, an approach that asks communities such as Broomhouse to turn antisocial behaviour around on their own will not succeed. Of course we must empower those communities, but I believe that we have to rely on the evidence of what works. For example, a fully resourced children's hearings system works. The extension of ASBOs to under-16s and their being pushed towards youth and sheriff courts are reminiscent of the approach that we abandoned in the 1960s after the Kilbrandon report was published. If we examine how that approach used to fail, we will learn the lesson that it will never work. Indeed, in England and Wales, the number of kids who have been locked up is the highest since Queen Victoria's day. Such an approach offers no future.

We know what works. Although I will support and work with communities in the Lothians that ask me to do so to counteract the real difficulties that petty and youth crime can exact on them and their quality of life, I do not believe that the bill will make the necessary difference and cannot bring myself to support it. Tonight, the Scottish Socialist Party will not support a bill that undermines the children's hearings system and which contains evictions, dispersals, tagging of 12-year-olds and compulsory parenting and community reparation orders with too little support on the horizon.

17:58

Johann Lamont (Glasgow Pollok) (Lab): On behalf of the Labour Party, I welcome this opportunity to support the bill. We must acknowledge the significance of what we are doing today. As members have said in other debates, we should see the bill not as an event but as a process, and we must now work to make enforcement of its measures a real feature of people's lives.

I thank the clerks and committee members—Labour colleagues and other members—for making the process easy to convene. I also thank the ministers—Margaret Curran and Mary Mulligan—who played good cop and bad cop. Perhaps Margaret will find that I am nicer to people who disarm me by not arguing with me all the time.

It is significant that we have finally received the acknowledgement that antisocial behaviour is a real problem. It is also significant that both the Green party and the SSP have changed their positions.

Tommy Sheridan (Glasgow) (SSP): Nonsense.

Johann Lamont: We have brought out into the open the narrative of people's lives. [*Interruption.*]

The Presiding Officer: Order. Speeches must not be interrupted.

Johann Lamont: I know that it was got up by the media that we stigmatised the people who were strong enough to raise concerns. The reality is that the bill acknowledges their courage. We do not blame victims for their intolerance; we work with them. There is also an understanding that we need to know how the system works and how public policy can have perverse results in communities. We deal not only with individual experience but with general consequences. We understand that if we do not support the bill, nothing will stand still and that if those who complain are not helped, it could empower those who perpetrate problems and silence those whose complaints are not addressed. If the police are not given the powers to work in the community and to carry out their duties, they express frustration.

I congratulate the Executive on its willingness to listen to organisations, individuals and MSPs and to make changes to the bill. However, I must reflect on the nature of the debate, in which I was particularly struck by the virtual silence of the SSP and the Green party. There is clear evidence of the Executive's being influenced into changing its position, with which I did not always agree. However, I was struck by the mismatch between the Greens' and the SSP's noisy opposition to the bill and their scaremongering about its motives, and how they dealt with the responsibility of taking

on the hard work of confronting in debate the Executive and those who have supported the bill. I acknowledge that others in the chamber did that difficult job. We dealt with nearly 500 amendments at stage 2. The Green party, which was going to resist the bill to the death, submitted a sum total of four amendments to challenge our position.

On behalf of the Labour Party, I am proud to have been part of a process that showed the Parliament's openness and the Executive's willingness to listen. As individual members, we have the challenge of dealing not with policies that are dreamed up by the policy wonks, but with Government policy that is shaped and informed by those who will live with its consequences.

MSPs have a responsibility to be a bridge between their communities and Parliament. That is what the bill represents and I am proud to support its passing.

18:02

Mike Pringle (Edinburgh South) (LD): There can be no doubt that antisocial behaviour has blighted the lives of many communities and individuals throughout Scotland. The bill provides a wide range of measures that will protect communities and allow freedom from the fear of antisocial behaviour. The two most contentious issues in the bill were, of course, tagging and dispersal. Therefore, I am pleased that the minister addressed both issues. In fact, what is now in the bill on tagging is exactly what the partnership agreement says about it.

On dispersal, Mike Rumbles, Colin Fox and others were right to say that no verbal evidence that was given to the Justice 2 Committee supported it. That included evidence from the Association of Chief Police Officers in Scotland and many others. Senior police to whom I have spoken have said that it is most unlikely that the dispersal power will be used. Nicola Sturgeon was right during this morning's debate to say that the discussion on dispersal seems to have happened a long time ago. Only the future will tell whether dispersal powers will be used and, if they are, how well they will be used and how often.

The minister said that discussion had taken place on dispersal—that is an understatement. There was almost as much discussion on that one issue as there was on the rest of the bill put together. It is clear that there was much disquiet over part 3 as it was framed in the original bill. The minister was made aware of my group's strong feelings on that issue in particular. She listened to the strength of the arguments and I was pleased that she lodged amendments to part 3. I believe that those amendments raised considerably the bar on dispersal and that they send a message to

young people that we will protect the vast majority of the good young people who are so often themselves the victims of antisocial behaviour. We will protect them from the few who indulge in such behaviour. I am happy to support the bill as amended.

