

# **EDUCATION COMMITTEE**

Wednesday 2 March 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

---

# CONTENTS

Wednesday 2 March 2005

Col.

<b>GAELIC LANGUAGE (SCOTLAND) BILL: STAGE 2</b> .....	2229
---	------

---

## EDUCATION COMMITTEE

### 6<sup>th</sup> Meeting 2005, Session 2

#### CONVENER

\*Robert Brown (Glasgow) (LD)

#### DEPUTY CONVENER

\*Lord James Douglas-Hamilton (Lothians) (Con)

#### COMMITTEE MEMBERS

\*Ms Wendy Alexander (Paisley North) (Lab)

\*Ms Rosemary Byrne (South of Scotland) (SSP)

\*Fiona Hyslop (Lothians) (SNP)

\*Mr Adam Ingram (South of Scotland) (SNP)

\*Mr Frank McAveety (Glasgow Shettleston) (Lab)

\*Mr Kenneth Macintosh (Eastwood) (Lab)

\*Dr Elaine Murray (Dumfries) (Lab)

#### COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Richard Baker (North East Scotland) (Lab)

Rosie Kane (Glasgow) (SSP)

Michael Matheson (Central Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Alex Neil (Central Scotland) (SNP)

Peter Peacock (Minister for Education and Young People)

#### CLERK TO THE COMMITTEE

Martin Verity

#### SENIOR ASSISTANT CLERK

Mark Roberts

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

Committee Room 4



# Scottish Parliament

## Education Committee

*Wednesday 2 March 2005*

[THE CONVENER *opened the meeting at 10:30*]

### Gaelic Language (Scotland) Bill: Stage 2

**The Convener (Robert Brown):** Good morning. I welcome everyone to this meeting of the Education Committee. Our only item of business is consideration of the Gaelic Language (Scotland) Bill at stage 2. On a personal note, I want to say that this is quite an exciting moment for the committee and, I hope, for the Gaelic community in Scotland.

Before we proceed, I will explain how we deal with stage 2. Members of the committee and, I hope, members of the public have several documents that will assist their consideration of the amendments: the bill; the marshalled list of amendments; and the groupings of amendments. I ask members to ensure that they have all those items, so that we can deal with the amendments properly—the clerks will supply copies to anyone who needs them. The amendments have been grouped to help the debate to proceed logically—that never seems to be the case when I read out the numbers, but it becomes apparent as we work through the amendments. Through the grouping process, we are trying to ensure that amendments that address similar issues are considered at the same time.

The amendments will be called in turn in the order in which they appear in the marshalled list. We will debate all the amendments in a group together and there will be no further debate on those amendments after we have moved on to the next group. There will be only one debate on each group of amendments and members may speak to their own amendment if it is in that group. Some groups contain several amendments.

During the debate on a group of amendments I will call, first, the member who lodged the lead amendment in the group, to speak to and move that amendment. I will then call other members who want to speak, including members who lodged other amendments in the group, who should speak to, but not move, their amendments—I will call them to move their amendments at the appropriate time. If members other than those who lodged amendments want to speak on a matter, they should indicate that in the usual way. I will call the minister to speak to each

group of amendments. I hope that that is as clear as mud.

Following the debate, I will clarify whether the member who moved the lead amendment in the group wants to press the amendment to a decision. If the member does not wish to do so, they may seek the committee's agreement to withdraw the amendment. If the amendment is not withdrawn, I must put the question on it. If any member disagrees to the amendment, we will have a division by a show of hands. I stress that members should keep their hands raised until the clerk has recorded their vote. Only members of the committee may vote, but all MSPs are entitled to speak to and move amendments. I am pleased to welcome Alex Neil MSP and John Farquhar Munro MSP, who are not members of the committee but who have an interest in the issue and have lodged amendments.

If a member does not want to move their amendment, they should say, "Not moved," when the amendment is called.

The committee must also decide whether to agree to each section and schedule. Members are not permitted to oppose agreement to a section unless an amendment to delete the entire section has been lodged—I have always thought that peculiar, but that is how it is. If a member wanted to oppose an entire section, it would be competent to lodge a manuscript amendment, but it would be for me to decide whether to accept such an amendment.

I remind people that only MSPs may speak during a stage 2 debate. Executive officials are here to support the minister, but they may not speak themselves.

**Mr Kenneth Macintosh (Eastwood) (Lab):** I submit apologies on behalf of Alasdair Morrison, who cannot be here this morning because he is in Brussels. I have instructions to move the amendments in his name.

#### Section 1—Constitution and functions of Bòrd na Gàidhlig

**The Convener:** Amendment 14, in the name of Alex Neil, is grouped with amendments 2, 17, 11 and 33.

**Alex Neil (Central Scotland) (SNP):** The purpose of amendment 14 is to implement a recommendation in the Education Committee's stage 1 report, which was based on the evidence that the committee received, primarily from Bòrd na Gàidhlig, about the need to address the status of the Gaelic language.

As the minister said in his evidence to the committee at stage 1, the Gaelic language is already, *de facto*, an official language, in the

sense that Government publications and other official publications are very often published in the Gaelic language. It has official recognition, which will be built into the bill. However, the status of the language is a separate issue. The committee has wrestled with the issue; in particular it has wrestled with whether “equal status” should be the phraseology that is used in the bill. The phraseology that was suggested by the bòrd is that Gaelic is a language of “equal validity”, because we were advised that equal status could mean that on every occasion that English was used, there would be a requirement to use Gaelic as well. I do not think that anyone is calling for that to happen, but we want to ensure that when the Gaelic language is used, it is used with equal validity with the English language. Members of the committee agreed that as one of the recommendations in their stage 1 report. The purpose of the amendment is to implement the committee’s own recommendation.

I move amendment 14.

**The Minister for Education and Young People (Peter Peacock):** I will speak to all the amendments in the group and will move amendments 2 and 11 at the appropriate time.

As Alex Neil said, the issue of the status of Gaelic has been a recurrent theme in the discussions leading up to the bill and in the discussions on the bill itself. Today’s debate narrows down that consideration to two concepts. One is “equal validity,” which Alex Neil has spoken about, and the other, in the Executive’s amendments 2 and 11, is “equal respect”. At one level, the concepts are very close to each other, but there are important material differences, which I will address.

As Alex Neil said, I have made clear throughout the passage of the bill my strong desire to do what I could to enhance the status of Gaelic. The committee has recognised that in its report and it accepts, as Alex Neil said, that Gaelic is already an official language of Scotland.

I indicated in my letter to the committee of 10 February that I have considerable sympathy with its view that the status of the language in Scotland might be further recognised through the bill. I am clear that the status of the language is important and that it is entirely legitimate for individuals to aspire to use Gaelic as normally as possible in their lives and that Gaelic should not suffer from any lack of respect either at an individual or a corporate level. I strongly subscribe to Bòrd na Gàidhlig’s view that there should be a generosity of spirit towards the language. My intention in lodging my amendments is to provide a way of making a positive statement about the worth and value of Gaelic, without risking a subsequent interpretation by the courts that could change what

Parliament intended. I am confident that amendments 2 and 11, in my name, achieve the enhancement of Gaelic’s status that the committee seeks. They will ensure that the Gaelic language commands “equal respect” to the English language, while we continue to have a bill that is sufficiently flexible to take account of the differing use of Gaelic across Scotland.

Amendment 2 requires the bòrd to exercise its functions with a view to securing the status of the Gaelic language as an official language of Scotland,

“commanding equal respect to the English language”.

Amendment 11 requires the bòrd, when preparing guidance or giving advice on language planning, to seek to give effect

“to the principle that the Gaelic and English languages should be accorded equal respect”,

so far as that

“is both appropriate in the circumstances and reasonably practicable”.

The committee will have seen that the draft guidance that I have issued—on our expectations of the bòrd in relation to language planning—has built on the issue of respect as it would appear in the bill. The guidance specifically develops the concept that the bòrd, in its guidance on language planning, should set out how the notions that underpin “equal validity”—embracing the thinking on normalisation, generosity and good will—can be given practical effect. Through that construction we have provided a strong endorsement in the bill of the status of the language as one of “equal respect” together with further interpretation in the guidance, which develops the underpinning notions behind “equal validity”, to which Alex Neil has referred.

I will address Alex Neil’s amendments 14, 17 and 33. My view is that using the phrase “equal validity” in the bill carries a greater risk than that carried by the formulation that I have created of the courts ruling that the bill should result in a right to demand the use of the language in a wider range of circumstances than is intended.

There is a danger that, if we used the phrase “equal validity” in the bill, it could be interpreted as giving the Gaelic language equal validity with English in national legislation that touches on the delivery of public services throughout Scotland. The bòrd has expressed little sympathy with the view that all public services could be made available in Gaelic in all places to anyone who requested that. The committee also supported that position by saying that any formulation of status should not confer rights on individuals.

All parties agree that we do not want a formulation that could lead to undeliverable

expectations in the short to medium term or which would change the priorities to develop the language to meet a legal interpretation of potential rights that could flow from court interpretations. The courts would normally refer to the normal usage of the phrases “equal validity” and “equal respect” in interpreting such matters. The Oxford English Dictionary definition of “validity” includes, among other things, the

“quality of being valid in law; legal authority, force, or strength.”

In contrast, “respect” means, among other things, to

“treat ... with ... esteem, or honour; to feel or show respect for.”

I invite the committee to consider the two definitions. It is my view that the phrase “equal validity” carries the greater risk of an interpretation that the committee has never sought. Its inclusion in the bill could mean that anything that was said or done in Gaelic could have like legal effect to anything that was said or done in English. As Alex Neil has made clear today and in the stage 1 debate, he does not want to force every agency to publish a Gaelic version of every document that it publishes in English. Nobody is arguing with that, and I agree with him. However, I suggest that Alex Neil’s amendment 14 carries the greater risk of that very outcome.

