

MEETING OF THE PARLIAMENT

Thursday 24 November 2005

Session 2

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Scottish Parliament

Thursday 24 November 2005

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

Business Motion

The Presiding Officer (Mr George Reid): Good morning. The first item of business is consideration of business motion S2M-3620, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Housing (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Housing (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, 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 (other than a suspension following the first division in the Stage being called) or otherwise not in progress):

Groups 1 to 6 – 55 minutes
Groups 7 to 10 – 1 hour and 25 minutes
Groups 11 to 15 – 2 hours and 20 minutes
Groups 16 to 18 – 2 hours and 55 minutes
Groups 19 to 21 – 3 hours and 25 minutes.—[*Ms Margaret Curran.*]

Motion agreed to.

Housing (Scotland) Bill: Stage 3

The Presiding Officer (Mr George Reid): We move to stage 3 proceedings on the Housing (Scotland) Bill.

I will make the usual announcement about the procedures to be followed. We will deal with the amendments to the bill then we will move on to the debate on the motion to pass the bill. For the first part, members should have with them the bill as amended at stage 2—SP bill 40A; the marshalled list, which contains the amendments lodged by the deadline that I have selected for debate; and the groupings, which I have agreed.

The division bell will sound and proceedings will be suspended for five minutes for the first division on an amendment. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a period of one minute for the first division after a debate. All other divisions will last 30 seconds.

Section 10—Local housing strategies

The Presiding Officer: Group 1 is on local housing strategies. Amendment 70, in the name of the minister, is the only amendment in the group.

The Deputy Minister for Communities (Johann Lamont): Amendment 70 responds to an amendment at stage 2 from Cathie Craigie, which intended to ensure that the use of assistance to improve housing conditions in the private sector is given formal policy recognition alongside the other issues in the local housing strategy. It is perhaps fitting at the start of today's proceedings to reflect that many of the Executive amendments at stage 3 are a response to pressure from the committee on issues of concern to it. I am glad that the amendment responds to its concerns.

Amendment 70 concerns the powers that are at the heart of the scheme of assistance provisions in part 2 of the bill, rather than the more limited duties in that part. Its effect will be to ensure that local authorities' local housing strategies include their strategic vision for how they will use those powers to bring about improvements in housing conditions in the private sector. We could issue guidance to local authorities, saying that they should cover that issue, but I agree with Cathie Craigie that the policy significance of the scheme of assistance approach is such that it needs to have formal recognition alongside other statutory requirements for the local housing strategy.

The provision will complement the requirement in section 69 for the local authority to publish criteria for how it gives assistance—those criteria will be focused on delivery within the strategy.

I move amendment 70.

Amendment 70 agreed to.

Section 12—Tenancies to which repairing standard duty applies

The Presiding Officer: Group 2 is on tenancies that are wholly or partly exempt from provisions of the bill. Amendment 72, in the name of the minister, is grouped with amendments 73 to 76 and 87. I point out that if amendment 72 is agreed to, amendments 73 to 76 will be pre-empted.

The Minister for Communities (Malcolm Chisholm): Section 12 is intended to exclude agricultural holdings from the repairing standard. An agricultural holding is primarily let for an agricultural purpose. If there is a house on the holding, that is a secondary issue and, accordingly, it should be excluded. In practice, the maintenance of the house is normally the tenant's responsibility under an agricultural holding agreement. For both those reasons, it is inappropriate for the landlord of such a holding to have the same responsibilities as a landlord letting a house in the normal way. That was recognised in previous legislation and we are carrying that recognition through into the modernised legislation.

The committee was concerned that the definition might not cover all the situations in which those considerations apply. Therefore, we have reconsidered the issue and in amendment 72 have expanded the definition to include the new types of tenancy introduced by the Agricultural Holdings (Scotland) Act 2003 and also crofts and smallholdings.

Mary Scanlon's amendments 73 to 76 seek to achieve the same effect, but do so less comprehensively, refer not to the house but to the holding and do not allow for the situation of a farmer who lets a house to a third party. When that happens, it is right that the farmer should meet the requirements of the repairing standard, but Mary Scanlon's amendments would relieve him or her of that obligation.

On a more detailed point, amendment 73 deals with cottars. Cottars' houses that are on crofts or agricultural holdings will be caught and exempted by amendment 72. We do not feel that other cottars' houses would fall within the general principle on which amendment 72 is based—that the prime purpose of the tenancy is to run an agricultural unit—but if further clarification on that point is desirable we will consider using the general ancillary power to make supplemental provision. I therefore ask Mary Scanlon not to move amendments 73 to 76.

Amendment 87 deals with a different aspect of the protections afforded by the provisions in the bill. The existing definition of a tenancy includes any occupation of living accommodation under a person's terms of employment. The amendment

would alter the definition of a tenancy so that it includes only tied tenancies where the house is leased and it is ancillary to the person's terms of employment. People whose occupation of a tied house did not fall within that narrower definition would be denied the protections of the repairing standard or the tenant's right to make adaptations to suit a disabled occupant. It is hard to see why such a person should not have those protections or why a reasonable employer who provides a house should not want them to apply to the employee. After all, the house is provided in exchange for the occupant's rent or, in the case of tied tenancies, the occupant's labour.

Perhaps even more important, amendment 87 could open up a loophole for an unreasonable employer to avoid the obligations by providing the house under an occupancy arrangement rather than a lease.

I move amendment 72.

Mary Scanlon (Highlands and Islands) (Con): I have found this part of the bill quite complex and, at stage 3, the issues are becoming even more complex.

Amendments 73 to 76 address issues with the original drafting of section 12 in relation to the application of the repairing standard to agricultural tenancies. The bill as introduced stated that only agricultural holdings under the Agricultural Holdings (Scotland) Act 1991 were excluded, but there is a subsequent act, the Agricultural Holdings (Scotland) Act 2003. Holdings under the Crofters (Scotland) Act 1993 and the Small Landholders (Scotland) Acts 1886 to 1931 also need to be excluded for the same reasons. Those are all types of agricultural holdings where the house is ancillary to the purpose of the let, which is the land or the farm.

My understanding is that Executive amendment 72 will exclude tenancies of a house on a croft or a small landholding. However, the nature of croft and small landholding tenancies is that the tenancy is of the land. In fact, the tenant has usually built the house himself to work the land, so it is incorrect to refer to the tenancy of the house. The minister's amendment will mean that if a crofter wanted to let a second house on his croft under a normal residential tenancy, he would not have to comply with the repairing standard. I do not think that that was the intention—the Executive's amendment was supposed to exclude the actual croft tenancy under which the house is ancillary to the land.

Amendment 87 is about tied houses. I raised the issue at stage 1 and stage 2; at stage 2, I lodged amendments to remove tied houses from the legislation. As I lived in a tied house for the first two decades of my life, because my father was a

farm worker, I want the repairing standard for tied houses—whether Bute House or a farm cottage—to be as high as it is elsewhere in the housing sector.

The main point in relation to amendment 87 is that a tied house is part of an employment contract rather than a landlord-tenant contract. I understand that the definition of a tenancy includes a person who pays rent. No rent is paid in service occupancies where the occupancy of the house is a contractual requirement of the employment. I give the example of Bute House; it is a tied house and the service occupancy is covered in the First Minister's contract of employment.

Some employers provide a house to an employee on the basis of a lease, usually called a service tenancy. In that case, the repairing standard will apply as usual, as rent is charged, although it may not be the full market rent. In the case of service occupancies, whether of the First Minister, farm workers or ministers of the kirk, the provision of the house is secondary to the primary purpose of the contract, which is employment. I ask the Scottish Executive whether it can legitimately legislate in such circumstances, as employment is reserved to Westminster. The terms of a service occupancy are a matter for the employment contract; therefore, it is not appropriate to deal with them under the repairing standard housing panel mechanism. For example, rent sanctions imposed by the private rented housing panel cannot be effective in cases where no rent is paid. If a farm worker refused to live in a house provided by his employer due to its poor standard, there could be a case for constructive dismissal, which would be handled by an industrial tribunal, not a private rented housing panel.

Yesterday, the Communities Committee discussed the statutory instruments to implement the national registration scheme for private landlords. It is interesting that tied houses are exempt from that scheme for the reasons that I gave. Why can tied houses be exempt from the national registration scheme for private landlords but be included in the Housing (Scotland) Bill?

My amendments address whether it is competent for the bill to cover issues in an employment contract.

Euan Robson (Roxburgh and Berwickshire) (LD): I thank the minister for lodging amendment 72, which covers the points that the committee was concerned about. It clarifies and extends the exemptions in an appropriate manner.

As for amendment 87, in the name of Mary Scanlon, I had concerns in the committee about whether there was interference in a contractual relationship and whether there was competence to

do that. Having had the benefit of further discussion with the minister, I am satisfied that there will be no such interference, that the bill is competent and that it is important that protection is extended to tied cottages. Therefore, I do not support Mary Scanlon's amendment. However, we will need to consider this area as the legislation is implemented. I look forward to more discussion about the regulations that will implement the bill.

Malcolm Chisholm: There are two ways of looking at section 12. First, I will deal with the legalities and technicalities of the repairing standard duty. More fundamentally, I will consider what is right from the tenant's point of view.

First, I reassure Euan Robson and Mary Scanlon that there is absolutely no question of our straying into reserved areas. However one constructs the matter, there is an arrangement with an employer about a job, and there is an arrangement with an employee about a house. They are two separate matters—even if they are in one contract.

On a specific point—and this is important, because Mary Scanlon deployed it as a central argument—tied houses are not excluded from the regulations on the registration of private landlords. Manses, as a group, are specifically excluded, not tied houses.

The crucial and fundamental point is that a tied house is the home of its occupant; therefore, it should meet the repairing standard. By the same token, the letting of a house, whether under a lease or in an employment contract, should be managed in a fit and proper way. If an employer provides a house, he or she should have a responsibility to the occupant, as does a landlord under a lease. It is important to confirm the status of an employee in a tied house as a tenant for the purposes of the bill.

There is a perception that people in tied houses get free accommodation, but that is not the case; they pay rent in the form of labour. Someone who pays rent in any form should be recognised as a tenant and should have rights as a tenant, including the right not to be expected to remain in substandard accommodation. It is important that people in such circumstances have legislation that protects them. That is the heart of our objection to Mary Scanlon's amendment 87.

I have nothing new to add on amendments 73 to 76. Our amendment does more comprehensively what Mary Scanlon seeks to achieve. The fundamental point is one of principle. Mary Scanlon's amendments do not allow for the situation of a farmer who lets a house to a third party. If that happens, it is right that the farmer should meet the requirements of the repairing standard. Mary Scanlon's amendments would

relieve him or her of that obligation. We do not find that acceptable.

Amendment 72 agreed to.

The Presiding Officer: Amendments 73 to 76 are therefore pre-empted.

Section 13—The repairing standard

09:30

The Presiding Officer: Group 3 is on fire safety. Amendment 5, in the name of the minister, is grouped with amendments 6, 53, 69, and 7.

Johann Lamont: Amendments 5, 6, 53, 69, and 7 will incorporate fire detection measures in the modernised repairing standard in chapter 4 of part 1 of the bill. The issue met with substantial sympathy when it was raised with the Communities Committee at stage 2. We have responded by exploring the issue further and by lodging these amendments. It is another example of the committee's scrutiny process refining policy and the Executive being happy to respond to sound proposals that arise from that.

The repairing standard is essential for ensuring that a landlord keeps a house and the facilities provided with it in good working order and repair. That is in exchange for rent, or, in the case of tied tenancies, labour. The intention of the amendments is that a landlord will make satisfactory provision for fire detection in the first place and will maintain such detection as part of the fittings.

Like the existing requirement in the repairing standard that a house be fit for human habitation, fire detection is so basic a need that it is right that satisfactory provision for it should be a requirement. In the light of the committee's discussion and after considering the alternatives, I think that the repairing standard is the best place for that requirement.

The amendments say that the provision of fire detection measures should be satisfactory and have regard to building regulations and guidance. That does not mean that existing houses will have to be brought up to the standards required for building a new house. Guidance issued by the Scottish Building Standards Agency sets out what is appropriate for existing houses. Landlords should take the guidance into account.

We will ensure that landlords are aware of the requirements in the guidance; private landlord registration will, of course, help that. When a tenant challenges a landlord's compliance with the agency's standard through the private rented housing panel, the committee hearing the case will consult the fire and rescue service to ensure that its formal decision is backed up by an authoritative

view and that there is consistency across Scotland.

I move amendment 5.

Donald Gorrie (Central Scotland) (LD): I am very content with amendments 5 and 6. I would like to press the minister on the words "building regulations". In my experience, the building control system, although full of excellent people, has inadequate powers. By and large, it never enforces anything at all and it does not inspect work in progress to see whether cowboys or competent people are in charge.

I press the minister to consider strengthening the power of the building control system, either in the regulations that ministers are considering or possibly even in the proposed planning bill, so that the excellent standards in the Housing (Scotland) Bill and in other bills can be enforced.

Johann Lamont: I recognise the point that Donald Gorrie makes. He is right that many of the concerns about planning relate to the perceived inability to enforce standards. That is a general problem: regulations are undermined by ineffective enforcement. I am happy to take on board the points that Donald Gorrie makes about the regulations.

Amendment 5 agreed to.

Amendment 6 moved—[Johann Lamont]—and agreed to.

Section 23—Referral to private rented housing committee

The Presiding Officer: Group 4 is on decisions by the president of the private rented housing panel. Amendment 80, in the name of Christine Grahame, is grouped with amendments 81 and 82.

Christine Grahame (South of Scotland) (SNP): The amendments are all linked. I hope that the minister understands the spirit in which I lodged them. They aim to assist in the process of determining an application to the panel with regard to a landlord failing to meet the repairing standard.

I thought that, even taking into account schedule 2, there was no harm in fleshing the process out, in particular in section 23(1). Currently, under that subsection, the president has only two options—to refer an application to the panel or to reject it. Amendment 80 would give the president more flexibility and would make consideration of any further written representations mandatory. The amendment says that

"the president must consider any further written representations ... and may request further such representations"

before a decision is made. I hope that that solution is seen to be sensible and practical.

On amendment 81, it is easier if parties can resolve their disputes by mediation rather than by going straight to a panel for a decision either for or against, because a decision can be made collectively. That is not always possible, but there may be circumstances in which mediation is absolutely appropriate and would take some of the burden off the private rented housing committee.

Amendment 82 relates to section 23(3)(b) and would ensure the president made a decision “after considering representations”. Therefore, the president would be given the opportunity to hear from the parties and to take a considered view. As I said, the problem may be resolved without taking it to the committee, but if it went to the committee, there would be full information.

I move amendment 80.

Euan Robson: I recognise the spirit in which the amendments have been lodged, but perhaps they are too prescriptive and it would be relevant to cover the matter in guidance to the president.

I will give an example. Amendment 80 states:

“the president must consider any further written representations”.

Why should the president consider only written representations? Would not that exclude those who cannot make written representations for one reason or another? In other words, the interpretation of what is in the primary statute could be a problem. As I said, the matter would be better covered in the guidance, although I recognise the spirit in which the amendments were lodged.

Malcolm Chisholm: I appreciate why Christine Grahame wants to build the extra elements in question into the procedures of the private rented housing panel, but it is not necessary or appropriate to include the provisions in the bill in order to achieve fair and sensible consideration of cases.

The president will refer cases to a committee unless he or she has reason to reject them. The president will certainly want to consider any information that is available—whether written representations or other types of representation, which Euan Robson reminded us about—and will want to be satisfied that the case is genuine and that a committee sitting as a tribunal is needed to resolve the dispute.

If written representations were made in time, the president would certainly consider them. Section 23(3) is designed to allow the president to gather further information if doing so would be helpful. The president would be open to criticism if representations were received and not taken into account. Therefore, amendment 80 would not add anything in practice. It would also give the

president a statutory duty to consider representations without providing any timetable or other arrangements for their submission.

Amendment 81 deals with mediation. We intend to develop the use of mediation in the panel's processes because where mediation works, it is far preferable to having an imposed decision. A formal requirement to offer mediation could hold up cases in locations in which suitable mediation services are not available—I think that Christine Grahame recognised that in constructing her amendment. However, a provision that permits the president to propose mediation adds nothing to what the president will be able to do anyway. I assure Christine Grahame that I will encourage the president to find ways to promote the availability and use of suitable mediation where possible, although I think that the president will need little encouragement to do that.

Section 23 will allow the president to defer a decision if there appears to be a reasonable prospect of the parties resolving the dispute. Amendment 82 could be read as restricting the scope for the president to do that where no representations have been made but the president nevertheless thinks that there could be scope for a voluntary resolution of the dispute.

In the light of the arguments that I have made and assurances that I have given, I ask Christine Grahame to seek to withdraw amendment 80 and not to move her other amendments.

Christine Grahame: I am delighted by the minister's response, which will appear in the *Official Report*—that is what I really sought. In the circumstances, I seek to withdraw amendment 80.

Amendment 80, by agreement, withdrawn.

Amendments 81 and 82 not moved.

The Presiding Officer: Group 5 is on procedural matters relating to the determination on the repairing standard. Amendment 11, in the name of Malcolm Chisholm, is grouped with amendment 10.

Johann Lamont: The amendments respond to amendments that Tricia Marwick lodged at stage 2—obviously, we have good cop and good cop today. Those amendments dealt with notification procedures for complaints to the private rented housing panel and raised a valid point, but we thought that their effect would go beyond what was intended. I am grateful to Tricia Marwick for withdrawing them in the committee on the basis that we would lodge alternative amendments at stage 3.

Amendment 11 will ensure that, where a tenant asks someone else to act for him or her in connection with an application to the private rented housing panel, the president will inform that

person as well as the applicant if the application is rejected. Amendment 10 will ensure that if the president instead refers the application to a private rented housing committee for a determination, the committee will inform that agent as well as the applicant of the outcome. The amendments will ensure that a case is not held up by failures of communication.

I move amendment 11.

Tricia Marwick (Mid Scotland and Fife) (SNP):

We do have good cop and good cop today. I am delighted with the minister's amendments in response to the amendments that I lodged at stage 2. I was concerned that there are many elderly and vulnerable people in the private rented sector in particular and was particularly concerned that people who act on behalf of elderly or vulnerable people are simply not covered. As the minister said, the proposals will help to speed up the process and will ensure that the advocate or the person who is acting for the elderly or vulnerable person is kept informed about the process. The Scottish National Party happily supports the amendments in the minister's name.

The Presiding Officer: Do you have any further comments to make, Ms Lamont?

Johann Lamont: I have nothing further to say.

Amendment 11 agreed to.

After section 28

The Presiding Officer: Group 6 is on the effect of a repairing standard enforcement order on the termination of short assured tenancies. Amendment 12, in the name of Tricia Marwick, is the only amendment in the group.

Tricia Marwick: Amendment 12 is similar to an amendment that I moved at stage 2. I am concerned about the process and about when protection is given to tenants.

Amendment 12 would resolve two issues, the first of which relates to the form of protection that is afforded to the tenant. As it stands, the bill will make it an offence for the landlord to enter into a new tenancy agreement where an enforcement order is in effect. That will not prevent the landlord from evicting the tenant, but will simply ensure that he cannot enter into an agreement with a new tenant in any property.

For the private rented housing panel to work, it is important that tenants have confidence in its ability to protect them when they apply to it. However, as the bill stands, tenants will be given minimum protection when they apply to the panel. There will be nothing to prevent a landlord from evicting a tenant for most of the time during which the landlord is being investigated. The protection for tenants should be strengthened to prevent their

eviction during that period and to bolster the panel's effectiveness.

Amendment 12 would suspend the landlord's right to evict without grounds by referring to the Housing (Scotland) Act 1988 and the grounds that are needed to terminate a short assured tenancy. In effect, a landlord would not be able to bring a short assured tenancy to an end if the panel decided that a case that had been brought by a tenant should be heard. However, if need be, the landlord could still evict the tenant because of their antisocial behaviour by making an application to the court.

Amendment 12 would also change the point at which protection would kick in. Under the bill as it stands, the landlord will not be banned from letting the property to someone else until the panel has investigated and made an enforcement order. Nothing in the bill will prevent the landlord from evicting the tenant as soon as a private rented housing committee investigates. That is a critical point and could seriously undermine the operation of the panel and tenants' confidence in it—the likelihood is that tenants will fail to use it to gain legal redress. The amendment would ensure that the landlord's power to evict was suspended for the period during which the committee was investigating the landlord and that protection for the tenant would kick in as soon as the referral had been made to the committee—that is, as soon as the investigation begins, rather than when an enforcement order is granted.

I move amendment 12.

09:45

Johann Lamont: I understand the intention behind amendment 12, as we discussed the matter in the committee. To some extent, it reflects people's sometimes difficult relationships and experiences in the private rented sector. However, the problem that was identified at stage 2 would remain.

Amendment 12 seeks to protect a tenant from being evicted because he or she has referred the landlord to the private rented housing panel. Section 28(5) already provides a form of protection in that regard. If the amendment were accepted, a tenant could use the measures in it to delay the exercise of the landlord's right to the property at the end of the tenancy. All that the tenant would have to do would be to make a complaint to the private rented housing panel about a repair—spurious or not. The measures would take effect when the case was referred to a private rented housing committee, by which point there would not yet have been any investigation into whether the landlord was in the wrong. Until the committee concluded its deliberations, the landlord would be unable to recover or occupy the premises.

A landlord and tenant enter into a short assured tenancy knowing that the landlord is entitled to end it at the agreed term, subject to the statutory procedures and timescales. The landlord has a right to recover possession without having to demonstrate the reasons, and both parties know that when the tenancy is entered into. However, under amendment 12, the tenant would be able to stop the landlord exercising his or her rights under the short assured tenancy until the complaint to the private rented housing panel had been determined. Therefore, the landlord's right to recover possession would be frustrated by delay.

Apart from the issue of rights, the matter could, in practice, be significant in a situation in which, for example, the landlord is trying to deal with the tenant's antisocial behaviour or in which the landlord has let a house while working elsewhere and has to return to the area.

The landlord's alternative would be to prove in the sheriff court that one of the grounds for terminating a full assured tenancy applied. That would be onerous and, again, would delay the landlord's exercise of the rights that are part of the short assured tenancy agreed with the tenant. Amendment 12 would, therefore, create a situation that has significant potential for abuse.

The purpose of section 28(5) is to protect tenants by preventing a landlord from entering into a new tenancy without the consent of the committee while the house is subject to a repairing standard enforcement order. That is a strong incentive for a landlord not to evict the tenant who made the complaint unless there are other good reasons why such an action is necessary. Of course, neither approach prevents a landlord from ending the tenancy after the repair works are completed. However, comparing the two approaches, I do not think that amendment 12 strikes the right balance between a landlord and a tenant. It could be used to delay a landlord's recovery of the property in a situation in which and at a time when it is appropriate for the landlord to do so. I therefore invite Tricia Marwick to withdraw the amendment.

Tricia Marwick: As the minister said, it is a question of balance. I believe that the thrust of the bill is to give tenants greater protection than they have at the moment. As the bill stands, the balance is shifted towards the landlord at the expense of the tenant. For that reason, I intend to push the amendment to a vote.

The minister said that section 28(5) gives some form of protection, in that the landlord commits an offence if they enter into a tenancy or occupancy arrangement at any time during which the repairing standard enforcement order has effect. That is true and I do not dispute it. On the other hand, there is nothing to stop a tenant being

evicted as soon as they make an application to the panel. All that the provision does is prevent the landlord from reletting. The minister might think that there is a balance there, but I do not agree.

The minister raised the issue of antisocial behaviour at stage 2. It is not the intention of amendment 12 to prevent landlords from evicting someone because of antisocial behaviour and, indeed, it would not do so. There would still be recourse to the sheriff court to evict on that ground. The amendment would simply prevent the landlord from evicting without going to the sheriff court in the first place.

The balance has not been struck by the ministers and I will press amendment 12.

The Presiding Officer: Since Ms Marwick is pressing her amendment, the division bell will ring once I put the question and we will suspend for five minutes.

The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: In that case, there will be a division. I suspend Parliament for five minutes.

09:49

Meeting suspended.

09:54

On resuming—

The Presiding Officer: We will now proceed with the division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)

Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (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)
 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)
 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)
 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)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Presiding Officer: The result of the division is: For 30, Against 72, Abstentions 0.

Amendment 12 disagreed to.

Section 29—Annual report

The Presiding Officer: Group 7 is on the private rented housing panel's annual report. Amendment 13, in the name of Cathie Craigie, is the only amendment in the group.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Amendment 13 seeks to require the president of the private rented housing panel to include in the panel's annual report the number of cases in which a tenancy management issue arose incidentally during the panel's investigations. In the course of the panel's duties, it will gain a valuable insight into the operations of the private rented sector and it might come across a wide range of issues that are beyond its remit. Although the panel will not be expected to act or advise on tenancy management issues, the insight that it will gain into the multiple problems that private tenants face should not be lost.

A requirement to report on the issues that arise in connection with the investigation of a repair problem will not be a significant additional burden on the panel but it will provide valuable information and evidence on the operation of the private rented sector. I hope that the minister is able to support my amendment.

I move amendment 13.

Malcolm Chisholm: Cathie Craigie's amendment 13 is the conclusion of an extended discussion that took place during both the consultation and the committee's scrutiny of the bill about the extent to which tenancy management issues should be reflected in the various measures that regulate the private rented sector.

There is already a range of substantial and meaningful legal requirements on landlords. One of the many benefits of the registration of private landlords is that it will make those obligations clear. Research suggests that, at present, many landlords and tenants are unaware of those legal requirements. We want to assess the effects of registration and voluntary accreditation before we decide whether it is necessary to go further and make the letting code that is provided for in section 155.

Our approach to the matter is driven by our desire to base our policy on evidence. There is little hard evidence on the extent of breaches of the law on tenancy management. To legislate without good evidence might undermine the success of voluntary accreditation without clear cause. That would be unfortunate because voluntary landlord accreditation shows every sign of being a valuable and self-sustaining initiative that raises standards in the private rented sector by harnessing market forces.

Amendment 13 recognises those arguments and strikes a balance between the issues that were raised at committee. It does so by requiring the private rented housing panel to contribute other evidence on what is happening in the private sector. When a tenant complains to the panel about a repair issue, it is likely that he or she will mention other issues that are causing problems. It is likely that the panel would advise the tenant on how to obtain assistance on those non-repair issues, but the amendment will reinforce that approach. It will ensure that the tenant's concerns are noted and that the evidence of management problems that emerges in that way is recorded and made available.

I am therefore happy to accept amendment 13.

Cathie Craigie: I am grateful to the minister for his response. I understand and appreciate the work that is done in the sector and I agree that the amendment is a sensible way forward.

Amendment 13 agreed to.

Section 39—Unlawful occupation etc

The Presiding Officer: Group 8 is on miscellaneous provisions on housing standards and houses in multiple occupation. Amendment 14, in the name of Malcolm Chisholm, is grouped with amendments 17, 18, 21, 22, 48, 3 and 4.

Johann Lamont: The amendments in group 8 are mainly technical and tidying-up amendments. I will explain them as briefly as I can.

Amendment 14 corrects an error in section 39(3)(a), which should refer to section 37(1) rather than section 37(2). Similarly, amendment 48 corrects an error in schedule 4A, which should refer to "this schedule" rather than "paragraph 3".

Amendment 17 is intended to help to ensure that houses are kept up to the repairing standard. Section 55 gives landlords the power to apply to the sheriff for an order if a tenant obstructs the landlord's efforts to carry out repairs that are required in order to meet the repairing standard. However, the section does not allow landlords to apply for an order if a tenant obstructs the landlord's access to inspect the house in order to check whether it meets the repairing standard. We

want to help landlords to meet their repair obligations, so amendment 17 allows the section 55 procedure to be used in that situation as well. Section 55 already contains safeguards to ensure that the sheriff is satisfied that access is genuinely sought for the stated purpose, that it is reasonable and that the tenant is preventing access even though proper notice has been given.

10:00

Amendments 18 and 22 seek to delete certain sections in part 1 that are duplicated in the general provisions of part 8 and schedule 5. Those sections refer to building regulations and the Building (Scotland) Act 2003, which were originally mentioned only in part 1 but which now need to cover the whole bill due to the introduction of HMO amenity notices in part 4.

Amendment 21 deals with the power in section 64A(2) that allows ministers to make the private rented housing panel the route of appeal against a landlord's decision to refuse consent to carry out adaptations to suit the needs of a disabled person or to apply conditions to such consent. That subsection also gives ministers the power to make further provisions on appeals. Amendment 21 clarifies that that power will cover not only appeals to the private rented housing panel but subsequent appeals to the sheriff. As Christine Grahame pointed out in committee, there is room for doubt on that point in the bill as it stands.

Amendments 3 and 4 are consequential to the repeal of parts 5 and 8 of the Housing (Scotland) Act 1987.

Amendment 3 means that a failure to carry out work required under the byelaws referred to in section 313 of the 1987 act, which relates to certain kinds of HMO, will be treated as a failure to carry out work required by a work notice and will be enforced accordingly.

Amendment 4 repeals passages in sections 313(4) and 319(1) of the Housing (Scotland) Act 1987 that relate to parts V and VIII of that act.

I move amendment 14.

Amendment 14 agreed to.

Section 52—Matters relevant to application to carry out work under section 51

The Deputy Presiding Officer (Murray Tosh): Group 9 is on the guidance that the Disability Rights Commission issues. Amendment 15, in the name of the minister, is grouped with amendments 16, 19 and 20.

Malcolm Chisholm: These amendments concern a tenant's right to make adaptations to suit a disabled occupant. The bill provides for landlords or the court to have regard to codes of practice and guidance issued by the Disability

Rights Commission when considering whether it is reasonable to refuse, or apply conditions to, a tenant's application for consent to make such adaptations. It is right that a code of practice issued by the commission in this connection should have such statutory force because it must be approved by the secretary of state after consultation with Scottish ministers.

However, guidance issued by the commission does not have any form of Government approval, and so it is better that it remain purely advisory and that it should not have statutory force. Amendments 15, 16, 19 and 20 therefore change the relevant provisions in the bill to refer only to codes of practice.

I move amendment 15.

Christine Grahame: I find these amendments rather curious. The minister had the words "or other guidance" inserted on 28 September 2005 at stage 2. I am trying to work out why he is taking that out six weeks later. At the time, the Deputy Minister for Communities said:

"In England and Wales, the Disability Rights Commission's code of guidance is required to be taken into account in court proceedings that relate to the tenant's right, and we agree with the committee that that should be the case in Scotland too. Such proceedings are based on housing law, which is a devolved matter, and so it is for the Scottish Parliament rather than Westminster to require the sheriff court to take account of the commission's guidance."—[*Official Report, Communities Committee*, 28 September 2005; c 2456.]

That seemed to be why the minister wanted to embed such practice in statute, and I do not know why the reasoning has changed in six weeks.

Malcolm Chisholm: The equivalent provisions for England and Wales refer only to codes of practice and not to guidance. I would like to reassure Christine Grahame further by saying that the Disability Rights Commission in Scotland is also aware of the amendments and has no issue with them.

Amendment 15 agreed to.

Section 52A—Amendment to the Housing (Scotland) Act 2001

Amendment 16 moved—[Malcolm Chisholm]—and agreed to.

Section 55—Obstructions etc

Amendment 17 moved—[Malcolm Chisholm]—and agreed to.

Section 59—Registration

Amendment 18 moved—[Malcolm Chisholm]—and agreed to.

Section 63—Part 1 appeals: determination

Amendment 19 moved—[Malcolm Chisholm]—and agreed to.

Section 64A—Adaptations: power to change method of appeal

Amendments 20 and 21 moved—[Malcolm Chisholm]—and agreed to.

Section 67—Interpretation of Part 1

Amendment 22 moved—[Malcolm Chisholm]—and agreed to.

Section 70—When assistance must be provided

The Deputy Presiding Officer: Group 10 is on mandatory adaptation of house for disabled persons. Amendment 23, in the name of Tricia Marwick, is the only amendment in the group.

Tricia Marwick: During stage 2, the Deputy Minister for Communities said:

"The Office of the Deputy Prime Minister is currently reviewing the DFG,"—

that is, the disabled facilities grant—

"but as we do not know the outcome of that review, the DFG is a moving target for comparison."—[*Official Report, Communities Committee*, 28 September 2005; c 2476.]

We now know the results of that review and we are concerned that, unless action is taken, Scotland will fall considerably behind England, Wales and Northern Ireland in the support that is given to disabled people. The bill as amended at stage 2 proposes that a local authority must give a grant only for toileting or washing facilities for a disabled person. Assistance must be given for adaptations such a ramp, lift or hoist to get into and out of bed, but it can be in the form of advice or other help in the place of a grant.

The Deputy Prime Minister has announced that, in England and Wales, the means test will not be applied when the disabled facilities grant is for a child. We are asking the Minister for Communities to review disabled adaptations, to make grants a priority and to set a timescale for action. The minister has made a general commitment to consider further the means test as it affects disabled people; he has also agreed to consult further on making regulations to place a duty on local authorities to make grants for more adaptations than just those for toileting and washing facilities.