18:04

Bill Aitken (Glasgow) (Con): The minister was correct to highlight the range of measures that are included in the bill. It is appropriate to say that only some of them were the subject of any controversy, and certainly dispersal and regulation were two of those. It is a pity that we did not have more time during this afternoon's debate to devote to the real ideological differences that we have on the question of regulation. We should consider sometimes how we run things here and how we could do so more professionally. However, that is a matter for another day.

I congratulate the minister on introducing the bill and securing its passage through Parliament. Although we have serious reservations about some parts of the bill, other parts provide a commonsense solution to a problem that is causing more and more difficulty throughout Scotland, in particular to communities in our urban areas.

However, there will be dangers if the bill is not followed up robustly and thoroughly. Antisocial behaviour orders are not a universal panacea. I rather fear that many of those who will become subject to such orders may not take them seriously. Any breach of an ASBO should receive an immediate and robust response. Otherwise, the system will simply lose all credibility very quickly.

Today's debate has been robust. With speakers such as Margaret Curran, Johann Lamont and Stewart Stevenson, such debates will always be robust, but that is no bad thing. Only when legislation has been examined and tested can we be satisfied that it is the way forward.

This may sound like I am damning the bill by faint praise, but I believe that although the bill may not do much good—I hope that it does some good—it will do positively no harm. The Executive has recognised what was a real difficulty. Within the ideological confines of her mind, the Minister for Communities has, I think, done her best to propose a solution. Only time will tell whether that solution is an adequate response, but I certainly hope that it will be.

The Conservative group will support the bill.

18:06

Nicola Sturgeon (Glasgow) (SNP): This has been a long but interesting day at the end of a long but interesting process.

Let me start with what I believe will be a point of agreement. We all want to do more to help communities to fight back against the antisocial behaviour that destroys the quality of life of too many people in Scotland and undermines the fabric of too many communities. However, that determination to do something must never lead us to a suspension of our critical faculties. Those of us who have harboured doubts about aspects of the bill have had a duty to raise those doubts in debate. One thing that has at times been disappointing about the tone of our debates has been the tendency of some—it has not been shared by all—to accuse anyone who took a different view on how best to deal with antisocial behaviour as being somehow on the side of the perpetrator rather than that of the victim.

Ms Curran: With great respect, I think that the member is being unfair. My charge against Nicola Sturgeon, like Johann Lamont's charge against others, is that we were not presented with any alternatives. Nicola Sturgeon criticised but she came forward with nothing.

Nicola Sturgeon: If the minister reflects on today's proceedings, she will recognise that that is manifestly not the case.

At times, there has been an intolerance in the debate. Members who did not agree with the Executive on all the details were labelled as people who would do nothing to tackle antisocial behaviour, as if they were on the side of the perpetrators rather than on that of the victims. That is arrant nonsense. I hope that such a tone is not injected into any of our debates in future. The Parliament must never simply be a rubber stamp for the Scottish Executive.

That said, we have had a full debate today on the issues of controversy. The powers of dispersal have been the most controversial issue. We have laid out our concerns in debate as was absolutely right and we feel satisfied at having done that. I am delighted that the Parliament agreed to Stewart Stevenson's constructive amendments, which will ensure that the issue will return to Parliament. In the fullness of time, we will have an opportunity to assess whether people's lives in communities throughout Scotland have been improved. At the end of the day, that is what the bill is all about.

I thank all those who have been involved in the bill, especially people such as the bill team and the committee clerks who have worked behind the scenes. On a personal note, I thank my colleague Stewart Stevenson for his hard work and for securing some important amendments.

18:09

The Deputy Minister for Communities (Mrs Mary Mulligan): Before dealing with the points

that have been raised in the debate, let me add my thanks to those that have already been expressed. In particular, I thank the members of the Communities Committee who devoted so much time and energy to the bill. Our constructive debates at stage 2 have led to improvements in the bill that is before us.

I also thank the Justice 2 Committee and the Local Government and Transport Committee. I thank those who gave evidence, particularly those whom we met in local communities. None of us can be unaware of what difficult circumstances some of the people we spoke to have experienced, and yet they showed great bravery in coming forward and putting on the record the problems that they were experiencing and that they expected us to do something about. I also thank the officials, the clerks to the committee and the Executive officials who so ably supported us throughout the process.

The Antisocial Behaviour etc (Scotland) Bill has been groundbreaking in many ways, the first of which is the way in which we were able to carry out the consultative process. This Parliament was established to be as wide ranging and open as possible, and the way in which the consultation on the bill was carried out showed us at our very best. We have listened to people and we have responded, and that is what the Parliament should be about.

I have heard that the greatest concern among members today was about dispersal. We accepted Stewart Stevenson's amendments, and I recognise that they were intended to be constructive. What he proposed is something that we would have done anyway, but it is important to reassure members that those provisions are in the bill.