I ask the committee to be careful at this point. We need to consider these matters against the practical realities of legislation. The courts might, ultimately, require to give legal meaning to concepts of status, and there would be a real danger that certain constructions could give rise to unintended and undeliverable consequences on a Scotland-wide basis. In addition—and this is a separate point—the “equal validity” amendments may unnecessarily constrain Bòrd na Gàidhlig in carrying out its functions with a view to ensuring that Gaelic is treated on the basis of equality with English. If amendment 14 is agreed to, there is a risk that Bòrd na Gàidhlig will be unable to discharge its functions in a way that reflects the diversity of Gaelic usage in Scotland or the flexibility that all parties have concluded that it would be right to have.

I return to the normal usage of “respect”, which is

“to treat ... with ... esteem, or honour; to feel or show respect for.”

I believe that those terms accurately capture the sentiments of what we have all tried to aim for in the bill. Accordingly, although I recognise the spirit in which Alex Neil has lodged his amendments, I ask him not to press them in the knowledge that the Executive has provided robust amendments that meet the aspirations of the committee and the

Gaelic community without exposing Parliament’s intentions to unnecessary risk.

I will move amendments 2 and 11. If they are agreed to, I will lodge an appropriate amendment at stage 3 to amend the long title to reflect the changes that agreeing to the amendments will effect.

**The Convener:** Perhaps you could refrain from moving your amendments at the moment. We must follow the usual procedure.

**Mr Macintosh:** I say to both the Executive and Alex Neil that I am pleased that these amendments have been lodged at this stage. The committee identified lingering concerns in the community that the Executive may have pulled its punches over the status of Gaelic. That is a reflection of the history of the treatment of Gaelic in Scotland. However, I do not believe that the Government has pulled its punches: the minister could not have been clearer on the matter, and the committee has received repeated assurances about the status of Gaelic.

The key point—to repeat something that the minister said—is that the bill takes a planning approach, rather than a rights-based approach, to Gaelic. It recognises the fact that Gaelic will not be saved by flicking a switch or passing a bill, but that development is required over many years. Despite my sympathy with Alex Neil’s amendment 14, I recognise that both forms of words are compromises. The Executive’s lawyers have concerns over the use of the term “validity” and have come up with the phrase “equal respect”, which I warmly welcome. The phrase is readily understandable—perhaps more so than the word “validity”. For those reasons, and given the minister’s unequivocal position on the status of Gaelic, I urge the committee to support the Executive’s amendments.

10:45

**Fiona Hyslop (Lothians) (SNP):** I, too, thank Alex Neil and the minister for trying to address what the committee saw as a very real problem and one of the most serious points in the evidence that we received. Paragraph 33 of our stage 1 report states:

“The Committee believes that English and Gaelic should be treated as equally valid when and where used.”

It is interesting to see the choices that we have before us. I suspect that “respect” is defined more by behaviour and that “validity” is defined more by status. That is probably the difference between the two terms. What are their opposites? The opposite of respect is disrespect and the opposite of valid is invalid. That shows us that the argument for “validity” is stronger, as Gaelic would face a greater problem if it was invalid than if it was

disrespected. The key to what we are trying to address is not behaviour but status. However, it is difficult to square this circle. The minister is absolutely right to say that we do not want to confer rights that are not deliverable. We acknowledge his concerns about that.

The point about validity is that it would have to mean validity when Gaelic is used. I suspect that, if we were to pass the “equal validity” amendments, which I am in favour of, the bill would need to contain a definition of what “validity” meant. It would be a case of the language being given equal validity when it was used, as opposed to the conferring of a carte-blanche right across all public agencies from day one of the bill coming into effect, which we know would not be deliverable.

Both suggestions have merit, but the argument for “validity” is stronger than the argument for “respect”, although I recognise the minister’s attempt to address the issue that the committee identified in its report.

**Lord James Douglas-Hamilton (Lothians)**

**(Con):** I listened carefully to the arguments that were put forward by the minister and, on balance, I believe that amendments 2 and 11 are appropriate. The recommendation that Gaelic should command respect equal to that which is commanded by the English language is a worthy recommendation that is not likely to be misinterpreted by anyone. Amendment 11 uses the words “appropriate” and “reasonably practicable” to describe the desirable approach to the implementation of Gaelic language plans, which seems sensible. Therefore, my preference would be for the minister’s amendments, as I believe that they pose less risk of legal difficulties in due course.

**The Convener:** The committee agreed pretty unanimously that, in the words of the Welsh Language Board or Bòrd na Gàidhlig, we should approach the bill with a view to inspiring confidence and good will and trying to give the language a more widely defined status. I was interested in what Fiona Hyslop said about respect and disrespect, but I drew the opposite conclusion.

Let me give an example. We have had a bit of correspondence about the Post Office and the Driver and Vehicle Licensing Agency. The issue with regard to the way in which those bodies approach the matter—which is unhelpful, according to the correspondence—is a question not of the validity of the language, but of respect, or disrespect, for the language. The distinction that Fiona Hyslop drew was, therefore, helpful, although not in the way that she intended.

It is important that the bill does not have unintended consequences. I had a frisson of

sympathy with the placing of the first of Alex Neil’s amendments in the section that deals with the general functions of the bòrd. However, as I listened to the minister, who thought that too wide a definition at that point could throw the bòrd off track a little, I was persuaded that “respect” is a better word to use.

It is an important, symbolic issue. The bill recognises the official status of the Gaelic language and deals with its long-term future. Now, in addition, the Executive amendments suggest the according of proper respect to the language. I know that that is a gesture and a symbolic act, to some degree, but it would set the tone of the bill, which is important. I therefore support the minister’s view on the matter, rather than Alex Neil’s. I do not think that there is any difference in intent on any committee member’s part; the difference is simply in how we work through the legal issues that are involved in this matter.

Does any other member want to speak to the amendments before I ask Alex Neil to wind up the debate?

**Alex Neil:** You have to allow the minister to speak first, do you not?

**The Convener:** The minister has spoken.

**Alex Neil:** He is entitled to speak again, I think.

**The Convener:** No, he is not. Normally, the minister gets in once. I can use my discretion—and have sometimes done so—to allow the minister to respond if a new matter has been raised. I do not think that anything new has been raised in this context, but I will allow the minister to comment if he wants to do so.

**Peter Peacock:** I am grateful to you, convener.

I want to make two points. First, the convener made a point about the placing of amendment 14. We would be happy to consider an equivalent amendment that used the word “respect” at stage 3, if that would add strength. Secondly, I pick up the convener’s point about the Post Office, because I have new information for the committee. Since the committee’s most recent meeting I have met representatives from the Royal Mail, who indicated their strong support for working with the Executive to try to take forward the substantial work that the company already does to support Gaelic. I can confidently tell the committee that the company is showing great respect for the language in its efforts.

**The Convener:** That intervention was worth while.

**Alex Neil:** It is good to have the last word, even if someone else has the last laugh.

I acknowledge that the minister has moved substantially from the Executive’s starting position



and I recognise that there has been a genuine effort to try to meet the aspirations of the people who gave evidence to the committee. However, there is a substantial difference in meaning between “respect” and “validity”. The definitions that the minister used demonstrate precisely why I intend to press amendment 14, which uses the word “validity”, to a vote. Frankly, “respect” is a bit too wishy-washy. The minister said that “respect” means to

“treat ... with ... esteem, or honour; ...or show respect to”.

I treat ministers’ opinions in that way, but in many instances I do not think that those opinions have any validity. That is precisely the point. I accept that the simplistic use of the term “equal status” would not achieve what we all want to achieve—the approach would be undeliverable. However, the legal advice that the Executive has received is far too conservative—with a small “c”. No court would interpret “equal validity” in the extremely wide way in which the Executive’s advice suggests that the courts might interpret the phrase. I will press amendment 14 to a vote. I suspect that I might not win the vote, but there is a valid point to be made.

**The Convener:** I cannot possibly comment on whether you will win the vote.

The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Byrne, Ms Rosemary (South of Scotland) (SSP)  
Hyslop, Fiona (Lothians) (SNP)  
Ingram, Mr Adam (South of Scotland) (SNP)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
Brown, Robert (Glasgow) (LD)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
Macintosh, Mr Kenneth (Eastwood) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)

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

*Amendment 14 disagreed to.*

**The Convener:** Amendment 1, in the name of Dr Elaine Murray, is grouped with amendment 15.

**Dr Elaine Murray (Dumfries) (Lab):** Section 1(2)(b) states that a general function of Bòrd na Gàidhlig will be to advise ministers on

“the Gaelic language, Gaelic education and Gaelic culture”.

However, there is no duty on the bòrd to promote Gaelic education and culture. The evidence that the committee heard at stage 1 indicated that education is central to the promotion of the

language, so it is appropriate that the bòrd should have a function in the promotion of Gaelic education. The committee also noted that Gaelic culture is an intrinsic part of the language and Scotland’s cultural heritage. The promotion of Gaelic culture would benefit not just the language and the people who speak it but the whole country, because Gaelic culture is one of Scotland’s cultural assets.

Amendment 15, in the name of John Farquhar Munro, is similar to amendment 1 and would allow the bòrd to advise other persons on matters relating to the Gaelic language, Gaelic education and Gaelic culture. Amendments 1 and 15 would ensure that the three paragraphs of subsection (2) of section 1 were consistent.

I move amendment 1.

**John Farquhar Munro (Ross, Skye and Inverness West) (LD):** At the outset, I thank the committee for the opportunity of allowing me to speak to some of my minor amendments to what is an excellent Gaelic language bill. If my amendments are accepted, they will add to the strength of support that the current bill sets out.