However, we are concerned that the issues that affect disabled people will cease to be a priority once the bill leaves the Parliament. As the Communities Committee observed in its stage 1 report, Scottish disabled people should not be

disadvantaged in comparison with those in the rest of the United Kingdom. That is why I lodged amendment 23, which asks the minister to review the operation of section 70(1)(b) and to lay before the Scottish Parliament a report on the results of that review within two years of the date on which section 70 comes into force. It is a question of monitoring what is happening in Scotland and ensuring that disabled people are not disadvantaged. I hope that the minister will accept the amendment in the spirit in which it is moved.

I move amendment 23.

Karen Whitefield (Airdrie and Shotts) (Lab): I understand and share the concerns that Tricia Marwick expresses, but I am not sure whether her amendment will achieve what she wants it to do. I am slightly concerned that, if the amendment were agreed to, it might take valuable resources away from the implementation of section 70(2B).

Despite saying that, I think that it is important for the minister to reflect the genuine concerns of the Communities Committee and of organisations such as Ownership Options in Scotland, which is concerned that the review of mandatory grant status should not be allowed to slip or drift away. I hope that the minister will give assurances that that will not happen once the bill is passed and that the Executive has a genuine commitment to addressing the disability organisations' legitimate concerns.

Euan Robson: I acknowledge the spirit in which the amendment was lodged, but I believe that it is too prescriptive. It is perhaps even counterproductive in setting down a timeframe of two years. Parliamentary scrutiny through the Communities Committee and an assurance from the minister that he intends to press forward with implementing the necessary changes would suffice. I do not propose to support the amendment, although I acknowledge the spirit in which it was lodged.

Malcolm Chisholm: I assure Tricia Marwick—in fact, I reassure her, since I was clear with the committee about the matter at stage 1—that the issue is a key priority for the Scottish Executive. I give Karen Whitefield the same assurance that the Executive has a genuine commitment. I talked to the committee about ring fencing money as one way to deal with what I know are concerns about the variations in the amount of money that is spent. That is certainly still on our agenda.

Tricia Marwick suggested that we were disadvantaged compared with England, but the evidence from comparing the spending per head in England and in Scotland does not point in that direction. I point out to her that we do not yet know the results of the review in England; only one measure—that which concerns children, to which

she referred—has been announced. However, that is not the subject of her amendment.

I appreciate that Tricia Marwick wishes to ensure that the arrangements that we proposed at stage 2 are progressed as quickly as possible. However, as Euan Robson said, her amendment is impractical. I will explain why when I discuss its detailed implications.

The Executive amendment at stage 2 that introduced subsections (2A) and (2B) into section 70 was intended to allow careful assessment of the level of need that disabled people have for various types of house adaptations in various circumstances, with a view to extending the arrangements under the section. We proposed those subsections because we were very concerned and open-minded about the issue, as I made clear at stage 1 in May. We were also responsive to the concerns that the Communities Committee's report flagged up.

The process will be complex, as it will require the gathering of better and more detailed information than is currently available and the consideration of priorities, resources and other ways of meeting individual needs. It will link into the development of greater co-ordination between health, housing and social work agencies and a review of the means test for grants for adaptations to take account of the costs that face disabled people. We are strongly committed to the review, which will be undertaken soon—unlike what has been suggested elsewhere, it will not be kicked into the long grass. We will do that work in conjunction with relevant interests and it will inevitably take a little bit of time. We will then go through the full process for making regulations under the affirmative procedure, which will include public consultation and the preparation of a regulatory impact assessment. I remind members that the purpose of the regulations is to reassure people that the situation that they fear—that disabled people on low incomes will not receive grants—will not arise.

Tricia Marwick's amendment 23 would require a review two years after section 70 came into force. We do not intend to delay the introduction of mandatory assistance while we go through the processes that I described, as that would deny people the right to assistance that the section will provide. The review would therefore look back on a period following the establishment of mandatory assistance, during which it is likely that the extent of mandatory assistance would have been reviewed and that the available assistance would have been changed. Therefore, the review for which the amendment calls would cover a period of considerable change and—crucially—at best only a short period in which the changes that are envisaged by subsections (2A) and (2B) could be in force.

In summary, it will take us a little time to bring the regulations into force. We will do that as quickly as possible, but that is bound to take a bit of time after the bill's enactment. A review after two years would not cover a significant period of full implementation of section 70, so it would not be meaningful. As Karen Whitefield reminded us, such a review would also be a significant piece of work that would divert resources from the implementation of the steps that section 70(2B) envisages.

I therefore ask Tricia Marwick to withdraw amendment 23 and I repeat our absolute commitment to ensuring that proper provision is made for disabled people.

Tricia Marwick: I thank the minister for his comments and for his clear commitment, which is now on the record, to ensuring that people in Scotland who are disabled are not disadvantaged in comparison with disabled people in England and Wales. I am not minded to press my amendment; rather, I will seek members' agreement to withdraw it, because of what the minister said about the period of change and the period in which the regulations will come into force. I believe that all members of the Communities Committee and all other members will look closely at what the minister does in the next period, to ensure that his deeds echo the words that he has spoken today. I seek the Parliament's agreement to withdraw amendment 23.

Amendment 23, by agreement, withdrawn.

Section 95—Duty to have information about a house which is on the market

The Deputy Presiding Officer: Group 11 is on the provision of information on the sale of a house. Amendment 24, in the name of Mary Scanlon, is grouped with amendments 25 to 46, 2 and 68.

10:15

Mary Scanlon: In addressing the 22 amendments in my name in the group, I am conscious of a comment that the minister made earlier. He said that legislation needs a good evidence base. I thoroughly agree with that, of course. However, the single seller survey pilot started in July 2004, with a target of carrying out 2,000 surveys; the figure of 2,000 was then reduced to 1,200 and, in the end, only 74 single seller surveys were carried out on which to base this legislation.

The decision to make the single seller survey compulsory came as a shock to the members of the Executive's steering group on the subject. The group was given no say in the final decision. The three policy drivers for the single seller survey

were to improve information on property condition, to reduce wasted expenditure on multiple surveys and to address artificially low upset prices.

The Executive's evaluation of the pilot study, which was undertaken by Arneil Johnston, stated that it was impossible to say anything authoritatively about the experience of purchasers. Therefore, the argument behind the first policy driver is not proven. As for multiple surveys, members who have received the many letters from Edinburgh solicitors and estate agents in recent days will know that virtually all properties—especially in Edinburgh—are now bought subject to survey. There has also been a move towards fixed prices, which addresses the charge relating to low upset prices.

A conflict of interest also arises. If a survey is the seller's, the seller pays a surveyor who is acting on behalf of the seller. Solicitors cannot act for buyers and sellers, so how can we expect a surveyor to do so? If the potential purchaser wants information on the property, he will be forced to have his own survey carried out in order to discuss the property with a surveyor. That takes us back to multiple surveys.

I know of a property in Edinburgh that was one of the 74 that participated in the pilot scheme. By the time it finally sold, the survey was out of date and the purchasers had to have their own survey done. The inclusion of the single seller survey in the transaction has been described as the "kiss of death" by agents and the seller, who now wishes that he had never opted in. In future, buyers and sellers will unfortunately not have the choice of opting in or out, as the bill will make the single seller survey compulsory.

As I said, most properties are bought subject to survey and the successful bidder has the survey carried out, usually within 24 hours of hearing that his offer is acceptable. He is then of course free to discuss the report with the surveyor, who has no conflict of interest. If the purchaser refuses to accept the seller survey and opts instead to carry out his own survey, who will then pay for the seller survey?

The offer subject to survey and the recently introduced solicitor-led standard style of offer in Edinburgh contracts can bring the binding stage forward. Sometimes it can take place in the course of one day.

Issues also arise to do with the shelf-life of the single seller survey. It is incredible what one can learn as a member of the Communities Committee: I now know that dry rot spreads at a rate of 1m a month. The length of time for which the results of a survey remain acceptable is clearly an issue.

We also have to consider the cost of the single seller survey and the purchasers information pack.

Every time the issue was raised in committee, it seemed that more and more was being added to the information pack. We have to wonder whether the figure of £100 for legal fees that is given in the financial memorandum is accurate. I doubt it. In the financial memorandum, it is estimated that the single seller survey will reduce purchase prices in the first year by £120 million. The predicted fall in subsequent years is not given.

I come back now to Arneil Johnston's evaluation of the pilot scheme. The report says:

"from the limited evaluation possible, it would appear that the existence of a Single Survey is not considered by sellers to improve the marketability of properties".

The report had nothing authoritative to say about the experiences of purchasers and it was inconclusive about the influence of the single seller survey on non-purchasers and about its impact on selling agents. So much for the good evidence base for legislation.

Arneil Johnston's report concluded:

"the majority of surveyors ... strongly believe that the Single Survey will not have a positive impact on improving the condition and energy efficiency of private sector housing in Scotland".

The whole rationale behind the pilot exercise was that it would lead to improvements in the fabric and energy efficiency of homes in Scotland. Not only do we not have a decent evidence base, but the 74 surveys showed that single seller surveys will not even achieve what the Executive has set out to achieve.

The single seller survey will make it very expensive for people to put their properties on the market and it will cause considerable delays. Selling older properties will become even more difficult. The single seller survey will probably put an end to sellers testing the market before the final decision is made to sell.

The single seller survey pilot was a failure, but there was also a failure in consultation. In the eyes of buyers, sellers, surveyors and selling agents, the survey has been a failure. As I said at stage 2, if there was a handbook on how not to legislate, the single seller survey would be the leading chapter.

I move amendment 24.

Johann Lamont: I note that Mary Scanlon's amendments have been repeated despite the Communities Committee's considerations at stage 2. She has simply rehearsed what she has said in the past about the single seller survey and I am tempted to repeat now what I said then. I will take the opportunity to make the case again for the single seller survey. I am happy to expand on some of its advantages.

First, let us consider the current system of house buying and selling. In effect, there are two different

approaches. In the first, every potential buyer can have their own separate survey carried out on the same property. Every buyer runs the risk that their bid will be turned down; in hot markets, some unfortunate buyers—especially first-time buyers—can have that experience on a number of properties. The approach causes multiple surveys and wasted expense; it drives people to commission the cheapest form of survey—the scheme 1 valuation, which contains very little information on the condition of the property.

The single seller survey provided at the start of the process with a valuation will enable buyers to avoid those risks and make use of an independent and detailed survey that will provide a proper assessment of property condition.

Phil Gallie (South of Scotland) (Con): Will the minister take an intervention?

Johann Lamont: I would like to make a little more progress first.

In the second approach, the market response to the multiple valuation problem has been offers subject to survey. That approach to combating multiple surveys has been adopted in some areas, most notably Edinburgh. However, I say to Mary Scanlon that she ought not to be so Edinburgh-centric, because the approach is not favoured by all property professionals. In the approach, the buyer submits an offer before the property is inspected or valued. They then have a survey carried out if they are successful with their bid. However, the approach still tends to employ scheme 1 valuation reports—perhaps because of the risks involved. If the valuation does not meet the offer submitted, or if the surveyor finds a serious problem, the whole deal has to be renegotiated leading to a risk for both seller and buyer that they will not get what they thought they were getting.

It is far better if the buyer is informed about the condition and value of the property before making an offer. With offers subject to survey, that information is provided only after an offer has been made. That means further negotiation, risking delay or the complete falling through of the transaction. I know of someone who was in such a position. There had been an offer subject to survey and the seller had to take the property off the market in order to negotiate. As a result, the seller may have lost the opportunity to receive offers from other people.

The single seller survey will provide greater certainty and transparency to the whole transaction by providing the necessary information at the start of the process. Each party will know the condition of the property and will be able to sort out the finances accordingly—both the seller's asking price and the buyer's offer price—instead

of having to walk in the dark and having to retrace their steps as they do with offers subject to survey.

It is worth reminding ourselves of the objectives that the housing improvement task force identified for the single seller survey: to provide better information on property condition for sellers and buyers; to promote repair and maintenance work; to reduce wasted expense on multiple surveys; and to discourage the setting of artificially low upset prices.

We know that if people have a problem with their property, their instinct is to find a way to sell it on and make it someone else's problem. However, that does not deal with the question of people being responsible for maintaining their properties and of how we allow people to know what they are buying before they make an investment that is probably greater than any other they might make in their lives. I have certainly spent less time over making such a purchase than I have spent deciding on the colour of my car.

Mary Scanlon talked about having an evidence base. However, she undermines the surveying profession's integrity by implying that it would be minded to say something on the basis of who paid for the survey. The profession is accountable for its professional responsibility; it has an ombudsman and its own standards that must be applied. Moreover, the matter can be taken to court. It is unacceptable to suggest that a survey will be slanted towards the person who pays for it.

Mary Scanlon: This point is important. I have the utmost confidence in the surveying profession, but will the minister confirm that, when a seller pays for a survey, the surveyor is equally responsible to all potential buyers and can give them the same level of advice that he or she gives to the seller?

Johann Lamont: The point is that the transaction pays for the survey. The survey informs the transaction and the professional gives his or her professional advice on the property's state. Mary Scanlon should not suggest that the surveyor's professional integrity is such that what is in the survey is determined by what the person who pays for it wants it to say. Indeed, it is dangerous to make such suggestions in any approach to this issue.

We should also recognise that all legislation attracts vested and committed interests on all sides and that we should make a judgment about the point at which such interests kick in. I acknowledge Mary Scanlon's point that legislation must have an evidence base. No one in the chamber has ever suggested or pretended that the single seller survey pilot was a great success; it was not. Indeed, I know of someone who was told not to commission a single seller survey because

it would not give them a competitive edge in the market and would open them up more than other sellers to exposure.

In eight months, only 74 surveys were commissioned, 64 of which were in Glasgow and one in Edinburgh. However, the pilot scheme showed not that the single seller survey concept was flawed but that the system would not work if it was voluntary. I should also point out to Mary Scanlon that there is a difference between what she suggests happened and setting up a working group on the matter, taking advice, consulting people and ultimately taking an executive decision on the basis of that information. I am content with the Executive's conclusion after examining the single seller survey pilot that a voluntary approach did not work. However, we believed that the policy principles remained important, particularly for people who want to get into the property market, and that we needed to respond accordingly. The fact that there are simply insufficient incentives for sellers to pay up front voluntarily for a survey when they can just allow purchasers to continue to pay for survey after survey makes the case for introducing a mandatory single seller survey. The housing improvement task force itself recommended that a legislative approach should be held in reserve.

We intend the single seller survey to follow the model used in the pilot. It will contain information on a property's condition, energy performance and accessibility. Moreover, to achieve all the task force's objectives, it will include a valuation.

Phil Gallie: As a newcomer to the debate, I am concerned by the minister's comments. Although she has repeatedly used the phrase "we know", what happened to the pilot clearly demonstrates that the minister and her advisers do not know. She has just said that the Executive will go ahead on the basis of the pilot, but she also stressed the fact that it was a spectacular non-event and failure. Will she explain that position further?

Johann Lamont: When we introduced the pilot scheme, it did not work. We concluded that that happened because it was voluntary. However, we felt that none of the fundamental principles that it addressed in relation to the maintenance of properties, artificially low upset prices and multiple surveys had been challenged. That is why we felt the need to move forward on the basis on the pilot.

10:30

Margo MacDonald (Lothians) (Ind): I wonder whether the minister could also give me some information on this matter. I make no apologies for being Edinburgh-centric in this matter—I know that I am eccentric as well. If, as the pilot appears to indicate, the buyer is suspicious of the scheme 1

valuation, there is nothing to stop them carrying out their own survey. If that contradicts the seller's scheme 1 valuation, how is the matter resolved?

Johann Lamont: The member's question brings us back to professional integrity. On the basis that the member has outlined, the survey does not mean anything to anyone and no one has any confidence in any professional advice that they might seek. I repeat that the surveyor has his or her own professional commitments. No one is stopping a person commissioning half a dozen surveys if that is what they want; our proposal is intended to address the unfortunate position in which, particularly in hot markets, people have surveys carried out and then find that they cannot afford the property. It seems only reasonable to make available to buyers a description of the property and any problems that it might have, and I should point out that the person who ultimately buys the property in effect pays for the cost of the survey in the purchase price.

Although we felt that its approach was rational, the pilot still did not work. We then drew from that—the—I think, entirely reasonable—conclusion that if the decision to commission a single seller survey was left up to individuals, those who in their honesty commissioned such a survey would be asking to have their property's condition opened up in a way that would not be asked of people who did not commission one.

Despite Mary Scanlon's comments on our decision to go ahead with a compulsory single seller survey scheme, stakeholders, particularly those involved with the working group, have stuck with the Executive on this matter. I am sure that they will continue to work with the Executive to ensure that the final proposal that is developed is sustainable and effective. The Executive feels that the three objectives that were identified by the housing improvement task force remain as important as ever and, although offers subject to survey will not achieve those objectives, the single seller survey will.

Amendment 30 seeks to enable regulations that are made under section 101 and which would be used to establish the single seller survey and purchasers information pack schemes to include, if necessary, a requirement for single seller surveys or other prescribed documents to be registered with a central body or bodies as part of a quality control regime.

The use of the power or otherwise will be dependent on our continuing discussions with stakeholders. If the single survey is to be successful, buyers, sellers, agents and lenders will all need to be confident in the independence and reliability of the report that is supplied. Confidence in the survey product will be created primarily by the professional standards of the survey's

providers, its legal terms and conditions and the available forms of redress. However, as we develop the detail of the scheme in consultation with stakeholders, we will consider whether it is necessary to provide further assurance to consumers through the use of a register of single seller surveys. Such a mechanism could, for example, reveal whether a property has been the subject of more than one survey. As with the rest of part 3, regulations covering this issue would be subject to the affirmative procedure.

We will carefully consider the costs and benefits of any such requirement. We favour a system that is as simple and as straightforward as possible and that goes with the grain of the existing house buying and selling process. Equally, we acknowledge that it might yet be necessary to introduce a register and it is important that the bill provides sufficiently flexible powers in that regard.

On amendment 2, I must first make it clear that we fully recognise the importance of closely monitoring the operation of the single seller survey and purchasers information pack schemes. As they involve a significant change to the house buying and selling process, we must keep a close eye on their progress. Indeed, I am sure that the Parliament and its committees will want to do the same.

That said, the Executive does not support amendment 2. If a review were required to be submitted to Parliament within two years of the date on which the whole of the part was first in force, it might assess only one full year of operation. It is hardly appropriate to carry out a review in such a timescale. After all, systems need time to bed in and programming a review so early in the scheme's operation would serve only to create uncertainty in the industry about the long-term intentions for the scheme.

I emphasise again that the single seller survey scheme seeks to help people who are selling or are trying to buy properties. Huge changes have happened in the past 25 years. Twenty-five years ago, 70 per cent of houses were rented; now, more than 64 per cent of houses are owner-occupied. We have not caught up with the different way in which the market now operates and the fact that people now have different responsibilities. This proposal seeks to build confidence and trust and to ensure that people buy properties that they are able to maintain.

I assure that the Executive will very closely monitor the operation and effects of the scheme. On the basis that I have already outlined, I ask Mary Scanlon to withdraw amendment 24 and not to move amendments 25 to 29 and 31 to 46.

Christine Grahame: For the avoidance of any doubt, amendment 2 says that the report should be laid before Parliament

“within 2 years of the date on which the whole of the Part was first in force”

That would give a clear two years after the regulations come into force in which to assess the way in which the single seller survey operates.

I start from the point that the Scottish National Party supports in principle the single seller survey and purchasers information pack. It was entirely laudable that the initial aim of the survey was to have a home condition report that would help to bring about a change in the fabric and structure of those properties that are poorly kept up and where people tend to spend more on putting in kitchens year after year than on making sure that the roof and walls are sound. The home condition report is therefore understandable.

The problem is that the survey was sold to the Scottish public as something that would get rid of the need for multiple surveys. Much has been said in the chamber about the trial that was conducted so I am not going to go over that again. I am going to go back to the evidence that was put before the committee at the time.

We need a little more clarity about what a valuation is. A valuation is not done for the purchaser; it is done for the lender. The valuation that the seller pays for is instructed on behalf of banks such as the Halifax or the Royal Bank of Scotland. That is a very important distinction because if the bank does not like the single seller survey, it will ask the purchaser to have a valuation survey done. That is a huge issue just with the practice of the single seller survey. I do not think that the single seller survey will cure the problem.

The committee had a huge argument about the shelf-life of the single seller survey. The value of a property is what it sells for. If someone has a valuation done in January, the value of the property might go up or down in March because, for example, something has happened in the area or there are rumours in the ether that a motorway might be built there. As I understand it, in England, the valuation part of the home condition report has been taken out. That is another serious issue to be overcome.

There is also a conflict of interest because the valuation is instructed by the seller. The contractual obligation must therefore be between the seller and the surveyor. To say that there is some strange kind of contract between the surveyor and the prospective purchasers is extraordinary because, in law, parties to a contract are not acted for by the same agent. I think that a belt-and-braces approach will be taken. The home condition report might well end up being part of the pack, but valuations will still be done on behalf of the lenders to the prospective purchasers and

offers will be made subject to survey. Judging by the evidence that we have at the moment, it does not seem as if the proposals will work.

The idea is not new; as I understand it, it has been on the go since 2003. When the issue of regulations was raised at the committee, the minister could not produce drafts even though all the detail of the workings of this law will be in those regulations. The regulations will be made after we pass the bill today and they might not work. That is why I am calling for a review.

Phil Gallie: With respect to her sunset clause, Christine Grahame has said that the review should be after two years, but the minister suggests that there would then be only one year's worth of evidence to consider. However, the minister has decided that the bill is necessary because of only nine months of a pilot survey. How can the minister say that the one year's evidence that would be gathered after the two years proposed by Christine Grahame's sunset clause is unacceptable but that the minister's nine-month pilot survey is acceptable?

Christine Grahame: I am glad that Phil Gallie is going to support the SNP amendment. I have reservations. I do not want to get hung up on the trial that was run because there might have been difficulties with it. There might also be some validity in saying that people will not buy into a voluntary scheme, but that is not the only basis on which I bring these issues to the chamber.

There are issues of cost. We do not quite know what the purchasers information pack will cost. If it is £1,000, much of that will have to be paid up front by the seller. The seller might not have equity and might not have much money in the bank. They could be a very ordinary person who wants to move on to a slightly larger house. Where will the money for the survey come from? The minister said that there will be some kind of loan scheme. That was it. I pressed the minister at committee to say whether the loans will be secured against the property on sale. How will the loans be recovered? What if, having discharged the previous loan over the property, the seller does not have sufficient spare cash from the selling price to be able to pay the loan back? How will the money be paid back to whoever has loaned it?

Can a seller make several applications for loans? If I put my house on the market in January and there is a three-month shelf-life on my single seller survey, but the house does not sell and I have to take it off the market—and we should remember that all the costs have to be paid up front—what if I then put it back on the market and go back to whoever is giving the loans and ask for another £1,000? Can I ask for another £1,000 for another purchasers information pack? We do not

know the answers to all those details; it is very messy.

I am concerned because there is no point in passing law when we do not have the detail in front of us. We do this time and again and we end up with a framework of a bill and flawed regulations that cannot make the law work. That practice must change.

Euan Robson: The Liberal Democrats support the single seller survey. We put it into our manifesto and we intend to sustain our support for it today.

Like others, I have received representations late in the day from several quarters and Mary Scanlon's eloquent exposition of the views of Edinburgh solicitors and surveyors brought them back to mind. I do not accept the dire predictions of the collapse of the housing market as a result of all this. I do not accept the dire predictions of some that there will be huge numbers of additional surveys. Apart from anything else, that ignores the fact that multiple surveys will not have to be carried out on behalf of buyers. There might indeed be some additional surveys, but I suspect that some of those will be to check particular points. For example, if the single seller survey demonstrates some difficulties with the roof of a property, the surveyor might be instructed to look at that particular aspect. I do not think that we should be concerned about that. The minister addressed Margo MacDonald's point on that issue.

It has also been suggested to me that the cost will be somewhere around £1,000 per house. That is not the case. There is a scale that goes from around £400 up to £1,000 for higher-value properties.

Christine Grahame: I certainly did not say that £1,000 was the cost of the survey. The cost of the purchasers information pack might be of that order and many of the outlays will have to be paid up front.

Euan Robson: I did not imply that it was Christine Grahame who said that the cost would be £1,000 per house. The question about the purchasers information pack is important and I will come back to that in a moment. The cost of the survey itself is on the scale that I mentioned; I know that that scale is in the public domain because I read it among the Communities Committee's papers.

It is important that the purchasers information pack is kept in proportion. I understand that primary documents were to be produced in the purchasers information pack, but now it is intended that there should be a summary, which is a much more effective and proportionate form of information. If, in that summary information, there

is cause for concern, I am sure that the legal profession would want to take on further investigations of the specific points that are made.

It is important to be prepared to make change and, to an extent, to experiment. That is the spirit in which we will put the single seller survey into law. Moreover, there are issues that need to be addressed. The regulations will be particularly important in ensuring that the relationships between the surveyor and the seller and between the surveyor and the buyer are clear, so that there can be confidence in the survey. There must also be further and detailed consideration of the growing trend of missives being exchanged subject to survey and I would be grateful if the minister would undertake that specifically. If two parties decide that they wish to proceed, and if they are prepared to do so on that basis, I believe that we should somehow be able to slot the seller survey into that process without disrupting the growing practice that the industry is adopting.

There is some talk about dire consequences for the housing market as a result of the introduction of the survey. I do not accept that for a moment. To illustrate with just one example, when the Chancellor of the Exchequer recently increased stamp duty by a considerable margin, the cost increases that were thereby entailed were far greater than the increases that would result either from the introduction of the single seller survey or from the addition of the single seller survey to the purchasers information pack; there has been little decline in the housing market as a result of the increase in stamp duty and I do not believe that there is evidence to suggest that the survey and the information pack will damage the housing market.

10:45

Scott Barrie (Dunfermline West) (Lab): I oppose all the amendments in the group, with the exception of amendment 30. The amendments in Mary Scanlon's name are identical to the amendments that were heavily defeated in the Communities Committee at stage 2. Mary Scanlon talked extensively about what is happening in Edinburgh and somehow, using a very quick phrase, extrapolated from that situation to the rest of Scotland. What is happening in Edinburgh is a feature of the Edinburgh market; it is certainly not what is happening in the rest of Scotland, so I do not think that Mary Scanlon can make that jump.

It is interesting that Mary Scanlon has suddenly seized on Edinburgh and has forgotten to mention Inverness, the area that she usually talks about. What she described is not what is happening in Inverness at the moment, as a lot of people who are trying to buy property there know. My sister, who is trying to buy property in Inverness at this

very moment, is now on to her third attempt to buy and her third scheme 2 survey, so that she can decide whether to make an offer on the property in question. Mary Scanlon knows—she talks about it all the time in the committee—how hot the housing market is in Inverness and the problems that people face in buying into that market. Nothing that she proposes in her amendments would help those people—her constituents—to realise what they want to do.

Christine Grahame began by saying that the SNP supports the single survey in principle, and I welcome that commitment. Then, as she did at stages 1 and 2, she gave good reasons, from her point of view, for not having the single seller survey.

Christine Grahame: At stage 2, Scott Barrie said:

“Christine Grahame has raised real concerns, but we have to say that if we agree with the principle, we have to find a way of making it work in practice”.—[*Official Report, Communities Committee*, 5 October 2005; c 2489.]

I agree with that. The trouble is that, two years after we had all that stuff done, we still do not know how the survey will work in practice, because we do not have the regulations and that is where the detail will lie. That is my concern. Does Scott Barrie share that concern?

Scott Barrie: No.

Christine Grahame said that the SNP supports the single seller survey. I would have thought that any party that supported something, but thought that the Executive had not provided sufficient detail, or had not done things in the way that that party would have done them, would have lodged amendments to reflect its position. At stage 2, Christine Grahame sat on her hands and voted neither yes nor no, unlike some of her other colleagues on the committee.

The minister acknowledged, quite rightly, that the single seller survey pilot was not a success, but she clearly indicated the reasons for that in her speech. The main reason—let us be honest—was that there are vested interests who did not want the pilot to succeed and they successfully vetoed the pilot. It may have been a mistake to have a pilot in the first place; I might concede that point. I think that the Executive was absolutely right to pull the plug on the pilot and to have the courage of its convictions to do what is right. The Executive's proposal is the right thing for a large number of people who have been totally discriminated against by the current workings of the housing market.

Many people, particularly but not exclusively first-time buyers, have had to go through survey after survey, having shelled out the very funds that Christine Grahame talked about, only to end up

with nothing at the end of the exercise except a bunch of papers telling them what the valuation on certain houses might be, even though they got nowhere near being able to purchase those properties. The single seller survey will remedy that situation. If it were to do that and nothing else, that would be a good thing, but it will do more than that.

Christine Grahame: Will Scott Barrie give way?

Scott Barrie: No. I have given way already.

The single seller survey could lead to an improvement in the private sector housing stock. At the moment, too many people, for financial reasons or just because of the advice that they are given, do not know exactly what they are buying. The single survey will spell out in great detail exactly what people are taking on, so that they can make a judgment on whether they wish to purchase the property. Too many people are encouraged to go for the scheme 1 survey, which gives them a valuation and little else, and they may live to regret their purchase, which is probably the greatest purchase that they will make in their lives.

The single seller survey has the potential to lead to improvement in our housing stock, and it will make a huge difference to purchasers in the housing market. For those two pertinent reasons, we should defeat the amendments in Mary Scanlon's name.

The Deputy Presiding Officer: I would be grateful if the next few speeches could be limited to four minutes maximum, and I may have to reduce that.

Murdo Fraser (Mid Scotland and Fife) (Con): I declare an interest. I am a solicitor, although not currently practising, and I spent 12 years before entering Parliament practising in the field of property law, among other areas. Therefore, I have a certain background knowledge of the subject.

I support Mary Scanlon's amendments to remove the single seller survey. I believe that the measure is unnecessary and unwanted; it is noticeably and vigorously opposed by those who practise in the field, who are surely the ones that we should listen to. I believe that there are five reasons why the survey is wrong.

First, as Mary Scanlon said, the survey was introduced to remove the supposed social ill of multiple surveys being paid for by purchasers. As we have heard, the market has cured that social ill in Edinburgh and in many other places, and that is happening in more and more parts of Scotland as a result of the introduction of offers subject to survey. That social ill, which was at the centre of the rationale behind the measure, has been all but removed.

Sarah Boyack (Edinburgh Central) (Lab):

Does Murdo Fraser think that it is healthy that people commit to a property the biggest sum that they will ever commit in their lives, without knowing the condition of the building or what maintenance might be required, and that they make their financial calculations without knowing those basic facts? Is that financially good for Scotland?

Murdo Fraser: I am afraid that Sarah Boyack shows her complete ignorance of the operation of the property market and the survey system. People who make offers subject to survey make their offer conditional upon seeing a survey report. They then have the opportunity to study that survey report and consider whether or not to proceed. It is a perfectly simple and straightforward matter of legal contract that has operated perfectly well for many, many years. I see no difficulty with that.

Secondly, the single seller survey is wrong because it will present a cost barrier to sellers, who will have to find the money up front to fund the survey and the seller's pack, as Christine Grahame said. We heard talk from the minister of some sort of loan scheme, but we have no idea how that will operate in practice. I remember many cases of people coming to me in difficult situations when they wanted to sell property. A couple could be separating or getting divorced, and it could be difficult for them to find the money even to put the property on the market and pay for the initial advertising. How could they find the money to pay for a survey fee and a seller's pack in addition to that? Where would the money come from?

Thirdly, there is the problem of slow markets, in which properties can sit on the market for months on end. After three months, the valuation could be out of date because of changing circumstances, as Christine Grahame said, and the seller would have to find yet more money to update the survey. In effect, the survey will be a regressive tax on sellers because, regardless of the value of the property, they will have to find money to fund the sale.

Fourthly, the Executive's proposal challenges the basis of the Scottish system of property law. The Roman-law principle of caveat emptor, which has applied for centuries, is being swept away in favour of reliance on a seller-instructed survey. What purchaser or lender will rely on such a survey when issues of duty of care, liability and conflict of interest have still to be resolved?

Finally, and most compellingly, surely in a liberal democracy Government should legislate only as a last resort, when there is no other way in which to proceed. In the stage 1 debate on the St Andrew's Day Bank Holiday (Scotland) Bill, Tom McCabe said:

"we should legislate only when it is necessary to do so".—[*Official Report*, 6 October 2005; c 19875.]

That is patently not the case here, because there is no evidence base for the measure in question. The pilot has been a failure—even Executive members accept that.

Euan Robson, who is a Liberal, gave the game away when he said that the single seller survey was an experiment. The Executive is experimenting with the property market and with the investments of millions of ordinary Scots. For centuries, the property market has been regulated by private contract and has worked fine. Now this meddlesome and interfering Executive thinks that it knows best, despite all evidence to the contrary. The Executive knows nothing and understands even less about our property market. It should remove its proposal, which is irresponsible and meddlesome.

Mr Jim Wallace (Orkney) (LD): It was interesting to hear that one of Murdo Fraser's apparently compelling arguments against the single seller survey was that it eroded the Roman-law doctrine of caveat emptor. I think that that was seriously undermined by the Sale of Goods Act 1892, which was introduced to give protection to purchasers. I am an enthusiastic supporter of the single seller survey because it is intended to give help and protection to purchasers who are about to make one of the biggest purchases in their lives.