In response to Mary Scanlon's comments, I have to say that we are damned if we do and damned if we don't on the consultation issue. There has already been a lot of discussion about landlords, and the housing improvement task force had already consulted on the registration of private landlords. It is important that, when we have an opportunity, we take it. Unlike Mary Scanlon, I think that the Antisocial Behaviour etc (Scotland) Bill would have been less of a success if we had not included the provisions that she was concerned about.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I was grateful for the Executive's support for my amendments to part 8 of the bill during stage 2. Much has been said this afternoon about the size of the amendments and the substantial work that was involved in them. Will the minister tell the chamber how much the committee's report influenced her decision to support my amendments? The committee called for a national

registration scheme and for all private properties to be registered, and that call was supported, as far as I remember, by all committee members.

Mrs Mulligan: Cathie Craigie is right, and she in particular should be congratulated on the work that she carried out on that aspect of the bill.

I am disappointed that Patrick Harvie will not be supporting the bill. As a Parliament, we have a responsibility to respond to the real needs that we all saw in the communities that we visited. It is not always possible for things to run in the right order. The children's hearings review will be important, but if we had waited for that we would have been condemning people in our communities to live with antisocial behaviour for that bit longer, and I think that that would have been letting them down.

It was quite strange to hear Colin Fox and the Conservative party arguing that simply providing more police would deal with the problem. That was never going to be the case. During the Justice 2 Committee's consideration of the bill, Karen Whitefield gave an example of a case in which police had actually been present when there were problems, but were unable to deal with some aspects of the difficulties that were going on. We already have more police, but more police will still not be the answer to the problem.

Colin Fox has mentioned Broomhouse frequently, and I know that the First Minister was there yesterday. The community there has worked hard to bring community facilities to the area, including a skateboard park, but they still experience problems on a daily basis that only something like the Antisocial Behaviour etc (Scotland) Bill can deal with.

We have an opportunity today to pass a piece of legislation that really will make a difference to the lives of people throughout Scotland, in urban and rural areas and in towns and cities across the country. We have an obligation to make that decision, and those who opt out of it will have to respond to the people when they meet them on the streets.

I ask the Scottish Socialists and the Greens to reconsider voting against the bill today. They should decide whose side they are on and vote for this piece of legislation.

Business Motion

18:15

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-1472, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that the Justice 2 Committee reports to the Justice 1 Committee by 3 July 2004 on the Victim Statements (Prescribed Offences) (Scotland) Amendment (No.2) Order 2004 (SSI 2004/287).—[*Patricia Ferguson.*]

Motion agreed to.

Parliamentary Bureau Motions

The Presiding Officer (Mr George Reid): The next item of business is consideration of four Parliamentary Bureau motions. Any member who wishes to speak against any of the motions should press their request-to-speak button after the motion is moved. I ask Patricia Ferguson to move motion S2M-1473, on the approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.3) (Scotland) Order 2004 (SSI 2004/237) be approved.—[*Patricia Ferguson.*]

18:16

Mr David Davidson (North East Scotland) (Con): If nothing else, the Conservative party is consistent.

I wish to oppose the motion on the same basis that I have stated previously, which is that this is a very costly way of dealing with the problem. No one disputes that there is an issue of safety, but it would be better dealt with by end-product testing, which is perfectly acceptable in the European Union. The Food Standards Agency agrees with that move. I ask the minister to explain when the Executive will consider end-product testing instead of closing down our scallop fisheries.

The Presiding Officer: I ask Patricia Ferguson to move motions S2M-1468 to S2M-1470 inclusive, on the approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 be approved.

That the Parliament agrees that the draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 be approved.

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 be approved.—[*Patricia Ferguson.*]

The Presiding Officer: The question on those motions will be put at decision time.

Decision Time

18:17

The Presiding Officer (Mr George Reid):

There are five questions to be put as a result of today's business. The first question is, that motion S2M-1407, in the name of Margaret Curran, that the Antisocial Behaviour etc (Scotland) Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)

May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Harvie, Patrick (Glasgow) (Green)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)

The Presiding Officer: The result of the division is: For 103, Against 11, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Antisocial Behaviour etc. (Scotland) Bill be passed.

[Applause.]

The Presiding Officer: The second question is, that motion S2M-1473, in the name of Patricia Ferguson, on approval of a Scottish statutory instrument, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)

Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Mundell, David (South of Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 71, Against 20, Abstentions 22.

Motion agreed to.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No.3) (Scotland) Order 2004 (SSI 2004/237) be approved.

The Presiding Officer: The third question is, that motion S2M-1468, in the name of Patricia Ferguson, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 be approved.

The Presiding Officer: The fourth question is, that motion S2M-1469, in the name of Patricia Ferguson, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 be approved.

The Presiding Officer: The final question is, that motion S2M-1470, in the name of Patricia Ferguson, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2004 be approved.

Meeting closed at 18:19.

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