In moving amendment 1, Dr Elaine Murray referred to strengthening Bòrd na Gàidhlig’s functions. At the moment, one of the bòrd’s functions is to advise ministers and other public bodies on many Gaelic language, education and culture matters. However, in the bill’s original draft, the bòrd’s function of advising persons other than the ministers on Gaelic language matters was rather restricted, and amendment 15 seeks to expand the advisory function that is set out in section 1(2)(c) to include

“Gaelic education and Gaelic culture”.

**The Convener:** During stage 1, we all recognised that this issue underpins the breadth of approach that we wanted to take towards Gaelic matters. As a result, I very much support the amendments.

**Peter Peacock:** The amendments are sensible, and we are happy to accept them.

**The Convener:** That was admirably brief.

*Amendment 1 agreed to.*

*Amendment 15 moved—[John Farquhar Munro]—and agreed to.*

**The Convener:** Amendment 16, in my name, is grouped with amendment 34.

Amendment 16 relates to the European Charter for Regional or Minority Languages, which was discussed at stage 1. The charter, which was passed by the Council of Europe in 1992 and ratified by the United Kingdom Government in 2001, is very much an international obligation and

aims to protect and promote the use of regional and minority languages in public and private life. Gaelic is one of the languages identified in the charter.

Sometimes there is a tendency to look at these matters in a UK context and to concentrate only on Gaelic and Welsh. As a result, we lose the nuances of the wider experience of how minority and regional languages in Spain, Switzerland, Belgium, Holland and other countries throughout Europe are dealt with and supported. I believe that the European charter has a lot to say to us on this matter. Indeed, from time to time—most recently in March 2004—a committee of experts appointed under the charter visits and reports on us.

Although I do not think that the charter should be incorporated in the bill as a major obligation, some reference to it would be symbolically important and would acknowledge the wider issues. As a result, amendment 16, which refers to

“monitoring, and reporting to the Scottish Ministers on, the implementation of the European Charter”

with regard to the Gaelic language, seeks to set a marker and to bring the matter into the parliamentary process and within the Executive’s accountability. In his response, the minister might be able to explain how such an approach might work. I would expect that a report of some sort would be laid before the Parliament, either as a separate report or as part of something else. That would enable a debate and parliamentary scrutiny. I would urge the committee to consider the suggestion.

I move amendment 16.

11:00

**Alex Neil:** The purpose of amendment 34 is very much in line with the spirit of the remarks that you have just made about building into the bill cognisance of the European Charter for Regional or Minority Languages. At stage 1, we recognised the importance of the charter. The United Kingdom is not signed up to all its provisions, but it is signed up to a substantial number of them. We mentioned in our stage 1 report the need to be aware of the charter’s requirements as far as the Gaelic language is concerned.

I understand that the Executive might have concerns with the wording of amendment 34. I am relaxed about that. I hope that the committee passes at least one of the two amendments in the group, as it is important that the bill includes a recognition of the importance of the charter. There might be scope to improve the wording at stage 3. I would also mention in passing that I support your amendment, convener—I am sure that you will reciprocate.

**Mr Macintosh:** I endorse the remarks of both the convener and Alex Neil. We heard evidence on this subject from Sabhal Mòr Ostaig, Comunn na Gàidhlig and others. It is important to take a joined-up approach to ensure that, when we are considering the plan for Gaelic nationally, we are aware of all our legal obligations towards Gaelic. The strategy should reflect that. I endorse whichever of the amendments is most likely to succeed. I believe that amendment 16 is the one that ties in with the rest of the bill properly. I am not sure, but I think that we have heard from the Executive’s lawyers that amendment 34 might present difficulties. We will hear from the Executive in a minute, in any case.

**Dr Murray:** I welcome both the amendments, although I am not sure that we need to have them both in the one section. If it transpires that we need to make a choice between them, I would prefer amendment 16, because it seems more proactive. It requires the bòrd to carry out monitoring and report to ministers on the implementation of the European charter. That proactive approach is preferable.

**Fiona Hyslop:** I, too, welcome the reference to the European Charter for Regional or Minority Languages. We must acknowledge that the expert committee had some serious concerns about the current position in Scotland. The publication of the bill and the other on-going work will help to improve the situation, but we must acknowledge that the bòrd’s task might not be easy. The report on the implementation of the charter will not necessarily be favourable, but it must be produced, as it will provide a wider context. Amendment 16 is well placed: it says what the bòrd has to do. Amendment 34 refers to the context in which functions are carried out. Both the amendments have a place.

**Alex Neil:** They have equal validity. [*Laughter.*]

**Fiona Hyslop:** Yes—they have equal validity. I see that we have come back to that issue. Amendment 16 stipulates a specific function that must be exercised by the bòrd; amendment 34 reflects the context. I will be interested to hear the minister’s remarks. I notice that amendment 16 refers to

“the European Charter for Regional or Minority Languages dated 5 November 1992”.

I assume that there is a legal reason for that. Charters can evolve and change, so including that date might be a useful reference. Should amendment 34 be passed, we might need to add something similar, to ensure that we are referring to the charter as we know it now, at the time when the bill was published.

**Peter Peacock:** I previously indicated to the committee that the bòrd could carry out the task

that is specified in amendment 16 without the need for a specific reference in the bill. However, I have no difficulty in accepting the proposal. Fiona Hyslop talked about the specific dating of the European charter. Apparently, that is a normal convention in UK statute and there is an automatic updating of such references when the charters concerned are updated. That gives a tie-in to the specific point in time when the charter was established. That does not represent a problem as far as amendment 16 is concerned.

As you have indicated, convener, the bòrd will be well placed to perform the role that is specified in amendment 16. To specify it as one of the bòrd's functions gives the European charter recognition in our legislation and the bòrd a clear role in that. I would be happy to discuss further with the committee how reports might be presented and debates triggered, but it seems on the face of it that doing that as part of the bòrd's annual report might be the simplest way.

Regrettably, as Alex Neil has indicated, amendment 34 is slightly more problematic, because the European charter applies to the general conditions that are found in many countries. Seventeen countries have ratified the European charter and a further 13 have signed it. Amendment 34 asks Bòrd na Gàidhlig to promote and advise

"in accordance with the provisions"

of the European charter, but only certain charter provisions apply to Gaelic and the United Kingdom has agreed to a limited number of undertakings in respect of Gaelic. Amendment 34 would oblige the bòrd to comply with the European charter in full, even though the UK has not accepted it in its entirety.

Furthermore, the national plan for Gaelic is central to the bill that we are discussing, and my aim is that the bòrd's functions should be linked to the national plan, not the European charter. The national plan will be developed specifically for Scotland's needs. It will be drawn up by the bòrd, will be approved by Scottish ministers, will be relevant to Scottish circumstances and, if we approve subsequent amendments in my name, will be subject to consultation with the Parliament.

Our intention is that the national plan should remain the focus for Gaelic development. It is possible to imagine a situation in which Bòrd na Gàidhlig might focus on certain priorities for Gaelic development, express that focus in the national plan and find that its functions are not being exercised in accordance with the European charter's provisions. That is one of the technical problems with amendment 34. We want the national plan to remain the focus for Gaelic development and do not want the bòrd to be

legally constrained by provisions of the European charter in the way that amendment 34 might suggest, although I know that that is not Alex Neil's intention.

I am happy to accept amendment 16, which gives the European charter status and recognition in our law. However, I invite Alex Neil not to move amendment 34 for the reasons that I have set out.

**The Convener:** I have listened with some interest to the debate. I said at the beginning of it that I was keen to have some hook on which to hang the European charter. That is the intention of amendment 16 and I think that we have managed to achieve it reasonably well.

I obviously have sympathy with amendment 34, but it has a number of difficulties. It seems to me, as a lawyer, that it has a difficulty of transparency because, unlike the rather sideways approach that I have taken towards the matter, it makes another document—the European charter, which is not part of the bill and might be changed in future—central to the bòrd's functions.

The practice with European Union legislation is often to have a high-level directive, the detailed implementation of which is left to the national legislatures. That is probably the proper approach to take to such matters. We should not try to incorporate into our law a generalised charter that applies to a number of countries and different situations, particularly as amendment 34 does not state which detailed provisions in the central document—the European charter—apply. It is better for Bòrd na Gàidhlig to have the function of monitoring and reporting on the issues in the form of an expert report. That is the proper way to approach the matter and allows the Parliament and ministers to form a view about where we are falling short and, if appropriate, to provide the necessary funding to resolve the issues.

I ask the committee to support amendment 16, but I have some difficulties with amendment 34 on technical grounds.

*Amendment 16 agreed to.*

*Amendment 2 moved—[Peter Peacock]—and agreed to.*

**The Convener:** Amendment 17 has already been debated with amendment 14.

**Alex Neil:** We have had the debate and reached a conclusion. In light of the vote on amendment 14 and as amendment 17 is consequential on that amendment, I will not move amendment 17.

*Amendment 17 not moved.*

**The Convener:** Amendment 34 has been debated with amendment 16.

**Alex Neil:** There is a consensus—we are all in favour of amendment 16. I hope that it will mean that, once the bòrd is up and running, we will be able to reconsider whether further action needs to be taken in regard to the charter. I acknowledge that, as it is worded, my amendment would present technical difficulties. However, those difficulties are caused by the fact that the UK Government is not fully signed up to the charter; an independent Scottish Government, on the other hand, would probably be fully signed up to it. On that basis, I am happy not to move amendment 34.