For the reasons that Johann Lamont and Scott Barrie have given, which I will not go over, there is an extremely good case to be made for the single seller survey. I want to comment on some of the concerns that have been raised and which require to be addressed. In doing so, I seek not to undermine the principle of the survey, but to examine it in a practical way. I will deal first with the situation of those people who are on lower incomes, who might not be able to find the money up front to fund the survey and the pack. In a letter to me that is dated 8 November, Malcolm Chisholm said that he would consider

"a safety net for genuine cases of hardship",

for which the bill paved the way. I would welcome any elaboration of that point that Johann Lamont is able to give us when she responds to the debate.

Another issue is the shelf-life of the survey, on which Malcolm Chisholm said in his letter:

"Consensus has been reached that there should be no prescribed shelf life."

Far be it from me to disturb a consensus, but it is clear that over time not only the valuation, but the state of the property will change. I do not think that Mary Scanlon needed to be a member of the Communities Committee to find out how quickly

dry rot sets in; the fact that she has been a member of the Conservative party over recent years should have been enough.

Mary Scanlon: That is a cheap shot.

Mr Wallace: There is an issue there.

I fully accept the arguments that Johann Lamont made against amendment 2, which is in the name of Christine Grahame. The amendment proposes that a report would have to be produced within two years of the survey being introduced, which means that the evidence period on which the report would be based would be far too short. When the regulations are being drawn up, I ask the minister to include in them a provision that would oblige Parliament to return to the issue after, say, five years, to consider not only whether the single survey had lived up to the expectations of it that many of us have, but whether specific problems had arisen. That would allow the regulations to be revised and any areas of difficulty to be addressed in a practical way.

11:00

Tricia Marwick: As Christine Grahame rightly said, the SNP supports the principle of single seller surveys. Although we will oppose the amendments in the name of Mary Scanlon and support the minister when we come to the vote, Christine Grahame is right that many concerns have been expressed. Jim Wallace referred to some of the concerns about how the single seller survey will work in practice.

When the minister appeared before the Communities Committee, I was grateful that she gave an undertaking that the draft regulations would be submitted to the committee for its consideration. That will enable us to ensure that the concerns that we have raised at stages 1, 2 and 3 have been addressed. I urge the minister to take on board some of those concerns.

For the reasons that Scott Barrie and others outlined, I believe that the single seller survey is a good thing. It is not right that young people who are desperate to enter the housing market must obtain multiple surveys. To admit that there are good reasons why we should have single seller surveys is not to deny that there were problems with the pilot scheme. Of course, some of those problems—not least the hostility of those professionals who, frankly, did not want the survey to work in the first place—could never have been overcome.

For those of us who want the survey to work, it is vital that the draft regulations that the minister puts before the Communities Committee are capable of being amended and that full consultation has been done. When the regulations

are produced, those of us who believe that a single seller survey is a good thing must be confident that all—or, at least, most—of the concerns that have been expressed during consideration of the bill have been addressed by ministers.

Donald Gorrie: I would like to explore further the point that Jim Wallace made, to which Euan Robson alluded. After saying that the single seller survey was an experiment, Euan Robson was assailed vigorously by the Conservatives for doing so, but all legislation is an experiment. Although we might think that a certain course of action is a good idea, we do not know how people will react. There is none so queer as folk—especially, in some cases, Scottish folk. We do not know how house purchasers, professional people such as lawyers and surveyors, or the market will react to the single seller survey.

I do not necessarily agree with everything that Christine Grahame said, but her point about reviewing the arrangement is important. Two years may be too short a period, but the minister should take up the recommendation that we must keep an eye on how the single seller survey works—Jim Wallace, too, made that point—because if people react in a way in which we do not believe that they will react, things could go quite badly wrong. We must have the machinery to put things right if some of the regulations do not work properly. I hope that the minister will take seriously the thrust of Christine Grahame's proposal, even if he does not support amendment 2.

The Deputy Presiding Officer: Many points have been raised and it is justifiable to return to the minister and allow her to make a second speech. I can give you about six to seven minutes, minister.

Johann Lamont: I will attempt to cover the main points that have been highlighted.

If what Christine Grahame said met the definition of what it means for the SNP to give its support to a proposal, Nicola Sturgeon might need to look to her laurels. The fact of the matter is that Christine Grahame said one thing in favour of the single seller survey—that she was in favour of it—and proceeded to undermine and demolish it and to highlight things that would cause people to lack confidence in it. I worry about what she would have said if she had said that she was opposed to the single seller survey.

It is interesting that Phil Gallie defined amendment 2 as a sunset clause; I agree that it represents an attempt to get the single seller survey over with and to get it back off the statute book because Christine Grahame is not in favour of it. However, I acknowledge the points that Jim Wallace and Donald Gorrie made. We are not in

the business of ignoring the law of unintended consequence. In fact, we are extremely rigorous about not doing that with our legislation in general. Although I think that many of our communities will benefit from the single seller survey, I am certainly keen for us to keep a close eye on it as it rolls out.

On the regulations, Christine Grahame cannot have it both ways. She cannot argue simultaneously that we have not produced a perfect, fully fleshed-out proposal and that we have not worked closely enough with stakeholders. I give a guarantee that we will work closely with stakeholders and the committee on the development of the regulations. Why would anyone not want the new survey to work? The policy drivers behind it are so strong that of course we want it to work. I emphasise that the regulations will be subject to the affirmative procedure.

As regards the rights that the survey will give the buyer and the seller, contracted conditions in the survey will put the purchaser in the same position that they would have been in if they had commissioned the survey themselves.

Mary Scanlon said that the pilot did not really work, but our proposal is not all about the pilot; it is the result of two years of evidence taking, research and discussion. We have worked with the housing improvement task force over a long period. Given the task force's expertise, we should listen to what it said.

Several points were raised about valuation. The lender could pursue options including the undertaking of a desk-based valuation, a valuation from an automated valuation model or a drive-by valuation, or they could instruct a further inspection of the property. Certainly, the first three of those options would be done at very low cost. Again, the issue is one of confidence.

Much has been said—and much of that was scaremongering—about the cost of the survey. Scott Barrie made a compelling point about the costs that people incur at the moment, with nothing to show for them.

I was struck by the complacency of the tone that Murdo Fraser adopted. According to him, the system is perfect; there are no problems with it. Perhaps for some people in the profession there are no problems, but if Murdo Fraser were to get out a bit more, he would discover the other interest that is operating—the consumer interest. I am thinking in particular of the young people who are trying to get into a market that, 25 years ago, they would not have been able to enter. We have to reflect on the consumer interest as well as on that of the profession. We have to sit more closely with the professionals to ensure that the proposal is workable.

In effect, Murdo Fraser was saying that if the market is operating, we should not legislate. The trouble is that the Tories, in their time, did not recognise the fact that the market was not operating. If we have learned anything from the Tories' period in Government, it is that, by their definition, a market that is working is one that leaves devastation all around. If the position that Murdo Fraser is taking to the market is political, that is fine.

Murdo Fraser: Does the minister agree with Euan Robson that the measure is an experiment?

Johann Lamont: Do not be ludicrous.

It is evident that, through the proposal, we recognise that the market as it stands neither works nor encourages people to identify the difficulties with a property before they buy it. The market cannot solve the problems that the housing improvement task force identified.

Much has been said about the cost of the survey. We are working closely with the profession to ensure that the cost is sustainable, workable and affordable. It may be in Murdo Fraser's interest to deny both the consumer interest and the limits of the market, but we do not operate in that way.

We recognise that the Communities Committee raised the issue of problems for low-income sellers. We will work with the professionals involved to design the scheme in such a way that the market can deliver affordable packages. That could include short-term loans or the option of rolling up the survey fee with the other fees that are due when the property is sold and equity is released. Following the Executive's amendment of section 68 at stage 2, we will consider the need for a safety net through the scheme of assistance. However—perhaps Murdo Fraser will be heartened to hear this—we will not seek to substitute for private sector activity and the way in which that could be developed.

A lot of noise has been made about the measure and we have heard some dubious support from SNP members. The single seller survey is a measured approach to concerns that have been raised over a long period of time and is a result of the study of a changed private sector in which people buy property without recognising the commitment that they have taken on and are uncommitted to maintaining it. People also get caught up in spending money with nothing to show for it at the end of the buying process. The approach that the Executive is taking is serious. As we develop the regulations, we will work with all those who want to ensure that the measure is effective. I urge members to support the Executive amendments in the group and to resist Mary Scanlon's amendments.

Mary Scanlon: I am pleased that my amendments have given members the opportunity to debate the issue. I am grateful to members throughout the chamber for the concerns that they have reflected in the debate.

I turn to the minister's points, one of which was that every buyer has to buy surveys. That is simply not the case; I made that clear earlier. I also made it clear that the majority of offers, in Edinburgh and elsewhere, are being made subject to survey, with the survey being done within 24 hours.

I have never before been accused of being Edinburgh-centric. For some reason, over the past few days, I have received letters from Edinburgh solicitors—I suppose that many other members received them, too. God help us that we should speak on behalf of Edinburgh solicitors, but if solicitors from Shetland, the Western Isles, Jura, Glasgow, Inverness or wherever had written to us, I would have been happy to use their points in my speech.

The fact is that I represent the Highlands and Islands. However, as my party's spokesman for housing and planning—dare I say it—I can mention other areas in Scotland. If that is the only criticism that the minister has of me, the Executive is clutching at straws.

Mr Wallace: Will the member give way?

Mary Scanlon: No. The member had his say on my Edinburgh solicitors. We will leave it at that.

The minister commented on the incentive to carry out repairs. I refer to the conclusion of the Arneil Johnston report, which is that, from the limited evaluation,

"it appears that generally sellers carry out only minor/general repairs or improvements and respondents indicated they would have done this regardless of the Single Survey".

That is from the minister's evaluation.

The minister mentioned the ways in which the seller can pay for the survey, but members have still not been given clear advice on that matter. How can a buyer get advice other than that which is written in the single seller survey? Many buyers want to discuss the survey—they want to ask about the roof, for example—or to get more detail on this, that and the other. However, with the single seller survey, they can get oral and further advice only by commissioning their own survey.

The surveyor who acts on behalf of the seller cannot deal with 100 buyers phoning up to ask for a wee bit more information about the damp patch. That will just not happen. The minister says that the single seller survey will end multiple surveys, but it will not. To discuss the survey of the property, the buyer—and, in many cases, the lender—will be required to find out that

information. I am delighted that the steering group stuck with the Executive, but the question is whether it had a choice in that.

Christine Grahame raised the issues of valuation shelf-life and conflict of interest. Those are major points that have not yet been answered. Of course, they will also impact on the regulations. Repossession was mentioned. When it comes to bankruptcy and repossession, who will put the money up front for the single seller survey? Euan Robson admitted that additional surveys would be required. I remind him that the financial memorandum set the survey fee at £400 and the valuation fee at £150; it also said that there would be a £120 million reduction in purchase prices. That is all in the Executive's financial memorandum.

Scott Barrie said that I spoke about Edinburgh; my response to him is that I am fully aware of the Inverness market.

The minister's commitment to work with stakeholders will, of course, be essential. I remind the minister that the Executive set the target base for the pilot at 2,000. Although the figure was amended to 1,200, it ended up as 74.

I press amendment 24.

11:15

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 24 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)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 MacDonald, Margo (Lothians) (Ind)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Crawford, Bruce (Mid Scotland and Fife) (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)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 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)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, 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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 15, Against 93, Abstentions 0.

Amendment 24 disagreed to.

Section 96—Duty to provide information to potential buyer

Amendment 25 moved—[Mary Scanlon].

The Deputy Presiding Officer: The question is, that amendment 25 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)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Crawford, Bruce (Mid Scotland and Fife) (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)

Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (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)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 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)
 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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 13, Against 94, Abstentions 0.

Amendment 25 disagreed to.

Section 97—Imposition of conditions on provision of information

Amendment 26 not moved.

Section 98—Other duties of person acting as agent for seller

Amendment 27 not moved.

Section 99—Acting as agent

Amendment 28 not moved.

Section 100—Duty to ensure authenticity of documents held under section 95 or 98

Amendment 29 not moved.

Section 101—Information to be held or provided to potential buyers

Amendment 30 moved—[Malcolm Chisholm].

The Deputy Presiding Officer: The question is, that amendment 30 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)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Crawford, Bruce (Mid Scotland and Fife) (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)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (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)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (North East Scotland) (SNP)
 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)
 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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 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)

Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 MacDonald, Margo (Lothians) (Ind)
 Matheson, Michael (Central Scotland) (SNP)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 94, Against 14, Abstentions 0.

Amendment 30 agreed to.

Amendment 31 not moved.

Section 102—Exceptions from duty to have or provide information

Amendment 32 not moved.

Section 103—Responsibility for marketing: general

Amendment 33 not moved.

Section 104—Responsibility of person acting as agent

Amendment 34 not moved.

Section 105—Responsibility of seller

Amendment 35 not moved.

Section 106—Enforcement authorities

Amendment 36 not moved.

Section 107—Power to require production of prescribed documents

Amendment 37 not moved.

Section 108—Penalty charge notices

Amendment 38 not moved.

Section 109—Offences relating to enforcement officers

Amendment 39 not moved.

Section 110—Information for tenants exercising right to purchase

Amendment 40 not moved.

Section 111—Grants for development of proposals

Amendment 41 not moved.

Section 112—Disapplication for houses not available with vacant possession

Amendment 42 not moved.

Section 113—Application of Part to sub-divided buildings

Amendment 43 not moved.

Section 114—Notification of breach of duty

Amendment 44 not moved.

Section 115 —Possession of documents

Amendment 45 not moved.

Section 116—Meaning of “on the market”, “sale” and related expressions

Amendment 46 not moved.

After section 116

Amendment 2 moved—[Christine Grahame].

The Deputy Presiding Officer: The question is, that amendment 2 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)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 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)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 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)
 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)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (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)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (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)
 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)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (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)
 Wallace, Mr Jim (Orkney) (LD)
 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)
 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 36, Against 65, Abstentions 7.

Amendment 2 disagreed to.

**Section 116B—Tenancy deposit schemes:
 regulatory framework**

The Deputy Presiding Officer: Group 12 is on tenancy deposits and interest. Amendment 47, in the name of Tricia Marwick, is the only amendment in the group.

Tricia Marwick: At stage 2, the Deputy Minister for Communities came to the Communities Committee and introduced tenancy deposit schemes, which are supported by all the committee's members—their introduction is very welcome. The schemes are necessary because of the problems that people have had in getting their money back at the end of tenancies. In too many cases, landlords have held on to the money; that has caused great problems, particularly for people who do not have the wherewithal to go to law to get their money back. I am thinking in particular about students and people who live in short-term accommodation. On too many occasions, landlords believe that the money belongs to them.

Although I wholly welcome the scheme that ministers have introduced, and I acknowledge that they will introduce regulations to give effect to it, one thing is missing from the scheme, and that is interest on deposits. Especially with longer tenancies, interest is bound to accrue. There is an argument about where it goes, but if any interest accrues on a tenant's deposit, and if we all accept that the money belongs to the tenant at all times, the interest should be given if the deposit is returned. If the Executive does not accept amendment 47, I would like ministers to say clearly who the interest belongs to, because that question has not been answered.

I welcome the proposals for tenancy deposit schemes, but the question of tenancy deposit interest must be addressed. I look forward to the minister's comments.

I move amendment 47.

Malcolm Chisholm: At first, Tricia Marwick's amendment 47 seems innocuous: it simply seeks to add to the list of matters that the tenancy deposit regulations may cover. The list is discretionary, so other matters that are not listed may also be covered by the regulations. Even

without amendment 47, ministers could prescribe in regulations what will happen to interest that is earned on tenants' deposits, therefore Tricia Marwick's amendment is not necessary.

I have other concerns that lead me to ask Parliament to reject amendment 47—it could create two further difficulties. First, we propose that tenancy deposit schemes should, as far as possible, be self-financing. If all the interest was returned to tenants, schemes would be limited to being funded by other means. That might entail a compulsory fee for using a scheme, or require the use of Government resources that would have to be diverted from other areas.

Secondly, the inclusion of amendment 47 could raise the expectation that a tenant will receive all the interest on their deposit. That would significantly constrain the debate on the range of options for dealing with tenancy deposits. The focus would then be on schemes that would maximise interest for the tenant, rather than those that will be most cost effective in relation to the extent of the problem.

We intend to consult on a number of possibilities for safeguarding tenants' deposits, including a range of financial options for funding such schemes. Some of the options include custodial schemes, in which the money would be held by an independent third party. Other options may not entail a custodial arrangement. At this stage, we neither want to rule in nor rule out whether tenants may get all the interest accrued on their deposits.

At present, it is rare for a tenant to receive any interest on a deposit that is held by their landlord. Although some options for tenancy deposit schemes might rely on part of, or even on all, the interest that is earned on tenants' deposits to fund their operation, that would still be an improvement on the current position. Use of an element of the interest that is earned on tenants' deposits may be a small price to pay for the additional security that such a scheme would bring.

On the basis that amendment 47 is unnecessary, and that it would raise expectations in what might not be the most cost-effective arrangement, I invite Tricia Marwick to seek to withdraw her amendment.

Tricia Marwick: I was minded not to press amendment 47, depending on what the minister said, but what he said did not make sense. Tenants expect to get back their whole deposit at the end of their tenancy and there is no reason to suggest that they should not get their own money back. Ministers have already accepted that deposits belong to tenants, but are now saying that a third party will hold the interest to pay for a scheme that should be self-financing, when in fact they mean that tenants will finance it and landlords will have no input.

Ministers need to be up front about the matter. If it is expected that interest will be held by third parties on behalf of a number of people, a lot of interest will be floating around among those third parties. That is cause for concern.

Regulations will, of course, cover many matters, but I do not think that it is unreasonable—on such a fundamental matter as this, concerning tenants' money—for Parliament to say that the regulations should contain a scheme whereby tenants may get the interest on their own money back at the end of their tenancy. It is not unreasonable for Parliament to say that, nor is it unreasonable for ministers to ensure that the matter will be covered in the regulations when they are made.

The Deputy Presiding Officer: The question is, that amendment 47 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)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Brownlee, Derek (South of Scotland) (Con)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (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)
 Morgan, Alasdair (South of Scotland) (SNP)
 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)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 White, Ms Sandra (Glasgow) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (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)
 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)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (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)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 39, Against 63, Abstentions 0.

Amendment 47 disagreed to.

Section 140—Penalties etc

The Deputy Presiding Officer: Group 13 is on houses in multiple occupation and enforcement.

Amendment 49, in the name of Pauline McNeill, is grouped with amendments 50 to 52 and 67.

Pauline McNeill (Glasgow Kelvin) (Lab): I thank the Communities Committee for its work on the bill and for referring to the amendments that I lodged at stage 2, although I was unable to move them myself because I was convening the Justice 1 Committee, which was considering the Family Law (Scotland) Bill.

My strong interest in regulation of houses in multiple occupation stems from the fact that the Glasgow Kelvin constituency probably has one of the highest concentrations of HMOs. The west end of Glasgow is known by many people as bedsit land because of its high concentration of properties in multiple occupation. Students and many single people tend to live in HMOs and there is a need to protect their safety. The group of amendments is about protecting individuals' safety while recognising that there are good landlords who, despite their having some concerns about the cost of registration, nonetheless comply with the registration scheme.

In my discussions with local authorities and student leaders, an issue that has arisen is the need to ensure that there is strong deterrence in law. The amendments in group 13 would raise the maximum fine for operating an HMO without a licence to £20,000. There are several precedents for that. Licensing currently covers fire safety measures in HMOs. In the future, that will be the responsibility of the fire and rescue services, under the Fire (Scotland) Act 2005. The fine for failing to comply with the requirements under that legislation will be £20,000. Under the Licensing (Scotland) Bill, the maximum fine for selling alcohol without a licence will be £20,000. Operating an HMO in England and Wales, under the Housing Act 2004, will also carry a maximum fine of £20,000.

The normal limit for summary convictions is £5,000, but guidance suggests that the figure could be higher in circumstances that involve serious harm to the public. Amendments 51 and 52 would raise the maximum fine for related offences to £10,000. The offences involve a risk that unacceptable standards of accommodation or of property management are being provided. That requires that a fine should be attached, albeit a fine of less than £20,000. In such cases, the landlord will have attempted to co-operate to the extent of having obtained a licence, but will have breached the licence in some way.

We need to give force to the legislation by ensuring that fines actually mean something. In the few cases of which I am aware, prosecutions have resulted in fines that have been lower than the registration fee. I hope that the Executive welcomes the amendments, which I think will

improve section 140 in protecting the safety of people who live in HMOs while allowing good landlords—who register and comply—to be recognised for that.

I move amendment 49.

11:30

Johann Lamont: All the amendments in the group will have a role to play in helping local authorities effectively to enforce HMO licensing. Licensing exists to protect tenants from physical danger and from exploitation by landlords whose only interest is profit. If licensing is not enforced, it does not work.

I acknowledge the work that Pauline McNeill has done on HMOs. She has highlighted her local concerns and I have met groups from her constituency, who discussed a number of issues. Pauline McNeill's amendments address the concern that the current level of fines is not a sufficient deterrent when compared with the amount of money that a landlord can make from an unlicensed HMO. Ms McNeill lodged amendments at stage 2 that the Executive was not able to support because they would have resulted in different maximum fines in different local authority areas. I did not feel able to accept that in principle, although I said that I would consider the issue further. I believe that the amendments in the group offer a better solution.

Twenty thousand pounds is a large sum of money, and is a significant increase from the current level of £5,000, which is normally the maximum amount that may be imposed on summary conviction. Exceptions can be made, however, and I believe that the proposed increase is justified. Failure to obtain an HMO licence should not be viewed as an administrative matter or merely as a lack of the proper paperwork. The penalties need to reflect the risks to tenants and the amounts of money that landlords might make from them. I therefore encourage members to support Pauline McNeill's amendments.

Another aspect of enforcement involves helping local authorities to identify HMOs. New section 160(1A) was inserted at stage 2 for that purpose. A property is required to be licensed if it is occupied by three or more people from three or more families. In investigating potential HMOs, local authorities need to know whether any of the occupiers are related, which includes people living together as couples. There are cases in which tenants have been instructed to say that they are a couple so that the landlord can evade licensing. We feel that it would be helpful to add that point to the information that local authorities can formally require to be provided, in order to put legal force behind such investigations.

Members of the Communities Committee were clearly uncomfortable with such a provision, however. Concerns were expressed about people's rights to privacy and I have taken those concerns on board. I agree that, under most circumstances, it is no business of a local authority to inquire into people's relationships. However, in situations such as I have described, that might be the one piece of information that is required to determine whether or not a crime is being committed; that is, whether or not an HMO that should be licensed is operating illegally. It is important that we retain the provision. Amendment 67 will tie the provision down to particular circumstances in which it is necessary to obtain such information. I believe that that strikes the right balance between respecting tenants' privacy and enforcing the law. I hope that members will support amendment 67.

Between investigation and penalty, there must be prosecution. I appreciate that local authorities might feel that it is very difficult to provide evidence that a certain property is the occupiers' main residence if the landlord maintains that it is not. The Executive has not lodged an amendment on that point, because I believe that it is important to retain the main-residence test. However, my officials are considering with the Crown Office and Procurator Fiscal Service and with local authorities whether there are weaknesses in the current practice and, if there are, how they might best be remedied.

The Deputy Presiding Officer: I have no time to call Pauline McNeill to make a winding-up speech on the group, nor to invite speeches from back benchers.

Amendment 49 agreed to.

Amendments 50 to 52 moved—[Pauline McNeill]—and agreed to.

Section 149—Interpretation of Part 4

Amendment 53 moved—[Malcolm Chisholm]—and agreed to.

After section 154

The Deputy Presiding Officer: Group 14 is on repayment charges. Amendment 54, in the name of the minister, is grouped with amendments 55 and 56.

Malcolm Chisholm: It has always been the Executive's intention that the bill would include a mechanism similar to the charging order regime in the Housing (Scotland) Act 1987 that would enable local authorities to recover the costs of works that they have carried out. Amendments 54 to 56 will introduce an updated version of the charging order, called the repayment charge, which will retain the main features of the charging order.

A local authority is entitled by the bill to recover certain expenses it has incurred—there is no time to list them all. Amendment 54 will provide that a local authority may recover such amounts by placing a repayment charge on the living accommodation concerned, or on the site when a house has been demolished. The repayable amount will be due in 30 equal annual instalments, but early redemption is possible and is likely to take place when the house is sold.

Amendment 55 will provide reassurance to local authorities that the money that they spend when owners fail to carry out work that is required is secure and recoverable from any owner of the property, once the repayment charge has been registered. The repayment charge will be a continuing burden that will not be extinguished by sale of the property.

Amendment 56 will give ministers powers to make by order further provisions about repayments under a repayment charge, and about early redemption.

I move amendment 54.

Amendment 54 agreed to.

Amendments 55 and 56 moved—[Malcolm Chisholm]—and agreed to.

Section 155—Matters relevant to deciding whether person is fit and proper to act as a landlord

The Deputy Presiding Officer: I have decided to invoke rule 9.8.4A to provide that the debate on group 15 should finish 10 minutes later than was provided for in the timetabling motion.

Group 15 is on the letting code. Amendment 57, in the name of Cathie Craigie, is the only amendment in the group.

Cathie Craigie: Amendment 57 will, for the purposes of the fit-and-proper-person test, at the point when the letting code is being introduced, assess whether local authorities are taking into account bad management practices and unlawful evictions and harassment. That will not only inform the letting code and any accompanying guidance, but will enable discussion about whether further measures are needed to tackle bad management practices in the private rented sector. The issues were discussed during stages 1 and 2. Amendment 57 should be agreed to.

I move amendment 57.

Malcolm Chisholm: Amendment 57 deals with concerns about levels of unlawful eviction and harassment, which were raised in an amendment at stage 2. That earlier amendment called for local authorities to appoint specialist officers to pursue cases of illegal eviction and harassment under the

existing provisions in the rent acts. However, we feel that the introduction of private landlord registration from 31 March next year will provide a new and effective route for local authorities to deal with landlords who treat their tenants in such ways.

Discussion on the issue has been hampered by a lack of clear evidence on the incidence of unlawful eviction and harassment. Section 92A of the Antisocial Behaviour etc (Scotland) Act 2004 requires ministers to assess the effectiveness of existing obligations and voluntary arrangements before they make a letting code, which would be a factor in the test whether a person is fit and proper for registration. Amendment 57 makes it explicit that that assessment will include the question of unlawful eviction and harassment. I am happy to support the amendment, because of the extra assurance that it will give.

Amendment 57 agreed to.

The Deputy Presiding Officer: That ends consideration of amendments at this stage. I will give members 30 seconds to sort themselves out.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Sex Education

1. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive whether the promotion in schools of the Billings ovulation method of family planning is consistent with the aims of its sexual health and relationships strategy. (S2O-8232)

The Minister for Health and Community Care (Mr Andy Kerr): The Executive has no evidence that the Billings method of family planning is being promoted in schools.

Patrick Harvie: I am glad that there is no evidence, but I asked whether promotion of the method would be consistent with the strategy. I will assume that the minister would say that it is not. Will he go further and say that much of the information—I use the word advisedly—that is provided by the organisations that promote the Billings ovulation method in appropriate environments is highly inappropriate in schools, because it leads young people to assume that condoms are an unreliable method of protection, when in fact they protect not only against pregnancy but against sexually transmitted infections, which Billings and similar methods do not?

Mr Kerr: The organisation concerned acknowledges that it does not consider the method to be suitable for teenagers. Therefore, I suspect that the question is based on a wholly inaccurate report in one of our Sunday newspapers. I reassure Patrick Harvie that there is no evidence that the Billings method is being promoted in schools. His question was based on a false premise.

European Union Legislation

2. Nora Radcliffe (Gordon) (LD): To ask the Scottish Executive what discussions it has had with the European Commission regarding the commission's plans to simplify existing and forthcoming EU legislation. (S2O-8175)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Scottish Executive ministers and officials have regular meetings with their counterparts in the European Commission during which the better regulation agenda is one of the many issues that are discussed. The Executive whole-heartedly supports the

Commission in its efforts to simplify existing and forthcoming legislation.

Nora Radcliffe: Does the minister agree that, as a Parliament that must deliver much European legislation, our involvement in the process is vital? Does he agree that we must move forward on the basis of the conference of European regions with legislative power declaration in Munich this week, that the European Commission should consult regions and nations that have legislative power when it proposes new laws that would have been delivered by the constitutional treaty? What is the Executive doing to pursue that at Europe and Westminster levels?

Mr McCabe: We very much agree that regions that have legislative powers should have far greater input to development of legislation in the European Union. Nora Radcliffe is right to say that, had the constitutional treaty gone through, that would have been important to us. However, as we have said before, there is no reason why that part of the agenda cannot be taken forward even though the constitution is on hold at the moment. We liaise regularly with United Kingdom representation in Brussels on that and on the better regulation agenda, and we attend working groups there. The issue is important for us; the First Minister has had discussions on it with senior representatives in Brussels. We will continue to pay considerable attention to it as we try to improve the business environment and lift the burden of regulation where appropriate.

Mr John Swinney (North Tayside) (SNP): Is the minister satisfied that all the Scottish Executive's concerns in relation to the transposition of EU legislation and EU regulation into domestic law in connection with the single farm payment scheme have been addressed? Does the Executive have any remaining concerns about how it is interpreting the detail of the single farm payment scheme as it applies to farmers in this country?

Mr McCabe: I have to confirm that I do not—given that I have something of a life—carry that kind of detail around with me, but I am more than happy to respond to John Swinney in writing as soon as possible.

Phil Gallie (South of Scotland) (Con): Does the minister welcome the First Minister's comments in the Regleg meeting to which Nora Radcliffe referred—his comments underlined a point that I have made all along—that there was no need for us to sign up to the constitutional treaty for the Parliament to have a voice in European affairs?

Does the minister have concerns about the Commission's work programme for the coming year? It is clear that the Commission intends to

extend legislation and regulation, contrary to the motive of simplification to which Nora Radcliffe referred. What will the minister do about that?

Mr McCabe: On the contrary, the Commission has committed itself to a three-year programme and is determined to reduce wherever possible the burden of regulation on business and on the public sector. A very robust programme is taking a backward look at the impact of legislation that is already in place. There are high hopes—that come from the revamped Lisbon agenda—that that work can make a substantial difference.

Irene Oldfather (Cunninghame South) (Lab): Does the minister agree that, in addition to better regulation and simplification of the European Union's legislative process, greater transparency would be welcomed by Europe's citizens? For example, does he believe that when the Council of Ministers is in legislative session, its meetings should be open? Will he ensure in discussions with United Kingdom colleagues that there is a commitment to bringing into the legislative process greater openness and transparency in that way? Albeit that the UK submitted the proposal during the process on reform of the treaty, will he ensure that the issue remains on the agenda in order that the Commission can engage better with Europe's citizens?

Mr McCabe: I confirm that the Scottish Executive is determined wherever possible to promote transparency. At the meetings that we attend—including the joint ministerial committee on Europe—we will continue to make such points.

Irene Oldfather has raised an important point. If there is a single identifiable difficulty with Europe it is that citizens often find it very difficult to understand the legislation that is passed and the methodology that is employed to develop legislation. The more we can improve people's understanding of the institution, the more they will realise how positively it impacts on their daily lives.

The Presiding Officer: Question 3 was not lodged.

Schools (Bullying)

4. Irene Oldfather (Cunninghame South) (Lab): To ask the Scottish Executive what measures are being taken to tackle bullying in schools. (S2O-8216)

The Minister for Education and Young People (Peter Peacock): The Executive supports a range of initiatives to combat bullying as we regard any bullying to be unacceptable in our schools.

Irene Oldfather: Is the minister aware that sometimes, for what schools believe to be good reasons in respect of personal safety, victims of bullying are sent home, kept in at breaks and

taken out of classes? Does he agree that segregation of innocent parties sends out the wrong message and contributes to the emotional distress of young people who suffer from bullying? Will he give an assurance today that he will, in discussion with local authorities and head teachers, consider how we can ensure that the perpetrators rather than the victims are isolated and singled out?

Peter Peacock: I agree with the sentiment that Irene Oldfather expresses. New policies and new approaches, which build on good practice that we know works, are constantly being developed to deal with bullying. The intention of the policies is very much to focus on the perpetrators and to support the victims. The aim is also to ensure that the perpetrators face up to what they have done and that they try, wherever possible, to make reparation to their victims. Sophisticated schemes that are now in operation in schools use restorative practices to allow a better transition back into school for the perpetrator so that he or she can continue their education, while also ensuring that the needs of the victim are taken into account. If there is a need to reinforce that point, I am more than happy to do so.

Loch Lomond and the Trossachs National Park (Byelaws)

5. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive when it will make a decision on the proposed byelaws for Loch Lomond and the Trossachs national park. (S2O-8186)

The Deputy Minister for Environment and Rural Development (Rhona Brankin): The period of public consultation on the draft byelaws that have been proposed by Loch Lomond and the Trossachs National Park Authority ended on 28 October. The park authority will need to consider the issues that are raised by the consultation before it submits draft byelaws for consideration by Scottish ministers.

Jackie Baillie: The minister will be aware that my view, whatever byelaws are ultimately agreed, is that the key issues will be enforcement and the need to ensure that a robust regime is in place. I am grateful to the minister for the additional £30,000 for additional enforcement, but will she agree to continue that funding beyond 31 March and to meet Sylvia Jackson and me to discuss the proposed byelaws?