*Amendment 34 not moved.*

*Section 1, as amended, agreed to.*

### Schedule 1

#### BÒRD NA GÀIDHLIG

**The Convener:** Amendment 3, in the name of the minister, is in a group on its own.

**Peter Peacock:** Amendment 3 provides simply for the use of the Gaelic form of the word “chief executive”, which is “ceannard”, in schedule 1. The use of the Gaelic form of the word “chairman” is already provided for in the bill. Amendment 3 simply ensures consistency in usage.

I move amendment 3.

**The Convener:** I have a small question. As I understand it, amendment 3 does not provide for the inclusion of an “or” or an “and” between “chief executive” and “Ceannard”. Should brackets or some other device be used to connect the two different forms?

**Peter Peacock:** On such matters, I depend heavily on advice. I am advised that the wording of amendment 3 is appropriate. Given that you have raised the matter, we will check that before stage 3 and, if necessary, regularise the format.

*Amendment 3 agreed to.*

*Schedule 1, as amended, agreed to.*

### Section 2—National Gaelic language plan

**The Convener:** Amendment 4, in the name of the minister, is grouped with amendments 5, 18, 6 and 7.

**Peter Peacock:** I will speak to all the amendments in the group.

In its stage 1 report, the committee recommended that ministers should require the national Gaelic language plan to be reviewed at regular intervals. Amendment 4 provides for the national plan to be updated at least every five years or more frequently if ministers request that. That will ensure that the national plan can take

account of changing circumstances. Amendment 7 is a consequential amendment.

Amendment 5 will oblige Bòrd na Gàidhlig to consult Parliament when preparing the national language plan. It seeks to respond to the committee’s suggestion that Parliament should approve the national plan through a statutory instrument that is subject to the affirmative procedure. Although amendment 5 does not go quite so far, I believe that it strikes the necessary balance between ensuring that Parliament has input into the preparation of what will be a blueprint for the future development of the Gaelic language and allowing the bòrd to carry out its functions. Amendment 5 links with amendment 6, which requires a copy of the plan to be laid before the Parliament.

Amendment 18 seeks to reduce the timescale that ministers have to consider a second draft of the national plan, which will already have taken account of ministers’ comments. I agree that the second period that is given to ministers to approve the plan or to determine its final content need not be six months. In that regard, I will be happy to accept amendment 18.

I move amendment 4.

**Mr Macintosh:** I welcome the minister’s remarks. Amendment 18 is about framing the timescale for producing and implementing the national Gaelic language plan that is produced by Bòrd na Gàidhlig. It is necessary to have a balance between the need for extensive deliberation and the need for action and the avoidance of prevarication. When Bòrd na Gàidhlig submits the national plan to ministers for approval, they must approve the plan or provide comments and require the bòrd to submit a redrafted plan. The bill says that, on receipt of the redrafted plan, ministers will have a further six months to approve it or determine its final form. Amendment 18 would reduce that second period from six months to three months.

**The Convener:** I want to raise a relatively trivial issue that was put to me by Highland Council, which suggested that the national plan should be updated every four years, as that would fit in with the length of a parliamentary session. I appreciate that point of view, although I do not agree with it. I invite the minister to comment on the logic of the chosen timescale when he winds up.

**Peter Peacock:** I have little to add. As far as the timescale is concerned, we could ask for things to be updated more frequently than every five years, but we feel that we have at least set a reasonable outside timescale.

*Amendment 4 agreed to.*

*Amendment 5 moved—[Peter Peacock]—and agreed to.*

*Amendment 18 moved—[Mr Kenneth Macintosh]—and agreed to.*

*Amendments 6 and 7 moved—[Peter Peacock]—and agreed to.*

*Section 2, as amended, agreed to.*

### **Section 3—Gaelic language plans**

**The Convener:** Amendment 19, in the name of John Farquhar Munro, is grouped with amendments 8, 20, 9, 24 and 28.

11:15

**John Farquhar Munro:** Amendment 19 is an attempt to strengthen the provisions and clarify the position in section 3, which concerns the establishment of Gaelic language plans. By seeking to insert the phrase

“the most recent national Gaelic language plan published under section 2”

in section 3(3), I want to ensure that if the bòrd requires a Scottish public authority to prepare a Gaelic language plan, the bòrd must have regard to the national plan’s strategic direction.

I move amendment 19.

**Peter Peacock:** In its stage 1 report, the committee stated that the bill’s language planning provisions are focused on preserving the current situation of the Gaelic language instead of emphasising the equal importance of the language’s future development. I want to be clear that the bill is about enabling Gaelic not just to survive but, hopefully, to thrive. As a result, I am pleased to speak to amendments 8 and 9 which, at the committee’s request, require Bòrd na Gàidhlig and public authorities to have regard to the potential for developing the Gaelic language in any language plans. As I also agree that there is merit in requiring the bòrd and public authorities to have regard to the national Gaelic language plan in developing any Gaelic language plans, I am happy to accept amendments 19 and 20. Finally, I agree that the bòrd and ministers must have regard to certain criteria in determining whether to approve or suggest modifications to the Gaelic language plan and am therefore happy to accept amendments 24 and 28.

**Lord James Douglas-Hamilton:** All these amendments are extremely welcome. The principle that, in devising Gaelic language schemes, Scottish public authorities should have regard to the national language plan to ensure that they take account of both national and local considerations is important. Moreover, when considering a Gaelic language plan, the bòrd

should have regard to matters that affect local authorities, such as the extent of Gaelic usage and potential for use, and to guidance from ministers. The minister’s amendments are altogether sensible and helpful and, as they echo the committee’s recommendations, members should support them.

**Fiona Hyslop:** I thank the minister for lodging amendments 8 and 9, because they reflect the committee’s views. The committee, the minister and the Parliament are now sending out the important message that our approach to this fragile language should be expansionist, not protectionist, and that we believe that the language has great potential. As a result, I welcome these symbolically important amendments.

**The Convener:** I add my thanks to the minister. These amendments are arguably more important in practice than some of the symbolic amendments that we dealt with earlier and have very much received the support of the committee.

I have one query. One of the issues that has exercised the committee, to which we will come later, is the relationship with education provision. Education provision comes from local education authorities rather than from the bòrd, although we recognise the links. Is there any intention to have a national Gaelic education plan as a subcomponent of the national Gaelic language plan? How might education fit into the national Gaelic language plan? It is, in a sense, the most important aspect of it.

**Peter Peacock:** Highland Council has recently suggested that an amendment should be made to the bill to establish a separate national Gaelic education plan in which the Executive would play a major role. I want to see very clear strategies for the development of education through the medium of Gaelic and, more widely, for the development of Gaelic as a second language. I want us to provide more opportunities for that and it is important that we have a strategy for that. As you are aware, a group of experts in the field of Gaelic education is working to help us with teacher recruitment and to come up with a specific strategy for that. Teacher recruitment is important in the development of Gaelic education. I fully envisage that, once that work is completed, we will tie it into a broader strategy for education.

However, I want the education strategy to be part of the national language strategy. In the light of comments that have been made—I have not yet concluded my thoughts on this—I am considering whether it might be appropriate at stage 3 to make it clear that education should be a major strategic component of the national Gaelic language plan. If that would help to resolve that discussion, I would be happy to consider that as we move to stage 3.

All our intentions are exactly the same; it is only the means by which we seek to achieve those intentions that are the fine points of distinction.

**The Convener:** That is helpful. Like you, I have received representations from Highland Council on that matter. If we leave aside the technical aspects, there seems to be some degree of merit in what the council is trying to achieve. We will look again at that when we return to the bill before stage 3.

**John Farquhar Munro:** I am glad that the minister has accepted the minor amendments that I have lodged. Amendment 19 refers to the functions of Bòrd na Gàidhlig. Amendment 20 is specifically directed towards the functions of the Scottish public authorities in preparing a language plan. Those two amendments are, consequently, closely related and I am delighted that the minister has accepted them. The intention behind the amendments is to strengthen the position. They aim to give credibility to the functions of the bòrd and the public authorities. The amendments state simply that those bodies must take account of the most recent national Gaelic language plan that has been published under section 2. The amendments are similar and complementary to one another.

*Amendment 19 agreed to.*

*Amendment 8 moved—[Peter Peacock]—and agreed to.*

*Amendment 20 moved—[John Farquhar Munro]—and agreed to.*

*Amendment 9 moved—[Peter Peacock]—and agreed to.*

**The Convener:** Amendment 35, in the name of Alex Neil, is in a group on its own.

**Alex Neil:** We all agree that it is important that, as well as specifying the role of the bòrd, we build into the bill the aim of promoting the Gaelic language at every opportunity. One of the most effective ways in which to promote a language—indeed, any aspect of culture—is through the medium of advertising. The advertising budget of the Scottish Executive is a substantial amount of money every year. Given the discussion that we had earlier about the need to have equal respect for the language, it seems reasonable that we should earmark a certain proportion of that budget for the promotion of the Gaelic language. Amendment 35 is designed to do that and is built on some of the proposals that were put forward earlier in the discussions by Alasdair Morrison MSP.

I move amendment 35.

**Mr Macintosh:** I thank Alex Neil for his comments. I do not think that any of us doubts the

importance and influence of advertising, but I question whether this is the sort of detail that we want in legislation. I am sure that Bòrd na Gàidhlig can deal with the matter without such amendments, and I question whether amendment 35 is necessary. I am also conscious of the fact that the committee took no evidence on the subject. Therefore, I am wary of amending the bill in this way. I would welcome further clarification from the minister.

**Dr Murray:** I was slightly surprised to read amendment 35, although I understand the thinking behind it. Scrutiny of the Executive's budget is the responsibility of the committees of the Parliament rather than of the bòrd. If we are concerned about the spending in specific budget lines, that concern should be expressed through the subject committees and the Finance Committee.