Rhona Brankin: Jackie Baillie will be aware that additional funding is already in place to increase the ranger presence on Loch Lomond during the summer months. Indeed, there is also additional funding for additional legal support.

Of course, funding resources to police the new byelaws will be a matter for the park authority, and

it will have to manage its budget as it sees fit. I am aware that this is an important issue, and I am always happy to meet members to discuss important issues.

Dr Sylvia Jackson (Stirling) (Lab): I give my whole-hearted support to Jackie Baillie's point. My question is about the possible need for agreement between water users to ensure that events such as regattas can still take place at agreed times. Such agreements may be necessary, depending on the final zoning arrangements that are to be agreed by the national park board. Will the minister agree to meet Jackie Baillie and me at the appropriate time to discuss such issues?

Rhona Brankin: Yes. I am happy to meet members. Ministers have not yet had the draft byelaws submitted to them, so I assume that Sylvia Jackson is making her point to the national park authority. However, I am happy to meet her.

Sportscotland (Meetings)

6. Michael Matheson (Central Scotland) (SNP): To ask the Scottish Executive what recent meetings have taken place between it and sportscotland in respect of promoting sport and physical education. (S2O-8147)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): Regular meetings and discussions take place between the Executive and sportscotland on a range of issues connected with promotion and development of sport.

Michael Matheson: I thank the minister for her response. I hope that in the course of those meetings, the minister has an opportunity to mention the failure of sportscotland to meet several of its key sport 21 objectives, on some of which there has been a lack of progress, while others are in reverse.

Can the minister explain why, since the introduction of sport 21, the number of children participating in sport outwith school has decreased by 7 per cent, why the number of children from deprived communities participating in sport has decreased by 6 per cent, and why, in the two years since the policy was introduced, we seem to have lost some 20,000 volunteers from delivery of sport in our communities? As the minister responsible for sport in Scotland, can she explain what action she is taking to make sure that that failure is reversed?

Patricia Ferguson: Unfortunately, Mr Matheson has started off under a bit of a misapprehension about sport 21. Sport 21 is not only sportscotland's responsibility; its implementation is the responsibility of a range of partners.

The important point about sport 21 is that we introduced it because we are aware that the trends

are downward and because we want to reverse them. We had to spend time in the first couple of years putting in place infrastructure that would help us to support developments in sport. We have done that: we now have 627 active schools co-ordinators in place across Scotland. In the years ahead we will see those figures climb to the kind of figures that we want to see, and perhaps we will even exceed the ambitious targets that we have set. Great progress has been made, and we will see that reflected in the figures in the future.

Mr Jamie McGrigor (Highlands and Islands) (Con): Does the minister agree that it is imperative that the governing bodies of sport be consulted on how best to promote lifelong participation in sport and physical activity at grass-roots level? Will she undertake to ensure that the Scottish Executive sports division works together with sportscotland and the Scottish Sports Association in particular to ensure that the momentum that has been created by the 2012 Olympics is maintained?

Patricia Ferguson: I find myself in a very interesting position: I do not disagree with a word that Jamie McGrigor said.

It is imperative that we continue discussions with the governing bodies of sport, and that is done regularly. We hold discussions with other interests in sport, too. Mr McGrigor is absolutely right to say that the impact of the London Olympics—and, we hope, the Commonwealth games in Glasgow—could have an extremely significant effect on elite and grass-roots sport in Scotland. It is our intention to make sure that we capitalise on both events.

Mr Frank McAveety (Glasgow Shettleston) (Lab): I welcome the minister's responses to the questions. If we are serious about tackling some of our worst health statistics through sport and physical education, the strongest message that we could send would be through determining that the headquarters of our national sports quango be located with the national sports arena in the east end of Glasgow. When will a recommendation be made on the location of sportscotland?

Patricia Ferguson: I am grateful to Mr McAveety for his interest. I know that he has a particular interest in the location that he mentioned and I am not at all surprised that he has asked that question.

It is important to ensure that we have a way forward for sport in Scotland that makes sense, that is co-ordinated and that involves all the governing bodies, which Mr McGrigor rightly mentioned. Our ambitions for sport in Scotland are extremely high and we intend to ensure that support exists so that we can work towards our ambitions. We hope to make an announcement on

the location of sportscotland in the very near future.

National Health Service (Missed Appointments)

7. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive what plans it has to reduce the number of appointments missed by patients at NHS hospitals and general practitioner surgeries. (S2O-8208)

The Minister for Health and Community Care (Mr Andy Kerr): Our patient leaflet entitled "The NHS and You" outlines what people can expect from the national health service and what the NHS expects from patients, which is important. Keeping appointments and advising of cancellations is a key aspect of patients' responsibilities. We are working hard with hospitals and general practices throughout the country to ensure that people make appointments at times and locations that are convenient for them. We will continue that work.

Michael McMahon: The minister will be keen to ensure that people who seek and receive appointments in GPs' surgeries in the NHS keep those appointments. Does he agree with a constituent of mine—Mr Bettley of Bellshill—that it is totally unacceptable that he must wait for three weeks for an appointment with his GP in the knowledge that dozens of appointments have not been kept in that practice? Does he agree that there may be merit in a three-strikes-and-you're-out approach, which would encourage people to keep GP appointments?

Mr Kerr: I would be happy to discuss those issues with Mr McMahon. There have certainly been good innovations in the NHS in Scotland; there is the patient-focused booking system in our hospitals, for example, which is now working effectively and is reducing the number of cancelled appointments. That means that health service resources will be used better and that there will be improvements for all other patients. A GP practice in the west of Scotland has, through innovations, achieved an 84 per cent reduction in the number of patients who miss appointments. Non-attendance at appointments is always a tragedy for the NHS and I am happy to consider how we can ensure that we make patients more responsible for their actions.

However, there are, because of the conditions of people with whom the NHS works, difficulties in respect of the three-strikes-and-you're-out approach and fining patients. Therefore, I want to consider ways of focusing on and helping individuals to ensure that they do not miss appointments. There are concerns about prescriptive methods but, of course, I am always happy to consider new ideas for the health service in Scotland.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I am happy that the minister has said that doing anything that would put people off accessing NHS facilities would probably be a retrograde step, but will he take on board a practical suggestion? Many doctors in the private sector have administrative staff who ring up their patients in advance to ensure that their appointments are kept.

Mr Kerr: I reassure the member that the best examples—including the GP practice that I mentioned in the west of Scotland that has achieved an 84 per cent reduction in the number of patients who miss appointments—do exactly that. Patients are contacted by e-mail, by text messages and by phone calls to remind them of their appointments. Such innovations will continue to be used in the best interests of the service and patients.

Fresh Talent Initiative

8. Rosie Kane (Glasgow) (SSP): To ask the Scottish Executive whether the same criteria apply to applications under the fresh talent initiative from Africans as to applications from Canadians. (S2O-8168)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The same criteria apply to people from Africa who apply to the fresh talent working in Scotland scheme as apply to applicants from Canada.

Rosie Kane: I am sure that the minister will agree that it is in our best interests to welcome hundreds and thousands of people to Scotland—indeed, the First Minister recently visited Canada in order to do just that. Does he agree that it would make sense to tap into the talents of our new citizens—asylum seekers? Some 30 countries are represented in Glasgow alone, including people from Africa, Iraq, Iran and so on. Does he agree that a policy that actively excludes those extremely skilled people smacks of racism? Is the Executive capable of prising Westminster's foot from its neck in order to secure the future of vulnerable people and the future of our vulnerable economy?

Mr McCabe: I agree with the first sentiments that Rosie Kane expressed. We are keen to attract as many people as possible to live, work and study in Scotland, thereby enhancing our society and making a vital contribution to our economy.

We also welcome people who seek asylum in our country and who have been assessed as having entered the country legally and as having a legal right to stay in this country. When those proper processes are completed, we are more than happy to welcome such people to play an important part in our economy.

First Minister's Question Time

12:00

Prime Minister (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister when he will next meet the Prime Minister and what issues he intends to discuss. (S2F-1939)

The First Minister (Mr Jack McConnell): When I next meet the Prime Minister, I will tell him that I am ashamed of Scotland's Opposition parties. I will tell him that the way in which Nicola Sturgeon and others have this week condemned the improvements for the children of asylum seekers in England does not reflect Scottish public opinion. I will tell him that the Scots are good people, that we care about others and that we will not allow petty party politics to distort our national character.

Nicola Sturgeon: I do not know what planet the First Minister lives on. I have never opposed improvements to the treatment of asylum seeker children in England. I want improvements for asylum seekers everywhere.

I draw the First Minister's attention to comments made by his Minister for Communities, Malcolm Chisholm, who, when asked on 22 September about the Executive's position on the use of dawn raids to remove asylum seekers from Scotland, said, "we are against that". Was Malcolm Chisholm speaking on behalf of the Executive?

The First Minister: This Parliament spoke unanimously on the matter. It said unanimously—although with the abstention of the Scottish National Party rather than with its whole-hearted support—that we should convey to the Home Office the widespread concerns about practices such as so-called dawn raids, the handcuffing of children and the removal of children by large groups of officers in uniform and body armour. The ministers around me have been conveying those widespread concerns, as have our officials on our behalf.

In the discussions that we have had with the Home Office—as the Home Office minister made absolutely clear this morning in his interviews on the BBC—we have not only influenced the position that will exist here in Scotland, but we are on the verge of securing improvements to the system across the whole United Kingdom. That might be a problem for the SNP, the Greens and the Trots. It should not be a problem for the Tories and I would be surprised if it were. It is a better thing than could have happened before.

It is better that the forced removals in Scotland will happen in a more humane way and it is better

that the education and social services in Scotland will be engaged well in advance of any decision to go ahead with a forced deportation. Further, it is better that that will happen in other parts of the UK as well as in Scotland.

Nicola Sturgeon: The so-called improvements that the First Minister refers to relate to something that, yesterday, the Home Office minister said “already happens”.

I asked the First Minister a specific question. When Malcolm Chisholm said that the Executive opposed dawn raids in Scotland, was he speaking on behalf of the Executive? The First Minister has not said that he was not. In light of that, why did the Home Office minister say this morning that the First Minister has never, ever asked him to cease the practice of dawn raids in Scotland or anywhere else?

The First Minister: I have made clear that the Parliament spoke with one voice on this issue. When the Parliament spoke with one voice, we acted on that opinion.

We have also made crystal clear in this chamber that, perhaps unlike the SNP—although we do not know because we do not get the detail—we believe that the system of asylum and immigration in this country has to be fair and consistent but will sometimes involve the removal of people who have failed in that system. That is distressing for the individuals involved and needs to be done humanely. The descriptions of how some of the cases have been handled in the past are descriptions that we should challenge, and we should change the system accordingly.

However, a system has to exist. I made that clear in the chamber in September, again on 6 October and again last week, when I was asked the same question by Shiona Baird of the Greens. The position is crystal clear. There has to be a system and that system will involve deportations, but when they happen in Scotland we want them to happen humanely. That is what will happen.

Nicola Sturgeon: I say to the First Minister that the Parliament did indeed speak with one voice. The problem is that the First Minister did not raise his voice to the Home Office. Is not it the case that the First Minister led the Parliament to believe that he opposes dawn raids and that he was negotiating a protocol with the Home Office to stop them happening in future? Now that we know that he has never raised the issue with the Home Office, that there will be no protocol and that dawn raids, in the words of a Home Office minister this morning, will remain a central part of the immigration system, the First Minister tries to rewrite history and tell us that he was never opposed to dawn raids in the first place. Is not it time for the First Minister to stop insulting

everyone's intelligence and to stand up and be honest about his failure to deliver what he promised?

The First Minister: It is always hard to respond to the answers when one has a prepared script. I want to be clear about a number of things Ms Sturgeon's question refers to.

I looked up “protocol” in “Roget's Thesaurus” this morning. The first synonym for protocol is agreement. We are not dancing on the head of a pin about a word here. I say to Ms Sturgeon that we are trying to look after children, not to play with words or to play petty party politics.

Let us talk about leadership. Only last week, the member who remains the deputy chief whip of the SNP said:

“I can't in all honesty put myself forward to fight on a policy and a direction I don't believe in ... It's inaction that's our problem.”

How right he is. [*Interruption.*]

The Presiding Officer (Mr George Reid): Order.

The First Minister: This morning, I also checked how often members of the SNP who have been elected to the House of Commons with a duty to raise these matters have raised them with Home Office ministers on the floor of the House of Commons during the past two months. I found that the answer is not once. Let us take no lessons in leadership from the absentee Alex Salmond or anybody else in the SNP.

When we came to the chamber in September and said that we were concerned about the practices we had learned about and that we wanted to ensure that education and social services became involved with children well in advance of any decisions being made, we meant it. We were supported by the chamber and we have carried out our promise. When the system changes, not just in Scotland but across the UK, I will be very proud that we have not only changed what happens in Scotland, but that we have influenced a policy and helped to protect children elsewhere, too. If SNP members had any decency left, they too would be proud of that.

The Presiding Officer: Ms Sturgeon, this must be your last question.

Nicola Sturgeon: Whatever the definition of protocol, the Home Office minister said loudly and clearly on the radio this morning that there will not be one. That is the reality. Is it not the case that the First Minister's complete lack of influence has been exposed in this episode? Does he not understand that if he wants to influence these matters, this Parliament must have the power to decide on them? If the First Minister keeps

promising and cannot deliver, he will continue to let people down and the Home Office will continue to make him look foolish.

The Presiding Officer: Order.

The First Minister: I thought that the debate in September was one of the most mature, reflective and, eventually, consensual that we have had in the six years since we were first elected. The issue is not about the personal egos of politicians, their relationships with other politicians or anything else; it is about the children and the impact that these policies will have on them. It is also about our responsibility and duty to ensure that children are properly protected and treated humanely. That is precisely what we have considered since the debate in September and precisely what we will continue to consider.

When we secure the agreement, the constitutional politics into which Ms Sturgeon eventually developed her argument in her final point will be shown for the sham it is. We in this country need to ensure that we do not just exert our own powers, but use them to influence the powers of others. In this case, we have done and will do that. As a result, the children of asylum seekers in Scotland and elsewhere in the United Kingdom will be treated better.

Cabinet (Meetings)

2. Miss Annabel Goldie (West of Scotland)

(Con): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-1940)

The First Minister (Mr Jack McConnell): The Cabinet will discuss many issues of importance to Scotland at next week's meeting.

Miss Goldie: I hope that that will include a discussion about the difference between agreements, protocols, wishful thinking and pie in the sky. The spectacle to which Ms Sturgeon referred depicts a dented First Minister and a badly damaged Executive that are both clearly given scant regard at Westminster. That does not augur well for my getting any sense out of the First Minister on issues that are important to the people of Scotland, but I shall try.

Given the news today that, according to the National Grid, the country is not awash with gas and faces a tight winter, does the First Minister accept that existing energy sources will not meet future demand in Scotland?

The First Minister: We in Scotland have a clear and progressive energy policy of not only supporting our existing energy industries but, at the same time, developing the technology and resources to ensure that renewable energy can play an increasing part in Scotland's future. We

are doing that in a way that not only ensures a better supply and a more sustainable Scotland but helps Scottish companies to be more competitive internationally.

Miss Goldie: Frankly, the First Minister can waffle all he wants, but a real and immediate problem faces Scotland. The lights may be going out on the Scottish Executive, but, as the House of Commons Select Committee on Scottish Affairs has warned, we cannot afford to have the lights go out over Scotland.

The First Minister's Westminster colleagues may ignore him, but the First Minister cannot ignore them or their support for continued nuclear energy generation. Therefore, will he confirm that he will not block any planning process to recommission nuclear energy in Scotland?

The First Minister: Our position on that is clear: we will not support the development of new nuclear power stations in Scotland until the nuclear waste management issues have been resolved.

Miss Goldie: If only Scotland's energy needs could be satisfied by the First Minister's hot air. It is perfectly clear that we need specific answers now. For the First Minister to imagine that the two processes must be consecutive is blockheaded and nonsensical. They can be concurrent; only a finite timescale is available. What is the timescale? Given the Prime Minister's apparent recognition of the need to replace nuclear with nuclear, what discussions is the First Minister having or intending to have with his Westminster colleagues to ensure that Scotland has an adequate energy supply for the future?

The First Minister: Our discussions with our colleagues in Westminster and Whitehall will be based around our policy, which is to ensure that 40 per cent of our electricity in Scotland is generated from renewables by 2020 and that we continue to support the technology and the capacity that will help that to happen. We will reiterate our clear policy position, which is that we will not support new nuclear power stations in Scotland until the important nuclear waste issues are resolved. The fact that the Conservatives do not seem to care about nuclear waste disappoints those of us who care about the environment and about the future of people in Scotland.

Asylum Seeker Removals

3. Colin Fox (Lothians) (SSP): To ask the First Minister on what date the Scottish Executive expects to announce the details of the proposed new protocol between the Scottish Executive and the Home Office covering all removals of the children of asylum seeker families in Scotland. (S2F-1948)

The First Minister (Mr Jack McConnell): We will announce the details as soon as possible. The discussions are complex and we will work towards achieving the right outcome.

Colin Fox: I listened carefully to the First Minister's conversation with Ms Sturgeon. His position is now abundantly clear. The First Minister has concerns, but is it not the case that, in the final analysis, the First Minister supports the forced removal of asylum seekers, supports the use of dawn raids, supports the use of sledgehammers to break down doors, supports the use of handcuffs, supports the deployment of 12 immigration officers at a time, clad in body armour, and supports the manhandling of children in their nightclothes into a waiting van to be whisked away? He just wants it to be done more sensitively.

Is it not the case that, over the past two months, the First Minister has given Parliament the clear impression that he agrees with Malcolm Chisholm that the raids were heavy handed, completely over the top and unacceptable, but that he now appears to share the view of Tony "Jackboot" McNulty, who says that in no sense can the raids be described as terrorising children? Is it not the case that the First Minister has been trumped by Mr McNulty and has made a complete U-turn?

The First Minister: The answer, of course, is no. I have never heard such a ridiculous description of my opinion or of that of this Parliament.

The position that this Parliament adopted was not that there should be no deportations of people who have failed in this country's immigration system; the position that this Parliament adopted was that concerns about the way in which some deportations take place should be conveyed to the Home Office and that we should press for changes in the way deportations happen. That is exactly what has been happening.

Colin Fox would do better to support the will of this Parliament—I understood on the day that Parliament expressed its will that the Scottish Socialist Party supported it—and to ensure that we come to a good conclusion.

Colin Fox: That is the second time this afternoon that the First Minister has referred to improvements and agreement. Will he tell us what differences his new agreement or improvements will make to the next family that faces forced removal? How will their experience compare with that of the Vucaj and Ahmed families, or that of the Kupeli family who, having lived in the Gorbals for four years, were suddenly dragged from their beds at dawn on 16 October? The family included nine-year-old Suna and her six-year-old sister, who wet herself because she was so frightened of the 12 uniformed immigration staff. The immigration staff

bundled Suna, her mum, her dad and her sister off to a detention centre. Will the First Minister tell us when such abuse will be a thing of the past? Does he agree that it is time we had an amnesty for asylum seekers who have lived here for more than a year and that they should be allowed to stay?

The First Minister: There is a system for those who have waited the longest, and the system is used by some people who currently stay in Scotland. It would be wrong to give those people the impression that that option does not exist for them.

Tony McNulty, the minister with responsibility for immigration, has made it clear that matters should be dealt with on a case-by-case basis. In this country, we have to have—and those who oppose this will have to face the consequences of their position—a system whereby, when people have failed in the immigration or asylum systems and do not voluntarily agree to leave the country, there can be forced deportations. That is unfortunate and all of us wish that such deportations did not happen, but they have to happen. They happen in every developed country in the world.

My objective—and, as I understood it, the objective of this Parliament—is to ensure that when deportations have to happen, education services and social services are involved well in advance, to influence the decision as well as its implementation and to ensure that deportations are implemented humanely and under proper guidelines. Those are our objectives and we are making considerable progress on ensuring that that is what happens not only in Scotland, but elsewhere in the United Kingdom. We will continue to make progress and will report to Parliament when we have reached an agreement.

Patrick Harvie (Glasgow) (Green): I begin by expressing my deep and serious rejection of the First Minister's allegation that any politician of any party has expressed resentment at improvements in the asylum system across the whole of the United Kingdom. I remind the chamber that it is the UK Government's opt-out from the United Nations Convention on the Rights of the Child that is the key source of so much of the resentment about the way in which the system operates.

I am not, as Tony McNulty suggested, hung up on the idea of a protocol; nor are the schoolchildren in Drumchapel, to whom the First Minister—

The Presiding Officer: Question, please.

Patrick Harvie: My question to the First Minister is this: if not through a protocol, then by what mechanism will the Scottish Executive live up to its acknowledged responsibilities to the children of asylum seekers in Scotland? After all, the First Minister is not merely the advocate for local

service providers; he is the leader of the Government in Scotland. If he started behaving like it, they might start to treat him like it in London.

The First Minister: In a spirit of generosity, I welcome Patrick Harvie's disassociation from the way in which Chris Ballance treated this matter in the chamber yesterday afternoon and the constructive way in which he has put his question. I will respond in an equally constructive way.

The agreement put in place will, in Scotland, have to be reached between the UK Government's Home Office and its agencies and the Scottish Executive and our agencies. It will be a proper agreement, but it will be reached after due discussion. Indeed, in response to Patrick Harvie at the last First Minister's question time in September and after my very first discussion of the matter with Charles Clarke, I said that it would go wider than Scotland. I hope that, when the agreement is made elsewhere in the UK, the Scottish Green party will welcome it.

Mike Pringle (Edinburgh South) (LD): At 5.30 on 26 September, an Iranian mother and her two children, who live in Morningside in my constituency, were subjected to a dawn raid. However, their circumstances were different. They were handcuffed and taken by van to a London detention centre. Although they produced the correct paperwork, their case was on-going and had still to be decided on. They were held in London for four days before being released to return to Edinburgh.

Will the First Minister assure me that he will do everything in his power to have such heavy-handed action stopped and that he will raise the matter with Mr McNulty when he meets him? Does he agree that we cannot have confidence in an immigration system that allows such a dreadful mistake to happen?

The First Minister: From experience of how some claims about individual cases turn out not to be accurate in every respect—although I am not saying that that is the case in this instance—I do not comment in the chamber on individual cases. Such matters are dealt with by the proper authorities.

The most important point is that authorities must prepare properly for such decisions. Indeed, I think that, if education and social services are involved in any decision about deportation and ensure that the position of children is properly looked after, better and more sensitive decisions will be made in cases such as the one Mike Pringle has outlined and it will not be necessary, after people have travelled such a distance and protested about their treatment, to have them returned and released in the way he described.

One reason for ensuring that proper advance discussions take place is to ensure that initial decisions are based on full and accurate information and on a complete picture of the family's life in the local community. That is why the agreement is so important; why we continue to pursue it; and why we are pleased to make some progress.

Margo MacDonald (Lothians) (Ind): The Parliament knows that, yesterday, I asked the First Minister to restate the Executive's position on this matter. I believe that he has done so today. However, my question concerns the outcome of his failure to influence the Home Office minister who is here today. If nothing changes, does that prove that we need power, not merely influence?

The First Minister: In response to an earlier question, I said that, in my view, this matter is not about political egos, personalities, positions or relationships between ministers. I do not want to detract from the importance of this issue for the affected children.

In response to Margo MacDonald, I must say that this morning the Home Office minister with responsibility for immigration said on BBC's "Good Morning Scotland" that the changes that will come about will do so

"because of pressure from the First Minister and the Scottish Executive".

When the Home Office minister with responsibility for immigration describes a willingness to make changes across the system because of a decision made by this Parliament and enacted by me and by other ministers in the Scottish Executive, we might want to say now and again that the Parliament did a good thing, that it stood up and was counted, that the UK Government listened and acted, and that perhaps that was one of the reasons why the people of Scotland wanted a Parliament in the first place.

Police Safety

4. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the First Minister whether there will be any review of the safety of police officers acting in the line of duty. (S2F-1942)

The First Minister (Mr Jack McConnell): The tragic events in Bradford highlight the dangers that our police officers face daily while they are protecting our communities. Our sympathies go out to PC Beshenivsky's family, friends and colleagues.

Her Majesty's inspectorate of constabulary for Scotland undertook a thematic inspection of personal safety equipment across the Scottish police forces in 2004. Police officers' safety and

police firearms capability are kept under constant review.

Pauline McNeill: I thank the First Minister for his answer and echo his comments about the tragic circumstances in Bradford and the understandable outcry that followed. Does the First Minister agree that it would be wrong to conclude that it would be safer routinely to arm officers who are called to serious incidents without first considering the dangers of police officers carrying guns, including the dangers to themselves? Does he agree that there are other options? Does he further agree that it is right for chief constables continually to review the use of firearms and the 800 officers who are currently trained in the use of weapons? Does he agree that such reviews should explore the use of other weapons, such as Tasers, so that the safety of police officers who are acting in the line of duty—and the safety of the general public—can be assured?

The First Minister: It is important to keep those matters under constant review. We have an outstanding police force in Scotland that does its job in the most professional of ways. Police officers have outstanding training facilities and they are subject to top-quality training in advance of taking on the job and when they are on the job. They do not use firearms lightly, but there are circumstances in which they are allowed to carry them. When they do, they are subject to the law in Scotland. That is the right place for Scotland to be right now, but clearly the number of times and the circumstances in which firearms and Tasers can be used by police officers will be kept under review and we will discuss that constantly with the Association of Chief Police Officers in Scotland and others.

Nuclear Power

5. Richard Lochhead (North East Scotland) (SNP): To ask the First Minister what contribution the Scottish Executive will make to any future reviews on nuclear power undertaken by the UK Government. (S2F-1953)

The First Minister (Mr Jack McConnell): We will argue for a balanced energy policy and state clearly our position that we will not support further development of nuclear power stations while waste management issues remain unresolved.

Richard Lochhead: Does the First Minister accept that the best way to deal with the problem of nuclear waste is not to produce it? Will he therefore go on record as accepting that energy-rich Scotland does not need dirty, expensive and dangerous nuclear power when we have so many better alternatives? We can develop cheaper, cleaner and safer green renewables such as carbon capture and storage technology that can

allow us to use fossil fuels cleanly. Will the First Minister go on the record and say plainly to the Prime Minister in London that Scotland does not want any more nuclear power stations because of the many reasons for opposing them? Will he stand up for Scotland on that issue and not bow to pressure from Tony Blair or the nuclear lobby?

The First Minister: I understand that listening is sometimes difficult for the SNP, but I think I have stated our position very clearly and that position remains our stated position. It will, of course, be conveyed to any energy review that is done. We will not only make that statement; we will argue the case and explain why we take this stance.

In the meantime, we will continue to promote renewable energy, as Mr Lochhead suggested. It will, however, be important for us to be consistent in that approach. For anyone who missed this discussion the last time it took place in the chamber, I remind everyone that Mr Lochhead has two opinions on this subject and it depends on whom he is talking to. He is keen to support renewable energy when that is popular, but when the heat is on and there is opposition to particular developments, he is very keen to support that opposition. The best form of renewable energy in this chamber might come from Mr Lochhead's hot air. After his performance yesterday afternoon, perhaps Mr Aitken could provide the base-load.

St Andrew's Day Celebrations

6. Dennis Canavan (Falkirk West) (Ind): To ask the First Minister what preparations the Scottish Executive is making for the celebration of St Andrew's day. (S2F-1941)

The First Minister (Mr Jack McConnell): Our Scottish Government is determined to expand the programme of events to celebrate St Andrew's day in Scotland and across the world. St Andrew's day 2005 will show that we are making progress, and I refer the member to the answer provided on Tuesday 22 November by the Minister for Finance and Public Service Reform to PQ S2W-20087.

Dennis Canavan: It would be churlish not to welcome any measure—even a half measure such as the ceilidh announced earlier this week by the Scottish Executive—to celebrate St Andrew's day, but does the First Minister accept that a ceilidh is no substitute for a holiday and that people will have a rather limited opportunity to celebrate if they have to go to their work? Given that the First Minister is already on record as stating that he is not instinctively opposed to a St Andrew's day holiday, will he give further positive consideration to my bill, so that the people of Scotland may have the opportunity of a national holiday to celebrate our national identity, our cultural diversity and our membership of the international community?

The First Minister: It was my experience growing up in Arran that we did not need a holiday to enjoy a ceilidh; we tended to get on with it anyway. Let me make it clear that next week's St Andrew's day celebrations do not consist only of a ceilidh, although that multicultural event will be important in itself. Events will be taking place throughout the world. Some will be supported by us and others will be supported and initiated by people of Scottish descent and people who have some affinity with the country and who want to celebrate their association with us. That is a good thing.

There are two essential prerequisites for consideration of a holiday on St Andrew's day. One is that there must be more demand and more of an existing celebration of that day, in Scotland and elsewhere. That is starting to happen, but we are not quite there yet. Secondly, we need to have a well-thought-through proposal to ensure that we do not add to the costs for either the public sector or the private sector in agreeing to an additional holiday. The proposal must ensure that anyone who takes a holiday or offers a holiday on St Andrew's day does so by substituting it for something else.

The Presiding Officer: That concludes questions to the First Minister.

Nicola Sturgeon (Glasgow) (SNP): On a point of order, Presiding Officer. I seek your guidance. The First Minister said early in First Minister's question time that no SNP MP had raised the issue of dawn raids in the House of Commons in the past two months. I draw your attention to the *Official Report* for 3 November, which shows that Pete Wishart, an SNP MP, asked in the House of Commons for a debate on the use of dawn raids by the immigration service, given the

"universal revulsion and embarrassment in Scotland about the use of that practice".—[*Official Report, House of Commons*, 3 November 2005; Vol 438, c 982.]

I ask you, Presiding Officer, to advise the First Minister on how to go about retracting his earlier statement and apologising for misleading this Parliament.

The First Minister: Let me make it crystal clear, Presiding Officer, that I said—and I absolutely stand by my statement—that no MP from the SNP at the House of Commons in Westminster has raised the issue on the floor of the House of Commons with Home Office ministers in the past two months. Ms Sturgeon should check the record. That is what was said, and no amount of procedural tinkering with Geoff Hoon, the Leader of the House of Commons, should be allowed to detract from that. If Alex Salmond—[*Interruption.*]

The Presiding Officer: Order. I cannot hear.

The First Minister: Alex Salmond, as leader of the SNP, should have been on his feet making it an issue at Westminster.

The Presiding Officer: Ms Sturgeon, you have put your point on the record. That is read. I am responsible for questions and for timings, but I am not responsible for ministerial answers. That is a matter for the ministerial code. I have no doubt that the Government will reflect on that.

12:34

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Justice and Law Officers

Terrorism Suspects (Detention)

1. Roseanna Cunningham (Perth) (SNP): To ask the Scottish Executive what discussions the Lord Advocate has had with the Home Office in relation to proposals to detain terrorism suspects for 90 days. (S2O-8154)

The Lord Advocate (Colin Boyd): The law on terrorism is reserved to the United Kingdom Government and advice on Scottish legal matters is provided by the Advocate General for Scotland. I have advised the Home Secretary that, whatever period of detention before charge is provided for, the procurator fiscal should be the person who makes an application for extension of time to the court. I have also advised that in terrorist investigations it would be inappropriate to have in Scotland powers and periods of pre-charge detention that are different from those in the rest of the UK.

Roseanna Cunningham: I would thank the Lord Advocate for his answer if he had answered the question, but he has not. We know from Charles Clarke that the Lord Advocate was not consulted in advance, so what efforts did he make to ensure that the Home Secretary was aware of his views, whatever they were? Why were those efforts a failure? Subsequent to the vote that defeated the 90-day proposal and substituted 28 days, what discussions or other communications has he had, and when, with the Home Secretary or indeed the Advocate General on the implications of the extension for Scotland's justice system?

The Lord Advocate: I have already said that the law on terrorism is reserved to the UK Government and is a matter for that Government. My role—

Roseanna Cunningham: The Lord Advocate is in charge of Scotland's justice system.

The Lord Advocate: The member should wait a moment. The Advocate General for Scotland is responsible for advice on all legal matters relating to reserved areas. My role as Lord Advocate is as prosecutor for all crimes committed in Scotland, whether the relevant legislation originates from this Parliament or from the UK Parliament. My role is to ensure that, whatever legislation the UK Government and the UK Parliament provide for

terrorist offences, those offences can be properly prosecuted in Scotland. I did that in this case, in relation to two particular matters to do with detention: the role of the procurator fiscal; and pre-trial detention, on which I expressed a view that that should be the same north and south of the border. I took the view that if there were differences, that would make my prosecutorial role difficult. That is where matters rest.

So far as the 28-day period that was agreed in the House of Commons last week is concerned, I have had no further communication with the Home Secretary or the Home Office on the particular matter of pre-charge detention.

Mobile Closed-circuit Television Cameras

2. Ms Wendy Alexander (Paisley North) (Lab): To ask the Scottish Executive what plans it has to extend the use of mobile CCTV cameras. (S2O-8185)

The Deputy Minister for Justice (Hugh Henry): On 10 November, I announced that we are making £1 million available for flexible response CCTV projects in the financial year 2006-07, in line with the commitment in "A Partnership for a Better Scotland" to expand CCTV in shopping and other areas, to support businesses and others in reducing crime.