**Lord James Douglas-Hamilton:** I query whether amendment 35 duplicates existing arrangements for scrutiny and accountability. I assume that the Administration's accounts and budget statements will set out what proportion of the total advertising budget is spent on Gaelic, and plans to increase that sum can no doubt be ascertained through parliamentary questioning. All public authorities that prepare Gaelic language plans will, similarly, have to publish such financial details in their annual accounts. I therefore query whether amendment 35 is strictly necessary.

**Ms Wendy Alexander (Paisley North) (Lab):** As others have implied, amendment 35 is well meaning but misconceived. Alex Neil is well aware of my interest in efficiency in government, not least in advertising budgets. There is a sense that we want to avoid advertising budgets—whatever their purpose—running on year after year. For example, today the media are announcing the prospect of a serious flu outbreak. We are looking for flexibility in an advertising budget, and if there was a large flu outbreak, that would slant the spending in one year but not in another year. As Ken Macintosh implies, if we try to walk in percentages of a budget, we reduce the flexibility in that budget, which good government requires to be highly flexible and variable, year on year, depending on the imperatives of the moment.

**The Convener:** I, too, take that view. In a minor way, amendment 35 is quite dangerous. It deals with the sort of detail that is not really suitable for legislation: that is the central point. The Executive's advertising budget needs to be dealt with through the accountability functions of the Parliament and the Finance Committee in particular. I do not see how the amendment could work in practice. I accept the nub of the objective to increase Gaelic advertising, and the minister may say something about that which will satisfy

Alex Neil on the matter. However, I see no merit in accepting the amendment.

**Peter Peacock:** I echo the comments that committee members have made. I understand completely the sentiment that lies behind amendment 35. Nevertheless, the amendment would not offer much practical assistance, as it is permissive, not mandatory, and would never be acted on. Even if it were used, it is potentially flawed because it asks for a specific figure that ministers have allocated to advertising in Gaelic and whether Scottish ministers have any plans to increase that proportion. The answer to those questions might be that we have allocated nothing and have no plans to increase that proportion. In saying that, we would have met the terms of the amendment but done nothing to promote Gaelic more effectively.

As Alex Neil said, Alasdair Morrison raised the matter with me some time ago. I agreed then that the issue of how advertising spend in the Executive could be structured to support Gaelic publishing is worthy of consideration. However, that is best done as part of the Scottish Executive's own Gaelic language plan, in which it can explore those issues and how it can use its spend flexibly to support Gaelic publishing through the difficulties that we know that it has.

11:30

Advertising is placed to reach an appropriate audience at particular times. The desired impact and the value for money of every advert and the medium through which it is placed are carefully considered, and there is little point in agreeing to undertake a fixed level of advertising in Gaelic that would serve no specific purpose in any given year or was less than might otherwise be needed on some occasions in other years. I assure the committee that, when the issue is addressed as part of the Executive's language plan, we will discuss with Bòrd na Gàidhlig an appropriate strategy that will not only fulfil the Executive's objectives but be helpful to Gaelic development and secure value for money.

With that assurance, I hope that Alex Neil will feel able to withdraw amendment 35.

**Alex Neil:** The purpose of lodging amendment 35 was to get the assurance that the minister has given. I am happy to accept that assurance and will therefore not press the amendment.

*Amendment 35, by agreement, withdrawn.*

**The Convener:** Amendment 21, in the name of Alasdair Morrison, is in a group on its own.

**Mr Macintosh:** Amendment 21 is designed to ensure that Bòrd na Gàidhlig has a central role at all stages of the planning process. The bill

provides for ministers to make regulations to prescribe the content of Gaelic language plans that are to be drawn up by the public authorities. Amendment 21 will oblige ministers to consult the bòrd when developing such regulations.

I move amendment 21.

**Lord James Douglas-Hamilton:** Amendment 21 should be supported, because ministers should at the very least consult the bòrd before making changes to local authorities' language plans, as the bòrd might be more competent in Gaelic language matters than even the Scottish ministers.

**The Convener:** Dear, dear—what a revolutionary statement.

**Peter Peacock:** I am happy to accept the amendment; it makes sense.

*Amendment 21 agreed to.*

*Section 3, as amended, agreed to.*

#### **Section 4—Review of, and appeal against, notices**

**The Convener:** Amendment 22, in the name of Alasdair Morrison, is grouped with amendment 23. I ask Ken Macintosh to move amendment 22 and to speak to it and to amendment 23.

**Mr Macintosh:** Section 4 deals with appeals and sets out the timescales that apply. Appeals must be submitted within 28 days, but no time limits are imposed on ministers. Amendments 22 and 23 address that potential problem.

Amendment 22 deals with appeals by a Scottish public authority against the date for submission of a Gaelic language plan that has been set by Bòrd na Gàidhlig. The amendment would set a two-month time limit in which ministers would have to determine whether to uphold the bòrd's original date or substitute an alternative.

Amendment 23 is similar, but applies to the content of the plan. The bill allows public authorities to appeal against having to comply with a notice issued by Bòrd na Gàidhlig requiring the submission of a language plan. The amendment would set a six-month time limit in which ministers would have to determine whether to uphold the notice issued by the bòrd.

I move amendment 22.

**Peter Peacock:** I am happy to accept the amendments, which are sensible and help to tighten up the bill.

*Amendment 22 agreed to.*

*Amendment 23 moved—[Mr Kenneth Macintosh]—and agreed to.*

*Section 4, as amended, agreed to.*

### Section 5—Approval of plans

*Amendment 24 moved—[John Farquhar Munro]—and agreed to.*

**The Convener:** Amendment 25, in the name of Ken Macintosh, is grouped with amendments 26, 27 and 29.

**Mr Macintosh:** My three amendments in this group were suggested, or inspired, by Sabhal Mòr Ostaig, and I declare my family connection with the college.

Section 5 deals with the procedures that Bòrd na Gàidhlig and the various public authorities must follow to reach agreement and approve a Gaelic language plan. I suggest that the arrangements in the bill as introduced are too inflexible, and my amendments are designed to address that.

Under the bill as presently drafted, if a local authority and the bòrd disagree about a plan, the only option would appear to be to refer the matter to ministers. My amendments would allow a discussion to take place and agreement to be reached within a reasonable timescale. Only if agreement could not be reached would the matter be referred to ministers. Amendment 27, the main amendment, would allow that discussion to happen.

The bill's current wording could be read to suggest that, during the discussion of any modifications that the bòrd might wish to make to an authority's plan, the authority can only accept or reject all the amendments proposed. Amendment 25 would clarify the meaning of the proposal and allow specific modifications to be proposed. Amendment 26 suggests that an explanation should accompany any disagreement, thus allowing a discussion about the matter to take place.

I move amendment 25.

**John Farquhar Munro:** Amendment 29 deals with the approval of plans under section 5(4). It addresses the situation when agreement cannot be reached between a public authority and the bòrd on the final content of a plan and the matter is referred to the minister for adjudication. Amendment 29 would set out a six-month timescale within which ministers have to make a final determination so that, when a plan is submitted, it is not put in a file and forgotten.

**Lord James Douglas-Hamilton:** I strongly support all the amendments in the group. It could perhaps be assumed that local authorities and public bodies would give reasons for their opposition to plans, but having such a requirement in the bill is an added safeguard, so I support amendments 25 and 26. Amendment 27 clarifies the procedure that is to be used by the bòrd for the approval of public authority language plans, and is

therefore to be welcomed. Amendment 29 clarifies the deadline for decisions by the Scottish ministers on approval of the plans. It is very much to be hoped that that will facilitate a speedy implementation of language plans, which would constitute a public service.

**Fiona Hyslop:** I support John Farquhar Munro's amendment 29 and the spirit of what Ken Macintosh is seeking to achieve in his amendments.

I have a question for Ken Macintosh. We expect everything to go along swimmingly and for there to be not that many disagreements. We know, however, that in real life concerns might arise, particularly on the all-or-nothing issue relating to amendment 25. It makes sense to try to ensure that authorities can disagree with some suggested modifications but agree with others. I want to avoid creating a loophole whereby a local authority that might not wish to be fully engaged with the process decides to pick out one of the modifications and dispute it so as to extend the process. Amendment 29 might help tighten up the timescale in such a situation. I would not like the opportunity to object to one modification to be used as a get-out or a means to extend the time for implementation.

**Peter Peacock:** I am perfectly happy to accept amendments 25, 26, 27 and 29. We do not see the risk that Fiona Hyslop sees, although I would be happy to reflect on the matter. The amendments make sensible adjustments to the bill: they strengthen and clarify what is required by all parties.

**Mr Macintosh:** I endorse John Farquhar Munro's amendment 29 and I welcome the comments of the deputy convener. On the point that Fiona Hyslop made, amendment 27 is specific: it sets out a two-month framework within which discussions must take place. Although it could be used as a device to procrastinate, that is not the intention: it is intended to allow discussion and partnership working. Two months is still a fairly tight framework in which to operate. I hope that that reassures the committee.

*Amendment 25 agreed to.*

*Amendments 26 and 27 moved—[Mr Kenneth Macintosh]—and agreed to.*

*Amendments 28 and 29 moved—[John Farquhar Munro]—and agreed to.*

*Section 5, as amended, agreed to.*

*Sections 6 and 7 agreed to.*



### **Section 8—Guidance, assistance, etc. by the Bòrd**

**The Convener:** Amendment 10, in the name of the minister, is grouped with amendments 12 and 13.

**Peter Peacock:** Section 8 provides for Bòrd na Gàidhlig to prepare guidance on language planning matters. Amendment 10 introduces explicit provision to enable Bòrd na Gàidhlig to vary or revoke any guidance that it has issued to Scottish public authorities. It is sensible to have that flexibility in place.