Ms Alexander: I am delighted that the Executive has responded so fully to the question. I know that that response will be welcomed by my constituents. As the deputy minister is aware, there have been some difficulties in the past caused by the lack of control-room space. I ask the Executive to continue to encourage police and local authorities to co-operate in the provision of appropriate control-room space for fixed and mobile cameras in future.

Hugh Henry: We need all partners at a local level to play their part in taking full advantage of the investment that we make; those who are intent on making good use of such facilities will do that. We have decided to consider mobile facilities in this spending round because we are aware that, while they have proved enormously beneficial, fixed cameras can often be limited and cannot respond flexibly to problems that may occur in different areas and which may need to be attended to. I have looked at some of the mobile units and have been very impressed with the equipment and its ability to identify and record. I want not only to ensure that mobile units are properly integrated with fixed systems but that they are used with the full back-up and support of the police, wardens and other agencies that can make a difference to community safety in an area.

Movement of Prisoners (Correspondence)

3. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive why my letters of 1 August, 7 September and 14 October 2005 to the Minister for Justice requesting to know what the criteria are for moving prisoners to an open estate prior to their release have been referred to the chief executive of the Scottish Prison Service, given that the letters refer directly to Executive policy rather than to operational matters. (S2O-8176)

The Minister for Justice (Cathy Jamieson): The Scottish Prison Service framework document clearly sets out that the chief executive has delegated authority to make decisions about the management of individual offenders, including their location, movement, discipline, care and welfare, and interventions and activities to further the rehabilitation of offenders in prison. The matter referred to in Mr Rumbles's letters is clearly an operational matter for the SPS.

Mike Rumbles: I am not asking about individual matters; I am asking about policy, which is the minister's responsibility. She knows that the justice system is not perfect and that there might be miscarriages of justice. If a prisoner continues to protest his innocence, is that in itself a sufficient reason to prevent him from being transferred to an open prison regime prior to his release in the normal course of events? I do not refer to an individual case; it is the policy that I am after.

Cathy Jamieson: With all due respect to the member, when he writes to me about individual cases I must assume that he is referring to individual cases. I will refrain from commenting here on those, because questions on them have been answered in significant amounts of correspondence. However, it is, of course, very important to recognise that the purpose of prison is not only to punish but to rehabilitate. Part of the risk assessment process includes consideration of whether an offender has addressed the offending behaviour of which a court has convicted him. I expect that to be taken into account in considerations of public safety. It is, however, an operational matter for the SPS.

Fingerprint Evidence

4. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive what policy or procedural changes it has made in order to improve the quality of fingerprinting evidence. (S2O-8224)

The Minister for Justice (Cathy Jamieson): The Scottish Criminal Record Office has implemented all 45 recommendations of Her Majesty's inspectorate of constabulary for Scotland's 2001 primary review of the SCRO fingerprint bureau. In addition, fingerprint experts

now have annual competency tests and are subject to a continuous professional development programme.

Alex Neil: I thank the minister for the answer. A statement was made this week by SCRO that where there are two opinions, one must be wrong. If that is the case, how does she reconcile the disagreement between Grampian Police and SCRO? Is it not the case that, until the dispute between Grampian Police and SCRO is resolved, all fingerprinting evidence from those two organisations should be double-checked to ensure that it is correct?

Cathy Jamieson: Without referring to any specific cases or circumstances, I put the point to Mr Neil that fingerprint experts at SCRO agree that fingerprint evidence is expert opinion based on the scientific fact that every individual has fingerprints that are unique to them. I think that we can rest on that. Of course, a number of safeguards are in place and I do not—[*Interruption.*]

The Deputy Presiding Officer (Murray Tosh): Order.

Cathy Jamieson: Thank you, Presiding Officer.

I do not believe that it would be appropriate to deal with individual cases in the chamber.

Alex Neil: On a point of order, Presiding Officer. I did not raise or ask about an individual case; I asked about a policy matter. It is little wonder that the chamber is empty at question time, because questions do not get answered.

The Deputy Presiding Officer: I think that you are making points, Mr Neil, rather than making a point of order. That is not a point of order.

I call Phil Gallie. Do be careful of the sub judice rule, Mr Gallie.

Phil Gallie (South of Scotland) (Con): I will, Presiding Officer.

The fact is that the head of the fingerprint service in Scotland put the finger—if I may say that—on SCRO and the whole fingerprinting exercise. Given past findings by the Lord Advocate and others, will the minister tell me why she will not apologise to the individual who was identified by the fingerprinting organisation as having been once on a particular site, of which she has been virtually cleared, and why that individual should have to go to a court—

The Deputy Presiding Officer: Mr Gallie, I think that you are ignoring my recommendation that you should bear in mind the sub judice rule. I will allow the minister to respond if she wants to do so, but she is particularly bound by the sub judice rule and there are limits on what she can say.

Cathy Jamieson: Thank you for that helpful clarification, Presiding Officer. I always try to give as much information as possible in the chamber, but, as you rightly point out, I must recognise that there are limits on what I can say.

However, there is something that I would like to be recorded in the *Official Report*, which I am sure that members will want to hear. We must operate in line with international standards, and it is universally agreed that an identification is made when the expert is satisfied that the order, relationship and unique properties of the features in any two prints are in agreement and that no features are in disagreement. The process is subject to independent verification by two fingerprint officers, and quality assurance procedures are in place.

Alex Neil: This is a joke.

The Deputy Presiding Officer: Order.

Corporate Homicide

5. Karen Gillon (Clydesdale) (Lab): To ask the Scottish Executive what steps are being taken to take forward the recommendations of the recently published report by the Executive's expert group on corporate homicide, including the creation of a new offence of corporate killing by recklessness. (S2O-8194)

The Minister for Justice (Cathy Jamieson): The group's report contains a number of innovative and radical proposals. We are currently considering the legal and practical issues that surround the recommendations.

Karen Gillon: I thank the minister for her commitment to trying to progress a matter in which I have been immersed for some time. I appreciate the complexity of the issue, but she will be aware of the desire of my constituents—the wider Larkhall community and the Findlay family in particular—to ensure that companies are properly held to account for their actions and that, in particular, they can face charges such as corporate killing. Will she assure me that the matters in question will be considered timeously and that there will be no undue delay in the Executive or the civil service in bringing them before the Parliament and the wider community for full public scrutiny?

Cathy Jamieson: I thank Karen Gillon and members of the expert group for their work in considering such a complex issue and for making recommendations to us. It is right and proper for us to consider those recommendations, their implications, what it would be competent for the Scottish Parliament to legislate on and how such legislation might cut across Westminster legislation. I reassure Karen Gillon that work is ongoing on that and that I will report back to the Parliament as soon as I possibly can.

Environmental Law

6. Shiona Baird (North East Scotland) (Green): To ask the Scottish Executive what steps it is taking to fulfil its partnership agreement commitment in respect of the enforcement of environmental law, including consideration of the establishment of environmental courts and other options for improving prosecution and dispute resolution, and when it expects to announce its proposals. (S2O-8236)

The Solicitor General for Scotland (Mrs Elish Angiolini): We have made good progress on the commitment. We have set up a network of specialist environmental prosecutors and improved liaison between them and the Scottish Environment Protection Agency. The Executive has strengthened the law on wildlife crime, and next year it intends to launch a public debate to test the arguments about environmental courts.

Shiona Baird: I welcome that announcement, but am disappointed that more progress has not been made in enforcing environmental law.

Will the Solicitor General for Scotland give a reassurance that the intended consultation to which I think she referred will be about the whole range of legal topics and legal procedures relating to civil and criminal matters and that it will not rule out—or in—any aspects of the enforcement of environmental law? Does she acknowledge that the consultation should take the form of full and participative public and stakeholder engagement and that there should not be solely a statement of intent?

The Solicitor General for Scotland: The member will be aware that that is a matter for the Minister for Environment and Rural Development and the Deputy Minister for Environment and Rural Development and that, as the prosecutor, I have a significant interest in enforcement in a particular area. I am aware that Rhona Brankin made a commitment to having a wide-ranging public debate on those issues at the recent Friends of the Earth conference. The issues are extremely important, not just in the context of environmental crime but in relation to the wider effect on civil aspects of crime and enforcement.

We have already laid before Parliament the regulations to increase the accessibility of non-governmental organisations in environmental cases and, clearly, the debate that is intended to take place in March will be an important step towards giving the widest consideration to these very important issues and, in particular, to how we take matters forward.

Torture

7. Chris Ballance (South of Scotland) (Green): To ask the Scottish Executive whether it

is aware of any new evidence regarding offences of attempting or conspiring to commit torture being committed in Scotland or Scottish airspace and what action it has taken as a result of any such evidence. (S2O-8231)

The Lord Advocate (Colin Boyd): Scottish ministers take allegations of such offences seriously. Civil aviation is a reserved matter and is therefore the responsibility of the United Kingdom Government. However, attempts to commit or to conspire to commit torture are crimes under Scots law and it is for the police to investigate allegations of such offences and for the procurator fiscal to decide whether to bring proceedings. If anyone has evidence, including new evidence, of criminal offences being committed within Scottish jurisdiction, they should take the matter to the police in the first instance.

Chris Ballance: I thank you for your reply, which is familiar to me.

If you were watching “Newsnight” this week, you might be aware that I have now received a reply from the chief constable of Strathclyde police refusing my request for a meeting and refusing to conduct such an investigation.

Can you give me a categorical assurance that, to your knowledge, no one from your Government has had any communication with Strathclyde police relating to this issue that might have influenced their decision?

The Lord Advocate: I am not going to comment on communications between the Scottish Executive, particularly my office, and Strathclyde police. The matter is particularly one for the police, whose job it is to investigate crime. They are not instructed by ministers. As Lord Advocate, I am the only person who can instruct the police if I have evidence of criminal offences being committed. If there is evidence of such activity, the proper thing to do is to give that evidence to the police so that they can make an assessment and, if necessary, refer the matter to the procurator fiscal for advice.

The Deputy Presiding Officer: Before I proceed, Mr Ballance, for future reference, you should know that, when members use the word “you” in this chamber, it applies to me. Members really should refer to ministers in the third person.

Ms Rosemary Byrne (South of Scotland) (SSP): Central Intelligence Agency torture flights are stopping to refuel in Scotland. Any act that aids and abets torture contravenes the European convention on human rights. Will the Minister for Justice give a guarantee that she will do everything in her power to stop the torture flights? We need the police to investigate this matter. We cannot give you the evidence until it has been investigated. Will you get an investigation under way?

The Deputy Presiding Officer: I will not. However, on your behalf, I will redirect the question to the Lord Advocate.

The Lord Advocate: The matter is not for the minister, because she does not have the power to direct the police, nor does she have any responsibility for civil aviation in this country. Civil aviation is a reserved matter and it is for the United Kingdom Government, acting under the Chicago convention, to regulate civil aviation.

I repeat that the investigation of crime is a matter for the police. Before they apply for a warrant to enter any aircraft, they would have to have evidence of criminal activity on board that aircraft.

Ms Sandra White (Glasgow) (SNP): I do not wish to labour this point—if you will pardon the pun—but I would like to ask the minister outright whether she has had any dealings, discussion or communications with Strathclyde police. Does she agree that, as she is the Minister for Justice, she must have at least some responsibility in this regard and should be aware of all prisoner movements, regardless of whose prisoners they are? You must come clean and say yes or no. Have you had discussions and what have they related to?

The Deputy Presiding Officer: Fortunately, my duties do not go as far as gender definition questions. However, I think that these particular questions are being handled by Mr Boyd.

The Lord Advocate: At the risk of repeating myself, none of the ministers around me has any power to direct the police in individual investigations. It would be improper for ministers to do that. I hope that that is absolutely clear. I am the only person who can do that and before it can be done, there must be evidence on which I can act.

Ms White: On a point of order, Presiding Officer. I did not ask whether the minister could direct the police; I asked whether there had been communications and meetings—yes or no?

The Deputy Presiding Officer: Members cannot use points of order to re-ask questions even if they believe that their questions have not been answered. There is no locus in standing orders for me to determine the content of ministerial answers.

Mr Jim Wallace (Orkney) (LD): I welcome the obvious seriousness with which the Lord Advocate takes the issue.

Given that article 4 of the United Nations convention against torture refers not only to acts of torture but to

“an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture”,

will the Lord Advocate tell the chamber whether our obligations under that convention would override any obligation under civil aviation conventions, such as the Chicago convention, in respect of persons on board planes and in transit through Scotland about whom there could be reasonable grounds to suspect that they had committed offences under the convention against torture?

The Lord Advocate: I understand people's concerns about such matters. They are serious concerns that should be addressed seriously. I note that Mr Wallace's colleague at Westminster, Menzies Campbell, is progressing that matter and I look forward to seeing what the Westminster committee does.

The conventions do not compete; they are obligations that the United Kingdom has to implement. However, as far as I am concerned as Lord Advocate, I give the member the assurance that if offences are committed in the jurisdiction of Scotland and I am made aware of supporting evidence, they will be investigated. At the moment, however, we require evidence of specific conduct on specific flights before any movement can take place on the matter.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): On a point of order, Presiding Officer. I ask you to reflect on what has happened during today's question time, particularly in relation to members who have not had the courtesy to stay for the duration of question time and who appeared only for specific ones. Other members who submitted questions that have been printed in the *Business Bulletin* and sat throughout question time have been disadvantaged.

The Deputy Presiding Officer: Although I would like to deal with that situation, I understand that I do not have the power to do so. However, I sympathise with Margaret Jamieson's point about members being present throughout question time.

Enterprise, Lifelong Learning and Transport

A75 (Improvement)

1. Dr Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive what progress has been made in identifying an improvement scheme for the Hardgrove to Kinmont section of the A75. (S2O-8215)

The Minister for Transport and Telecommunications (Tavish Scott): Design work is well advanced and I expect draft orders for the scheme to be published next spring.

Dr Murray: Three years ago, the construction start for the scheme was expected to be autumn

2006 and the cost £6.2 million. In January this year, the earliest start date had slipped to 2006-07 and the cost had risen to £9.2 million. I was advised in a letter from the minister's predecessor in April that further problems with the scheme had been identified and that a new scheme would have to be proposed. When does the minister expect construction of an improvement scheme for the Hardgrove to Kinmont section of the A75 to commence and what is the current estimate of cost? Can he guarantee that sufficient funding will be available to enable the improvement scheme to go ahead?

Tavish Scott: Dr Murray is correct in her assessment of the situation. She is also correct about the cost of the scheme. Although this will provide no comfort on the timescale, I am pleased to say that because of the additional design work, we have been able to reduce the estimate of cost to £6.8 million. It is expected that the project will take 12 months to complete and I am led to understand that it will start during 2007. I will give the member an exact date as soon as I can.

Alasdair Morgan (South of Scotland) (SNP): Does the minister share the disappointment of many at the snail's pace at which that improvement to the A75 and others have been progressed? Young men such as I have visibly aged waiting for anything to happen and goodness knows how many ministers have been in office. Does the minister intend to inject some urgency into his department's dealings?

Tavish Scott: I take seriously the point that Alasdair Morgan, Dr Murray and others make about the circumstances of the A75 and other routes. Several schemes, including those for overtaking, have been identified and are in preparation. In response to questions that were asked a couple of question times ago, I have undertaken to consider in coming weeks several specific issues that have come to my attention in relation to the A75 and the A76. I will pull all those matters together and instigate the urgency that we all need.

Glasgow Airport Rail Link

2. Mr Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether there will be any delay to the original timetable for the proposed Glasgow airport rail link as a result of possible changes to legislative procedures. (S2O-8196)

The Minister for Transport and Telecommunications (Tavish Scott): No. We expect the changes that the Procedures Committee is considering to speed the Parliament's consideration of the Glasgow airport rail link bill.

Mr Gordon: Is the minister aware that I may be the only member who has been an unsuccessful promoter of a scheme under private bill procedures, having lost a proposed tram scheme—albeit to Westminster commissioners—in my role as Strathclyde Regional Council's transport convener in 1995? Is he further aware that I support in principle the replacement of the current procedures with more streamlined ones, but not at the risk of delaying proposed schemes?

Tavish Scott: I take Mr Gordon's point. He sounds like an eminently sensible character to have on the Procedures Committee, but that is a matter for my colleagues rather than me. I assure him that in the discussions across parties and with the office of the Minister for Parliamentary Business and my office, we seek to streamline the procedure to ensure that the pace and appropriateness of scrutiny of private bills are improved. That is under active consideration at the Procedures Committee and we hope to introduce measures before the turn of the year.

Mr David Davidson (North East Scotland) (Con): In the light of the minister's comments yesterday evening about the future of Strathclyde Passenger Transport, will he assure us that the Glasgow airport rail link project will go ahead as planned and that SPT will continue to head the bill proposal?

Tavish Scott: Mr Davidson knows the answer to that question, because I was asked it—I forget whether it was by him or by another committee member—during the Local Government and Transport Committee's consideration of a statutory instrument the other week. The answer is of course yes—SPT will continue to do that task.

Glasgow School of Art

3. Mr Kenneth Macintosh (Eastwood) (Lab): To ask the Scottish Executive what plans it has to help the Glasgow School of Art to develop and to continue to provide a first-class education for art students. (S2O-8207)

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): In 2005-06, the Glasgow School of Art's total funding from the Scottish Higher Education Funding Council rose to more than £9.5 million. That included capital funding from the learning and teaching infrastructure fund.

Mr Macintosh: Is the minister aware of the difficulties that the school is experiencing in operating from its current campus buildings? Is he aware of the school's well-thought-out plans to develop on its current site and of the capital expenditure that that would require? As can be imagined, the minister's advice on and support for any such development would be warmly

welcomed. As a first step towards offering advice and support, will he take the opportunity to visit the school and to see why the investment would be good for our future, our pupils' future and the institution's international standing?

Allan Wilson: I will take the last point first. I do not want to incur the wrath of my good friend and colleague the Minister for Justice by not agreeing to go to her alma mater. I look forward to that visit. Perhaps we can take in the Abram Games exhibition at the same time.

The Glasgow School of Art plays an important role in developing our culture in Scotland and I am aware of its plans for rationalising its estate. The £148 million that we have allocated for such purposes is designed to transform rather than maintain the higher educational estate. I look forward to joining my colleague on a visit to the Glasgow School of Art.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Kenny Macintosh and I share the job of being in charge of the works of art coming to the Parliament. Will the minister use his good offices to encourage the Glasgow School of Art to get its excellent work into the Parliament, which could be a showcase putting the work of the school in the public eye.

Allan Wilson: I do not know whether the school still displays any of the works of my good friend and colleague the Minister for Justice. I had a very productive relationship with the Glasgow School of Art before I came to the Parliament and I look forward to renewing the acquaintance. I will raise the matters that Mr Stone raises when Ken Macintosh and I meet representatives of the school. That might help to swell the exhibition of art that we already have in the Parliament.

M74 (Northern Extension)

4. Janis Hughes (Glasgow Rutherglen) (Lab): To ask the Scottish Executive when it expects work to commence on the M74 northern extension. (S2O-8198)

The Minister for Transport and Telecommunications (Tavish Scott): A programme for starting work cannot be set until the outcome of the current appeal against the road orders is known.

Janis Hughes: Does the minister agree that, the longer the delay in commencing work on this vital roads project, the longer it will be before the much needed benefits of regeneration are realised for communities such as Rutherglen and Cambuslang in my constituency, as well as for the wider Glasgow area and the rest of Scotland?

Tavish Scott: I understand the frustration of Janis Hughes and the people whom she

represents. The delay is because of court actions and, unfortunately, such matters are quite outwith our control.

Edinburgh Tramlines (Funding)

5. Margaret Smith (Edinburgh West) (LD): To ask the Scottish Executive whether it has any plans to inflation-proof the £375 million funding identified for Edinburgh tramlines 1 and 2. (S2O-8174)

The Minister for Transport and Telecommunications (Tavish Scott): A decision on indexation of the £375 million grant for the Edinburgh trams has not yet been made. That will be considered along with other key issues in the tram business case.

Margaret Smith: The minister will be aware of the concern in my constituency that there are no plans for a tram stop at the Western general hospital. I hope that the minister will agree that, when we are investing hundreds of millions of pounds of taxpayers' money, we should ensure that the route that is chosen by the Edinburgh Tram (Line One) Bill Committee is the best possible in terms of cost, the environment, social inclusion and wider economic issues. Will the minister confirm that Executive support at this stage is for the principle of having a tramline and not for any particular route? Will the Executive examine the outline and full business cases, and the need for index linking, on conclusion of the parliamentary process and in light of any changes that are made to the route during that process?

Tavish Scott: Like my predecessor, I will respect the procedures for private bills. Any transport minister would do that. We will ensure that consideration of the business case for this project takes place once Parliament has concluded its deliberations.

As Margaret Smith suggests, Parliament has already accepted the general principle behind having an Edinburgh tram network. Costings are under active review; we take such issues seriously. However, the first important thing to do is to reflect on the robustness of the case that is made by the City of Edinburgh Council, as the promoter of the project.

Sarah Boyack (Edinburgh Central) (Lab): I welcome the minister's positive response and his commitment to considering the business case in depth. In signing up to any major transport investment, the Executive must spend its money wisely. I echo Margaret Smith's initial question. I think that it was three transport ministers ago that the initial commitment was given. With every passing year, and regardless of the route that Parliament might select at stage 3, inflation costs must be taken into account. Those costs are nothing to do with the project itself.

Tavish Scott: I accept Sarah Boyack's central contention. The length of time that we all take to bring such projects to fruition helps neither in meeting cost estimates nor in assessing the business case. We can do what we can, but we are reliant on the parliamentary process that the Parliament agreed to for the handling of private bills.

Mark Ballard (Lothians) (Green): Does the minister agree, whatever the situation with regard to inflation-proofing the budget, that the population of Edinburgh will be inflated by 45,000 because of the regeneration of the Granton waterfront and that the transport infrastructure of north-west Edinburgh cannot cope with such an increase in population or associated retail, commercial and leisure developments without a tram scheme? As the only realistic option, the tram scheme must be supported by the Executive—

The Deputy Presiding Officer: I think that you are now giving a speech, Mr Ballard.

Mark Ballard: Will the Executive reaffirm its commitment to supporting the development of tram schemes in Edinburgh?

The Deputy Presiding Officer: Before the minister answers that question, Mr Ballard, I should observe that I have noted that that question was not the one that you had notified that you wished to ask.

Tavish Scott: I am happy to agree with Mr Ballard that there is a considerable degree of excitement about the potential for the Granton area of Edinburgh. Many agencies, led by the City of Edinburgh Council, will come together to pursue ideas in that regard.

We must ensure that we have the right public transport solutions for that part—and for other parts—of Edinburgh. As for Mr Ballard's final point, I can only reiterate my response to Margaret Smith and Sarah Boyack: the Parliament has accepted the general principle of the Edinburgh tram network, and we are now working on it.

Glasgow Airport (Discussions)

6. Des McNulty (Clydebank and Milngavie) (Lab): To ask the Scottish Executive what discussions it has had with local authorities and other relevant agencies with regard to possible future development at Glasgow airport. (S2O-8211)

The Minister for Transport and Telecommunications (Tavish Scott): The Scottish Executive has had discussions with local authorities and other relevant agencies in the preparation and implementation of the air transport white paper, "The Future of Air Transport".

Des McNulty: Is the minister aware of the serious concern in my constituency, particularly in Whitecrock, about the intense increase in aircraft noise from low-level flights and the intolerable situation that people already have to live with in the summer when the volume of flights increases? Will he please have urgent discussions with West Dunbartonshire Council about the problems that the situation is causing and factor those into considerations on current airport usage and possible airport expansion?

Tavish Scott: Those points are fair, and I acknowledge the concerns of local people who live under the flight path of a major airport—or, indeed, any airport in Scotland. I am happy to have the appropriate discussions in this area, but I remind Mr McNulty that, the other week, the Local Government and Transport Committee agreed a particular aspect of the new aviation arrangements that will provide more assistance to and opportunities for individuals and organisations to make representations on these matters. I hope that the mechanism will help to address some of those detailed points.

Rail (Freight)

7. Mr John Swinney (North Tayside) (SNP): To ask the Scottish Executive what plans it has to increase the transportation of freight by rail. (S2O-8161)

The Minister for Transport and Telecommunications (Tavish Scott): We continue to be very supportive of rail freight. The rail and freight strategies that are currently being developed will address how and where it is appropriate for the Executive to intervene to encourage more transportation of freight by rail.

Mr Swinney: Does the minister share my regret at the loss of the major freight rail service between Perth and Inverness for Morrisons as a result of changes to Safeway and the loss of Safeway stores in the north of Scotland? As the journey was supported by the freight facilities grant scheme, will he urge his officials to try to encourage a consortium of supermarkets to collaborate on ensuring that the freight facilities grant is used for the Perth to Inverness line? Such a move might remove some of the burden of freight traffic from the A9, for which, as he will know, I have passing interest in trying to secure a dual carriageway.

Tavish Scott: I accept the argument about the importance of moving freight from road to rail, including on the A9. I am happy to have my officials work with any parties in the supermarket industry, as Mr Swinney alluded to, or in other industries such as timber, where we are making

some progress, to consider a consortium-style approach—or, indeed, any approach—that could achieve this objective. I should point out that, since July 1999, we have invested £39 million in 19 rail projects, which every year remove 19 million lorry miles from Scotland's roads. I accept that we could do considerably more and I am hopeful that a number of projects will come to fruition in the coming months. In addition, we have invested in and will make sure of the Mossend upgrade, which will help that overall package.

Mr Mark Ruskell (Mid Scotland and Fife) (Green): The minister will be aware of the proposals for a siding at Blackford for freight trains and a siding at Blair Atholl for freight and charter trains. What assessment has been made of the importance of those projects and the project that Mr Swinney mentioned to meeting the Executive's target for road traffic stabilisation, particularly in the A9 corridor?

Tavish Scott: Mr Ruskell makes a fair point. It will obviously be helpful to our overall enterprise and economic policies in this area for us to move more freight on to rail. I will be happy to look at the projects that Mr Ruskell and Mr Swinney have mentioned. It is important that we keep the issue moving and that we can show a considerable modal shift during the period of this Administration. That is what we are committed to doing.

Scott Barrie (Dunfermline West) (Lab): Most of us in the chamber would support an increase in the use of rail for freight. However, does the minister accept that there are pinch-points at key locations that interfere dramatically with passenger services, not least on the Fife circle line? Will he accept that we have to be very careful about just saying that we want to increase rail freight when we are trying to run increased passenger services as well?

Tavish Scott: Scott Barrie is fair to point out the conundrum at the heart of rail operational policy. It is important that the route utilisation study that is being undertaken by Network Rail addresses the pinch-points that Scott Barrie rightly raises. We need to get the balance right between increasing demand through the First ScotRail franchise of commuter services such as the Fife circle and our overall objective of moving more freight from road to rail.

Housing (Scotland) Bill: Stage 3

Resumed debate.

14:57

The Deputy Presiding Officer (Murray Tosh): We return to consideration of amendments to the Housing (Scotland) Bill. We have reached group 16.

Section 155A—Other amendments of Antisocial Behaviour etc (Scotland) Act 2004

The Deputy Presiding Officer: Group 16 is on amendments to part 8—register of landlords—of the Antisocial Behaviour etc (Scotland) Act 2004. Amendment 58, in the name of the minister, is grouped with amendments 59, 61 to 63, 8 and 9.

Johann Lamont: The amendments in the group seek to refine the private landlord registration system to make it more effective and, in particular, to make a link between registration and the reletting offence in the repairing standard provisions in the bill.

Amendment 58 responds to an amendment made by Patrick Harvie at stage 2. It will adjust the reference to unlawful discrimination, being one of the matters to which the local authority will have regard when it is carrying out the fit-and-proper-person test for private landlord registration under the Antisocial Behaviour etc (Scotland) Act 2004, by removing references in that act to specific forms of discrimination, so that any unlawful discrimination is relevant material that should be considered when applying the test. Therefore, the provision will remain current and effective despite changes in the law on discrimination.

Amendment 59 will require the local authority to include in the register of private landlords the fact that a house is subject to a repairing standard enforcement order and to remove that reference when the order is revoked or the necessary work has been done and a certificate of completion has been granted. In the time between the making of the order and its revocation or the granting of a completion certificate, the landlord will commit an offence by reletting the house unless the private rented housing committee had consented to the let. The purpose of the amendment is to allow a prospective tenant to find out that that is the case. Amendment 61 will ensure that that information is openly available to any member of the public who inspects the register.

Amendment 8 will ensure that a local authority is informed when a private rented housing committee consents to a landlord reletting a house while it is subject to a repairing standard enforcement order. That will ensure that the entry in the register that

amendment 59 will require will be removed. Amendment 9 will make a consequential adjustment, as the giving of consent is not subject to appeal.

Amendments 62 and 63 will make detailed technical corrections.

I move amendment 58.

Patrick Harvie (Glasgow) (Green): I am pleased that the Executive has kept the commitment that the minister gave at stage 2 by lodging an amendment. Amendment 58 will achieve my objective more effectively than my stage 2 amendment would have done, and it avoids any risk that the legislation will go out of date if equalities legislation changes, as expected.

If the minister has a moment when she sums up, will she explain why existing and new forms of unlawful discrimination should count differently for a commercial letting agent or private landlord than for a religious organisation, for example, which will be exempt from the legislation and will not have to meet the fit-and-proper-person test? If a religious organisation that is a landlord discriminates on the ground of sexual orientation, age, gender or whatever, should not it, too, have to face consequences?

15:00

Johann Lamont: I would be unhappy about responding directly to Patrick Harvie's specific question in case I misled him. We are committed to equal opportunities and to ending discrimination. I will attempt to pursue the point that Patrick Harvie has made before I sum up.

Amendment 58 agreed to.

Amendments 59 and 61 to 63 moved—[Johann Lamont]—and agreed to.

The Deputy Presiding Officer: Group 17 is on the registration of landlords and persons deemed to be acting for an owner. Amendment 84, in the name of the minister, is the only amendment in the group.

Johann Lamont: Amendment 84 is another amendment that will help to make the private landlord registration system more effective by amending a specific aspect of its operation. The amendment deals with the fit-and-proper-person test, where there are one or more intermediate landlords between the owner and the occupier. Its effect will be that, of the various people who may be in a leasing chain, only the owner and the person who is the immediate landlord of the occupier will be subject to the fit-and-proper-person test: the owner because he or she has ultimate control over and responsibility for the property; and the immediate landlord because he

or she is the person delivering the service to the tenant. Where the immediate landlord uses an agent, the agent will also be subject to the fit-and-proper-person test in the usual way.

I move amendment 84.

Amendment 84 agreed to.

Before section 155B

The Deputy Presiding Officer: Group 18 is on registered social landlords and the delegation of functions. Amendment 64, in the name of the minister, is the only amendment in the group.

Malcolm Chisholm: Amendment 64 will introduce a new section that will give ministers a power, in defined circumstances, to direct certain registered social landlords to authorise other registered social landlords to exercise their housing management functions. As I am sure members will be aware, the amendment is intended to remove potential legal obstacles facing Glasgow Housing Association. A commitment was made to tenants in Glasgow at the time of the transfer vote to devolve control of housing to local communities as quickly as possible. The GHA feared the impact that European Union procurement laws might have on renewing the interim management contracts that it has with local housing organisations. The bill gives us the chance to nail that issue on the head and to ensure that local control is maintained.

Amendment 64 will enable ministers to ensure, through use of a power of direction, that there can be no doubt that the LHOs have an exclusive right to carry out housing management functions locally. The power of direction is a limited one. It will apply only where there has been a whole-stock transfer from a local authority, and ministers will need to be satisfied that the direction is appropriate to meet the spirit of the proposals that were put to tenants before the stock transfer. Moreover, use of the power is time limited to five years from commencement of the provision. The amendment will not affect any stock transfers that are currently going through, including Edinburgh's.

Our commitment to second-stage transfer and to devolving power to local communities remains absolute. It is right and sensible to take these powers now to protect the guarantees that we gave to tenants, rather than to leave it to chance. As a result of amendment 64, the GHA and the local housing organisations in Glasgow will be able to concentrate on working towards delivering second-stage transfers.

I move amendment 64.

Tricia Marwick: The SNP will support amendment 64, as it will tighten any legal loophole—real or perceived—that is being used to

stop the devolving of management agreements to local housing organisations in Glasgow by Glenrothes housing association—that is a Freudian slip; I mean Glasgow Housing Association, but the issue is the same.

I welcome the minister's firm statement, but I also seek a number of assurances from the minister on the role of the GHA, the future functions of the local housing organisations and the timetable for second-stage transfer.

Amendment 64 is permissive—it will allow the minister to take action but will not require him to do so. Does the Executive intend to introduce or to impose an arrangement, or will the minister be content to allow the GHA and the local housing organisations to negotiate the next steps? Will any new agreement between the GHA and the local housing organisations be binding on all parties? Some interim arrangements expire in December and the bill will not receive royal assent until January. What action does the minister expect the GHA to take in the meantime? The GHA has a meeting tomorrow. Does the minister expect the GHA to rescind the decision of 28 October, which charged staff with making preparations for direct management? Is he considering whether Communities Scotland should take responsibility for the second-stage transfers, given the Executive's commitment that progress must be made and local communities' genuine frustration at the failure of the second-stage transfer process to date? The GHA wanted the new, post-December agreements to limit the LHO committees to dealing with consultation matters. Does the minister agree that the new arrangements should make the local housing organisations the responsible bodies?

Linda Fabiani (Central Scotland) (SNP): Like Tricia Marwick, I welcome amendment 64, provided that it will stop the debacle that the GHA has suffered of late. I cannot help feeling that if the Executive had accepted the SNP amendment to the bill that became the Housing (Scotland) Act 2001 that would have enshrined in legislation a right to community ownership, we would not be in the position that we are in now. I am concerned that the Executive has never been able to define what it means by community ownership. I have asked it that question repeatedly, but I have never had a response that has given any kind of answer.

Can the minister guarantee that the second-stage transfer in Glasgow will go ahead for all tenants and will not just be a token gesture that involves some people in specific areas? Will all tenants of Glasgow Housing Association now have the right to proceed to second-stage transfer? If necessary, will resources follow the bill to allow that to happen?

The minister mentioned the stock transfer in Edinburgh but, as far as I am aware, amendment 64 makes no reference to second-stage transfers. Will the right to proceed to second-stage transfer be given to all tenants who are the subject of large-scale voluntary transfers? Will they be able to take control of their own housing destiny and to shape their areas and communities in the way they want to? Surely that is the spirit of all the talk that there has been.

Des McNulty (Clydebank and Milngavie) (Lab): Like other members, I have some questions that I would like the minister to answer. First, I want him to give more information than he gave in his initial comments about how amendment 64 will resolve the issue around European procurement law. I understand that the basis of the argument on that is to do with the special circumstances that are associated with registered social landlords, but more detail would be helpful.

Secondly, I invite the minister to say something about how the power of intervention that he seeks would be used and about the relationships between ministers and the trustees of the GHA. Thirdly, will the housing management functions to which amendment 64 refers cover investment? I do not think that that is entirely clear. Fourthly, will the Government's overall approach to efficiency, whereby different procurement and delivery mechanisms—especially those that relate to back-office functions, such as finance—are being brought together, be applied to the second-stage transfer and the transfer arrangements that affect LHOs? Those all seem to be relevant questions.

Christine Grahame: Once again, the Executive has lodged a substantial 11th hour amendment. The fact that the amendment was not produced at stage 2 means that the committee has not had time to take evidence on it or to consider it thoroughly. That is simply not good enough.

Why does amendment 64 take the form that it does and what is its purpose? It is my understanding that amendment 64 is required to allow the devolution of the Glasgow stock transfer from the GHA to the 63 local housing organisations. Ministers have known about the thorny issue of a breach of European competition law since the middle of last year, so why is amendment 64 required? Frankly, I believe that in their rush to push through the Glasgow housing stock transfer against tenant resistance, ministers made a mess of the procedures for the transfer. Ministers were able to sell the transfer to tenants who agreed by a slim majority on the basis that there would be a second stock transfer—a measure with which we agree.

It is a matter of fact that the relationship between the GHA and the LHOs is contractual. I have it on sound legal opinion that they are separate legal

entities and I will be pleased to hear what the minister's legal advice is in that regard. The problem with the current process is that it falls foul of European competition law, thereby imperilling the devolving of the stock transfer to the LHOs.

Several issues arise. Who are the bad guys in all of this? Is it the GHA or is the smoking gun to be found elsewhere? Amendment 64 is an endeavour by ministers to find a remedy to a legal mischief of their making. It allows them to lay the blame for the halting process at the feet of the GHA when, both in terms of the legislation and the funding that is required, it lies at their feet.

Will the remedy work? The minister must be in a position today to tell the chamber that his clear legal advice is that amendment 64 is competent and, further, that once it is agreed to—SNP members will support it, because we want the LHOs to succeed—the GHA will be able to conduct its affairs legally. The minister must put that on the record. We require a clear statement on the matter. The point is a fundamental one.

Will the minister explain the meaning of proposed new section 68A(1)(c) of the Housing (Scotland) Act 2001, which states:

“RSL 1 is to manage its houses in a manner which is consistent with the spirit of any notice served on tenants”.

What on earth does

“the spirit of any notice”

mean? What would it mean in a court?

Instead of devolving power down to local organisations, proposed new section 68A(2) will give ministers the power to interfere with RSL 1 and, indeed, RSL 2. It will allow ministers to put the work elsewhere. The provision is top heavy; it does not come from the grass roots up. I would like explanations on all those points.

Malcolm Chisholm: Well, there are certainly several points to answer. I will begin with the points that Christine Grahame raised. She said that we had made a mess of the procedures in the months gone by. All I can say in response is that she made a mess of explaining it.

As I have been saying for several weeks, it is absolutely clear that second-stage transfer is quite different from the particular procurement issue that has arisen. I assure Christine Grahame that we are clear that amendment 64 is perfectly compatible with European law; so, too, will be any direction that we make under the power.

In response to Des McNulty, I will explain in more detail how the provisions will work. Amendment 64 does not involve legislating to alter procurement law—obviously, we cannot do that. However, the procurement regulations do not apply where there is an exclusive right for one

contracting entity to provide services. Amendment 64 will create a power that will enable ministers, through a direction to the GHA, to remove any scope for doubt that the LHOs have such an exclusive right to carry out the functions concerned. The provision will ensure that the interim management arrangements take advantage of the existing exemption in European Union procurement law.

Tricia Marwick asked several questions about the gap between 14 December and the enactment of the bill. Given that the act will come into force very early in 2006, we are in discussion with the GHA on how to manage the short period of time between 14 December and the time at which the direction is made.

Tricia Marwick: The GHA has a meeting tomorrow. Does the minister expect, or will he direct, the GHA to rescind the decision that was made on 28 October that charged staff with making preparations for direct management? That is the key question. If we expect the bill to become law in early January, we must ensure that provision is made to replace the interim arrangements that expire in December. The minister has a duty both to the GHA and to the local housing organisations in Glasgow to make the position clear. The minister must say what he expects the GHA to do tomorrow.

15:15

Malcolm Chisholm: We expect that decision to be rescinded tomorrow. We are working actively with the GHA all the time to ensure that that will be possible. The direction will be binding and will make it absolutely clear what is required for future arrangements. We will work with all parties to define the way forward.

Tricia Marwick asked about retaining the powers in the new arrangements. The substance of what is in the interim management agreements will be retained because of amendment 64.

Linda Fabiani raised several points. I repeat what I have said consistently over the past few weeks: we are absolutely committed to second-stage transfer, but it should be a bottom-up process that goes at the pace of the tenants. She complained about resources, but I do not think that they are complaining in Glasgow, with £716 million from the Executive coming on top of £1 billion of debt write-off. She also asked about second-stage transfers elsewhere, but we follow a tenant-led process in that regard. As an Edinburgh MSP, I am not aware of demands from tenants in Edinburgh for second-stage transfers. If there were such demands, no doubt we would consider them seriously. There were demands in Glasgow where, of course, the number of council houses is four times that in Edinburgh.

Linda Fabiani: It is obvious that Edinburgh does not have the same tradition of community ownership as Glasgow. Did anyone take the time to explain to the tenants of Edinburgh what the options were in relation to true community ownership before it was decided what would go in the ballot proposal?

Malcolm Chisholm: As I have explained, strong devolved arrangements are part of what is proposed in Edinburgh, which is what tenants there wish.

Des McNulty asked about efficiency. That is very much at the heart of our policies, as is tenant control of the management of Glasgow housing. I do not believe that those two fundamental principles are in conflict. There is already a good tradition of housing associations working together and sharing services. Obviously, the precise number of second-stage transfer vehicles will be discussed in the coming period. We will do all that we can to ensure that second-stage transfer takes place as soon as possible.

Clearly, the procurement issue is a serious distraction from that, and it has caused great concern to tenants in Glasgow, but I do not detect the kind of reaction from the tenants of Glasgow that we saw a moment ago from Christine Grahame. They have welcomed amendment 64. Indeed, when we announced it last Friday, the GHA welcomed it as well.

Christine Grahame: I was simply asking whether amendment 64 will legally repeal the current situation in which, as I understand it, the relationship between the GHA and the local housing organisations is contractual. That is why the minister is in this legal quagmire. I take his assurance that tomorrow, or the day after the bill is enacted, the GHA will be able to conduct its affairs legally and not breach European law. That is all I ask.

Malcolm Chisholm: When the bill is enacted, we will be able to give a direction that will place that position beyond doubt.

Christine Grahame said that the bill's wording is top-heavy. If she has a better way of solving the particular difficulty that has arisen, I would be delighted to hear it. I do not hear the tenants of Glasgow complaining to us that what we are doing is top-heavy. They have welcomed it hitherto, and if we vote to pass the bill this afternoon, they will welcome it even more later today.

Amendment 64 agreed to.

The Deputy Presiding Officer: Group 19 is on registered social landlords and permissible purposes. Amendment 65, in the name of the minister, is the only amendment in the group.

Malcolm Chisholm: I am sure that many members agree that a number of registered social landlords are well placed to play a valuable role beyond their housing role in communities. That wider role can benefit communities in a number of ways: it can help to create jobs and provide training; it can improve people's health or the environment in which they live; or it can provide first-class community facilities in some of our most disadvantaged areas. I am keen that we facilitate and encourage RSLs to make the most of their assets—financial and human—so that they can maximise their positive impact in communities.

I do not want to limit unduly the kinds of activities in which RSLs may get involved, but that broad encouragement is balanced by the keen interest that Communities Scotland, as regulator, maintains in the relationship between an organisation's wider role and its role as a landlord. Communities Scotland's policy on RSLs' wider role clearly states that they must have the support of their residents before getting involved in wider work. Amendment 65 will provide a sound legal foundation on which to facilitate the broad objective of ensuring that RSLs play as full a part as possible in improving the communities in which they operate.

I move amendment 65.

Amendment 65 agreed to.

The Deputy Presiding Officer (Trish Godman): Group 20 is on home energy efficiency. Amendment 85, in the name of Karen Whitefield, is grouped with amendments 1, 1A, 1B, 1C, 1D and 86. I will put the question on the amendments to amendment 1 before I put the question on amendment 1 itself. I will remind members of that when we come to the vote.

Karen Whitefield: Amendment 85 offers a workable and comprehensive approach to encouraging improvements in energy efficiency. I recognise that the domestic sector has a vital role in increasing energy efficiency, as it consumes so much energy. I understand why Patrick Harvie, and other members to whom I have spoken, are eager to include provisions on energy efficiency in the bill.

If agreed, amendment 85 will ensure that the Executive acts on its intentions in relation to domestic energy efficiency. It will mean either that the comprehensive energy efficiency strategy that the Executive is developing will contain an explicit strategy on domestic accommodation, or that a separate strategy will be produced. Amendment 85 ensures that any strategy will be kept under review and will require reports on its implementation.

Amendment 85 also allows ministers to include certain measures in the strategy and to say what

they expect those measures to achieve by way of reductions in carbon emissions. That is a sound and practical approach, which, because it is linked to measures in the strategy, will ensure that the Executive considers how it will manage those measures and what levers it can pull to require or encourage their use. My proposed approach will also give us targets against which to assess the Executive's performance in implementing its strategy.

Not surprisingly, I believe that my amendment offers the most constructive way of achieving what we want. It addresses the strongly—and rightly—held views of the various energy efficiency groups in Scotland.

I move amendment 85.

Patrick Harvie: Karen Whitefield has laid out the position quite accurately. Amendment 85 calls for a strategy, something to which the Executive is already committed. Amendment 1, in my name, would insert into the bill statutory targets for improvements in energy efficiency. Statutory targets are the key point that we should be addressing.

The main difference between amendment 1 and the amendment that the Communities Committee rejected at stage 2 is that the stage 2 amendment contained a secondary target for further improvements on home energy efficiency by 2020. I have removed that, so I am giving the Parliament the opportunity to vote today on the single target on its own.

Statutory targets are the meat of the issue. Other legislatures in Europe, including Westminster, have acknowledged the need to include statutory targets in legislation on this subject to ensure that there is a deadline for Government to live up to. To agree an amendment without statutory targets would fall short of a half-measure.

On Frances Curran's amendments to my amendment, I am honestly not sure how necessary amendments 1C and 1D are, but they seem to add, rather than detract, so I would be happy for them to go through. The Communities Committee has already rejected the secondary target that I proposed, and that is unlikely to change today. I am keen that we have the opportunity to vote on the first target alone. I therefore do not intend to support Frances Curran's amendments 1A and 1B.

I know that the Conservative group is particularly concerned about the cost of the measures that we propose. There will of course be a short-term cost to society in becoming more energy efficient. The savings come later. In these times, when all the talk is of an energy gap and fans of nuclear power, including the Conservatives, are calling for new

build, the task of preparing our society for the energy problems that we will face in the coming century will have a cost. We can choose to pay the immense financial, social and environmental cost of the nuclear option, or of runaway climate change, or we can choose as a society to pay the lower cost in all three senses of preparing ourselves for the dramatic reduction in the use of energy that will be required of us.

For generations we have been living with the delusion that energy is a cheap commodity and building the domestic equivalent of gas-guzzling four-by-fours. To focus only on the need to keep the lights burning is as short-sighted as the road fuel lobby's demand for an absolute right to keep putting cheap petrol in its tanks.

The transition that will be forced on our society one way or the other can be sudden, dramatic and traumatic or we can rouse ourselves from the fantasy of cheap energy and start laying the foundations of a society that can offer a high quality of life to all without living beyond our ecological means.

I would describe that as a Green society, but, whatever political interpretation one offers, we must all recognise the challenge that lies before us. Labour, Liberal Democrat and Conservative MPs at Westminster have recognised that challenge by supporting similar measures to include statutory targets in their legislation.

I welcomed the SNP's support at stage 2 and I hope that it will support amendment 1 today. I sincerely hope also that members of other parties will see that firm, clear statutory targets are a step in not just the right direction, but the only direction that we will be able to take. If we do not take that step now, when will we take it?

Frances Curran (West of Scotland) (SSP): The reason for amendments 1A to 1D is that every time we discuss energy in the Parliament—we did so two weeks ago—ministers get to their feet and wax lyrical about the energy efficiency savings that they are making and the investment that is going into energy efficiency in housing. The issue is crucial. There is a report that says that a child living in a damp house for a year experiences the same lung damage that they would get from smoking 20 cigarettes a day. Some 46,000 children in this country live in fuel poverty.

If the Executive is so committed to efficiency, what is the problem with statutory targets? The Executive is wriggling to try to get off the hook of statutory targets. Karen Whitefield's amendment 85 will allow it to do so, so I imagine that the Executive will support it. Look how pathetic the amendment is. It would mean that the Executive had a strategy that should be reviewed "from time to time" and it could "revise it". It could be revised

up as well as down, because there are no targets. The amendment would provide that

"The Scottish Ministers must publish the strategy and any revisions to it in such manner as they think fit."

That is not exactly binding the Executive to anything on energy efficiency. The 20 per cent target is a Department of Trade and Industry target.

There has to be consultation with residents and tenants organisations on any strategy that is drawn up. Gypsy Travellers must be involved in that, given the cost of fuel and the need for warm homes in their community—their accommodation counts too. I ask members to support my amendments.

Malcolm Chisholm: We have heard strong arguments, which are sincerely felt, for Patrick Harvie's amendment 1 and for Karen Whitefield's approach. Frances Curran's view is that we should go further than Patrick Harvie proposes. There has not been a hint of disagreement with the underlying proposition that we must do all we can to tackle global warming by reducing carbon emissions. The Executive supports that sentiment entirely. The question is how best to proceed.

As Karen Whitefield has suggested, energy efficiency is a major policy concern for the Executive. We think that it is vital that the issue is addressed in a comprehensive way. We are seeking to intervene in the vastly complex system that is the nation's economy in order to find ways that energy—the lifeblood of that system—can be used more efficiently. In a modern democracy, our powers to affect the decisions of individuals in all walks of life at home and at work are properly limited, so we will have to use ingenuity and imagination as well as our ability to legislate.

15:30

We need to influence people, and to do that we need to send out credible messages that are meaningful and relevant to people's everyday lives. That is what we are seeking to do as we develop our energy efficiency strategy, to show everyone in Scotland that there are practical, meaningful things that we can all do to improve energy efficiency. We will give the greatest emphasis to those measures that can make the biggest impact on the level of emissions.

Where do targets fit in? On 30 June, the First Minister announced a commitment to establish Scottish climate change targets in devolved areas and we are developing a framework for those through the review of the Scottish climate change programme. Taking its lead from the Scottish climate change programme, the comprehensive energy efficiency strategy will set out its specific contribution in that area. Within that overall context

we think that the component parts of the strategy should be driven by specific measures encouraging tangible, concrete action.

Our warm deal and central heating programmes are prime examples of how that approach can work. Highly practical and effective action is tackling fuel poverty and energy efficiency simultaneously. The warm deal has insulated 218,000 homes and, in the private rented sector, has reduced tenants' annual fuel bills by an average of £99. The central heating programme has achieved average annual savings of £376 for people over 60 in the private sector. Those programmes have been driven by expectations of what they can achieve and have exceeded those expectations, fully justifying the investment of £200 million of taxpayers' money. It is that type of approach that is needed to make a practical difference for housing, rather than the targets that amendments 1, 1A, 1B, 1C and 1D propose, which take us no further forward on what housing measures should be used and what they will achieve. Targets should be considered in the appropriate context. In the case of energy efficiency, that context is the Executive's overall strategy, which will be launched next year.

In the housing context, the measures that we should focus on are specific actions, and what levers are available to us and how we should use them. Just as important, we should consider how we can join up wherever possible to meet fuel poverty and other objectives in just the way we are already doing with the central heating and warm deal programmes. I therefore support amendment 85 whole-heartedly and ask members to vote for it. I also ask members to support amendment 86, which is a consequential amendment, following on from the repeal of part VIII of the Housing (Scotland) Act 1987.

The Deputy Presiding Officer: A considerable number of back benchers wish to speak, so they will get a very tight two minutes.

Tricia Marwick: On a point of information, Presiding Officer. If amendment 85 is agreed to, does amendment 1 fall?

The Deputy Presiding Officer: No.

Mr David Davidson (North East Scotland) (Con): No one in the chamber can have any doubt that energy efficiency is important for our nation, and not only for housing. Energy efficiency in housing, however, raises the issue of building standards. Where do we start to tackle that? If we continue to have regulations on building standards, does that mean that we will select different housing sectors? The minister has not mentioned that. Are we talking about new build or about renovation schemes? Should building standards be part of this bill or part of the planning

bill? What about the European directive on building standards that is about to come before us?

The minister has said that there will be a strategy—or whatever he will call it—in the new year. The issue is how we get there. We have to deal with waste of energy. We have to deal with the impending crisis in energy production in this country and the fact that an energy shortage will affect not only people and houses, but our economy. The Conservatives do not feel that amendment 85 is enough. On amendment 1, I ask what a target is. What about the cost and the bureaucracy associated with that proposal? It is time we asked the minister to respond positively and to tell us whether he has a programme to collate the scientific and technical knowledge so that we can properly evaluate what is going on. Will he also evaluate health benefits, and the big issue of fuel poverty, which is being felt by more and more people, particularly pensioners and the working poor? We need to do that holistically, not by just grabbing a piece of this and adding it on as an amendment here or there. We need clearly thought out policies on how we will achieve energy efficiency.

Sarah Boyack: I support amendment 85 because I believe that we urgently need a strategy to tackle home energy efficiency. However, there must be a wider energy efficiency strategy. Members of the Environment and Rural Development Committee were told during our work on climate change that we could deliver half of the 60 per cent reduction in CO₂ emissions that we must make over the next few decades by energy efficiency alone. There must be a case for joined-up thinking about this, so that we can both tackle fuel poverty and ensure that we create energy efficiency in all our new housing.

Amendment 85 would be a step forward, but I would like the Executive to go further. If the minister replies to the debate, I would be interested to know from him whether he sees a role for targets in the energy efficiency strategy for housing. I know that the Minister for Environment and Rural Development has talked about that in the context of climate change generally. We need to examine all our opportunities for delivering energy efficiency and do it in a joined-up way, particularly with the review of the warm deal and central heating programmes. That is an opportunity to tie together action on fuel poverty and energy efficiency with the opportunities that small-scale renewables bring.

I welcome amendment 85 and hope that it is agreed. This must be seen as the start of the process, however, and a lot more action must follow. By bringing the issue back to the Parliament, I hope that we will reflect the

consensus across the parties, which is that we need to take urgent action.

Donald Gorrie: I support Karen Whitefield's amendment 85. The issue is important and her amendment presents good ideas for dealing with it. I would also like to argue for Patrick Harvie's amendment 1, which does not propose some weirdo, obscure, Green thing. The English do it, for God's sake. They do not always do everything right, but the fact that they do what amendment 1 proposes shows that the proposal is not off the wall and that it is quite a credible, sensible thing.

Scandinavia is colder than Scotland, but people there deal with their houses infinitely better and have done for years. We have really got to get a grip on this. The minister made a good speech and the right noises, but the fact is that many people do not believe that we will take energy conservation seriously enough and deliver on it. Targets become a sort of symbol or flag.

Thirteen organisations have produced one of the prettiest bits of lobbying that I have ever received, which is a document that has all their logos on it, as members can see. If 13 Scottish voluntary organisations can agree on an issue, that shows that there may well be something in it.

Whether or not amendment 85 is passed, I suggest that the Executive takes seriously the idea of having some targets. They could be updated every two years, according to the proposal in Patrick Harvie's amendment 1, or in another way if the Executive wishes to do it better. However, the targets must convince people. I think that the Executive's intentions are honest, but it must convince the rest of the world, who are pretty sceptical about Governments in general, if not this Government. I suggest that the Executive takes the target issue seriously.

Euan Robson: There is no doubt that energy efficiency in housing is a key issue. It has been on the agenda for many years, in fact. It is welcome that Karen Whitefield has lodged amendment 85, which proposes the right, proportionate approach.

The difficulty with amendment 1 is simply this: it puts one target into a statutory context. I appreciate that that is done in other places, but it is not appropriate in the Scottish context.

Patrick Harvie: Will the member give way?

Euan Robson: In a moment. It is better to ensure that the strategy that the ministers will produce has those targets in it, because that would make the strategy more meaningful. It would also mean that the targets could be improved with more flexibility than is the case when primary legislation is involved.

Patrick Harvie: I am grateful to the member for giving way.

Does Mr Robson accept that, if both amendments 85 and 1 are passed, the Executive would be perfectly free to incorporate the targets that would be included in the bill into its own strategy and the wider context that Sarah Boyack mentioned? There does not have to be a completely separate approach. However, my amendment would impose a deadline.

Euan Robson: Patrick Harvie has explained why amendment 1 is superfluous. The point is that if the targets were incorporated into the strategy, they could be adapted more flexibly and quickly than would otherwise be the case.

Confusion often arises about fuel poverty and energy efficiency. In eliminating fuel poverty, energy consumption may increase, because people who hitherto could not, become able to afford tolerable levels of warmth in their homes. That is important. A distinction must be made between dealing with fuel poverty and reducing energy consumption. We need to eliminate fuel poverty and increase energy efficiency in dwellings, and Karen Whitefield's strategy is the right approach.

Tricia Marwick: Energy efficiency is extremely important, which is why the SNP was happy to support Patrick Harvie's stage 2 amendment. We will also support his stage 3 amendment when we vote.

Amendment 85 would go some way towards meeting needs, but it is a pity that it was not lodged at stage 2. One is left with the feeling that it has been lodged simply to try to stop Patrick Harvie's amendment being agreed to and to allow the Labour and Liberal parties to vote on something.

I do not understand Euan Robson's comments about statutory targets not being appropriate. If statutory targets are appropriate for legislation in England and Wales, I fail to see why they are not appropriate in the Housing (Scotland) Bill. There are huge energy inefficiency issues in the private rented sector. Warm houses and proper insulation are needed. Lots of heat goes through the walls and roofs of houses in Scotland; sometimes only the pigeons that sit on the roofs are warm.

We will support amendment 85 for the reasons that I have given, but we also urge members to go a bit further and support amendment 1 to ensure that there are statutory targets.

Karen Whitefield: I appreciate the concerns expressed by many members in different parties. They are concerns that are shared by many of us, including all the members of the Communities Committee. Where we sometimes differ is on how we achieve realistic solutions.

Patrick Harvie was correct to point out that his stage 3 amendment is almost identical to the amendment that he lodged at stage 2, but the arguments that were used to reject his amendment at stage 2 still stand.

Patrick Harvie: My amendment is similar to the amendment that was lodged at stage 2, but it is without the secondary target. It has one set of very achievable targets. It was argued against the stage 2 amendment that it went further than England and Wales had gone, but the stage 3 amendment asks us to go only as far as England and Wales have gone.

Karen Whitefield: I did not say that the amendments were identical—I said that they were almost identical. I appreciate that Patrick Harvie has changed his proposal.

The point that I was trying to make was that some arguments that were used at stage 2 still stand. My concern is that if we introduce ad hoc targets now, we might disrupt the current comprehensive energy efficiency approach that the Executive is taking.

However, I agree with Sarah Boyack. If amendment 85 is agreed to—and I welcome the Executive's support for it—there will be no reason why the Executive cannot introduce targets. Many people in the Parliament want targets to be introduced, but we need to be sure and clear about what we want those targets to be and what we want to strive to do properly.

I am disappointed by Tricia Marwick's suggestion that the amendment is an attempt to give the Labour Party and the Liberal Democrats something to vote on. She has been a member of the Communities Committee and the Social Justice Committee with me and knows that I have been concerned about the issue that we are discussing and that I have shown commitment to it throughout the six years that the Parliament has been in existence. Therefore, I am disappointed—although not in any way surprised—that she has taken such a cheap political shot. [*Interruption.*]

The Deputy Presiding Officer: Order.

Karen Whitefield: As for Frances Curran, I certainly do not think that amendment 85 is pathetic and nor do the energy efficiency groups. They may want to go further, as they always do—that is their legitimate right—but they certainly would not want my amendment to be rejected. I intend to press amendment 85.

The Deputy Presiding Officer: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. I suspend the Parliament for five minutes.

15:45

Meeting suspended.

15:49

On resuming—

The Deputy Presiding Officer: We will now proceed with the division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 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)
 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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (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)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Martin, Campbell (West of Scotland) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)

ABSTENTIONS

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 MacDonald, Margo (Lothians) (Ind)

The Deputy Presiding Officer: The result of the division is: For 91, Against 19, Abstentions 2.

Amendment 85 agreed to.

After section 155B

The Deputy Presiding Officer: Group 21 is on empty housing. Amendment 66, in the name of Tricia Marwick, is the only amendment in the group.

Tricia Marwick: There are 48,000 empty homes in the private sector in Scotland. That is a considerable number of homes that could be brought back into use. [*Interruption.*]

The Deputy Presiding Officer: One moment, Ms Marwick. There is far too much noise in the chamber.

Tricia Marwick: Previous efforts have been made to reduce the number of empty private sector properties in Scotland. The empty homes initiative, which was launched by the Scottish Executive, ran until 2003 and had an impact on the number of houses that came into use. If that initiative were to be rolled out throughout Scotland, more affordable houses would become available.

Amendment 66 seeks a statement from the Executive that specifies the measures that it believes should be taken to deal with homes that are empty for longer than six months and requires local authorities to look at their areas and propose strategies to deal with the problem.

Houses lie empty in the private sector for a number of reasons. Amendment 66 is not about bringing back into use granny's hieland hame—property that people use because granny has always had it—but about ensuring that empty houses are identified and, where possible, giving support to the owners of those houses and local authorities to bring them back into use.

The highest numbers of private sector empty homes, by local authority area, are found in the areas with the highest demand for rented housing. There are 4,900 empty homes in Edinburgh; 4,240 in Aberdeen; 3,500 in Fife; and 3,500 in Glasgow. The authorities with the highest number of empty homes as a proportion of the local dwelling stock are the Western Isles, Orkney, Aberdeen and Moray.

The Executive believes that the problem of empty houses can be addressed through the local housing strategies that local authorities are required to promote. That will go some way towards dealing with the situation, but we have a problem in Scotland. That is why the bill should state the Parliament's intention to tackle the problem by putting in place the mechanisms to focus on empty homes and to bring into use houses that are presently not in use. That would make other houses available to people who struggle to find a home because they can neither buy nor get a council house. I urge everyone to support amendment 66 because empty homes in Scotland are a genuine problem that needs much more of focus than it has had in the past.

I move amendment 66.

Mary Scanlon: I spoke against the similar amendment that Tricia Marwick lodged at stage 2

and I have serious concerns about amendment 66 today. The exercise that the amendment proposes would be hugely bureaucratic and would mean council officials spending time looking into people's personal circumstances.

I agree that we should look at the thousands of empty homes under local authority management, because more could be done to bring them back into service. I return to the subject of granny's hieland hame, which I mentioned at stage 2. Houses are often empty for good reasons and I will give members some of the reasons that I can think of offhand.

Serving military personnel may have empty homes, but they want to return to their homes; they do not want council officials to deprive them of their homes by putting them on the market. Many elderly people in residential homes hope that they will one day return to their own homes; they want to keep that lifeline. Many people from the Highlands leave their native land to pursue careers and opportunities elsewhere in Scotland, the United Kingdom or the world, but they want to keep their family homes to return to; they do not want us to interfere in that way of life. Finally, people who work in other countries may have empty homes; many Scots work abroad but still wish to retire in their own land. I could go on. The amendment is unworkable for the reasons that I have given.

Johann Lamont: Amendment 66, in the name of Tricia Marwick, draws much from an amendment that she lodged at stage 2. The main difference is that the words "living accommodation" have been replaced by the word "housing", but other minor changes have been made. We had a good discussion of her stage 2 amendment in committee. It addressed the principle that if houses lie empty for no good reason when people need affordable houses, that is a misuse of the nation's resources and such houses should be brought back into use. That was and is a principle with which I agree. That is why we undertook to review the position, to ensure that, five years on from the successful empty homes initiative, local authorities continue to consider bringing empty property back into use and continue to take active steps to encourage that when the local housing need requires such action.

It is reasonable to expect any empty homes initiative to recognise that it addresses housing need; it does not necessarily apply throughout the country. Housing need is expressed in different ways in different parts of the country and houses are empty for different reasons in different parts. An empty property may be granny's hieland hame or a hard-to-let house in the centre of Glasgow.

That is why I am glad that, when we consider the issue, we see the broader context of how we retrieve houses for public use by huge investment in the social rented sector—the £1 billion of debt that was lifted from Glasgow is a good example of that—and by recovering for communities housing that was at one time hard to let and which people now want to be in.

We are taking action in the private rented sector. People are abandoning their homes because of mismanagement, poor management or appalling management of houses round about them that are owned by private landlords, who see such properties as an investment and not a business and who see their tenants as a means of earning money rather than people whom they have a responsibility to manage and take care of. The key purpose of private landlord registration is to drive out of the sector people who have no concern for or interest in the people who live in their houses or the people who live round about them. That is one way in which we will retrieve communities and houses.

Communities Scotland has been asked to expand on the information that will be covered in local housing authorities' local housing strategies to address the question. Local authorities will be expected to include in their strategies an assessment of where their action on empty homes could contribute usefully to meeting housing need throughout or in any part of their areas. The assessment should cover the private and social rented sectors. When they think that action could make such a contribution, we will expect to see what approaches they plan to use to address the matter.

I appreciate that one or two members might have felt that some local authorities were not giving the issue sufficient recognition in their local housing strategies or in the action that they had taken. I do not necessarily accept that view. Some local authorities have very clear strategies and are very effective in securing the reuse of empty houses. I am confident that the revision of local housing strategies will focus efforts and I hope that such changes will reassure members, as they appear to have reassured Shelter, that we have an appropriate and effective way to tackle empty housing in areas where it is a concern.

The approach that I have outlined is sufficient for the purpose. The amendment is neither necessary nor desirable. It would commit the Executive and local authorities to undertaking a range of obligations. Even in areas where empty housing is not an issue, new research would have to be commissioned.

We listened to and considered the case for empty homes management orders and compulsory leasing during the bill's early stages.

We concluded that they would neither meet the objective of providing affordable homes nor provide permanent accommodation for homeless people. At stage 2, we listened to and considered the case for producing a statement on securing the reuse of empty living accommodation. We concluded then that, to be useful, empty housing must be of a suitable type and in a location that is acceptable to a tenant. Through local housing strategies, we have found a way of getting local authorities to address the question where they need to.

Tricia Marwick's option would be neither pain free nor cost free. It would involve resources from the centre and costs at local level, and it would not necessarily achieve Tricia Marwick's aims. I urge members to accept that the Executive's plans will meet those aims, and I invite Tricia Marwick to withdraw amendment 66.

16:00

Tricia Marwick: I thank the minister for accepting that to date there has been a failure to tackle the question of empty housing, and I accept that local housing strategies will now contain a requirement on local authorities to consider empty housing. I am glad that, following my amendments at stages 2 and 3, ministers have moved on this issue. I therefore seek leave to withdraw amendment 66.

Amendment 66, by agreement, withdrawn.

After section 159

Amendment 1 moved—[Patrick Harvie].

Amendment 1A moved—[Frances Curran].