As Scottish public authorities will have a clear interest in any variation to the guidance, the bòrd will be required to follow the same procedures for variation as apply for the preparation of the original guidance. The bòrd will be required to obtain the consent of ministers before revoking guidance.

Section 9 enables the bòrd to issue guidance on Gaelic education. I have revisited section 9 in the light of comments that the future direction of Gaelic education needs to be taken forward in partnership with the main bodies in that sector, such as the Executive, the bòrd, local education authorities and Her Majesty's Inspectorate of Education.

Amendments 12 and 13 revise the consultation procedures in line with those that apply to the preparation of guidance on language planning under section 8. That will ensure that a draft of the guidance is published and all those with an interest will have the opportunity to comment.

I move amendment 10.

**Fiona Hyslop:** I welcome the amendments. The minister has reflected on the concerns that witnesses and the committee raised. The amendments recognise the primacy of the ministerial responsibility for education, are well presented and reflect the discussions that we had. In particular, amendment 12 makes the important point that the minister will take the decision on the guidance, which the bòrd will prepare and submit.

The amendments also reflect the discussions that we had about the relationship between the bòrd and the Scottish Executive Education Department and which has the lead role. Although we recognise the need for a national strategy for Gaelic-medium education, which I support, the bill is about Bòrd na Gàidhlig. We must either take the view that the bòrd has primacy in the delivery and quality of Gaelic-medium education or acknowledge that Gaelic must be mainstreamed within the Education Department. The amendments recognise that the bòrd has an important advisory role but that, at the end of the day, the responsibility must lie with the minister.

**The Convener:** That was a classic statement of the role of ministerial accountability in the matter.

**Peter Peacock:** I have nothing to add. The case is made and I hope that the committee will support the amendments.

*Amendment 10 agreed to.*

*Amendment 11 moved—[Peter Peacock]—and agreed to.*

*Section 8, as amended, agreed to.*

### **Section 9—Guidance on Gaelic education**

*Amendments 12 and 13 moved—[Peter Peacock]—and agreed to.*

**The Convener:** Amendment 36, in the name of Fiona Hyslop, is in a group on its own.

11:45

**Fiona Hyslop:** Much of the evidence we received was on the importance of education. We recognise that it is necessarily difficult to make sufficient headway on education in statutory terms in a bill that is primarily about the roles and responsibilities of the bòrd, although the minister's proposed amendment to the Standards in Scotland's Schools etc Act 2000 refers to the guidance that can be produced. We know from the draft guidance the minister has produced that the Executive is willing to have quite strong guidance in the area. However, there is no reference to Gaelic language plans in the Standards in Scotland's Schools etc Act 2000. On the basis of the evidence we have received, we know that the content of the Gaelic language plans will ensure that a local authority will provide Gaelic-medium education to the level that is required.

I have attempted to reflect the committee's views at paragraph 58, on page 12, of our stage 1 report. We recommended

"that the Scottish Executive further considers amendments to define the relationship between the Gaelic Language (Scotland) Bill and the Standards in Scotland's Schools etc Act 2000."

I will explain what amendment 36 would do. Section 5(2)(c) of the Standards in Scotland's Schools etc Act 2000 refers to the annual statements that councils must produce on Gaelic education. It says that the education authority's annual statement must state

"(i) the ways in which; or  
(ii) the circumstances in which,  
they will provide Gaelic medium education".

In effect, that means that there is an opt-out as to whether Gaelic-medium education will be provided.

We have received a lot of evidence about reassuring councils that we do not expect every local authority in Scotland to provide Gaelic-medium education on day one following the enactment of the bill, not least because we do not have a sufficient number of teachers and because it will not be delivered as a practical right. It should be remembered that the bill is not about individual rights, but about the bàrd.

Amendment 36 would mean that the opt-out part of the 2000 act would cease to exist once the guidance on Gaelic education is provided by the bàrd and where a plan has been produced by the authority. It would tighten the relationship between the Standards in Scotland's Schools etc Act 2000 and the Gaelic Language (Scotland) Bill and allow the reference to be a two-way reference—Highland Council in particular was keen to have that.

Amendment 36 would make it not a case of whether a local authority will provide Gaelic-medium education, but a case of when. However, the when will be determined by the minister's guidance and by the plan that is produced with the bàrd's agreement. That would be a positive way forward and a strong message. It would also ensure the practical delivery of Gaelic-medium education.

Unfortunately, the bill does not provide us with the opportunity to give individual rights to Gaelic-medium education, but we can ensure that local authorities' duties in relation to Gaelic-medium education are tightly tied into the statute. In that spirit, I have attempted to produce an amendment that will allow us to go forward.

I move amendment 36.

**Lord James Douglas-Hamilton:** I support amendment 36, which would amend the Standards in Scotland's Schools etc Act 2000 to ensure that schools that belong to a local authority that has prepared a Gaelic language plan for the bàrd include Gaelic provision objectives in their annual statement of improvement objectives. The requirement for schools to consider their objectives for Gaelic provision may help to guide their financial and curricular planning more effectively, and I hope that the minister will consider the amendment sympathetically.

**Mr Macintosh:** I am grateful for Fiona Hyslop's explanation, as I was slightly baffled by the amendment. We have discussed the bill's relationship with the Standards in Scotland's Schools etc Act 2000 a number of times and not reached a conclusion.

I can see where Fiona Hyslop wants to go with the amendment, but because I was so baffled by the amendment's wording when I originally considered it, I am slightly concerned that it will

not achieve what she wishes it to achieve. If I may, I would like more time to think about its wording before stage 3 and whether it would do something that we did not quite agree to.

I feel that some local authorities might object strongly and I am slightly concerned. Now that I understand what you want to do, I would like more time to think about the matter, if that is all right.

**Ms Alexander:** I agree with some of Ken Macintosh's sentiments and I will share my thoughts with the minister before he responds. The committee wrestled with the questions to which Fiona Hyslop alludes—whether the representation of the relationship between the Standards in Scotland's Schools etc Act 2000 and the bill is fair, how that is complicated by issuing guidance and how that guidance might impinge on the use and distribution of the Gaelic-specific grant.

Many of us feel that such an amendment may not be the way to take a fresh look at the Gaelic-specific grant and how local authorities meet their obligations under it. It is fair to say that we heard several concerns about that when we took evidence and heard a desire for reassurance that the new guidelines might be the vehicle to address some of the issues. The minister's thoughts—before stage 3—would help.

**Dr Murray:** I am slightly anxious about the amendment. We have discussed the fact that different local authorities may have different plans. The amendment could strike fear into councils such as Dumfries and Galloway Council, which may or may not have the requirement in its Gaelic plan. In particular, it might be inferred that a local authority must provide Gaelic-medium education in its area rather than enable people to access such education elsewhere. I am a little nervous for areas such as mine about some of the amendment's implications.

**The Convener:** I share some of those concerns. Wendy Alexander is correct: the committee wrestled with the subject and did not reach a conclusion. A relationship exists between education functions under education legislation and the Gaelic stuff, but singling out Gaelic-medium education in the slightly cumbersome fashion suggested would not help achievement of the objectives. I am still wrestling—to use Wendy Alexander's word—with the subject and I shall be interested to hear the minister's response.

The broader question is whether the relationship between the 2000 act and the bill, which I hope will soon become an act, needs to be tightened in the light of how education came into the bill, because it was not in the draft bill, if I remember rightly. Did the Executive fully bottom out the issue? We need assurance on that broader issue.

**Mr Macintosh:** I have a comment for the minister. We had a big discussion on the demand threshold for Gaelic-medium education. In some local authorities, it might be as low as one or two pupils, but in others it might be five or nine. I thought that the bòrd was to take on the issue and would reflect on such thresholds in its guidance, and that that is how we left the discussion. The bòrd is to produce quite strong guidance, with a number attached, on the appropriate level at which to introduce Gaelic-medium education.

**Peter Peacock:** We are all wrestling with the amendment. I know from discussions with Fiona Hyslop that there has been quite a lot of dialogue on the correct way to construct it. I will try to put the matter in context. At every stage in the bill's progress, education has featured prominently, as we have said. That is right and I welcome the emphasis put on Gaelic education by the committee, Bòrd na Gàidhlig and other interests, because it is the key to the language's future.

For those reasons, I have included in the bill an important strategic education role for Bòrd na Gàidhlig. I have issued guidance on Gaelic-medium education and established working groups on teacher recruitment and secondary education. I have also created an explicit link to the Standards in Scotland's Schools etc Act 2000 through section 9.

I understand that amendment 36 would do two things. First, it would require an education authority, when meeting Gaelic-medium education reporting requirements under the 2000 act, to have regard to any guidance issued by Bòrd na Gàidhlig and to any Gaelic language plan that that authority might have in place. I believe that I have achieved that through section 9. Secondly, it would delete the existing requirement in the 2000 act for an education authority to specify the circumstances in which it will provide Gaelic-medium education. There may be an assumption that that will be dealt with in the Gaelic language plan prepared by an education authority, but currently no safeguard is in place to ensure that that is the case.

That raises the Shetland or Dumfries and Galloway question that members such as Elaine Murray have raised, which is what would the implications be for such areas. As you are aware, through draft guidance that we have issued, local authorities are already addressing the question of thresholds. Bòrd na Gàidhlig will in due course take that guidance further forward, so those questions will not be ignored—they will be addressed.