The Deputy Presiding Officer: The question is, that amendment 1A 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)
Canavan, Dennis (Falkirk West) (Ind)
Curran, Frances (West of Scotland) (SSP)
Leckie, Carolyn (Central Scotland) (SSP)
MacDonald, Margo (Lothians) (Ind)
Martin, Campbell (West of Scotland) (Ind)
Sheridan, Tommy (Glasgow) (SSP)
Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
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)
Brownlee, Derek (South of Scotland) (Con)
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)
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)
Glen, Marlyn (North East Scotland) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (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)
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)
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)
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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (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)

The Deputy Presiding Officer: The result of the division is: For 8, Against 84, Abstentions 20.

Amendment 1A disagreed to.

Amendment 1B moved—[Frances Curran].

The Deputy Presiding Officer: The question is, that amendment 1B 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)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Sheridan, Tommy (Glasgow) (SSP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 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)
 Glen, Marlyn (North East Scotland) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (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)
 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)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 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)
 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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)

Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (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)

The Deputy Presiding Officer: The result of the division is: For 8, Against 83, Abstentions 20.

Amendment 1B disagreed to.

Amendment 1C moved—[Frances Curran].

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

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 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)
 Glen, Marlyn (North East Scotland) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (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)
 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)
 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)
 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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (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)

The Deputy Presiding Officer: The result of the division is: For 15, Against 77, Abstentions 20.

Amendment 1C disagreed to.

Amendment 1D moved—[Frances Curran].

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

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Canavan, Dennis (Falkirk West) (Ind)
 Curran, Frances (West of Scotland) (SSP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Sheridan, Tommy (Glasgow) (SSP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 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)
 Glen, Marlyn (North East Scotland) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Henry, Hugh (Paisley South) (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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (Con)
 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)
 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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (Aberdeen North) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hyslop, Fiona (Lothians) (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)
 Mather, Jim (Highlands and Islands) (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)

The Deputy Presiding Officer: The result of the division is: For 14, Against 77, Abstentions 20.

Amendment 1D disagreed to.

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

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Byrne, Ms Rosemary (South of Scotland) (SSP)
 Canavan, Dennis (Falkirk West) (Ind)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (North East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Margo (Lothians) (Ind)
 Martin, Campbell (West of Scotland) (Ind)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (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)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 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)
 Glen, Marilyn (North East Scotland) (Lab)

Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (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)
 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)
 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)
 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)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 36, Against 76, Abstentions 0.

Amendment 1 disagreed to.

Section 160—Power to obtain information etc

Amendment 67 moved—[Malcolm Chisholm]—and agreed to.

Section 165—Orders and regulations

Amendment 68 moved—[Mary Scanlon].

The Deputy Presiding Officer: The question is, that amendment 68 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)
 Brownlee, Derek (South of Scotland) (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)
 MacDonald, Margo (Lothians) (Ind)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 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)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (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)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 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, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 14, Against 99, Abstentions 0.

Amendment 68 disagreed to.

Section 168—Interpretation

Amendment 69 moved—[Malcolm Chisholm]—and agreed to.

Amendment 87 moved—[Mary Scanlon].

The Deputy Presiding Officer: The question is, that amendment 87 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)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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 (Dunfermline East) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 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)
 Fabiani, Linda (Central Scotland) (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)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (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)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 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, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)

Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)

The Deputy Presiding Officer: The result of the division is: For 14, Against 100, Abstentions 1.

Amendment 87 disagreed to.

Schedule 2

PRIVATE RENTED HOUSING COMMITTEES: PROCEDURE ETC

Amendments 7 to 10 moved—[Malcolm Chisholm]—and agreed to.

Schedule 4A

HMO AMENITY NOTICES: ENFORCEMENT ETC

Amendment 48 moved—[Malcolm Chisholm]—and agreed to.

Schedule 5

CONSEQUENTIAL CHANGES

Amendments 3 and 86 moved—[Malcolm Chisholm]—and agreed to.

Schedule 6

REPEALS

Amendment 4 moved—[Malcolm Chisholm]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Housing (Scotland) Bill

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on S2M-3438, in the name of Malcolm Chisholm, that the Parliament agrees that the Housing (Scotland) Bill be passed.

16:11

The Minister for Communities (Malcolm Chisholm): Our partnership agreement gave a commitment to progress the recommendations of the housing improvement task force; the Housing (Scotland) Bill is the outcome. I thank the members of the task force and its subgroups who volunteered their time, effort and expertise over two years.

I also thank the many people who responded to the consultation, the members of the Finance Committee, the Subordinate Legislation Committee and, most of all, the members of the Communities Committee, who gave the issues such careful consideration. Once again, the committee system has been seen at its best: the committees have exerted influence in a way that does not happen at Westminster and have worked constructively with Johann Lamont in particular. Last, but not least, I record my appreciation of the Scottish Executive's bill team. The bill might not have raised a lot of passions, but it is an important bill that is driven by a concern that people in Scotland should live in houses that are fit for the 21st century.

Early in its existence, the Scottish Parliament tackled the social rented sector with marked success through the Housing (Scotland) Act 2001. We always said that it would take longer to address the private sector because of the need for better information and more complex solutions. The bill has been driven by the view that the responsibilities that are attached to owning a house should be taken seriously. Failure to do so affects the quality of Scotland's housing stock and, more specifically, it can affect the next owners, the neighbours in a tenement or the tenant.

The bill is a response to sound but worrying evidence that, in 2001, privately owned houses in Scotland needed something of the order of £5 billion-worth of urgent or pending repairs. The task force delved into the reasons for that startling statistic, and it came up with more than 150 recommendations to help the nation to address that state of affairs. I say "help the nation" deliberately, because this is one of those areas where people who say that the Government should do something have got it wrong. It is owners, along with the Government of course, who should do something. The bill does not

therefore remove owners' responsibilities but emphasises and supports them.

I will not pretend that the bill has been entirely plain sailing for the Executive. There has been plenty of discussion and differing views, and as I have already suggested, the Communities Committee's scrutiny challenged aspects of the bill. For example, we have moved significantly in our approach to assistance for disabled people to adapt their houses, on landlords' consent for central heating, on fire detection in the repairing standard and on tenancy deposits. Those examples show how we have listened to the issues and arguments and have been prepared to develop policy during the bill's progress.

Of course we have resisted legislating on some matters, but only after consideration of the arguments. Where necessary, we have put on record how we intend to achieve an objective through administrative action. For example, in answer to concerns that were expressed by the Disability Rights Commission, I confirm that a landlord dealing with a tenant's request under section 52 to make a particular adaptation should consider the individual's particular disability and not whether that category of disability requires adaptation.

A key part of the bill has been to give new rights to the 350,000 tenants in the private sector. If a landlord fails to carry out necessary repairs, the only recourse at the moment is to the courts. The bill will not only improve the standard that a house must meet; it will also give tenants the right to appeal to a new private rented housing panel, which will be able to order that work be done and to penalise landlords when that does not happen.

As one would expect, some issues have been more controversial than others. For example, we had interesting debates earlier today about energy efficiency and about the single survey. The single survey is based on two years of research, deliberation and consultation by the task force. It is utterly bizarre that when one buys a can of beans one knows more about it than many people do about the house that they want to buy when they make an offer. The single survey is a sensible approach that will provide detailed information on a property's condition to house buyers and sellers at the start of the transaction. That will help to avoid delays and the risk of transactions falling through and it will help to avoid unexpected costs after the buyer moves in.

We have been criticised for proceeding to legislate despite the outcome of the single survey pilot. The pilot demonstrated that the system will not work on a voluntary basis because, in general, there is a lack of incentive for house sellers to participate. However, the policy drivers remain: improving the information that is available to

purchasers on property condition; addressing multiple valuations and surveys; and addressing the setting of artificially low upset prices. Nobody has identified a better way of achieving those objectives. I acknowledge that the single survey is controversial, but I welcome the commitment that has been shown by organisations in the house buying and selling industry to help us to deliver a system that will work for Scotland.

I make no apologies for having introduced a substantial amendment at stage 3 to address the current issue in respect of Glasgow Housing Association. That we are able to react positively and firmly to deal with an urgent situation such as that shows the flexibility of the parliamentary process. Not to have done so would have been to let down the tenants in Glasgow who voted for transfer. The amendment will allow us to ensure that tenants in Glasgow can continue to enjoy local management of their homes. Tenants voted for the transfer to the Glasgow Housing Association to secure the much-needed investment in their houses and to secure the responsibility, in the first instance, for managing their houses. The ultimate goal of the transfer remains second-stage transfer, and our focus is now to see that that is delivered. I know that the GHA is also committed to that. In the meantime, it has important decisions to make on its reaction to amendment 64, which we debated earlier.

I have dwelt at some length on various aspects of the bill, but I would like to make one important point in closing. Housing issues are a complex area of policy; they affect the great majority of households in the country and a house is the most important investment that most people make. The main measures in the bill are about changing people's attitudes to the responsibilities of being a home owner and are also, as a result, about bringing about long-term improvements in the condition of housing in Scotland. The bill is the cornerstone to a culture change, and we are determined to make continuing efforts in implementation and communication to make it a lasting change. I warmly commend the bill to Parliament.

I move,

That the Parliament agrees that the Housing (Scotland) Bill be passed.

The Deputy Presiding Officer: Before I call the next speaker, I advise members that time is pressing and that those who are called to speak in the open debate will get only three minutes. I call Tricia Marwick to open for the Scottish National Party. You have five minutes.

16:18

Tricia Marwick (Mid Scotland and Fife) (SNP): I thank my fellow members of the Communities

Committee, which I joined just as it was starting stage 2 consideration of the bill. I also thank the clerks and, in particular, I thank my colleague, Linda Fabiani, who was the SNP's housing spokesperson immediately before me, for all the work that she has done on this and previous housing bills. I am extremely grateful to her. I also acknowledge that ministers have moved on a great number of issues as the bill has been debated, and that they have quite rightly paid credit to the Communities Committee and its members.

The bill will provide greater rights for people who rent privately. It will improve standards of repair and it will create a new body—the private rented housing panel—to adjudicate when landlords fail in their duty to keep repairs up to standard. We have had debates today and in the preceding months, about the single seller survey in particular. I am grateful that Johann Lamont has said that she will bring draft regulations before the Communities Committee. I urge her to take on board some of the genuine concerns that have been expressed in the chamber and to ensure that, when we consider the draft regulations, they are as good as they can be.

All of us who believe in a single seller survey and who congratulate the Executive on introducing such a proposal in the first place will examine the draft regulations closely because we all hope that they and the survey will do the job that we want them to do.

I turn to another issue. In last night's *Edinburgh Evening News*, the minister said:

"In the past five years, we've come a long way in addressing Scotland's housing needs, including improvements in the quality of homes in the social rented sector. Now it is time to focus on the private sector as well."

I have not been concerned about the range of bills that have dealt with housing because we all acknowledge that very little was done about housing during the years of the last Conservative Government—there was very little legislation on the subject during that time. When the Executive came to power, it was right and proper that it should address many of the needs that existed. I congratulate the Executive on doing that. We have supported its legislation.

However, housing in Scotland is now dealt with by a huge amount of legislation in several different acts and the Housing (Scotland) Bill seeks to amend a number of acts that Parliament has passed since 1999. This week the Communities Committee considered a set of antisocial behaviour regulations to do with private landlords. The bill that we have been considering today also deals with private landlords. In my view, it is time for the Executive to take stock, to reflect on where we are on housing and to consider introducing a

consolidation housing bill to bring together all the legislation that we have passed since 1999. That would mean that there would be a single piece of legislation to which practitioners—whether local authorities, voluntary organisations or individuals—could go. I am not making a party-political point; I am simply looking at the issue from the perspective of people who need to understand the legislation and how it all works together. The Executive must examine the body of housing legislation that we have—which the SNP largely supports and has welcomed—and produce proposals for a consolidated housing bill. The SNP will support the Executive in that.

16:22

Mary Scanlon (Highlands and Islands) (Con):

Tricia Marwick made some excellent points. I could not help remembering that both she and Linda Fabiani were housing professionals in their past lives. If even they have found the bill complex and technical, members can imagine how I felt last night when I looked through the 23 pages of amendments to decide which of them we should vote for. I found that to be an extremely difficult process.

Like Tricia Marwick, I thank the clerks and the bill team for their help and co-operation during the bill's passage. I also thank everyone who gave evidence, whether oral or written. I appreciate that a great deal because I do not have a background in housing. I thank my colleagues on the Communities Committee; although none of them supported any of my amendments, their opposition was never mean-spirited. As the minister said, the teamwork of cross-party committees is often underestimated or ignored in coverage of Parliament's work.

The bill is interesting in that it covers a range of issues, including housing renewal areas, the repairing standard, new rights for tenants and the repair, improvement and demolition of houses. The main debate today has been on the single seller survey, on which a wide variety of measured, considered and thoughtful views have been expressed. The Scottish Conservatives welcome the main contents of the bill, but it will be no surprise to learn that we do not support the single seller survey, for the reasons that we gave this morning.

Last week's stage 3 consideration of the Licensing (Scotland) Bill was much more controversial and did not result in the type of parliamentary proceedings to which we aspire. Today's proceedings have been much more straightforward and ministerial engagement has been good. However, issues arise in terms of timing and consultation. The stage 3 debate is the normal time for issues of this kind to be raised.

During stage 2, 26 pages of amendments were published on the Monday, with members and organisations having little more than a day to comprehend, respond and—in the case of organisations—advise committee members, prior to the committee meeting on the Wednesday morning. I hope that the Procedures Committee will examine that matter, along with other measures. Not only parliamentarians but organisations that are interested in the subject matter of legislation need time to examine amendments.

I echo Tricia Marwick's point that, in our consideration, we were dealing not only with the bill, but with its impact on other legislation. We need to consider the context in which the bill is set. Her point is a good one.

I enjoyed all the pre-legislative consultative meetings. They were most helpful in assisting committee members to gain an understanding of the impact of the eventual legislation.

The Communities Committee is wasting no time following completion of stage 3 of the bill today. Tomorrow, we are back in Parliament to meet planning directors from around Scotland as part of our pre-legislative scrutiny of the forthcoming planning bill. There is no rest for members of the Communities Committee.

16:26

Euan Robson (Roxburgh and Berwickshire) (LD): I repeat the thanks that committee members have given to the clerks for guiding us through the bill's progress. I think that I came to the committee later in the process than Tricia Marwick did, so I am grateful for the background information that I was given. I also thank my colleague Donald Gorrie for his initial work on the bill, which lasted until the middle of the committee's stage 2 consideration. I also record my thanks to the people who participated in the housing improvement task force, and the consultees and witnesses who gave evidence to the committee. Moreover, I express my appreciation for the way in which the ministers responded to the points that committee members raised. Before and during my time on the committee, ministers have responded to a considerable number of points, both at committee and in the debate today.

I welcome the provisions of the bill. Clearly, the bill is important in addressing a number of persistent problems in the housing market; it addresses them comprehensively. First, I want to thank ministers for lodging amendment 67, which amended section 160. I did not have the opportunity to thank them for that earlier. The amendment focused on whether licensing is required for houses in multiple occupation. As they

were originally framed, the provisions in section 160 might have implied that information had to be provided for other more general purposes. That would have been inappropriate, so amendment 67 is helpful in clarifying the position.

Turning to the general terms of the bill, I agree with Malcolm Chisholm that it will confer new and perhaps long-overdue rights on tenants. It is particularly welcome that local authorities can now develop housing renewal areas. It was clearly important to upgrade the tolerable standard, linked to which is the development of the repairing standard. Section 13(1) is an admirable expression of what is required to give reality to the concept. I wish that the local authority powers to require the owner of a house to carry out work had been available years ago. I cannot believe that many members will not have encountered a case involving a derelict or semi-derelict property that is an eyesore or worse, and perhaps prominently located. The maintenance order will further assist the process and is particularly important for tenants. Clearly, the reforms on licensing HMOs will deal with the difficulties that the sector has generated in the past, some of which have featured prominently in newspapers. All of us know of the difficulties that HMOs can cause.

During its passage, the bill has been improved in a number of ways. The notable improvement was the important amendment on energy efficiency. The Executive has to be clear, however, that in rejecting the inclusion of statutory targets in primary legislation, the significance of the strategy is increased. I welcome the fact that the strategy will be forthcoming. I am sure that the Communities Committee will be particularly interested to assess and test it.

The single seller survey is a controversial provision that will require detailed consideration. The regulations will have to address the practical difficulties that were clearly articulated in the debate on the amendments to part 3 of the bill. I commend the bill to Parliament and hope that it will be passed.

The Deputy Presiding Officer: Because some speeches were shorter than expected, I can give Karen Whitefield, the Communities Committee convener, four minutes, but other members will get three.

16:30

Karen Whitefield (Airdrie and Shotts) (Lab): I hope that that means that I will not have to cut anybody out of my thanks, which is the most important part of my speech.

I am pleased to say a few words about the Housing (Scotland) Bill, which is part of the Parliament's on-going commitment to improving

housing conditions in Scotland, and puts in place the final piece of the jigsaw to deliver good-quality housing for everyone. It creates a framework that should ensure that people who live in private accommodation—whether as owner-occupiers or private tenants—have the same right to live in good-quality housing that is currently enjoyed by people who live in the social rented sector.

The bill provides home owners with various forms of assistance to improve housing conditions, while placing a reasonable responsibility on them to maintain their homes to a reasonable standard. I welcome that approach. The scheme of assistance will provide far greater flexibility than the current repair grants regime, and will allow better targeting of valuable resources.

I welcome the streamlining of powers for local authorities to compel action to be taken on individual homes, combined with the new housing renewal areas, which will provide a powerful tool in the battle to regenerate some of our most run-down areas. I appreciate the assurances that were given in response to Tricia Marwick's amendment on mandatory grant. The minister's commitment that the matter will not be kicked into the long grass is welcome. I hope that that will reassure organisations such as Ownership Options in Scotland.

Not surprisingly, I am pleased that my amendment on energy efficiency was successful, as I firmly believe that it provides a sensible and realistic way of achieving the aim of improving and monitoring energy efficiency in our homes in the coming years.

Before I conclude, I thank all those who assisted the Communities Committee in its scrutiny of the bill. I thank the committee clerks for their invaluable assistance, in particular Katy Orr for her diligence and commitment. I thank the Executive bill team and the Scottish Parliament information centre for their assistance in providing detailed information and advice, as well as all members of the Communities Committee past and present who contributed to the process.

A number of local authorities hosted pre-legislative meetings, which were invaluable in informing the committee of key issues relating to the bill. I pass on the Communities Committee's thanks to Glasgow City Council, the City of Edinburgh Council and Perth and Kinross Council.

Finally, I thank all the key stakeholders—organisations and individuals—from across the housing sector who gave written evidence to the committee. In particular, I highlight the importance of the evidence from Citizens Advice Scotland and Shelter Scotland. They proposed the creation of a rent deposit scheme, which will happen as a result of the bill.

To conclude, I will welcome the passing of the bill, which is a vital part of the on-going commitment of all members to improvement of the housing conditions of all the people of Scotland. I have considerable sympathy with Tricia Marwick's point that we have done enough. I am unsure whether we need a consolidation bill to bring together all housing legislation, but I agree with her that we have done enough and that now we need to reflect on what we have done. I commend the bill to Parliament.

16:34

Linda Fabiani (Central Scotland) (SNP): I have been away from the Communities Committee for a wee while, but I was pleased to learn from Tricia Marwick and from today's debate that the spirit that existed before has continued, with the Executive genuinely taking on board the committee's suggestions. To some extent, that is evident in the bill. It is a great thing, and it is how we should be working.

I hope that ministers will take my comments as being constructive, because that is how they are meant—I will get on to the non-constructive ones in a minute. It is great that the housing improvement task force was set up. It was an excellent way to promote the housing legislation that was so desperately needed. However, announcements and legislation are not always guarantees of delivery. I am concerned that we have done so much—admirably—that we are perhaps missing some bits somewhere, that we are not quite on top of the situation and that we are not where we want to be.

I will mention the Homelessness etc (Scotland) Act 2003 at this point. We had a debate on homelessness recently. I do not think that any of us are convinced that the situation has advanced as we would have liked it to. It is time to take stock of all the housing legislation that we have put through. As Tricia Marwick mentioned, there is other legislation relating to housing. I have some concerns about whether there are contradictions in some pieces of legislation.

I remember that the rest of the Communities Committee was terribly amused when I expressed great excitement at the visit of the Scottish Association of Chief Building Control Officers to the committee to give evidence. From what its members were saying, I felt that they had concerns about how the Housing (Scotland) Bill related to the Building (Scotland) Act 2003, the new building regulations and so on. We need to reconsider that.

The Deputy Presiding Officer: You have one minute left.

Linda Fabiani: I have one minute, so I now have to be non-constructive. Although I welcome the assurances the minister has given today about Glasgow Housing Association, I am surprised at the near complacency that exists, according to which we seem to be saying, "Aren't we good, having reacted as we did?" It should not be about having a reaction; the situation should have been sorted before we had the reaction and before the debacle that took place. After all, the GHA is a creation of the Executive, which should have been on top of what was happening.

A huge tranche of funding went to the GHA—that is not to be denied—but can the minister confirm that the money required to allow second-stage transfers of all the stock in Glasgow that was transferred to the GHA was given and that it is still there? I do not know whether the money is still there. I ask the minister to enlighten us. Such transfers can be expensive, and funding needs to be front loaded to create savings later on.

The Deputy Presiding Officer: Please wind up now.

Linda Fabiani: In closing, could I also ask yet again whether—

The Deputy Presiding Officer: There is not time for "also".

Linda Fabiani: When it comes to future transfers, will the rights of tenants be preserved in respect of community ownership?

16:37

Patrick Harvie (Glasgow) (Green): All members have begun by thanking the clerks. I, more than any other member, have reason to express thanks to them. My habit of lodging ridiculously complicated amendments at the very last minute shames me. I have stopped doing it now—I promise not to do it again.

I thank my fellow committee members. The process has been more enjoyable than I expected when I first read the bill, which I initially thought quite dry. Some issues of interest came out of it. I thank Donald Gorrie not so much for his work as a former member of the Communities Committee as for pressing repeatedly the point about having adequate time for stage 3 consideration. Today's debate clearly shows that a half day is not enough for that process; it is good that we have had enough time overall today.

As I have said on a number of occasions throughout our consideration of the bill, the Greens support the single seller survey. The opportunity to make the culture change that will come from making the single survey a mandatory scheme rather than a voluntary pilot is one that we

should take, and we should be glad that it is in the bill.

Earlier, I mentioned the equality amendment to which Johann Lamont spoke. I am very glad that, in addition to the existing equality strands, discrimination on the grounds of age, religion and belief and sexual orientation will be added to the fit-and-proper-person test that landlords will have to meet.

I regret that some of the amendments that I lodged will not appear in the bill as passed. I believe that management standards offered a natural extension of the regulation of private landlords, which Cathie Craigie addressed through the Antisocial Behaviour etc (Scotland) Act 2004. They would have given tenants the right to access the relevant panel over any breaches of those standards, rather than oblige them to resort to the courts. That would have been a positive move.

I also regret, of course, the fact that the bill will not contain statutory energy efficiency targets. That is a serious loss to the bill. I am sure that the energy efficiency strategy—when we eventually see it—will place clear targets on the Executive for the energy efficiency improvements that we want to see, but I regret that Parliament did not take the opportunity to impose those targets with a timescale today.

I welcome the Executive's moves to introduce a tenancy deposit scheme, which I think will give a huge sense of safety and security to tenants who feel that their deposits are at risk. I will be pleased to add my support to the bill when we vote on it tonight.

16:40

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The debate and the deliberations that we have had today will make a real difference to individuals and families throughout Scotland. I am pleased to have been involved in the process to put in place legislation that will enforce better standards in the private housing sector.

I am delighted that the registration scheme for private landlords will come into force next March. Minor amendments to the bill have been coupled with a scheme developed by the Scottish Executive and an expert group with experience in the private housing sector, including private landlords.

The Communities Committee was in the privileged position of considering a package of measures that will make an enormous difference to the communities in my constituency and throughout Scotland such as by ensuring that landlords and their agents are fit and proper people to take on the significant role of a landlord.

Thanks to the bill, tenants will be protected from the worst practices of private landlords; private tenants will have many more rights; and local authorities will have a modern package of powers that will help them develop policies for dealing with private sector housing, deal with decline before houses are fit only for demolition, assist owners practically and target resources where they are most needed.

I am delighted to have been part of the process to get us where we are today. Like others, I thank everyone involved, from the task force right through to the committee clerks and the civil servants.

I want people to know about the protection that the bill will give them, the rights that they will have and the responsibilities that some people will have to take on. We will have to broadcast to the nation. The Scottish Executive should take on that responsibility—ministers can fight among themselves about who should have the responsibility. We have to tell people about the bill and their rights and responsibilities. I know that the bill states that local authorities will have to provide information to tenants and private landlords, but we as an Executive should publicise more widely this excellent piece of legislation, coupled with the other housing legislation that has gone before it. We have a modern package that we should be telling people about so that they exercise their rights in law.

16:43

Donald Gorrie (Central Scotland) (LD): I commend the work of the Communities Committee. It is always salutary to see that one is not missed. When I departed from the committee, it seemed to get on very well without me.

The committee has done well. It is clear that there has been good interaction between ministers and the committee, which is not always the case.

On Patrick Harvie's point, although the timetable for this stage 3 was much better, it was still far from perfect, so I would not like him to think that we had it all right.

The bill has dealt well with a number of issues, such as the rent deposit scheme, adaptations, quality of management and energy conservation. We can disagree about the targets. I think they should be in the bill; it is just a question of how we put them in.

The single survey was an issue on which there was strong feeling on both sides. A lot more work has to be done to ensure that the system works as well as possible.

The main problem with housing is that for many years it has not been high enough up the agenda.

That is not a party-political point. All parties say that education, health and public safety are perhaps the top three issues. That means that housing can, at the very best, be the fourth most important issue and it is perhaps lower on the list of priorities than that.

Housing has often not received the investment and attention that it should have. Some of the bills that we have passed have brought more attention to it and should improve the quality of houses and the management of them, but we must do a lot more non-legislative work. Ministers have a big task ahead of them to ensure that investment is made in the right way. They must not just pour money in; they must ensure that the quality and quantity of new houses are much better and that existing houses are maintained, because housing is fundamental to our whole way of life.

We have made quite a good start. The bill is good on the whole and I hope that ministers can now devote their attention to investing intelligently in housing and ensuring that local authorities do so. The planning bill that the Executive is to introduce could perhaps include some sections that ensure that there is good provision of housing.

People deserve credit for the bill. The committee gets on very well without me and I urge its members to keep going.

The Deputy Presiding Officer: I am grateful to Mary Scanlon for waiving her closing speech. Christine Grahame has five minutes.

16:46

Christine Grahame (South of Scotland) (SNP): I will probably not need five minutes, as much has already been said with which the SNP agrees. I thank Mary Scanlon for reminding me that I am back here tomorrow afternoon, as that had slipped my mind. I am beginning to eat, sleep and dream about the Communities Committee—that is a bad sign.

Improving housing standards is crucial. I support what ministers and committee members have said about the state of Scotland's housing. Donald Gorrie said that housing comes far too low down the priority list and the budget list. In fact, many of our health problems and some of our educational problems and antisocial behaviour problems might evaporate if there were better-quality housing. We know that those who are disadvantaged tend to live in the worst housing. Children do not get to school because they are ill owing to damp housing conditions and so on. I hope that the bill moves the issue up the agenda.

I welcome tenants' rights being strengthened, particularly in the private sector. In many circumstances, tenants were frightened to speak

up because they felt vulnerable in their tenancy. I welcome the fact that there will now be a housing panel to deal with issues. I also welcome the minister's commitment to allowing the president to exercise their discretion and to developing mediation in circumstances where it is appropriate. Of course, the repairing standard is essential. As I said, there are far too many damp, cold, ill-supported and ill-maintained properties.

The tenants rent deposit scheme was probably first suggested in the committee by Donald Gorrie, although the rest of us agreed with the suggestion. It is a simple but effective measure. Tenants have frequently found that the landlord has used their rent deposit for fictional repairs, for cleaning carpets or for fresh painting. Tenants would have to go to the small claims court to get that money back, so they give it up, although it is sometimes hundreds of pounds. I support the scheme. The right to adapt for the disabled is essential and it is high on the list of priorities for this Parliament.

The minister referred to the fact that people know more about a can of beans than they do about the house they want to buy—I hope that this does not turn out to be a can of worms. I am open to suggestions and I wait for the guidance to come out. If at times I appear to be difficult, it is only because I want the legislation to work. I am afraid that I am a bit of a doubting Thomas. As I have not seen the draft regulations and I am not convinced that they will operate properly, I have concerns that the Parliament will fall into disrepute for producing legislation that does not work. There are reservations across the chamber—and across parties—about the cost of the purchasers pack, the single seller survey and so on. Those issues have not yet been resolved.

No member has mentioned mobile homes. I regret that there was no amendment that allowed us to debate that issue. The mobile home sector is very important. Many rights have been given to people, but people in mobile homes are sometimes more vulnerable than people in other private sector tenancies because they have few rights. I am glad that they are included in the bill's provisions.

On Glasgow Housing Association, I note carefully the minister's words, which can be founded on if anyone tries to challenge the bill as incompetent under European procurement law. We have the minister's words to tell us that no one can make such a challenge. Linda Fabiani mentioned the funding of the second-stage transfer. Issues have been raised with members about that funding. I seek an assurance that the funding will be in place, so that the people of Glasgow who voted—rightly—for the democratisation of social rented housing can see it happen expeditiously.

I, too, wish to thank the clerks. I am even worse than Patrick Harvie, because I go to the clerks with bits of paper with pencil scribbles and ask them to knit it up and make it into an amendment for me. I thank them for the assistance given to me in that regard.

The Deputy Presiding Officer: Because we are now so far ahead of the clock, I can give the minister nine minutes in which to close.

16:51

The Deputy Minister for Communities (Johann Lamont): Even I could not bear to listen to myself talking about housing for nine minutes, but I shall do my best.

I welcome the opportunity to sum up not only the debate, but what has been a long journey. I must say that, at some points during consideration of the bill, the kindest thing that I would have said about it was that it was worthy but dull. It sometimes made me feel that I had lost the will to live. There are times when we do things that are difficult and challenging but not necessarily interesting, but that does not mean that they are unimportant. Among all the other jobs that we have to do, we have to get the nitty-gritty right and do the hard work; we have to identify needs and problems and work with people to reach practicable solutions.

I am struck again by the degree to which the Scottish Socialist Party quits the field when it comes to the legislative process. Lodging one small group of amendments that are piggybacked on to another at stage 3 is hardly working to shape legislation that will have a huge impact on local communities. All the headlines in the world will not give us a dry house, a safe place to stay or a caring and safe community in which to live. I recognise that, as the Parliament matures over time, no matter where we disagree, even if it is in committee, the fact that we engage in debate and listen to the people of Scotland about their problems and about what they think the solutions are gives us the opportunity to make a real difference to people's lives.

I say this near the beginning of my speech because I know that members will be anxious to know about it. I confirm that Her Majesty has given consent to the bill and its application to the Crown in Scotland. Having informed members of that, I will move on to some of the issues that have been highlighted around the bill.

It is recognised that a huge amount of work has been done in Parliament on housing. In the early days, we concentrated on the social rented sector, so it was important to move on to the private sector and recognise that some of the issues in the private sector impact on the broader

community. It was also important to recognise the changing nature of housing tenure, which I mentioned earlier. Twenty-five years ago, 70 per cent of the population lived in rented houses; now, 64 per cent are owner-occupiers and 6 per cent are in the private rented sector. All those sectors have an important role to play, and whatever sector we live in, it is important that properties are properly maintained. As well as the bill's challenge to the mechanisms of buying and selling, there is the challenge of ensuring that people are aware of their responsibility to maintain their properties and that it is wise to know what one is buying before one buys it. It is difficult to legislate for cultural shift, but it is important to try.

As members have said, the bill is wide ranging and deals with important aspects of the private rented sector, including tenants' rights and responsibilities and landlords' responsibilities. I cannot overstate the importance of the work that has been done—first, through the Antisocial Behaviour etc (Scotland) Act 2004 and, now, through the bill—to confront landlords with their responsibilities towards their tenants and the communities in which they own properties. No good landlord has anything to fear from the bill, and I am sure that our communities will welcome the fact that those who simply rip off people and take their money for their private interests without delivering anything into their communities will be confronted with registration. It has been said that there is an important link to antisocial behaviour.

On the single survey, Christine Grahame used probably the most elastic definition ever of the word “support”, which was interesting.

I recognise that people want legislation that works. There is a general point about legislation and consolidation bills. The Parliament and the Communities Committee, in particular, have an important role in keeping hold of, and keeping attention on, the legislation as matters proceed, and I am happy to be part of that dialogue. We will all be diminished if the legislation that we pass has unfortunate consequences.

Margo MacDonald (Lothians) (Ind): I know that the minister has some extra time; therefore, I want to raise the issue that we discussed informally in another place—I will not say where. Will the minister bear in mind the suggestion that I made? It might meet the objections that Mary Scanlon raised this morning and address the concerns about the single seller survey that I have shared with the minister if houses were required to have logbooks, just as cars have logbooks to be passed on when they are bought and sold.

Johann Lamont: I am happy to consider any options and suggestions that might help people to maintain their homes and understand what they are buying. We know what an MOT is, but there

seems to be unease about people getting the equivalent of an MOT for a property before they invest a large quantity of money in it.

I recognise that a lot of work on single surveys has still to be done, and it is important that we seek to build confidence about the single survey's purpose. We do not want to reinforce a market in which people often feel ripped off; we want a stable market that can give people confidence.

On houses in multiple occupation and the work that Pauline McNeill and others have done, people recognise the challenge of the HMO sector for those who live in it and for communities in which HMOs exist. We have made an important advance today in recognising, once again, that people must deal with the consequences of having unlicensed HMOs.

We recognise the role of housing renewal areas in our regeneration policy and the capacity that the policy gives to local authorities to identify areas of importance.

Several proposals were made at stages 1 and 2 that did not make it into the bill. I will not reflect long on Helen Eadie's point about developers failing to complete work on time, but she gave a good example of a problem that is experienced throughout our communities and to which there is no easy solution. The Communities Committee and the Scottish Executive are keen to work with those who address such problems, which can be brought into the political domain but do not always need a legislative solution. Such work provides us with an opportunity to reflect on the things that matter to people.

The issue of timings has been highlighted. I agree that the Parliament and people who are well versed in such matters must consider timings.

Christine Grahame said that it was unfortunate that we could not discuss mobile homes, which was rather ironic as no amendments relating to mobile homes were lodged. All members can lodge amendments, and if Christine Grahame was keen to discuss mobile homes she should have lodged a relevant amendment.

The GHA is obviously an important issue for those of us who fought and argued for stock transfer. Stock transfer was not only about transferring stock to a housing corporation; part of the deal that was written into the GHA's work was that it was about devolution and decentralisation. What was done was done not only because it made people feel better, but because of the redistribution of wealth—a huge investment that ought not to be dismissed—that there would be from UK taxpayers to rent payers in Glasgow. That investment will stick better if those who benefit from it can shape where it goes, and that is at the heart of the work of the Executive and the GHA.

We would never give legal advice unless we had confidence in it and had examined it ourselves. It is ironic that some of the people who are engaging in the debate around the GHA and the next stage are the very people who said that GHA stock transfer was privatisation. The two things do not match at all.

In relation to community ownership in other places, we should not take a one-size-fits-all approach. In the Western Isles, the issue concerned geographical disparity; in Glasgow, it was about understanding a culture and using tenant-management co-operatives and housing associations. We will work with local authorities and tenants who are engaged at a local level to find what fits them best, rather than prescribing from the centre what community ownership should look like.

I recognise the points that were made about homelessness. We will, of course, make an announcement about that at a later stage.

Patrick Harvie referred to religious organisations. He will be aware that the Antisocial Behaviour etc (Scotland) Act 2004 excludes religious orders from registration in order to restrict that exclusion to situations in which the person is committed to a whole way of life. That is the distinction that is made.

We recognise the importance of publicising the bill in order to make it work. We must ensure that people know their rights and responsibilities and that they are aware of the challenges ahead. We can use adverts: I am happy to spearhead that process, by popular acclaim, if people want me to. However, we all have a responsibility, as elected representatives in our local communities, at least to convey to people in our communities the solutions to some of their problems that have been identified in the bill.

I commend the bill to Parliament.

Point of Order

17:01

Carolyn Leckie (Central Scotland) (SSP): On a point of order, Presiding Officer. I raise this point of order under rule 5.6.1(b), which concerns the allocation of parliamentary time for non-Executive business by the Parliamentary Bureau.

It is necessary for me to set out some events so that the chamber understands the situation. I believe that there is cross-party concern about the issues that I will raise.

On Friday, my office received a phone call from the office of the Minister for Parliamentary Business, suggesting that the Scottish Socialist Party might want to take its allocation of non-Executive business on 1 December. We asked if we could consider that in our group, democratically—[*Laughter.*] I know that democracy is a strange word for some people in the chamber. We told the minister that we would consider the suggestion at our meeting on Tuesday, although we had been given short notice, and would get back to her.

My office was pestered with phone calls during that meeting. I raised the matter at the Parliamentary Bureau constructively and asked that 8 December be considered. We did not reject 1 December; we asked for 8 December. The minister said that she would consider that and the Parliamentary Bureau agreed that it would be considered. Informally, the minister said that she would get back to me within 24 hours.

Despite making phone calls to the minister's office, the next thing that I heard about the situation was when she misrepresented and distorted the SSP's position on the allocation of business as part of the Executive's desperate attempt to avoid the issue of asylum seekers. Several phone calls failed to elicit any confirmation from her about the allocation of SSP business.

Today, the business team managed to achieve a response. We were told that the minister would have a date for me if I asked her in the chamber but that it was not possible to give the information over the phone.

As asked, I approached the minister in the chamber. She told me that she had forgotten what date was on offer and that an e-mail had been sent. When I saw the e-mail, I learned that both 1 December and 8 December were off the table and that we were being offered 22 December.

Given that rule 5.6.1(b) says that the Parliamentary Bureau allocates time, will the Presiding Officer look into this issue, investigate previous best practice and issue some guidance?

We have to state, quite categorically, that the allocation of time is for the Parliament, not the Executive. The time is Parliament's, not the Executive's; it is certainly not the minister's time. Will the Presiding Officer further investigate my claim that the Executive's behaviour is discourteous to non-Executive parties and this Parliament and that the minister is exercising greater power than the standing orders endow her with and has misrepresented the discussions and decisions of the Parliamentary Bureau?

The Presiding Officer (Mr George Reid): I take seriously the matter of minority party time, although I deprecate the use of words such as misrepresentation and distortion. Margaret Curran will speak further to that point of order.

The Minister for Parliamentary Business (Ms Margaret Curran): I welcome the opportunity to reply. As I explained to members yesterday, the SSP confirmed before the Parliamentary Bureau meeting on Tuesday that it did not want to take up the offer that I made last Friday of a business slot on the morning of 1 December. However, in an attempt to be helpful to the SSP, I said that I would try to identify further options and come back to it with an alternative date as soon as possible.

I am sure that most reasonable members appreciate that at this stage in the parliamentary year, pressure on the parliamentary timetable is intense with a considerable volume of work that requires to be completed before the Christmas recess. I try to accommodate as many of members' representations as possible.

After considerable disruption to the programme, I tried to get back to the SSP in 24 hours, but it was not possible. It took us two days to negotiate with ministerial colleagues and we were finally able to offer the SSP an alternative slot of the morning of 22 December.

Arranging Government business is a complex task, and the SSP has failed to grasp that point. I honoured my commitment to provide the SSP with an alternative slot. I did not force it to take the slot that I recommended; it is up to the SSP to decide whether it wishes to take that slot. I reassure Parliament that my approach with the SSP is no different from my approach with other parties and colleagues—the Scottish National Party, the Tories and the Greens. So far, we have all managed to co-operate with one another.

It is absurd that the smallest party group in the Parliament insists on special consideration. Just because it regrets turning down business, it should not raise a bogus point of order in the chamber.

The Presiding Officer: I confirm that the allocation of SSP time was considered by the Bureau on Tuesday this week and the Minister for Parliamentary Business promised to revert to Ms Leckie.

In response to Ms Leckie, I say that the Minister for Parliamentary Business makes proposals to the bureau and the bureau disposes of parliamentary time collectively, by weighted majority if necessary. That is how we work and it is a democratic way to work.

I strongly suggest to Ms Leckie that she raise the matter again at the bureau next Tuesday and I hope that the matter can then be resolved amicably.

Patrick Harvie (Glasgow) (Green): On a point of order, Presiding Officer. I hope that it is not a bogus one. I raise my point under rule 7.3 of standing orders. During yesterday's debate on the business motion, the Minister for Parliamentary Business stated that my colleague Chris Ballance had implied

"that if improvements are made in the situation for kids in England, that is of no interest at all to us."—[Official Report, 23 November 2005; c 21019.]

Following that, during First Minister's questions today, the First Minister stated that Opposition members had condemned improvements for children of asylum seekers in England; he later confirmed that he was referring to my colleague Chris Ballance.

Is it in keeping with rule 7.3.1 of standing orders for ministers and the First Minister to tell the chamber that a member said something that he did not say and for the First Minister to repeat the allegation and accuse me of disassociating myself from a colleague, when, in fact, the Greens have been nothing but patient and consistent throughout?

The Presiding Officer: I will have to look at the documentation because I cannot conceivably rule on the matter at short notice. I will come back to you as quickly as possible.

Decision Time

17:08

The Presiding Officer (Mr George Reid):

There is one question to be put as a result of today's business. The question is, that motion S2M-3438, in the name of Malcolm Chisholm, that the Housing (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)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 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)
 Brownlee, Derek (South of Scotland) (Con)
 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)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 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)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (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)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 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)
 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, Campbell (West of Scotland) (Ind)
 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 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)
 Milne, Mrs Nanette (North East Scotland) (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)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (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)
 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)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

The Presiding Officer: The result of the division is: For 116, Against 1, Abstentions 0.

Motion agreed to.

That the Parliament agrees that the Housing (Scotland) Bill be passed.

Television Licence and Digital Reception

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-3415, in the name of Roseanna Cunningham, on the television licence and digital reception. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises that there are still many areas in Scotland, including parts of Perthshire, where digital television reception is not possible; notes with concern the desire by the BBC to increase the television licence fee by 2.3% above inflation, and believes that, until such time as the BBC's entire broadcast output is available to all licence payers, a differential should be introduced into the licence fee to ensure that people who are not receiving a full service do not pay the same licence fee as those who do.

17:11

Roseanna Cunningham (Perth) (SNP): First, I acknowledge that broadcasting is a reserved matter. However, both the BBC and Digital UK Ltd are widely seeking views and it is our duty to make our views clear and to represent our constituents in the process.

I thank the members who have signed my motion and the members who are staying for the debate. I know that Help the Aged has welcomed the debate and I am glad of the support. Members will have received its briefing, which outlines concerns about the consequences that the switch-over might have for the vulnerable elderly.

The points that the organisation raises are important and need to be addressed. Access to television is hugely important to many people. It is a source of information and entertainment to the elderly, the low paid and the disabled. Many of the Scottish Executive's campaigns are promulgated through television. Before the switch-over goes ahead, the Government must ensure that no one is left behind by the digital revolution.

The root of the debate is probably the single biggest development in broadcasting since the introduction of colour pictures. Of course, several issues are connected with such an important development; my motion focuses on only one. As everybody here is no doubt aware, there are two methods of broadcasting television signals—analogue and digital. The two systems are broadcasting simultaneously, but as long as the analogue signal is maintained, the digital signal cannot be broadcast in full and at full power throughout the country. Until the analogue system, which has served us since the 1930s, is switched off, we cannot have 100 per cent digital coverage.

I should declare an interest in the subject of my debate, as I am one of the many people who

cannot access digital TV at present, so I am looking forward to the switch-over.

I am no luddite. I fully recognise the improvements that digital TV can bring to coverage and reception quality and I can certainly see the possibilities that digital TV offers for a far wider variety of programming—all the promises about more localised community television, a dedicated Gaelic channel and all the rest of it.

Already, people who are lucky enough to live in the right place can pick up a set-top box for 30 quid in the supermarket, plug it into their telly and—hey presto—access a host of channels, with new ones seeming to be advertised almost every week. It is an affordable one-off payment and there you go. However, people must be lucky enough to live in the right place. As I said, I—like many others in Perthshire and throughout Scotland—cannot receive digital TV through my aerial. Buying a set-top box will not fix that for me. To do that I would have to get cable or satellite TV. Those options are much costlier and far more disruptive to install.

Like all channels, the BBC is investing heavily in digital TV. I am aware of eight channels that it has: apart from BBC 1 and BBC 2, there are BBC 3, BBC 4, CBBC, CBeebies, BBC News 24 and BBC Parliament. I am told of those channels but, of course, as I have no access, I cannot be certain. The commercial channels also seem to be in almost permanent launch mode. I learn from my friends in set-top-box land that Channel 4 has recently quadrupled its presence on Freeview with More4, E4 and E4+1.

So why am I picking on the poor old BBC? The licence fee, that is why. Without digital, we can see only BBC 1 and BBC 2, but we are paying for all eight channels—as well as those that will come in future, including BBC jam, an educational service that will apparently be launched early in 2006. Not only do we all pay the same licence fee regardless of whether we can use a set-top box or not, but the BBC has made no secret of the fact that it is seeking to increase the licence fee by more than inflation to pay for all those services.

As part of the charter review process, the BBC has been explicitly making the case for the television licence fee to be increased by 2.3 per cent above inflation each year from 2007 to 2014, to help it to fund the digital programming and digital infrastructure that the Government wants it to provide. My constituents, and many others in a similar position, are being taken for a ride by the BBC. That is why I want the introduction of no see, no fee—a discounted licence payable by those who cannot cheaply and easily access the public service broadcasting that is paid for through their licence fee.

Such a set-up would surely be temporary. Switch-over is planned to start in the Border Television region in 2008, with the Grampian Television and Scottish Television regions changing over in 2010. It would be a temporary set-up, but a fair one. As things stand, the BBC wants one in four of us to continue to pay hand over fist for services that we cannot access. Until the whole of the BBC's output is easily accessible to all, that situation must not continue. We are being charged by the BBC for services that it cannot provide. That is not right, but it can be put right simply. This is no wild idea; it is possible and there is precedent. I know that I cannot receive digital because I checked on the internet. I put my postcode in and got the disappointing news out. The same software could easily be used when renewal notices are sent out for TV licences.

Chris Ballance (South of Scotland) (Green): I am in the same position as Roseanna Cunningham; I live in Dumfries and Galloway in an area where we cannot receive digital. Despite that, we will be the first to be transferred to digital. Does she agree that it is vital that analogue is not switched off before digital is available to everyone? However good a thing the switch-over may be, the danger is that parts of rural Scotland are being used as guinea pigs.

Roseanna Cunningham: I agree. I am not a technical expert but, as I understand it, the problem is that it is impossible to roll out digital until analogue is switched off.

As I was saying, the suggestion of a differentiated licence fee is nothing new. Such a fee exists and has existed for many years. I was reminded of that by one of my older colleagues, Alasdair Morgan. If a person owns a colour TV, they pay £126.50 a year; if they own a black-and-white TV, they pay only £42. That choice is, to an extent, the person's own, but whether they can receive digital is a matter of geographical chance. What a difference in culture has come about over 40 years. Forty years ago, the BBC did not dream of charging for something that people did not receive; now, it has no intention of allowing fairness and justice to apply. That is why I say no see, no fee.

17:18

Mr Jamie McGrigor (Highlands and Islands) (Con): I congratulate Roseanna Cunningham on raising this important matter. The period during which the whole television industry will change from analogue to digital reception is 2008 to 2012. Originally, the switch-over was to be finished by 2010, with 95 per cent of consumers having digital equipment in their homes before the analogue switch-off. That was the published target of Chris Smith when he was Secretary of State for Culture,

Media and Sport in 1999 and it has been repeated by the current secretary of state, Tessa Jowell. However, Office of Communications findings cast severe doubts over whether that level of take-up is achievable. Why has the secretary of state promised completion to 95 per cent of consumers at the new later date of 2012 when, according to Ofcom, and as Roseanna Cunningham has just said, it will not be possible for technical reasons to extend digital terrestrial television to more than 75 per cent of households before the switch-over?

There is no doubt that digital should improve most people's television reception and should probably improve coverage, but there appear to be severe losers. Something must be done about that. Many people will need expensive aerial upgrades. Many want Freeview but do not want to purchase pay TV services. What about people in Orkney and Shetland? What about people in the Western Isles? What about people in the Highlands from John O'Groats to Campbeltown? Why should many in those areas be left bereft of TV and faced with the single option of installing Sky? Some will simply find that too expensive and will, as a result, have no television at all.

Yesterday, I met some constituents from Ardfern on the Craginish peninsula in Argyll, one of whom explained to me that the peninsula receives the signal from Mull. He bought a digital box for a one-off £20 payment and now receives a good digital Freeview reception of all the terrestrial channels. Delighted with that, he purchased a similar digibox for his 93-year-old mother, who lived nearby on the other side of the glen. As she, too, received the analogue signal from Mull, he was rather surprised to find that, when he connected the digibox to his mother's system, it did not work.

Of course, that was because she received her signal through a repeater system, which acts as a reflector and turns the picture upside down. Because that process works all right with the analogue signal, but not with digital, people who live on the west side of the Craginish peninsula can get terrestrial digital television whereas people on the east side cannot. On the west side, people can simply buy a Freeview box for £20, but the only option for people on the east side is to install Sky at a minimum of £180 a year with the additional initial cost of installing a satellite dish. On top of that, they will have to pay the TV licence fee—which, incidentally has increased by 32 per cent since Labour came into power.

As a result, the Government must ensure that it has an answer for people who find themselves in this predicament. Will the minister tell me here and now what will happen to people who receive their analogue signal from repeater stations?

Tessa Jowell has conceded that many people who have yet to switch over to digital are

“exactly the people that the State has a duty to protect”.

Although that statement is a bit patronising, I am sure that the many people I know who are in this position will be delighted to know that the secretary of state has their welfare at heart. I just hope that she keeps her promises and I ask our minister to encourage her to do so.

Obviously, the issue is reserved, but it is of the utmost importance that people all over the UK have decent television reception and do not have to pay grossly inflated costs for that. I have always thought of myself as a one-nation Conservative, and particularly so on this matter of life after analogue.

Although broadband has taken ages to be rolled out, some areas in the Highlands and Islands still do not receive it. Ironically, analogue is being switched off first in the rural areas and it is vital that those who are affected receive adequate service from our broadcasting corporation.

17:22

Alasdair Morgan (South of Scotland) (SNP): I see that we have managed to clear the public galleries, or perhaps people have something better to watch on television.

As Jamie McGrigor has pointed out, it would be bad enough if the unfairnesses that Roseanna Cunningham highlighted with regard to the change to digital were simply a matter of the cost of BBC licences. However, that is the thin end of the wedge. Very considerable costs could be involved. One problem is that no one can be certain about what the costs for any particular house will be. Indeed, I suspect that costs in rural areas where the reception is already poor will be significantly higher than costs in urban areas. For a start, the cost of getting a tradesman to come out and carry out work is likely to be higher in a more remote area.

In any case, people in many rural areas that have bad reception will be likely to have to pay another £125 for a new aerial and then buy a set-top box—or, rather, a set-top box for each set, at which point the costs begin to mount up. They will have to replace their video cassette recorder if they use it—as I suspect most people do—to record something on a channel that they are not watching. They might also need to buy a new scart lead at £25 and a radio frequency modulator for an older TV set. Very quickly, the costs become significant and begin to cause problems.

As a result, people have every right to feel a bit angry when the BBC puts up the licence fee for a service that they might not be able to get but for which they are paying through the nose. As my very slightly younger colleague Roseanna

Cunningham said, the technology exists that will let us know who can get which service. Ofcom has a website on which people can enter their postcode and see whether they can get digital television. The TV licence people claim that they know where we all are and how many television sets we have in each house. Why can they not match all that information and simply charge people the fee that is appropriate to the service that they can get? It seems to me that technology—particularly digital technology—should make that possible.

Many people in rural areas feel that they are badly done by the current system, let alone by any extension to a new system. They may get no reception at all from terrestrial stations—there are places in Dumfries and Galloway where that is the case; they may get very poor reception; they may have to have recourse to a local cable system for which they pay an extra fee; or they may get reception only from some station in another country. For example, in the west of Wigtownshire, some people can only get Northern Ireland channels. In Crocketford, I can get BBC 2 only from the north of England unless I turn my aerial to face the other direction, which makes every other channel's reception much poorer.

Digital TV and access to the huge number of programmes that Roseanna Cunningham listed are not necessarily a huge prize. The quality of programming leaves a lot to be desired and there are endless repeats. We can watch some series endlessly. At least there is the advantage of knowing that if we miss a programme, we could probably see it on five other channels the following night.

As always, the way in which this particular change is being delivered has been driven by the needs and desires of the urban majority and not much attention has been paid to the rural minority.

17:26

Christine Grahame (South of Scotland) (SNP): I am ever so slightly older than Alasdair Morgan and therefore slightly older than Roseanna Cunningham. I remember black-and-white televisions—I see that the Presiding Officer is nodding—that had screens that were 9 inches square while the back was the size of a house. In any event, that is not particularly relevant to the debate.

Of course, the Borders is the first test bed for the switching off of analogue and moving into digital. Many of the issues that members have raised about difficulties with reception in certain geographical patches were evident at a recent meeting in Galashiels with Gary Robertson of BBC morning radio fame. It turned out that many people

in the audience could not get channel five, which meant that the set-top box would be of no use to them.

I had a set-top box at one stage. They are not that easy to use; they cannot just be plugged in and set off. We can plug it in to find that nothing happens because it is very sensitive. I found that I had to get an engineer in to sort my set-top box and—this was the crucial issue—he said, “Hen, it’s your aerial.” He went up on to the roof and changed the aerial round.

Alasdair Morgan mentioned the cost. Ofcom has said that the estimate for the required aerial upgrade might be as much as £190. If that is added to the cost of the set-top box, we are talking about £225 for starters. Someone who is not well off is not going to have that money, but the equipment will be mandatory in the area in which they live. It is a large sum of money to pensioners and those on low incomes, particularly with other punitive increases, for example to the TV licence, fuel costs, and the council tax. Also, there is not the option of not having digital.

I know that there has been some mention of what will happen for vulnerable people. Ofcom estimates that there are 440,000 vulnerable households in Scotland. The United Kingdom Government ministers have not made clear what will be done to support such people so that they can afford those set-top boxes and aerials, and whether there will be a cap on any money.

Another practical issue was raised at the meeting that I attended in Galashiels. The boxes are very sensitive and sometimes everything disappears off the screen. What we are supposed to do—I learned this word in the Parliament—is reboot by switching everything off and on again and letting it all come back on. Many older and vulnerable people will not know that. I am sure that they will then get on the phone to the TV engineer and he will come out. All he will have to do is reboot, but it will cost people money. Those are real issues because we are talking about people who might be using their televisions more than the rest of us do.

There is also the possibility of cowboy operators moving in. When there is a whole area to be done, they could come along and say, “I’ll just have a wee look on your roof,” and then come down saying, “Tut, tut, this aerial’s not good enough and not only that but the cabling will have to be changed.” That may or may not be the case, but people who are told that may believe that it is something that they have to do.

There are issues to do with practical delivery, reception and the fact that changes are mandatory, particularly in areas that seem to have been picked for an extraordinary reason such as

their size, such as the Scottish Borders, which is not really the best reception area in which to switch off the analogue signal.

17:30

Brian Adam (Aberdeen North) (SNP): It is interesting that we are debating with ourselves and not with the Executive, with the honourable exception of the Minister for Tourism, Culture and Sport.

I would like to dispel the idea that has been put forward by at least one of my colleagues that difficulty in getting digital reception is just a rural problem. It is not just a rural problem. In the city that I represent, Aberdeen, there are significant parts of Dyce and Bucksburn where one cannot get digital reception. One cannot get a lot of reception on terrestrial channels either, but one certainly cannot get digital. Indeed, in this fair city there are significant areas where one cannot get the complete range of services.

If one switches on a digital box and searches for the number of channels currently available, one finds that it is about 90; one has to subscribe to a number of those channels through a top-up arrangement. It appears as if we have lots more choice, but the reality is that we have considerably less choice. I suspect that many of us are enjoying indulging in some BBC-bashing tonight, especially as the BBC is trying to squeeze more money out of folk who are not getting the services. A number of those channels are UKTV channels, for which people have to pay an additional fee. Almost all those programmes are recycled programmes that we have all already paid for through the licence fee. I can forgive ITV for recycling programmes on ITV3 and ITV4, which show some of the best of its old drama programmes, because it is not trying to make an additional charge for them. However, UKTV Gold, UKTV Style and the whole range of UKTV channels are just the BBC in disguise, trying to squeeze more money out of individual members of the public.

Not only has the BBC launched new channels that are free to air for television, but it has launched a number of radio channels, many of which will not be of any great interest to people in this neck of the woods, but they have to be paid for out of the licence fee because there are no charges.

The situation is not unique to rural areas; it is widespread in Scotland. There are considerable concerns, not just about the analogue signal being switched off in the near future in the south of Scotland, and towards the end of the decade in the north of Scotland, but about problems on the analogue signal that cannot be corrected because the Department of Trade and Industry has said,

"We're not having any more technical solutions because we're moving to digital." As a result of that, some of my constituents have been significantly disadvantaged. A technical solution is available, but people are being deprived of that and forced to subscribe to Sky and other services that they do not need to be paying for.

I commend tonight's motion to the chamber.

17:34

Stewart Stevenson (Banff and Buchan) (SNP): We have not had much technical stuff tonight, so I shall fill that vacancy. I point particularly to a decision that was made three years ago by the Independent Television Commission, which allows two different standards. There are six multiplexes or channels that cover many different TV stations. Three use one standard—64 quadratic amplitude modulation—and the other three use 16 quadratic amplitude modulation. Does that matter? Actually it does, because the 64QAM is a much less effective carrier of signals to the receiver, particularly for people who are relatively distant from the transmitter.

The website that has been referred to suggests that to receive BBC 1 and BBC 2 at my home address, I should turn my aerial to the south and point it at the transmitter at Durris, which is approximately 40 miles away. If I want to watch Grampian, I have no options. If I want to get BBC 4, I must turn my aerial to the north, towards the Rumster forest transmitter, which is 65 miles away. The reality is that I get some of the multiplexes, but not others. The 64QAM multiplexes, in particular, are very difficult to get.

We must realise that, at present, there are 1,160 analogue transmitters in the United Kingdom. When the crossover to digital is complete, it is planned that there will be 80 digital transmitters. That represents a huge reduction in the number of aerials—

Mr McGrigor: Does the member know how many transmitters there are in Scotland?

Stewart Stevenson: Alas, I do not, but I am confident that, pro rata, the reduction will be even greater because of our terrain.

Some of the options that are referred to from time to time, such as satellite, are not available to everyone. On the Moray firth, for example, there are a number of communities that live to the north of a cliff, which means that they are unable to see the satellite, which is at an angle of approximately 46° to the horizon. In other communities, planning restrictions mean that residents are not permitted to put up satellite dishes. There are some quite serious problems out there.

Other members have spoken about the cost to people of updating their aerials. It is estimated that, across the UK, that will cost £400 million, so we can perhaps infer that the cost to Scots will be £35 million. Through Ofcom, the Government has said that 35,000 to 40,000 households, most of which will be in remote rural areas such as the Scottish islands, will fall outside the coverage.

Another point that is worth making is that with digital the signal strength is greatly reduced. My Rumster forest analogue signal is transmitted at 500kW, whereas the digital signal is transmitted at a mere 8kW. That is good in that it saves electricity, but it is not so good in that it makes it much more difficult for me to receive the signal.

The figure of 95 per cent coverage for Freeview sounds okay, but according to Ofcom,

"the 95 per cent Freeview coverage would resemble a 'swiss cheese', reducing faith in the service, and switchover generally".

One way or another, there are both technical and societal issues to deal with. Digital reception is a social inclusion issue for the Parliament. There is a big difference between switch-over and switch-off. Just because analogue will be switched off, that does not mean that we will be able to switch over. Curiously, the south-east of England faces the biggest problems because of interference from the continent. People who live there will be the last to switch, so the changeover might be another poll tax on air—we will go first and suffer.

17:38

The Minister for Tourism, Culture and Sport (Patricia Ferguson): As other members have done, I begin by congratulating Roseanna Cunningham on securing the debate on behalf of her constituents in Perthshire. Ms Cunningham was correct to say that broadcasting is reserved to Westminster, but I am keenly aware of the importance of broadcasting to cultural, economic and democratic life in Scotland. Television is important to the people of Scotland and is for many their main source of information and entertainment.

Although broadcasting is a reserved matter, we have been proactive in engaging with United Kingdom Government ministers on broadcasting issues that are relevant to Scotland, including digital reception and digital switch-over. We engage regularly with them and with broadcasters to discuss potential improvements to the service that is provided to the Scottish public.

Just two weeks ago, I attended the European culture council, at which digital switch-over was one of the main items that were discussed. Countries all across Europe are planning for digital television: they are examining the benefits and

opportunities that it presents and considering how they will make the switch. Countries such as Germany and Italy have already begun that process and are enjoying its benefits. The UK Government has decided that switching from the current analogue television system to digital terrestrial television is the best way to ensure that most people in the UK will have access to free digital TV services and get better reception.

I appreciate the frustration of viewers in Scotland who cannot receive the BBC's digital services on Freeview. As Roseanna Cunningham rightly asserted, those viewers still pay for those services through the licence fee.

Stewart Stevenson: I forgot to say that Grampian Television and Scottish Television are broadcast on the less effective technology. It would be ironic if the channels that are particularly Scottish turned out to be those that are most difficult for people in Scotland to receive. Is that one of the issues that the minister will consider?

Patricia Ferguson: It certainly is, if that is a possibility, although I am not convinced that Mr Stevenson's understanding of the technology holds up on this occasion.

The extension of digital terrestrial television will allow households to receive the Freeview services that they cannot receive at present. Although I support the objective of bringing the benefits of digital television to all viewers in the UK, I have made clear to the UK Government the importance that the Scottish Executive attaches to social inclusion. As Stewart Stevenson rightly said, social inclusion is a matter of interest to the Scottish Parliament.

We have also made it clear that, when digital switch-over is complete in Scotland, digital terrestrial television services should be made available to as great a number of people as possible without any unnecessary financial burden. I am delighted that the United Kingdom Government has agreed with us on the matter. The coverage plan for switch-over means that households in the UK that are able to receive analogue services at present will be able to receive digital terrestrial television—Freeview—after switch-over. The UK Government has also announced proposals for an assistance scheme to ensure that the most vulnerable households are also able to benefit from digital TV. The point is one that Christine Grahame referred to in her contribution.

That help will be available to households in which one person is aged 75 or over, or is in receipt of disability living allowance or attendance allowance. The assistance will be available free of charge to households in which the person who is entitled to the assistance also receives pension

credit, income support or jobseekers allowance. In addition, special provision will be made to help blind viewers to receive audio description services.

In responding further to Christine Grahame's point, I will also say that Digital UK Ltd, which has been entrusted with the job of making switch-over happen, will introduce a digital log for properly certified aerial installers. I hope that that response helps to allay some of Christine Grahame's fears.

Christine Grahame rose—

Patricia Ferguson: I am sorry, but I will have to press on. I am happy to discuss the matter with the member later.

As we have heard, about 25 per cent of households across the UK cannot receive Freeview at the moment and one in five households across the UK still cannot get channel five through their aerial. Brian Adam was absolutely correct on the matter. In the part of Glasgow in which I lived until some months ago, I could not receive channel five. On moving to a new house, I thought that my problems would be over, only to find that I had to invest in a fairly expensive new aerial and a digibox in order to get a decent picture; although that said, the picture is still not great despite my being in a relatively central part of Glasgow. Never mind.

The issues that are involved in the digitisation of broadcasting are complex. As Roseanna Cunningham rightly said, for technical reasons it is not possible to extend Freeview digital services until the switch to digital clears space for an increase in transmission power. I, too, have been assured that that is the case. That is not because of a lack of transmitters, but because digital services can, for reasons of interference, be transmitted only at relatively low power levels while the analogue signal is still being broadcast. It is unlikely that there will be any significant changes in coverage in each region until switch-over. I say to Alasdair Morgan that the power of the digital signal at that point means that the impact on outdoor aerials is likely to be minimal.

Digital switch-over will begin in Scotland in 2008 in the Borders, as we have discussed. It will be completed in the UK by 2012, but Scotland will be digital by the end of 2010. That means that viewers in Scotland will be enjoying full digital services before other parts of the UK. I want to respond to Chris Ballance on the point that he made, although he is not in the chamber, so I will respond to the point if not to Chris himself. I confirm that the analogue signal will not be switched off until six months after the switch-over date. That back-up will be put in place.

As well as increasing access to digital services, switch-over will greatly increase consumer choice and allow more services to be made available to

the public. Digital television also has the potential to serve the specific needs of older people and of people with disabilities by providing access services such as improved subtitling, audio-description, talking electronic programme guides and signing.

Roseanna Cunningham has proposed that until such time as the BBC's entire broadcast output is available to all licence payers, a differential should be introduced into the licence fee. I understand the motivation behind that proposal, but the main aim of the UK Government's push to digital switch-over is to solve the problem of access to digital television.

It is worth noting that that is a UK-wide problem—it is not just viewers in Scotland who are sometimes plagued by poor reception and cannot get digital TV—so I would have thought that the Government is unlikely to be open to arguments that Scotland deserves special treatment. However, there is considerable merit in giving special consideration to people who do not currently receive digital services and who will not receive them after switch-over. I have made that point. We will continue to work with the Department for Culture, Media and Sport and Ofcom to ensure that the impact of switch-over in remote communities in Scotland is fully considered.

Discussions about the licence fee are progressing in the normal way, through detailed and careful negotiations, to ensure that the BBC has the right level of funding to fulfil its public service obligations.

In November, Digital UK began its public information campaign on digital switch-over. Two weeks ago, its representatives were in Edinburgh to meet relevant Scottish Executive officials and other interested organisations to discuss switch-over—what it means, how it will happen and what we need to do to prepare for it. I will continue to work with the UK Government and Digital UK to ensure that they are aware of particular Scottish concerns about digital switch-over, and I will ask my officials to ensure that the relevant officials in the DCMS are aware of the issues that have been raised in today's debate.

Meeting closed at 17:46.

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