I agree with Fiona Hyslop that there is merit in requiring education authorities to report in accordance with any Gaelic language plan that they have in place, as well as in accordance with

any guidance issued by the bòrd. In light of the questions that have been raised today and the discussions that I have had with Fiona Hyslop, I am content to examine the issue more thoroughly before we get to stage 3, to see whether we can reconcile the arguments and perhaps lodge at stage 3 an amendment that meets all our requirements. I would be happy to do that and to provide an amendment in sufficient time in advance of stage 3 to allow Fiona Hyslop to consider whether it meets her specific requirements. On that basis, I invite her to withdraw amendment 36 and give us all time to consider further the spirit of what is intended, and try to find a technical way to achieve it.

**The Convener:** I notice that the sun shone as the minister said that.

**Peter Peacock:** It seldom happens.

**The Convener:** Perhaps it is divine approval of the proposal.

**Fiona Hyslop:** The sun shines on the righteous, but I am not sure whether it is shining on me or on the minister. I hope that it is shining on us both, working together.

**The Convener:** I should clarify that it shone on the convener.

**Fiona Hyslop:** I appreciate the minister's comments. I will respond to some of the points that have been made. It is essential that we have guidance rather than guidelines, because guidance is stronger. That relates to Wendy Alexander's point.

The wording of amendment 36 strongly replicates the wording used in the Standards in Scotland's Schools etc Act 2000, but refers not only to guidance—which was already in the bill—but to the Gaelic language plan. I would be surprised if language plans did not refer to education. Agreement on the content of plans will be negotiated between each council and the bòrd. That is where the debate about thresholds will be interesting, because we do not expect one local authority's Gaelic language plan and references to Gaelic-medium education to be identical to another's. That allows for the flexible development that impressed us in evidence.

While the wording of amendment 36 is very similar to that in the Standards in Scotland's Schools etc Act 2000, it seeks to bring it up to date by requiring reference to the circumstances in which Gaelic-medium education will be provided to be made in the guidance that will be provided by the minister and, more important—it is missing from the bill currently—to be outlined in the Gaelic language plan.

The committee was shocked by the evidence on the lack of Gaelic-medium education in the

Western Isles. We would expect the Western Isles to be one of the first councils with a language plan. The committee recommended that there should be language plan developments in other council areas, such as Perth and Kinross, where there was potential for development. We would expect the content of those language plans to be different for those different local authorities.

I am interested that the minister will examine the wording of amendment 36. I am happy to withdraw it, pending stage 3, when I will reserve the right to amend the bill or support the minister's amendment when he lodges it.

**The Convener:** That was a productive discussion.

*Amendment 36, by agreement, withdrawn.*

*Section 9, as amended, agreed to.*

### After section 9

**The Convener:** Amendment 30, in the name of Alex Neil, is in a group on its own.

**Alex Neil:** As we know, broadcasting generally is a reserved matter, but Gaelic broadcasting is largely devolved. It would be remiss of us not to consider the role of the bàrd in, and to give it a locus in relation to, Gaelic broadcasting services.

The powers that are suggested in amendment 30 are on guidance for broadcasting services with the consent of Scottish ministers. There would be a tie-up between the overall strategy of Scottish ministers for Gaelic broadcasting and using those services to assist the work of the bàrd in promoting Gaelic. I do not accept that most broadcasting should be reserved, but Gaelic broadcasting is devolved, so the amendment is fairly consistent with what we are trying to get the bàrd to do, what we are trying to do to promote the language, and with the overall objectives of a Gaelic broadcasting service. It makes sense to align the work of the bàrd with the more general powers and direction of Gaelic broadcasting in Scotland as directed by Scottish ministers.

I move amendment 30.

12:00

**Mr Macintosh:** I have some concerns about the amendment and the idea behind it. It is important to clarify the role of the Scottish Government in broadcasting Gaelic. The subject was brought up during the latter stages of taking evidence for our stage 1 report. There is room for the Executive to clarify the relationship, given that the Gaelic broadcasting budget is devolved. We need to clarify which minister is responsible, how much the budget is and what the relationship will be between the Executive and Westminster. There is

a need for clarification and possibly a stronger lead from the Executive.

We did not take any evidence on broadcasting at all and I am hesitant to introduce what is almost a new subject at this stage. Broadcasting has a difficult role because broadcasters have to be independent. The relationship between Government and broadcasters is tricky, so we have to be careful about how we word legislation that deals with that relationship.

I am also concerned about the idea that we might jeopardise the bill by including provisions on a reserved matter. Perhaps I could have clarification on that point.

For all the foregoing reasons, I suggest that Alex Neil not press amendment 30. I do not think that it will achieve what he wants and it might do some harm to, or even jeopardise, the bill.

**Dr Murray:** I have a slightly different point. I am not sure why the amendment is necessary. Section 1(2)(b) gives the bàrd the facility to advise

"public bodies and other persons exercising functions of a public nature".

Public service broadcasting is a public service, so the facility that Alex Neil seeks is already in the bill.

**Fiona Hyslop:** We acknowledge the point—Frank McAveety kept coming back to it—that broadcasting, cultural issues and education are central, but none of those is central to the bill as it stands. There is a case for including a reference to broadcasting; Parliament has the power to do that.

Bearing in mind the fact that we have just passed amendments 1 and 15 to include Gaelic education and culture in section 1(2)(b). We have also agreed to include the term in section 1(2)(a), which is about

"promoting, and facilitating the promotion of, the use and understanding of the Gaelic language".

We have just amended that to include education and culture. We have also amended section 1(2)(c) to include that term. Amendment 30 is therefore consistent with previously agreed amendments. However, I acknowledge that there are concerns and I will be interested to hear the minister's comments and Alex Neil's response to points that are made.

**The Convener:** I will make one or two comments. I have a fair amount of sympathy with the thrust of what Alex Neil is trying to achieve. For what it is worth, at the time of the Holyrood settlement, the Scottish Liberal Democrats were also keen to have broadcasting brought into the jurisdiction of the Scottish Parliament. That is a past issue.

The committee clearly acknowledged the importance of Gaelic broadcasting and took the matter up in its stage 1 report. The report mentioned Bòrd na Gàidhlig's representation in, and on-going liaison with, the Gaelic Media Service, which was established fairly recently. In response to questions that were raised, the minister said that the Executive is keen to engage in discussions with key interests in that regard. Broadcasting is not entirely reserved; for example, funding for Gaelic broadcasting services is devolved—where the powers lie is a bit of a mish-mash. However, amendment 30 does not propose the right solution. As Elaine Murray rightly pointed out, section 1(4) makes provision for Scottish ministers to give the bàrd

“directions (of a general or specific character) and guidance as to the exercise of the Bòrd's functions.”

The committee obtained the undertaking that ministers would liaise with the Westminster Government about the Executive's role in relation to reserved agencies. The undertaking was given against the background of comments that I and others made about the oddity whereby the Welsh Language Act 1993, which went through Westminster before devolution, applies to reserved bodies, whereas the Gaelic Language (Scotland) Bill will not apply to such bodies. The issue is perhaps marginal, but as Ken Macintosh said, we need to bottom it out a little. I will be interested to hear how the minister views the relationship between the Executive, the bàrd, Gaelic language plans and guidance and broadcasting, in relation to which the Scottish Executive already has functions.

**Peter Peacock:** It will not surprise Alex Neil to learn that I believe that the provisions in amendment 30 would be outwith the Scottish Parliament's legislative competence. Broadcasting legislation and policy are reserved matters, which is perhaps why the member raised the issue. However, I agree with the sentiment that is expressed in the committee's stage 1 report, which noted the

“importance of broadcasting in underpinning the Gaelic language”.

The convener invited me to comment on the issue, so I take the opportunity to do so. The bill explicitly gives Bòrd na Gàidhlig the function of advising ministers and public bodies on Gaelic language matters. I fully expect the bàrd to take appropriate opportunities to provide advice to relevant bodies and ministers on matters that relate to Gaelic broadcasting. I also expect the bàrd to set out its views on Gaelic broadcasting in the national Gaelic language plan. I emphasise that that position creates no tension with regard to reserved matters. As the convener and Dr Murray said, section 1 provides that Bòrd na Gàidhlig may

advise other bodies on matters that relate to Gaelic. It is therefore legitimate for broadcasting matters to be included in advice that the bàrd gives and in the national plan, although it is not competent to include broadcasting in Scottish legislation.

Members of the committee know that United Kingdom legislation established the Gaelic Media Service, which has been charged with performing its functions in a way that will secure a wide range of high-quality television programmes in Gaelic. As the convener mentioned, statutory provision is made for a representative of Bòrd na Gàidhlig to be a member of the GMS board.

I am confident that adequate structures are in place to ensure that clear messages about Gaelic broadcasting needs are formulated and directed to appropriate departments and agencies. I further reassure the committee that the Executive is keen that a Gaelic digital channel be established as quickly as possible. I assure members that Patricia Ferguson and I are actively—I stress “actively”—involved in discussions with key interests in an effort to secure a solution that offers a viable future for Gaelic broadcasting. I am hopeful of a positive outcome. The matter might not have been made very public, but we are providing leadership in the discussions that are taking place.

Amendment 30 would be outwith the legislative competence of Parliament. I hope that no member would want the implementation of the other provisions in the bill to be compromised because a question of competence arose on one matter. In any event, amendment 30 would add nothing to the bàrd's ability to advise on broadcasting matters. I invite Alex Neil to withdraw the amendment, although I do so more in hope than in expectation.

**The Convener:** Before Alex Neil sums up the debate, it might be worth offering the committee some guidance on admissibility and competence—I confess that I have concerns about the matter. I am advised that amendment 30 is admissible under the standing orders of the Parliament. The admissibility of an amendment relates to its form and its relationship with the general principles of the bill, so there is no particular issue about amendment 30 in that context.

There is an issue about competence, which I am told is not a matter for me as convener, but is a matter for Parliament, although the eventual act might be struck down by the courts if we legislated beyond our legislative competence. I am a lawyer, but I have difficulties understanding how something could be admissible but incompetent, which appears to be the situation. I hope that that is modestly helpful background to the admissibility and competence issue.

**Alex Neil:** My understanding is that, at the end of the day, it is up to the Presiding Officer to decide whether a bill is competent under the Scotland Act 1998. If he deems it to be competent, but the UK Government, through the Advocate General—who of course is very busy—wants to challenge that decision, it can do so through the Privy Council. It is an absolute red herring to say that we cannot include amendment 30 in the bill or that it would endanger the bill. It would not endanger the bill, because the Presiding Officer would rule at stage 3 that, to allow the bill to be passed, the measure could not be in it. That argument is a complete and utter red herring.

I was surprised that Ken Macintosh said that we cannot discuss the issue because we have not had evidence on it—we have had evidence on it. In fact, Ken, you should read your own report. Paragraph 76, on page 16, under the heading “Broadcasting” states:

“The Committee”—

that is this committee, of which you are a member, Ken—

“notes the importance of broadcasting in underpinning the Gaelic language. Bòrd na Gàidhlig observed that: ‘... two things—education and broadcasting—are basic to developing the language.’”

Furthermore, paragraph 77 states:

“In its written submission to the Committee, Gaelic Media Services noted that: ‘...the UK broadcasting system is working against the Gaelic language, because the current Gaelic broadcasting provision is too patchy to have critical mass’”.

It is absurd for someone who has signed that report to say that we should ignore the issue and not deal with it in the bill. That was the evidence and the conclusion of the committee. The purpose of amendment 30 is to implement measures to deal with the issues that the committee said should be addressed. That is why I lodged amendment 30, which is perfectly valid. If the committee is serious about Gaelic broadcasting and if it believes its own report, it should agree to amendment 30.

**The Convener:** The amendment is valid and admissible, but whether it is competent remains to be seen.

The question is, that amendment 30 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Byrne, Ms Rosemary (South of Scotland) (SSP)  
Hyslop, Fiona (Lothians) (SNP)  
Ingram, Mr Adam (South of Scotland) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
Brown, Robert (Glasgow) (LD)  
Douglas-Hamilton, Lord James (Lothians) (Con)  
McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
Macintosh, Mr Kenneth (Eastwood) (Lab)  
Murray, Dr Elaine (Dumfries) (Lab)

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

*Amendment 30 disagreed to.*

### Section 10—Interpretation

**The Convener:** Amendment 31, in the name of Alex Neil, is grouped with amendment 32.

**Alex Neil:** Amendment 31 is intended to implement a recommendation of the committee’s report, this time in relation to coverage of cross-border public authorities that exercise devolved functions. The amendment, which would not cover reserved functions, is sensible and would introduce a measure that the committee recommended. I hope that the Executive, in its great wisdom and with the tremendous legal advice that it gets, will accept it.

On amendment 32, I remind the committee that the legal advice that the committee received from Margaret Macdonald was that the Food Standards Agency has a unique or singular status in the machinery of Government in the UK. According to her advice, it is a non-ministerial Government department, not a non-departmental public body or quango. Technically, its function is not reserved or devolved, but a bit of both. The legal advice that the committee received was that it would be perfectly competent to include specific reference to the Food Standards Agency, in recognition of its unique situation and to ensure that it fulfils its obligations. Both amendments seek to implement the recommendations of the Education Committee.

I move amendment 31.

12:15

**The Convener:** I have a lot of sympathy with Alex Neil’s amendments 31 and 32. As he rightly said, we examined the issue in some depth. My starting point was that I found it odd that we were not in a position to impose legal obligations on agencies other than specifically devolved agencies. It follows from that that my approach to the matter is to try to deal with it on as wide a basis as we can manage legally. There has been some sympathy from the committee for that approach.

Cross-border authorities were mentioned in addition to the Food Standards Agency, which we discovered to our surprise is unique in the way it is

defined. My only concern is whether the phraseology that is used in the definition in section 10(2) of

“a Scottish public authority with mixed functions or no reserved functions”

covers cross-border public authorities. I confess that I am struggling with the phraseology, so I seek guidance from the minister and his officials. However, my basic position on amendments 31 and 32 is that I am sympathetic to them.

**Peter Peacock:** As Alex Neil said, amendment 31 seeks to ensure

“that cross-border public authorities exercising devolved functions”

are included in the terms of the bill. I have revisited the definition of “Scottish public authority” that we used in the bill in the light of Alex Neil’s amendment. On reflection, it is my view that cross-border public authorities are not currently caught within the phrase “Scottish public authority”. In a rare moment of generosity towards today’s amendments, I am happy to say that I am grateful to Alex Neil for lodging amendment 31 in order that the matter can be clarified. However, we believe that his amendment could be better formulated to ensure consistency with the Scotland Act 1998, so I will be happy to lodge an amendment at stage 3 to ensure that cross-border public authorities, insofar as they exercise devolved functions, would be covered in the definition of “Scottish public authority”.

Amendment 32 seeks to add the Food Standards Agency to the bodies to which Bòrd na Gàidhlig might issue a notice requiring the preparation of a Gaelic language plan. I agree with Alex Neil that organisations such as the Food Standards Agency might, like Scottish public authorities, have a role to play in securing the status of the language in Scotland. As the convener mentioned, the constitution of the FSA is a complex matter, but the bottom line is that the FSA is a non-ministerial department of the UK Government and, as such, it should be treated in the same way as a Whitehall body. In that spirit, we have been in contact with the FSA since those points were raised in the committee’s stage 1 report, which included the recommendation that I seek to amend the bill to encompass the FSA. I am pleased to tell the committee that the FSA has indicated that it is keen to do its bit to support Gaelic in Scotland and has undertaken to work voluntarily in the spirit of the bill and to liaise with Bòrd na Gàidhlig to determine how that work can best be taken forward.

Therefore, I invite Alex Neil not to press amendment 31 and not to move amendment 32 in the full knowledge that I will lodge an amendment at stage 3 to include cross-border public

authorities in the definition of “Scottish public authority” and that I have an undertaking from the FSA that it will develop Gaelic language provision wherever appropriate.

**Alex Neil:** I will treat amendments 31 and 32 separately. Amendment 31 refers to

“cross-border public authority exercising devolved functions”.

I take it from what the minister said that he agrees with the amendment, but wants simply to improve the wording. That is a reasonable suggestion, so I will not press amendment 31, on the understanding that the minister will lodge an appropriate amendment at stage 3. I thank him for that.

The Executive’s legal advice clearly flies in the face of the legal advice that we received from the parliamentary lawyers that it is perfectly competent and admissible to cover the Food Standards Agency in the bill. I am prepared not to move amendment 32 only if the issue is explored further between the two sets of lawyers before stage 3. Although I accept that the current management of the Food Standards Agency has given a commitment to the minister that I hope will be backed up in writing and made public, we do not know about future management teams of the Food Standards Agency. The logic of that position is that if every agency gave an undertaking to the minister that they would make Gaelic language provision anyway, why would we need a bill or the bòrd? I do not see why we should exclude the Food Standards Agency or give it a special waiver simply because it has given that undertaking to the minister. It is perfectly legitimate to include an obligation in the bill and the act when it is finally passed, but we have two contradictory sets of legal advice on the matter.

Perhaps between the minister’s good offices, those of the Presiding Officer and the Executive, we can resolve which legal advice—the Executive’s or the committee’s—is the correct advice. In the spirit of generosity that the minister referred to, I am prepared not to press or move the amendments on the understanding that the issues in both will be resolved at stage 3.

**The Convener:** I am more than happy to ask the clerks to seek comment from our legal advisers on the information that the minister has given us this morning. If appropriate, we can have further discussions. Will the minister respond further on that?

**Peter Peacock:** I will be happy to consider the matters that have been raised, but I cannot give a commitment until I look at them more fully. However, I have made our commitment clear in relation to the FSA.

*Amendment 31, by agreement, withdrawn.*

**The Convener:** Does Alex Neil wish to move amendment 32?

**Alex Neil:** I will not move amendment 32, on the understanding that we will try later to resolve the issue with which it deals.

*Amendment 32 not moved.*

*Section 10 agreed to.*

*Sections 11 and 12, schedule 2 and section 13 agreed to.*

### **Long Title**

**The Convener:** Does Alex Neil wish to move amendment 33?

**Alex Neil:** We have already discussed the substantive matter of the difference between equal validity and respect. I admit that I lost the vote, but probably won the argument. However, I note that in the earlier debate, the minister firmly undertook to lodge at stage 3 an amendment to the long title of the bill to build in the issue of respect. On that understanding, I will not move amendment 33.

**The Convener:** I was asking you not to make observations, but to move or not move the amendment.

*Amendment 33 not moved.*

**The Convener:** Subject to that reservation at stage 3, the question is, that the long title be agreed to. Are we agreed?

*Long title agreed to.*

**The Convener:** That ends stage 2 consideration of the bill. I thank colleagues for the considerate way in which they dealt with amendments today—it has been a model of parliamentary consensus. I hope that it sends strong signals to the Gaelic community that Parliament is interested in the future of Gaelic and supports the principles and future practice of the Gaelic Language (Scotland) Bill to which we will return at stage 3.

*Meeting closed at 12:23.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Friday 11 March 2005**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

**Blackwell's Bookshop**  
53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222

**Blackwell's Bookshops:**  
243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

**Blackwell's Scottish Parliament Documentation**  
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

**E-mail orders**  
business.edinburgh@blackwell.co.uk

**Subscriptions & Standing Orders**  
business.edinburgh@blackwell.co.uk

**RNID Ttypetalk calls welcome on**  
18001 0131 348 5412  
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron