The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 11 May 2010

Session 3

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JUSTICE COMMITTEE
16th Meeting 2010, Session 3

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)
*Angela Constance (Livingston) (SNP)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Nigel Don (North East Scotland) (SNP)
*James Kelly (Glasgow Rutherglen) (Lab)
Stewart Maxwell (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

*Aileen Campbell (South of Scotland) (SNP)
John Lamont (Roxburgh and Berwickshire) (Con)
Mike Pringle (Edinburgh South) (LD)
Dr Richard Simpson (Mid Scotland and Fife) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Fergus Ewing (Minister for Community Safety)
George Foulkes (Lothians) (Lab)
Kenny MacAskill (Cabinet Secretary for Justice)
Sandra White (Glasgow) (SNP)

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

Committee Room 1

Scottish Parliament

Justice Committee

Tuesday 11 May 2010

[The Convener *opened the meeting at 10:03*]

Subordinate Legislation

Parole Board (Scotland) Amendment Rules 2010 (SSI 2010/164)

Victims' Rights (Prescribed Bodies) (Scotland) Order 2010 (SSI 2010/165)

The Convener (Bill Aitken): Good morning, ladies and gentlemen. I remind everyone to switch off mobile phones. We have an apology from Stewart Maxwell, who is engaged elsewhere on parliamentary business. I welcome his committee substitute, Aileen Campbell, to the meeting. I also welcome Sandra White MSP, who is here to speak to an amendment to the Criminal Justice and Licensing (Scotland) Bill, to which we shall come presently. Before we do so, however, there are a couple of preliminary items with which we require to deal.

The first substantive item relates to subordinate legislation. There are two negative instruments for consideration today. The first is the Parole Board (Scotland) Amendment Rules 2010. I draw members' attention to the instrument and the cover note, which is paper 1. The Subordinate Legislation Committee did not draw any matters to the attention of the Parliament in relation to the instrument. If members have no comments, can we agree simply to note the instrument?

Members *indicated agreement.*

The Convener: The second instrument for consideration is the Victims' Rights (Prescribed Bodies) (Scotland) Order 2010. I draw members' attention to the instrument and the cover note, which is paper 2. Again, the Subordinate Legislation Committee did not draw any matters to the attention of the Parliament in relation to the instrument. If members have no comments, are we content to note the instrument?

Members *indicated agreement.*

Criminal Justice and Licensing (Scotland) Bill: Stage 2

10:05

The Convener: Agenda item 2, which is the seventh day of stage 2 proceedings on the Criminal Justice and Licensing (Scotland) Bill, is our principal business today. The committee aims to complete stage 2 today. That may or may not be possible; we shall see what progress we make.

I welcome the Cabinet Secretary for Justice, Kenny MacAskill MSP. As is usual on such occasions, he is accompanied by Scottish Government officials, who may alternate, depending on the nature of the business that is to be discussed.

Members should have their copies of the bill, the seventh marshalled list of amendments and the seventh list of groupings of amendments for consideration.

Section 121—Conditions to which licences under 1982 Act are to be subject

The Convener: Amendment 168, in the name of the cabinet secretary, is in a group on its own.

The Cabinet Secretary for Justice (Kenny MacAskill): Amendment 168 is a technical amendment to section 121 to make the power to prescribe mandatory conditions in respect of licences under the Civic Government (Scotland) Act 1982 subject to the affirmative procedure. The amendment follows comments that were received from the Subordinate Legislation Committee.

I move amendment 168.

Amendment 168 agreed to.

Section 121, as amended, agreed to.

Section 122—Licensing: powers of entry and inspection for civilian employees

The Convener: Amendment 169, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: Amendment 169 is purely a minor technical amendment that tidies up provisions in section 122 by removing an unnecessary reference to section 29 of the 1982 act.

I move amendment 169.

Amendment 169 agreed to.

Section 122, as amended, agreed to.

Section 123—Licensing of metal dealers

The Convener: Amendment 385, in the name of Robert Brown, is in a group on its own.

Robert Brown (Glasgow) (LD): Amendment 385 would delete section 123. In essence, the bill as it stands seeks to make the licensing of metal dealers optional, but I am not convinced that that is a particularly good idea, particularly in a time of recession, and I am not—so far at least—satisfied that the case has been made for it. I am all in favour of local discretion, but I am not sure that things should be done in such a way in the area that we are discussing.

The licensing and control of metal dealers seems to me to be very useful. We are talking about a trade that can deal with the proceeds of certain types of crime. The area is well regulated at the moment, and it should continue to be.

The committee heard evidence on the matter at stage 1. Several councils commented it would be odd to make such a change at a time of economic downturn. I am not persuaded of the need for the change, which is why I seek to delete section 123.

I move amendment 385.

The Convener: I have a degree of sympathy with the amendment. It is well known that the theft of precious metals is a major criminal activity; the theft of base metals should also be of concern. Criminal acts are, of course, a matter for the criminal courts, but I think that an additional sanction should be present that would result in a metal dealer who was guilty of reset potentially losing his or her licence. That in itself would act as a deterrent. I am therefore minded to support the amendment, unless the cabinet secretary can persuade me otherwise.

Kenny MacAskill: We understand the concerns that the convener and Robert Brown have expressed, but let me explain why we do not support amendment 385.

Amendment 385 seeks to remove from the bill provisions that were recommended to the Scottish Government by local authorities and the police as a means of future-proofing the licensing of metal dealers. The effect of the amendment would be to maintain the 20-year-old ceiling of £100,000 annual turnover above which licensing boards are not able to license the operation of metal dealers. It may help if I explain that we will ensure in the transitional arrangements for the commencement of section 123 that no local authority will be left without a licensing scheme if it wishes to maintain one. In addition, any local authority that chooses to move to the optional scheme using the new powers that are contained in section 123 must consult the relevant bodies in their area, in particular the police, before they are able to do so.

It should be left open to local authorities to remove licensing burdens should circumstances—both social and economic—no longer require them. In many areas, local authorities might decide to continue with the current licensing arrangements. However, local authorities should have the flexibility to move to an optional licensing regime for metal dealers if they consider that appropriate for their areas. That is why we oppose Robert Brown's amendment 385, although we recognise the underlying concern.

Robert Brown: I intend to press amendment 385. A technical issue might relate to the £100,000 limit, but it could be dealt with in another way, if that were necessary.

The law of unintended consequences applies. It is all very well for one council to decide that it does not need a metal dealers licensing regime, but that has implications for surrounding councils, particularly as council areas are fairly small. For example, Glasgow City Council is surrounded by several other authorities. One can readily see that people who want to operate at the dubious end of the market might move to a surrounding local authority's area if it took a slightly more lax view than Glasgow did. Section 123 has considerable dangers, so I will press amendment 385.

The Convener: The question is, that amendment 385 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

Against

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

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

Amendment 385 agreed to.

Section 124 agreed to.

After section 124

The Convener: The next group is entitled "Licensing of street trading—food hygiene certificates". Amendment 170, in the cabinet secretary's name, is the only amendment in the group.

Kenny MacAskill: Amendment 170 updates references to food hygiene legislation in the Civic Government (Scotland) Act 1982. Section 39 of

the 1982 act provides that applications for a street trader's licence when the activity includes a food business and involves the use of a vehicle, kiosk or moveable stall must be refused by the licensing authority unless a food hygiene certificate is produced. The food hygiene certificate must be signed on the food authority's behalf and must say that the premises comply with the requirements of regulations that are made under section 16 of the Food Safety Act 1990. However, food safety regulations are now made under section 2(2) of the European Communities Act 1972 in order to implement various European Union regulations, rather than under section 16 of the 1990 act. The result is that the reference in the 1982 act no longer works properly.

Amendment 170 allows the Scottish ministers to specify in an order the requirements with which a food hygiene certificate is to state compliance. That will allow the references to keep up with changes in food safety regulation.

I move amendment 170.

The Convener: The issue is fairly straightforward.

Amendment 170 agreed to.

Section 125—Licensing of market operators

The Convener: Amendment 171, in the cabinet secretary's name, is grouped with amendments 172 and 2 to 4. I draw members' attention to the pre-emption information in the list of groupings.

Kenny MacAskill: Amendments 171 and 172 implement the commitment that we made in December 2009 to reinstate the blanket exemption that charities enjoy from the market operator provisions of the 1982 act. As we said, the licensing provisions in the bill were the result of recommendations from an independent task group that the previous Administration established and which undertook an extensive review of civic government licensing throughout Scotland. The group recommended that charities should no longer be exempt from applying for a market operator's licence and that exemption should be left to licensing authorities' discretion.

However, we received many representations and understood the concerns that the change in the bill would have an impact on fundraising events in general. We therefore decided that the proposal should not proceed, and our amendments 171 and 172 deliver on that.

We acknowledge the fact that Cathie Craigie's amendment 2 would achieve substantially the same effect. However, the clear advantage of our amendments 171 and 172 is that they leave section 125 in a neater form.

Amendment 3 seeks to remove section 125(3). That provision implements another recommendation of the task group to ensure that licensing authorities are able to regulate car boot sales. The current reference in section 40(4) of the 1982 act to sale "by retail" has caused doubt about licensing authorities' ability to do that. Unlike the charities exemption, the provision in the bill has raised no concerns and we are not sure why Cathie Craigie might want to remove it. The retention of the charities exemption means that only commercially organised car boot sales could ever come within the scope of the licensing regime. We therefore oppose amendment 3.

Amendment 4 would remove section 125 entirely. We believe that section 125, in its shortened form, should be retained and we therefore oppose amendment 4.

I move amendment 171.

10:15

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I call on members of the committee to support amendments 2 to 4 and to reject the Government's amendments 171 and 172.

When the committee took evidence during its stage 1 consideration of the bill, it was clear that charitable organisations were concerned that they could find themselves facing a charge if they wanted to put on a summer fair or a garden fête. There was concern about that across the board, particularly among religious groups, uniformed organisations and sporting groups. My amendments would take us back to the status quo and the position that is currently enjoyed by charitable organisations.

Amendment 171 would leave in section 125(3) the reference to sale "by retail". The committee will confirm that, during stage 1, it was unclear to us just what "by retail" meant. I do not think that the bill would be improved by leaving that provision as it is. The phrase "by retail" could refer to an organisation going along to a wholesaler and buying things to resell at its garden fête or whatever. As the purpose and effect notes that have been provided by the Government acknowledge, licensing authorities already have the power, under existing legislation, to license car boot sales if that is an issue of concern. It would be up to the Government to provide clarity on that through guidance, if necessary. If some local authorities are using the existing legislation to license sellers at car boot sales, what is to prevent all local authorities from doing that? I do not accept the need to leave the phrase "by retail" in the bill.

Robert Brown: I support Cathie Craigie's amendments. The original proposal to require

voluntary sector or non-commercial groups to obtain a market trader's licence would have been a bureaucratic nonsense in 95 per cent of instances. There was, in any event, some uncertainty about how far the council's discretion to allow exemptions would extend if the change were made. Restoration of the status quo through the removal of section 125 seems to be the simplest solution and would give relief to many voluntary sector groups.

In defence of the Government's initial position, it is fair to say that there could be issues with large-scale events such as free concerts and the like. I would be interested to know whether the Government's thinking on that issue has advanced.

Car boot sales vary from the large-scale events that take place at places such as Polmadie to much smaller events that are organised by churches, care homes and other such organisations. There must be a degree of proportionality to any action that is taken in relation to such things. In recent years, there has been quite a lot of legislation that has increased the burdens on voluntary sector and local organisations, and I do not think that we should add what the Government proposes to those burdens.

The Convener: If no other members wish to contribute, I too will speak to the amendments.

Government amendment 171 seems a genuine effort to correct a failure where the existing bill is simply not proportionate. Cathie Craigie highlighted those difficulties in speaking to amendment 2. Clearly, where an event that is held for whatever purpose is attended by a large number of individuals, the local authority will require to involve environmental health officers, building control and so on. Therefore, it is totally appropriate that such events should be subject to licensing. On the other side of the argument, one cannot equate an event such as T in the Park with a church flower show. Clearly, we need to do something, as the bill as it stands is simply not an appropriate response to what has been a particularly limited difficulty.

Having heard what the cabinet secretary said, I recognise that amendment 171 is a genuine attempt to remedy matters, but at this stage I am minded to support amendment 2 in the name of Cathie Craigie. This might not be my last word on the matter, as the wording could be tidied up again at stage 3. There might also be problems for car boot sales, as Cathie Craigie articulated. That is my position on the matter in the meantime.

Kenny MacAskill: Obviously, the issue has fundamentally been driven by the Convention of Scottish Local Authorities, and we are more than happy to enter into discussions with COSLA to ensure that we strike the appropriate balance. As the convener pointed out, we need to ensure that we can deal with commercial enterprises—including those that run car boot sales for considerable profit and which sometimes even masquerade as charitable ventures. However, at the same time, we need to protect church flower shows and other events for worthy charitable organisations, which is the tenor of the argument made by Cathie Craigie and Robert Brown. Obviously, we are happy to discuss the issue with the committee and with COSLA, both at present and hereafter.

The Convener: The question is, that amendment 171 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

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

Amendment 171 disagreed to.

The Convener: Before proceeding, I point out that, if amendment 172 is agreed to, I cannot call amendments 2 and 3 on the grounds of pre-emption.

Amendment 172 moved—[Kenny MacAskill].

The Convener: The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

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

Amendment 172 disagreed to.

Amendment 2 moved—[Cathie Craigie].

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

Abstentions

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

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

Amendment 2 agreed to.

Amendment 3 moved—[Cathie Craigie].

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

Abstentions

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

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

Amendment 3 agreed to.

Amendment 4 moved—[Cathie Craigie].

The Convener: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Kelly, James (Glasgow Rutherglen) (Lab)

Abstentions

Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Don, Nigel (North East Scotland) (SNP)

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

Amendment 4 agreed to.

Sections 126 and 127 agreed to.

After section 127

The Convener: The next group is on control of lap-dancing and other adult entertainment venues. Amendment 516, in the name of Sandra White, is the only amendment in the group.

Sandra White (Glasgow) (SNP): I wish to concentrate on three areas: what the amendment will do; what it will not do; and why the amendment is necessary. Even though it is early in the morning, I would like to mix things up a bit and start by talking about what the amendment will not do.

The committee has received submissions from theatre companies and Scottish Ballet. However, amendment 516 does not affect theatrical performances at all. That is not the intention. Proposed new section 45A(6) of the 1982 act defines "relevant entertainment" as

"any live performance; or ... any live display of nudity, which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)."

I draw the committee's attention to that, because the wording relates specifically to lap-dancing clubs. Theatrical performances are not "solely or principally" for that particular purpose.

In response to representations that have been made to me, I point out that local authorities would not be forced to implement the legislation, if amendment 516 is agreed to. The provision is not mandatory; there is no blanket ban. However, local authorities would have the choice of implementing the legislation if they so wished. At the moment, local authorities' regulation in this area is based on four grounds and it is difficult for them to get the outcome that they want; usually they have to appeal the decision, and it goes to the courts, which costs them a lot of money. Those four grounds are: preventing crime and disorder; preventing public nuisance; protecting children from harm; and securing public safety. It is difficult for councils to prove cases on those grounds, and members of the public who want to register objections have to reside within the area, which makes it difficult for some people to do so. I live in an area that has lap-dancing clubs and I, along with others, have given evidence to the local court in Glasgow. However, we have found it difficult to have our objections passed through.

Lap-dancing clubs objectify women. "Safer Lives: Changed Lives", which was published by the Scottish Government and the Convention of Scottish Local Authorities, recognises activities that are undertaken as part of commercial sexual exploitation, including table dancing and lap dancing, as forms of violence against women that have been shown to be

"harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women's bodies."

I have visited lap-dancing clubs and have spoken to men who were there. I asked a group of young chaps from Belfast what they thought of the girls in the club and was told that they thought they were "slags" and "slappers". When I asked them how they would feel if their sister, girlfriend or wife were performing the dance, they said that there was no way that anyone that they knew would do that. You can see the difference in how the girls are perceived by men who visit those places.

I do not want to take up too much time, in case members want to ask questions. I believe that amendment 516 will be beneficial to women and will tackle the perception that men have of them. It will also enable local authorities to make a legitimate choice about whether they wish this type of entertainment—I would place inverted commas around that word—to be allowed to operate in their areas.

I move amendment 516.

10:30

Robert Brown: I think that Sandra White has put forward her case reasonably and logically, but amendment 516 gives rise to some issues. First, the committee has not taken significant oral evidence on the issue that it deals with—although we have received quite a volume of written evidence on it—so the proposal has not been tested. I confess that I am feeling my way on the issue.

Sandra White tried to deal with the objection that her amendment might apply to theatrical performances. I hear what she says about the terms of subsection (6) of proposed new section 45A of the 1982 act, but I am not sure that the proposed provision provides as clear an exemption as one would hope. It says that relevant entertainment

"must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience".

That takes us into quite complex territory and makes for a difficult situation, unless an exemption is provided specifically for theatrical performances. The interplay between morality and theatrical or literary issues has a long history, which goes right back to "Lady Chatterley's Lover".

My second point is about what might be described as grandfather rights. As I understand it, there are a number of existing lap-dancing clubs in Glasgow and Edinburgh. According to information in the paperwork, no new applications for such clubs have been granted since 2004, so the position does not appear to be changing. There does not appear to be a problem with local authorities knocking back new applications, but I would like to know how amendment 516 would apply to existing establishments, in which people have invested money. How those establishments would be dealt with is an issue.

Another issue is unintended consequences. A submission from a chap called Allan Balsillie—I do not know who he is; the submission does not provide any background—makes what seems to me to be the valid point that

"All that would be required is a business element, a degree of nudity and an audience of one."

If that is the case—I think that I am right in saying that that would be the case, as I read the proposed provision—it would, as Allan Balsillie says, apply to prostitution and activities of that kind. We have already had a debate, in a different context, about moving into that area. Many of us would agree that there is limited justification for doing so, but it is an area in which more substantial investigation, background research and perhaps an inquiry would be required to allow us to arrive at a solution. I would be interested to know whether amendment 516 would apply to such situations; it seems to me that it would.

My final point is about whether the amendment is necessary at all. COSLA and the Law Society of Scotland express doubts about that. They say that, in their view, the Civic Government (Scotland) Act 1982 provides adequate powers in this area. Given that we are talking about provisions that would amend sections of other pieces of legislation, I am not entirely clear about how everything fits together, but when two reputable bodies that are closely involved in the legalities of the issue and the council end of it express such views, we must take them seriously.

I have a number of concerns about amendment 516, which are to do with unintended consequences and other implications, grandfather rights and the views that have been expressed by the responsible bodies, which seem to go against us giving a positive response to the amendment.

James Kelly (Glasgow Rutherglen) (Lab): In lodging her amendment, Sandra White has raised some important issues. It is clear that the objective behind it is to restrict inappropriate entertainment in venues such as lap-dancing clubs. As Sandra

White said, we do not want to promote situations in which women are regarded with a lack of dignity. From that point of view, I sympathise with her objectives.

However, there are issues with the drafting of amendment 516. I have some sympathy with what Robert Brown said. We have not taken any evidence on the issue, and some of the submissions are contradictory. I cannot say that I am qualified to come down on one side or the other, but I note from submissions such as the one from Scottish Ballet that what is proposed could have unintended consequences for the entertainment arena. Therefore, Sandra White might want to reconsider her amendment, have appropriate discussions and lodge a redrafted version of it at stage 3. As amendment 516 is currently drafted, I do not feel able to support it.

The Convener: The subject matter of amendment 516 is a particularly seedy and unattractive aspect of the entertainment industry, and I know that Sandra White has, properly, spent some time on the issue. That said, I have serious reservations about the amendment on three grounds.

First, I do not think that the issue around theatrical performances has been satisfactorily resolved. I will listen to what Sandra White says on that point in summing up, but I think that the amendment as drafted is deficient in that respect. Secondly, the amendment, although certainly arguable, is not in terms of law strictly speaking necessary. I refer Sandra White to section 23 of the Licensing (Scotland) Act 2005, which I think covers the matter adequately—this is a matter for local authorities. Thirdly, I have a problem with the matter coming before the committee in connection with this bill, although I am mindful of the difficulty that Sandra White faced in that the bill, which is becoming more comprehensive by the week, was probably the only place in which she could have this argument ventilated. Nevertheless, it seems to me that the matter is more for local government; it is more a matter of the licensing function. Bearing in mind the extraneous matters that have come before the committee under this heading, I understand why it is here, but it would rest much more comfortably with local government legislation and should be a matter for the Local Government and Communities Committee.

Kenny MacAskill: The Government's position echoes that of Mr Brown and Mr Kelly. We understand and support Sandra White's wish for communities to be able to refuse to host venues that provide such entertainment, but we have significant concerns about amendment 516. Although we support the policy intention behind the amendment, in giving local authorities that discretion, as Mr Brown articulated there are drafting difficulties with the amendment in its current form, which will require to be addressed.

I therefore ask Sandra White to withdraw amendment 516, with an offer from us to assist and support a stage 3 amendment that clarifies exactly when an adult entertainment licence is required and the premises for which it is required. We hope that that will address the concerns of Mr Brown and Mr Kelly, and maintain the ethos of what Ms White wishes to achieve.

Sandra White: I have listened to members and the cabinet secretary. The convener mentioned local government legislation, but it has been difficult to find a place in that legislation where I can add this provision. Legislation exists, but local authorities are certainly not as able to implement it as they would like to be. That is why an amendment is needed to ensure that there is zero tolerance of lap-dancing clubs.

Mr Brown referred to the chap who mentioned the prostitution issue. I do not think that it has anything to do with that. The chap also said in his submission that Glasgow wishes to put forward its morality with a blanket ban throughout Scotland; I have explained that that is not absolutely true. The ethos of amendment 516 is to enable local authorities—the provision is not mandatory—to choose whether they want lap-dancing clubs.

I will take up the cabinet secretary's offer and will be happy to work with him and the officials. On that basis, I wish to withdraw the amendment.

Amendment 516, by agreement, withdrawn.

Section 128—Applications for licences

The Convener: The next group is on applications for licences. Amendment 173, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Amendment 173 amends section 128, which deals with applications for licences under the Civic Government (Scotland) Act 1982. Section 128 makes a number of changes to schedules to that act, one of which requires people who are applying for licences under the act to provide details of their date and place of birth on the application forms. For licence applications that are covered by part 2 of the 1982 act, there is a requirement to display a notice detailing various pieces of information about the licence application. In certain circumstances, a licensing authority must, following receipt of the licence application, publish a notice detailing pieces of information about that application. That is part of the licence application process.

The convener will recall writing to me in September last year, expressing concern that personal details of applicants could be placed in

the public domain, as well as being used by the applicable statutory bodies to assist them with their background checks into applicants. In my written response of 7 September 2009, I indicated that the Government would expect local authorities to use the additional information that is provided in the application—that is, the applicant's date and place of birth—only for the purposes of assisting relevant authorities such as the police in looking into the background of the applicant.

Unfortunately, although our response of 7 September correctly summarised our policy, the effect of the provisions in section 128 was incorrectly summarised. We thank the committee for drawing the matter to our attention. Amendment 173 ensures that an applicant's date and place of birth will not be included in the notices that are required for the purposes of a licence application under part 2 of the 1982 act.

I move amendment 173.

The Convener: On the basis of the constructive response that the committee received from the Scottish Government, I do not think that the matter need be discussed further.

Amendment 173 agreed to.

Section 128, as amended, agreed to.

Section 129—Sale of alcohol to persons under 21 etc

The Convener: Amendment 174, in the name of the cabinet secretary, is grouped with amendments 182 and 186.

Kenny MacAskill: Amendments 174, 182 and 186 are necessary as a result of the Government's decision to introduce the Alcohol etc (Scotland) Bill. With some minor alterations, provisions dealing with the topics that are covered by sections 129 and 140 of the Criminal Justice and Licensing (Scotland) Bill are now included in the Alcohol etc (Scotland) Bill, which was introduced on 25 November 2009. Amendments 174 and 182 therefore seek to remove sections 129 and 140 from the Criminal Justice and Licensing (Scotland) Bill. Amendment 186 is consequential on amendment 182.

I move amendment 174.

Amendment 174 agreed to.

Section 130 agreed to.

After section 130

The Convener: The next group is on premises licence applications. Amendment 460, in my name, is grouped with amendments 542, 176 and 180. I will circumvent procedures by indicating that I will not move amendment 460.

Amendment 460 not moved.

The Convener: I would invite George Foulkes to speak to amendment 542, but he is not present. Mr Kelly can enlighten us.

James Kelly: I can indicate that George Foulkes wishes not to move amendment 542.

Kenny MacAskill: Amendment 176 updates references to food hygiene legislation in the Licensing (Scotland) Act 2005. Amendment 180 is a minor technical amendment to paragraph 5 of schedule 4.

We have had discussions with Capability Scotland, which probably explains why Mr Kelly will not move amendment 542. We are happy to work towards the ethos of what George Foulkes was seeking to achieve.

Section 131 agreed to.

After section 131

The Convener: The next group is on reviews of premises licences—notification of determinations. Amendment 175, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Amendment 175 seeks to improve the transparency of the premises licence review process that is provided for in the Licensing (Scotland) Act 2005. First, it ensures that adequate notification of a licensing board's decision following a review hearing is given to the licence holder and to the person who applied for a review.

Secondly, the amendment ensures that, when a licensing board takes action against a licence holder following a review hearing, the licence holder is able to request a statement of reasons from the board. Such provisions already exist in the 2005 act in connection with the premises licence application process.

Finally, the amendment ensures that a statement of reasons can be requested by a person who applies for a review of the licence, whether or not any action is taken by the board following the review hearing.

I move amendment 175.

Amendment 175 agreed to.

Section 132 agreed to.

After section 132

Amendments 542 and 547 not moved.

The Convener: The next group is on premises licence—transfer. Amendment 550, in the name of Robert Brown, is the only amendment in the group.

10:45

Robert Brown: Amendment 550 is one of a number of amendments that have come to me and to other committee members through the licensed trade. They express what people in the trade see as issues of practical difficulty with the operation of the Licensing (Scotland) Act 2005 as opposed to the Licensing (Scotland) Act 1976.

I do not pretend to have expertise in the area, but it is right to put before the committee the views that have been given to me on the issue of licence transfers. It has been suggested that the practical and legal difficulties under section 34 of the 2005 act have not been as fully understood by the people dealing with them as perhaps they should be. The 2005 act provides that the transferee lodges an application for transfer in certain limited circumstances, such as when the premises licence holder has died, become incapacitated or insolvent, or when the business that is carried on in the licensed premises to which the licence relates is transferred. That is fairly straightforward in itself.

However, there are many circumstances in which those criteria cannot be satisfied, and it has been suggested that that gives rise to serious if not fatal consequences for the premises licence concerned. A useful example can be seen when company A owns licensed premises that it has let to company B, to a partnership, or to someone else. The premises licence is in the name of company B, who is the tenant or the subsidiary. The business finds that it can no longer continue, and the premises licence holder advises the owners that they are unable to trade further. They then renounce the lease, vacate the premises and hop it: they cannot be found and are not interested in what will happen thereafter. Even if they can be contacted, it might not be possible to reach agreement.

In such circumstances, the tenant and current licence holder has gone: they might not be contactable, they might not be interested in assisting with the transfer of the licence or whatever, or they might be seeking to hold the owners to ransom. The designated premises manager who is appointed by the premises licence holder might well also have left and have no interest in replacing themselves, so the premises cannot trade. The owners cannot apply for a new licence because they are not the licence holder. No one else can trade and the premises are left in limbo because the licence remains with the current premises licence holder. The terms of section 34(3) of the 2005 act are not satisfied because the licence holder has not died or has not become incapacitated or insolvent, and the company has not been dissolved or become insolvent. Without the support of the premises licence holder, there can be no transfer of the licence under section 33 of the 2005 act, and that can put the business and any related jobs at risk, too.

An application for a new premises licence is costly and time consuming; it would also be subject to overprovision assessment and other things of that sort. An application cannot be made for the same premises, because there cannot be two premises licences at the same time. The proposition is that the owner or other interested party, including perhaps financial institutions that have lent money, need to be able to apply for transfer of a premises licence in such circumstances. That argument seems to be reasonably persuasive. I am conscious that the matter is quite technical, and I am interested to hear the cabinet secretary's response.

I move amendment 550.

The Convener: As Robert Brown said, the matter is technical. However, it has the capacity to impact significantly on the operation of the licensed trade. We are in a little bit of a jam because the bill, as it stands, does not contain the appropriate level of flexibility. Two years might seem a long time to those of us round this table, but bearing in mind all the inevitable time-consuming exercises that have to be performed in the circumstances that Robert Brown described, it is not a significantly long time. I found Mr Brown's arguments fairly persuasive and I will listen with considerable interest to the cabinet secretary.

Kenny MacAskill: We are grateful to Robert Brown for lodging amendment 550 and we understand the spirit in which it is intended. Although the factual example to which he referred is true, it is the only instance that the Law Society and the licensed trade have been able to suggest to us would occur. Equally, it would not be the case that there would be two outstanding licences, as one would automatically fall.

We have doubts about amendment 550 because it could enable a licence transfer application to be made on the cessation of the business operating from licensed premises and that would restrict local communities and the police's ability to comment on the suitability of the premises to reopen. If a tenant who holds the premises licence simply ceases to trade and leaves, it is a contractual matter between the tenant and their landlord. We do not believe that primary legislation is the correct place to deal with such disagreements. The 2005 act enables the landlord to hold the premises licence. Alternatively, such situations could be dealt with through both parties' contractual arrangements. It should not be a matter for licensing boards.

That is why we ask Robert Brown to withdraw amendment 550. The matter that he mentioned is

correct, but we do not believe that it occurs in practice. If the amendment were to be agreed to, licences could be transferred, which would restrict the licensing boards from having their say.

Robert Brown: I accept to some extent what the cabinet secretary says; I was concerned when I saw the purpose and effect notes about some of the possible implications that might emerge from the amendment. Against that background, I am prepared to seek to withdraw the amendment, but I would like some assurance from the cabinet secretary, if he is prepared to go that far, that he accepts that the example I gave causes some problems—it is perhaps an unusual example, but it happens nevertheless. Is he prepared to look further at that to see whether there is a way round the problem? As I said, although I do not want to impose on the bill technical amendments that I am not entirely confident will do what I want them to do, I want my concerns to be taken forward. If the cabinet secretary can give me that assurance, I will be prepared not to press amendment 550 today.

Kenny MacAskill: I am happy to give the assurance that we will look at the matter. Our understanding is that the best way of dealing with it is to ensure that the contractual arrangement entered into between the major company and the tenant specifies that if one goes, the licence falls automatically. We are happy to look at whether we can take other steps. Primarily, it is a case of ensuring that such considerations are part and parcel of every lease and contractual arrangement drawn up in respect of licensed premises.

Amendment 550, by agreement, withdrawn.

The Convener: The next group is on premises licences—connected persons and interested parties. Amendment 693, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Amendment 693 is the first of two amendments that seek to address issues relating to vicarious responsibility for licensing offences. Amendment 694 will be dealt with in a later group.

Amendment 693 tackles a concern that was highlighted to us by the police that there is a tier of people and organisations responsible for the operation of licensed premises who cannot be held to account for the operation of licensed premises. The premises licence might be held by the property owner, but a tenant might be in control of operating the business on the premises. Alternatively, a management company with no property rights over the premises might be employed by the property owner to exercise management control over the business that is carried on in the premises.

However, at present the police are unable to make representations to licensing boards on the conduct of those groups or to take action against them if offences take place on the premises. Indeed, there is no requirement on the part of the licence holder to notify the licensing board of the existence of those groups.

Amendment 693 ensures that the licence holder must notify the existence of those "interested parties" to the licensing board. That would enable the board to consider the conduct of those parties in determining licence applications or considering whether to review an existing licence. Amendment 693 also seeks to ensure that any changes in the details of "connected persons" are notified to licensing boards, which will, in turn, forward the information to the chief constable. As a result, the licensing board and the police will be kept informed of the details of, for example, the partners of firms and the directors of companies that hold premises licences, which will enable a premises licence to be reviewed if the police or the board have concerns about the conduct of the partners or directors of licence-holding partnerships or companies.

I move amendment 693.

The Convener: A degree of vicarious liability applies in this provision. Does not existing licensing legislation deal with the matter already, given the separation of licences into premises and personal licences?

Kenny MacAskill: The answer is no. To some extent, this sits in the middle ground between premises and operating licences and the fact is that, if the amendment is not agreed to, we will not be able to deal with these related people. There is a lacuna here, if I can put it that way, and we are trying to close it to ensure that the boards and the police have this information.

The Convener: With that reassurance, I will proceed.

Amendment 693 agreed to.

The Convener: The next group is on provisional premises licences. Amendment 543, in the name of Robert Brown, is the only amendment in the group.

Robert Brown: Amendment 543 is not dissimilar to amendment 550 in that it emerges from comments that were made by the licensed trade on practical difficulties with the operation of the 2005 act. The trade believes that the Government has not fully understood the considerable implications of the current situation for jobs and investment in Scotland. It is claimed, for example, that the lack of a provisional premises licence akin to a site-only licence under the Licensing (Scotland) Act 1976 has meant that

some major leisure projects have not progressed and there is concern that the same will happen in future. The trade makes the obvious point that that would be bad for jobs, investment and the industry.

Unlike site-only applications under the 1976 act, where the information provided could be sketchy and the board had little or no control over the final product, a premises licence has an operating plan that, in site-only format, can give a broad but clear indication of whether a proposed development is to be, say, a five-star international hotel, a specialist facility of some sort, a restaurant or whatever. The Government will remember that before a premises licence can even be applied for, planning permission must be granted to ensure that the council has considered and addressed any major concerns.

Without the option of a site-only-type provisional premises licence, all that developers can do is produce a full and detailed plan, obtain a building warrant for a finished product and then apply to the board, following which the proposals might or might not be accepted. However, it is alleged that the costs incurred in such preliminary considerations can for major projects easily run to six figures or more. Faced with the stark choice of constructing a new hotel, which requires a licence and will incur significant costs, or a retail park, a pension fund or developer will find the former a very unattractive option. Moreover, most projects do not have an agreed occupier and other deals have to be done before they can go ahead.

I do not usually lodge amendments that are so sympathetic to big developers, but the point seems to me to be valid. In any case, it will also be a considerable issue for smaller developments such as chain restaurants. Unlike the position with the 1976 act, under which the information provided was scant and controls were almost non-existent, the board would be able to see what was in the operating plan, which could have fairly broad parameters to begin with, and to decide whether the proposal fell within its own policies. Indeed, if any operational difficulties arose, boards would have a considerable number of options at their disposal.

I am subject to the Government's views but, as I say, a valid point has been made that requires to be answered. If I recall correctly, the committee also received at least some written evidence on the matter for its stage 1 report.

I move amendment 543.

James Kelly: I must be honest; I am not persuaded by amendment 543. Robert Brown has raised a reasonable issue and I appreciate that the licensed trade needs certainty about some applications before building work can progress, but I do not think that the proposed approach to handling applications is correct. The provisional licence would be granted on the basis of a brief outline, but when the licence came to be confirmed the licensing board's power to refuse the application would be restricted and the public and the police would have no input into the discussion on whether to confirm the licence. On that basis, I oppose amendment 543.

11:00

Nigel Don (North East Scotland) (SNP): I have some sympathy with the position that Robert Brown has outlined. It was not very long ago that I sat on a licensing board. In my experience, there are applications in relation to which it is fairly clear what the licensed premises are about, particularly if we are talking about a hotel, so the current situation, whereby a detailed application is required, goes a bit too far. However, amendment 543 would go too far in the other direction.

There might be some middle ground that ought to be explored. I am interested to hear what the Government has to say. There is a point lurking behind amendment 543, which we need to address if we are to achieve some kind of balance.

The Convener: Amendment 543 is yet another arguable amendment. A two-year provisional licence might not be appropriate in respect of larger-scale developments. The last thing that any member wants to do is to inhibit development, in particular in the difficult economic times that are likely to be faced by the licensed trade and everyone else.

I understand James Kelly's argument. He made a valid point. The matter is difficult. I look to the Government to give a view, on the basis of which I will make my determination.

Kenny MacAskill: I appreciate that Robert Brown is putting forward, as a courtesy, the industry's concerns. There are matters to clarify. Mr Don is right to say that sometimes a hotel is a hotel. However, a short distance from where we sit there are establishments that started out as hotels but are now superpubs and there are establishments that started out as entertainment complexes that are now super-superpubs—if we can call them that. Matters are not always straightforward, which is why we have concerns about amendment 543.

On many occasions we have considered representations from lawyers representing the licensed trade who wanted to change the requirements for a provisional premises licence. The changes in amendment 543 would represent a significant departure from the legislation that was put in place by the previous Administration and would significantly undermine the ability of the

public, the police and licensing boards to know what was being proposed in their communities.

Amendment 543 would enable vague outlines to be submitted as part of the provisional premises licence application, thereby in effect reducing sensible consideration of what was going to be built. When premises were completed there would be no effective method for the public, the police or even the licensing board to influence the licence until the premises were operating.

We are concerned that to some extent licensing boards would be asked to buy a pig in a poke, because the premises that open at the end of construction might be somewhat different from what was initially outlined. That would have wide implications, including for the police and for boards' assessments of overprovision.

There must be an ability to scrutinise applications effectively, either at the start or at the end of the process. Amendment 543 would deny that. We question why premises that are already built should be subject to more scrutiny than premises that are merely planned—after all, both establishments have the same effect on the local community when they are open. We ask Robert Brown to withdraw amendment 543.

Robert Brown: It was worth having the debate, because we have aired a number of the issues. I accept that the public's right to know what is proposed is important—like other members, I have been on that side of the argument more than once—but I am not sure that we have got the balance right. Nigel Don made a valid point in that respect. It is about striking a balance between giving developers a reasonable indication as to whether things are going in the right direction, before they have spent huge amounts of money, and not prejudicing the rights of the public.

We might look again at whether the provisional premises licence should last two years. Although there may be argument about a period of five years, it has been indicated that one or two years is a bit too tight for some more complex developments. I am keen for the minister to look further at the detail of the issue, but I will not press amendment 543 at this stage.

Amendment 543, by agreement, withdrawn.

The Convener: I call amendment 176, which is in the name of the cabinet secretary.

Kenny MacAskill: Amendment 176 updates references to food hygiene legislation in the Licensing (Scotland) Act 2005. Amendment 180 is a minor technical amendment to paragraph 5 of schedule 4.

I move amendment 176.

Amendment 176 agreed to.

Section 133 agreed to.

After section 133

The Convener: Amendment 548, in my name, is in a group on its own and relates to the consumption of alcohol on licensed premises outwith licensed hours.

To some extent, it has been a tradition in the licensed trade that those who work in public houses, in particular, should have the opportunity at the close of business to have a drink on the premises. The 2005 act was somewhat deficient in, effectively, precluding that. I doubt that that was the intention.

It is important to stress what we are talking about. Like the rest of us, people who work in the licensed trade take the view that they are entitled to a refreshment after a hard shift. Many people in the licensed trade work hard. By the time that they are required to finish work, it is late in the evening. They are left with the choice of either drinking at home, which is not the most sociable way of drinking—depending on whom they live with—or going to a club, which is somewhat pricey. Many people of a certain vintage might not view going to a club as the highlight of their social day.

In amendment 548, I suggest simply that, once the doors have closed and the premises are no longer strictly speaking a public house, as all of us would understand the term, it is appropriate for those who work there to be given a drink on a non-commercial basis by those for whom they work. That is no different from someone who works in an office or a factory being offered a refreshment from the drinks cabinet by their boss at the end of a particularly hard shift. It is unfortunate that the 2005 act prohibits that, which cannot be the intention.

I move amendment 548.

Angela Constance (Livingston) (SNP): In my 10 years of working many a hard shift in the social work department, I was never offered a drink at the end of the day, sadly.

The Convener: That may speak volumes about your lack of a relationship with your boss, but we had better not pursue that.

Bill Butler (Glasgow Anniesland) (Lab): The amendment might create an unintended loophole, as it would allow what are colloquially known as lock-ins further rein. I may be wrong about that, but I am interested to hear what the Government has to say about the issue.

Kenny MacAskill: Bill Butler is on the right path and is heading in the right direction. We appreciate that employers may wish to reward their staff at the end of a day's trading by permitting them to have a drink for a limited period

at the end of prescribed licensing hours. However, we have consulted the police and support the view of the Association of Chief Police Officers in Scotland that amendment 548 would open a loophole that would be open to abuse.

It would be difficult for the police to confirm whether the people who were drinking on premises after licensed hours were doing so legitimately or whether there had been a breach of the relevant provisions of the 2005 act. Amendment 548 would require the police, in monitoring the after-hours consumption of alcohol, to identify those who had been working on the premises at the end of the licensed hours. That would place an additional burden on the police at a time when they are already faced with monitoring the after-hours consumption of alcohol by the residents of licensed premises and their guests.

I therefore ask Bill Aitken to withdraw his amendment 548, albeit that he lodged it for the benefit of those who have been working hard.

The Convener: I do not accept the cabinet secretary's argument or, on this occasion, ACPOS's argument. I do not think that it is beyond the wit of man—particularly Strathclyde's finest, or whoever else is involved—to ascertain who works on the premises. It would not be a particularly lengthy exercise.

The commonsense approach would be to consider how many people were enjoying the facility. If they were limited in number, it would be clear that they were people who worked on the premises, and a routine check could be done to ensure that there was no abuse. The other safety valve in that respect would surely be whether cash was changing hands. If people were on the premises and the cash registers were clinking away merrily, that would be a commercial undertaking and, as such, a breach of the spirit of what I am seeking to do with my amendment.

I find it deeply depressing that the cabinet secretary—who himself has been known to socialise from time to time—is taking a harsh view and, basically, a doctrinal approach to those who seek simply to have a genuine refreshment at the end of the day. Accordingly, I press my amendment.

The question is, that amendment 548 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Aitken, Bill (Glasgow) (Con)

AGAINST

Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Campbell, Aileen (South of Scotland) (SNP)
Constance, Angela (Livingston) (SNP)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Don, Nigel (North East Scotland) (SNP)
Kelly, James (Glasgow Rutherglen) (Lab)

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

Amendment 548 disagreed to.

The Convener: Unfortunately for the licensed trade, the views of the killjoys predominate. [*Laughter*.]

Bill Butler: That was not said with your usual objectivity, convener.

Section 134—Occasional licences

The Convener: Having had the entertainment for the morning, we proceed back to business. Amendment 539, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: Amendment 539 deals with an issue that Nigel Don raised at stage 1, which we thank him for raising.

Amendment 539 enables licensing board staff below the clerk of the licensing board to assess an occasional licence application and determine whether it should be fast tracked. If no objections or representations are made within the shortened notice period that the bill provides, the member of staff will be permitted to grant the application.

The provision removes a concern that was raised by Glasgow licensing board—and further explored by Nigel Don—about what would happen to an application if the clerk was absent, for example because of illness. We are pleased that we are able to propose an adjustment through amendment 539 to ensure that applications are not delayed through no fault of the applicant.

Amendment 539 also ensures that the determination of occasional licence applications may be delegated to members of support staff only when no objections to or representations on the application have been received. That clears up an inconsistency in the 2005 act whereby an occasional licence application can be determined by support staff even when objections to or representations on the application have been lodged.

I move amendment 539.

The Convener: Again, the issue is fairly straightforward.

Amendment 539 agreed to.

Section 134, as amended, agreed to.

After section 134

The Convener: Amendment 449, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: We have already made provision in section 134 to enable licensing boards to introduce fast-track procedures for granting occasional licences. At the request of the licensed trade we are introducing the same procedure for extended hours applications, through amendment 449.

Extended hours applications enable licensed premises to apply for additional hours—above those agreed in their licence—for certain specified events. In rural areas, a licensed premises might be the only venue that is available to cater for events such as funeral lunches, which by their nature are required at short notice. Amendment 449 enables the licensed hours of such premises to be extended at short notice to cater for such events.

We will expect each licensing board to update their licensing policies, indicating where the use of fast-track procedures is acceptable, but also to review their use in connection with the local licensing forums to ensure that they are being used proportionately. We believe that that is a reasonable measure to improve the working of the licensing system for the trade, licensing boards and the communities that they serve.

I move amendment 449.

11:15

The Convener: Thank you. I think that to some extent that addresses a concern that was raised in the committee's report.

Amendment 449 agreed to.

Section 135 agreed to.

Section 136—Personal licences

The Convener: We turn to personal licence applications. Amendment 177, in the name of the cabinet secretary, is grouped with amendments 178 and 181.

Kenny MacAskill: Amendments 177 and 181 are minor technical amendments that will remove an inconsistency between two provisions in the bill that deal with the determination of personal licence applications. Amendment 178 is a minor technical amendment that will address a concern raised by Glasgow licensing board in relation to new section 74(8) of the 2005 act, which will be inserted by section 136(2)(c) of the bill. Section 74 of the 2005 act deals with the determination of personal licence applications by licensing boards. Glasgow licensing board was concerned that new section 74(8) could be interpreted so as to suggest that a hearing on a personal licence application could be held only after the application had been granted or refused. The policy intention is that a hearing may be held to determine whether to grant or refuse a personal licence application. Amendment 178 will change the wording of new section 74(8) to remove any confusion as to when the hearing may be held and make a minor correction to the punctuation of the provision.

I move amendment 177.

Amendment 177 agreed to.

Amendment 178 moved—[Kenny MacAskill]—and agreed to.

Section 136, as amended, agreed to.

After section 136

The Convener: We turn to 24-hour licensing. Amendment 698, in the name of James Kelly, is in a group on its own.

James Kelly: The law at present allows the granting of 24-hour licences in exceptional circumstances, which is correct. There are special occasions for which 24-hour licenses are appropriate. However, such licences, where not appropriate, can lead to concerns in communities about the overconsumption of alcohol spilling over into crime and antisocial behaviour and having an adverse effect on communities. On licensing, it is important to listen to communities' views, so local licensing forums have a key role to play in liaising not only with the community but with the licensing board.

Amendment 698 would give the local licensing forum greater influence, but, ultimately, the powers would remain with the licensing board. That would allow the local licensing forum to advise on the appropriateness of current 24-hour licence applications and allow the local licensing forum to make representations on existing licences. That would allow licensing forums to take representations from communities and make appropriate representations to the licensing board where it felt that such licences were inappropriate and could have an adverse impact on the community. Ultimately, the power to grant or revoke licences would remain with the licensing board. The amendment would give the licensing board the power not only to revoke such licences but to vary them if it thought that that was appropriate.

Amendment 698 is worth while. It would strengthen the role of local licensing forums, provide for some key communication between licensing forums and licensing boards, and improve the process of granting and monitoring 24-hour licences.

I move amendment 698.

Robert Brown: I am attracted, subject to the cabinet secretary's comments, to James Kelly's amendment 698. It seems that we have rowed back a bit from advocating the 24-hour city and the modern lifestyle that we used to hear about a great deal. In some areas, extended drinking hours are a curse to local residents, passers-by and the police. This is a genuine matter for local decision making in local circumstances. Amendment 698 seems to strengthen the hand of both the public and the licensing board in that regard. Subject to comments, I am sympathetic to amendment 698.

The Convener: I, too, have some sympathy with what Mr Kelly says. Licensing boards should take on board comments that are made by licensing forums. However, I am a little uncertain as to whether it is appropriate to state that in the bill. It seems to me that what is proposed is a matter of good and sound practice, which I hope will be adhered to, but the problem with such things is that if one puts them in a bill, even with these undoubted good intentions, they can be a little meaningless. As Robert Brown said, we have come back from the 24-hour licensing concept. My own view, for what it is worth, is that I see nothing wrong with 24-hour licensing, provided that the situation of the licensed premises is such that it is not going to be a nuisance to local residents and create the difficulties to which James Kelly, quite properly, referred.

This is a matter upon which one would expect the licensing forum to comment. I would find it profoundly disappointing if any licensing board refused to take cognisance of what had been said. I am a little uncertain as to the desirability of putting a matter like this in the bill, but I will listen to the cabinet secretary.

Kenny MacAskill: Convener, we all have sympathy with the points that you, Mr Kelly and Mr Brown have elucidated. However, let me explain why we have concerns about amendment 698.

Our position is that the licensing legislation already provides what the amendment seeks to achieve. Unlike in England and Wales, there is a legislative presumption against 24-hour licensing in Scotland. Licensing boards must refuse an application for 24-hour licensing unless satisfied that there are exceptional circumstances. The Scottish ministers' guidance to licensing boards states that more detailed consideration should be given to any application for a licence that requests opening times in excess of 14 continuous hours. A number of safeguards are therefore in place that restrict the ability of licensing boards to grant 24-hour licences.

In any event, amendment 698 would effectively duplicate provisions that already exist in the Licensing (Scotland) Act 2005. The amendment would require licensing boards to have regard to the advice or recommendations of the local licensing forum in determining any application for a 24-hour licence. However, licensing boards are already under a general obligation to have regard to the advice given or recommendations made by the local licensing forum under section 12 of the 2005 act.

Amendment 698 seeks to allow licensing boards to revoke or vary a 24-hour licence on the recommendation of the local licensing forum. However, licensing boards are already able to take those steps following a review of the licence under sections 36 and 37 of the 2005 act. Therefore, if a 24-hour licence is granted and subsequently causes concerns relevant to any of the licensing objectives, a licensing board can, under its existing powers, take the action envisaged in amendment 698.

The safeguards for local communities against 24-hour licensing are already contained in the 2005 act, and amendment 698 could undermine the effectiveness of those safeguards.

While I understand, and do not just sympathise with but agree with, Mr Kelly's worries about the situation, we argue that we currently have the powers within the 2005 act, which was brought in by the previous Administration, and we therefore request that he withdraw his amendment, given the assurances that are currently in place.

James Kelly: I recognise, from the comments made by committee members, that we have rowed back from the original position on 24-hour licences. In my original comments, I said that such licences, as the cabinet secretary said in his summing up, are only granted in exceptional circumstances.

I am keen to give a voice to local communities, through the local licensing forums, on 24-hour licences. That is the purpose of amendment 698. I take on board the cabinet secretary's comments and will reflect on whether the current legislation meets the requirements of the amendment. If I am not satisfied that that is the case, I will bring back the matter at stage 3.

Amendment 698, by agreement, withdrawn.

Section 137 agreed to.

After section 137

The Convener: Amendment 179, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: The 2005 act introduced a new appeals system based on the stated case procedure used in criminal appeals, as recommended by the Nicholson committee. A number of concerns about that system have been raised by licensing practitioners from the trade and

licensing boards, concerns that were repeated by witnesses to the Justice Committee. The system has been criticised for being slow, time consuming and expensive. Amendment 179 will amend the appeals system to return to the summary application process used in the Licensing (Scotland) Act 1976, as requested by licensing practitioners.

I move amendment 179.

The Convener: The amendment acknowledges concerns expressed by the licensed trade and should be agreed to.

Amendment 179 agreed to.

The Convener: Amendment 694, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: We believe that those who operate licensed premises must carry a high degree of responsibility for the operation of their premises and the actions of their staff. No licence holder should be able to evade responsibility by staying away from their premises without fear of being convicted of an offence arising from an act or omission by a member of their staff while they are absent. In part, that problem was addressed in the Licensing (Scotland) Act 2005, which ensures that there is a person directly responsible for the sale of alcohol on a licensed premises in the form of a designated premises manager, who must hold a personal licence.

However, for a significant and growing proportion of the trade, the present operational structure is that head office dictates the policies that must be pursued on individual premises. Often, managers have no freedom about what signage is used or what products are placed on offer. Therefore, whether or not the manager is the designated premises manager, how the premises operate is dictated from elsewhere. In effect, the licence-holding company can simply continue by sacking managers and not being held responsible for their actions.

The importance of holding the premises licence holder to account is best demonstrated by the attempts to tackle underage sales, the law against which has always been difficult to enforce. In the past, many licensees did not enforce that law as rigorously as they could have done, but that changed with the introduction of test purchasing. The threat to the premises licence encouraged many organisations to train their staff to ask for proof of age. Although an offence is committed by the server, such positions in the service sector and the retail trade are sometimes low paid, low skilled and suffer a high turnover in staff, so it is vital that adequate staff training is carried out and proper operational systems are maintained.

Currently, the licence holder can escape punishment by claiming ignorance of the conduct in question and cannot be held to account for failures to introduce adequate management systems and staff training. Amendment 694, which has been drafted in consultation with the police, ensures that premises licence holders can be held liable for a number of offences committed by members of their staff. Amendment 694 also ensures that premises licence holders are correctly afforded a defence of due diligence, where they can demonstrate the consistent steps that they took to prevent those offences from being committed.

Amendment 693 was debated with an earlier group and introduces the concept of “interested parties” to the Licensing (Scotland) Act 2005.

Amendment 694 ensures that those interested parties may be prosecuted under many of the offences listed in the 2005 act for the conduct of their staff on the premises. The defence of due diligence will be available to interested parties, as it will be to licence holders.

I move amendment 694.

11:30

Robert Brown: I find the cabinet secretary’s arguments highly persuasive, particularly with regard to the defence of due diligence in relation to the management issue. However, we have had representations from the licensing law subcommittee of the Law Society of Scotland, which is fairly critical of amendment 694. It indicates that there will be considerable discouragement for large companies that currently hold premises licences and are obviously far removed, practically and physically, from the day-to-day activities within the premises. It seems to me that the defence of due diligence is an adequate cover for that kind of situation.

The Law Society’s subcommittee also raises the point that there would be significant issues with regard to administrators, receivers and trustees in bankruptcy, where there has not been the same personal control of management at that stage. I am not quite sure how everything would happen in terms of timescales and so on. Can the cabinet secretary assure us that the criticisms of the Law Society’s subcommittee are not, in fact, valid?

The Convener: My concerns are similar to those of Robert Brown. Clearly, I am totally sympathetic with what the Government seeks to do in the amendment in that, if someone is failing to administer, supervise and train their staff properly, they cannot escape the consequences of a breach of the 2005 licensing act, the most apparent one being the selling of drink to underage people. I can see what the

Government's intent is, but I am a bit dubious; we might be going a bit over the top. That view is explained very clearly in the Law Society's submission. We want to think this amendment through quite carefully, cabinet secretary.

Kenny MacAskill: I disagree with the Law Society's view. Clearly, in the circumstances of liquidations, we expect the usual practices to be in force and systems to be in place. For example, we expect that in the case of health and safety. We would be astounded if a large operating company did not seek to ensure that staff were trained in, understood and implemented health and safety legislation. We seek to take a similar attitude on licensing as it is inappropriate for someone simply to say that they sent out a notice three years ago, or whatever else. We would not accept that for health and safety, so we should not accept it in the case of licensing.

Are there difficulties for those who come in as receivers or liquidators? Well, of course there are complications, but it is about ensuring that you have the system and structures in place. Again, we would not expect a liquidator to say, "I'm only the liquidator, so I'm not implementing health and safety legislation." Of course there are some difficulties for large companies, but they tend to have the appropriate staff. Frankly, if they do not, they should not carry out the operation. As I said, there is an analogy here between health and safety and licensing. We are simply asking that licence holders take responsibility for the right that we as a community are giving them to sell alcohol, and do not simply say, "It wisnae me."

Amendment 694 agreed to.

Section 138 agreed to.

After section 138

The Convener: The next group is on the powers of licensing standards officers. Amendment 699, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Amendment 699 amends section 15 of the Licensing (Scotland) Act 2005 to widen the powers available to licensing standards officers. LSOs were created under the 2005 act and have the role of providing information and guidance in the operation of the 2005 act, supervising compliance by licence holders with licence conditions in the provisions of the act and providing mediation services for disputes between licence holders and other persons concerning compliance with the act's provisions. In carrying out those duties, a number of LSOs have raised concerns about the lack of any power in the 2005 act to enable them to seize documents in the course of an investigation of licensed premises. There are a number of consumer protection regimes whereby authorised officers can seize items in the course of their investigations. A number of LSOs have expressed the view that the lack of any powers of seizure in the 2005 act leaves them at a distinct disadvantage when compared with other consumer protection regimes. The effect of amendment 699 will be that LSOs will be able to call on powers that will enable them to take copies of documents found on the premises, including electronic documents that are accessible from the premises, and seize and remove any substances, articles or documents found there.

Amendment 699 provides protection for those wishing to withhold documents or information from an LSO on grounds of confidentiality or in the interests of avoiding self-incrimination. It also allows ministers to make regulations on the procedures that are to be followed by LSOs in exercising their powers and in relation to the treatment of items that are seized.

We wish to ensure that LSOs are fully equipped to carry out their compliance and enforcement duties effectively. We think that amendment 699 will assist in that regard.

I move amendment 699.

The Convener: As members have no questions for the cabinet secretary, I ask him to deal with the question of situations in which the seizure of computer material might have an inhibiting effect on the ability of the licensee to run the business.

Kenny MacAskill: A copy can be made of any document found, leaving the original on the premises. There are regulatory powers that enable ministers to revisit the matter. We are working on the issue. The main aim is to be able to access the information, not to retain it in perpetuity.

Amendment 699 agreed to.

Section 139 agreed to.

11:36

Meeting suspended.

11:45

On resuming—

Schedule 4—Further modifications of 2005 Act

Amendments 180 and 181 moved—[Kenny MacAskill]—and agreed to.

Schedule 4, as amended, agreed to.

Section 140—Licensed premises: social responsibility levy

Amendment 182 moved—[Kenny MacAskill]—and agreed to.

Section 141 agreed to.

Section 142—Corruption in public bodies

The Convener: Amendment 183, in the name of the cabinet secretary, is in a group on its own.

Kenny MacAskill: Amendment 183 seeks to remove section 142 from the bill. The Bribery Bill was introduced into the United Kingdom Houses of Parliament in late 2009 and became an act in April 2010. The act's sections extend to Scotland and modernise the law on bribery and corruption. The committee will recall its consideration earlier this year of the legislative consent motion for the Bribery Bill. The Parliament approved the LCM on 11 February. As part of this modernisation of the law, the Bribery Act 2010 repeals, among other statutes, both the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Act 1906 in their entirety. As such, section 142 of the bill, which seeks to make minor technical changes to both acts, is no longer needed.

I move amendment 183.

Amendment 183 agreed to.

Section 143—Orders and regulations

The Convener: Amendments 184, 540, 450 and 186, all in the name of the cabinet secretary, have all been previously debated. In the circumstances, and if no member objects to the question being put en bloc, I ask the cabinet secretary to move all four amendments.

Amendments 184, 540, 450 and 186 moved—[Kenny MacAskill]—and agreed to.

The Convener: Amendment 187, in the name of the cabinet secretary, is grouped with amendment 188.

Kenny MacAskill: We lodged amendments 187 and 188 following discussion with the Subordinate Legislation Committee after the introduction of the bill. Section 146 of the bill contains standard provisions that permit the Scottish ministers by order to

"make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of or for giving full effect to any provision of the Act."

Section 146(2) contains the usual provision allowing orders under this section to modify acts or other enactments. Acts can be modified either by making express changes to the text or by changing the effect of the act without changing the actual text. In the bill as introduced, the effect of sections 143(3) and 143(4)(b) would be that an order under section 146 would be subject to negative procedure except where the order seeks to

"add to, replace or omit any part of the text of an Act".

In those cases, affirmative procedure would be followed for the order. The Subordinate Legislation committee raised a concern that the approach in sections 143(3) and 143(4)(b) would permit an order under section 146 that modifies the effect of an act through non-textual amendments to be subject to negative procedure. The effect of non-textual amendments to an act can often be as significant as that of textual amendments. Given that the bill impacts on the rights and liberties of individuals, we committed to the Subordinate Legislation Committee that we would lodge stage 2 amendments that would mean that affirmative procedure would be required for any order under section 146 that makes any modification of any enactment, whether through textual or non-textual amendments. Amendments 187 and 188 meet that commitment.

I move amendment 187.

Amendment 187 agreed to.

Amendment 188 moved—[Kenny MacAskill]—and agreed to.

The Convener: Amendment 392, in the name of Robert Brown, was debated with amendment 100 on 13 April, which indicates the length of the proceedings in dealing with this fairly complex bill. Are you moving the amendment, Mr Brown?

Robert Brown: As the section to which it relates is no longer in the bill, there is not much point.

The Convener: That is clearly the appropriate position.

Amendment 392 not moved.

The Convener: Amendment 549, in the name of Robert Brown, has been debated with amendment 379 and is of equal antiquity to amendment 392.

Amendment 549 not moved.

Section 143, as amended, agreed to.

Sections 144 and 145 agreed to.

Schedule 5—Modifications of enactments

Amendments 189, 451, 452 and 453 moved—[Kenny MacAskill]—and agreed to.

The Convener: The next group is on incest and related offences. Amendment 190, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Amendment 190 is a minor amendment to repeal the Incest and Related

Offences (Scotland) Act 1986 in its entirety. The amendments made by that act have now been completely superseded. This modest contribution will help to tidy the statute book.

I move amendment 190.

Amendment 190 agreed to.

The Convener: Amendment 191, in the name of the cabinet secretary, is grouped with amendment 193.

Kenny MacAskill: Amendment 191 repeals one of the minor amendments contained in schedule 15 to the Criminal Justice Act 1988 relating to investigations of serious or complex fraud. The changes that were made by paragraph 111 of that schedule have now been superseded by more recent legislation, and that paragraph can be repealed

Amendment 193 will tidy up the statute book. It repeals an amendment that was made by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 to the Civic Government (Scotland) Act 1982, as the amended provisions will be overtaken by further amendments made by section 34 of the bill.

I move amendment 191.

Amendment 191 agreed to.

Amendments 192, 193, 386, 454, 512 to 514, 455 and 456 moved—[Kenny MacAskill]—and agreed to.

The Convener: The next group is on breach of undertakings—consequential modification. Amendment 457, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Section 41 adds proposed new sections 22ZA and 22ZB to the Criminal Procedure (Scotland) Act 1995. It makes provision in relation to offences that are committed while a person is subject to a police undertaking, and the provisions are broadly similar to those that apply when an accused person commits an offence while liberated on bail. Proposed new section 22ZB makes provision for evidential and procedural matters in relation to offences that are committed or dealt with under proposed new section 22ZA. Amendment 457 is consequential on proposed new section 22ZB and will ensure that the standard provisions in section 79 of the 1995 act relating to preliminary pleas and preliminary issues apply to proposed new section 22ZB.

I move amendment 457.

Amendment 457 agreed to.

Amendments 458, 414, 515, 194 to 196 and 459 moved—[Kenny MacAskill]—and agreed to.

The Convener: The next group is on the exclusively Glasgow situation and the exercise of functions by stipendiary magistrates. Amendment 695, in the name of the cabinet secretary, is the only amendment in the group.

Kenny MacAskill: Despite its length, amendment 695 is merely a technical amendment to the Criminal Proceedings etc (Reform) (Scotland) Act 2007 to clarify that stipendiary magistrates may exercise the very same judicial and signing functions as a justice of the peace. It also clarifies that a member of a local authority who is not a justice of the peace may exercise the same signing functions as a justice of the peace. In each case, that is meant to be the obvious result under the existing references in the 2007 act to exercising functions in the same manner as a JP. However, we would like to take the opportunity to make the position explicit for the avoidance of doubt.

I move amendment 695.

The Convener: Will the cabinet secretary briefly fill us in on the situation with regard to sheriffs?

Kenny MacAskill: They are not affected. The amendment relates to the interaction between stipendiary magistrates and JPs. We do not believe that provisions are necessarily required, but there has been some doubt, and the amendment seeks to clarify matters. Sheriffs are above and beyond the amendment, which clarifies the position with stipendiary magistrates and JPs.

The Convener: Yes. I have noticed such issues in the past. However, I will leave that issue on the side.

Amendment 695 agreed to.

Amendments 197, 387 and 198 moved—[Kenny MacAskill]—and agreed to.

Schedule 5, as amended, agreed to.

Sections 146 to 148 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. The work on the bill has undoubtedly been complex and difficult, and the fact that we have achieved what we have with, I would like to think, reasonable clarity speaks volumes about the commitment of individual committee members, the efficiency of the clerks and the co-operation of the Scottish Government. I am grateful to all concerned.

There will be a brief suspension before we continue with our other business.

11:57

Meeting suspended.

11:59

On resuming—

European Commission Work Programme

The Convener: The final item on our agenda is the European Commission work programme. We will consider a letter from the convener of the European and External Relations Committee, which is consulting subject committees on the work programme for 2010 to 2014, with a view to identifying the European Union policy and legislative proposals in devolved matters that could have a significant impact on Scotland. Paper J/S3/10/16/3 provides some background detail and lists the main issues in justice and home affairs from the Commission's work programme.

The committee is asked two questions. First, we are asked to decide whether there are issues that we would like the Scottish Parliament European officer to track, and to indicate whether there are issues on which would like to commission a specific report by the Scottish Parliament information centre. Secondly, we are asked to agree to return to the issue of JHA scrutiny at an early opportunity after the summer recess, in order to consider the EERC's report on its inquiry into the Lisbon treaty and how best to take forward issues arising from that.

Nigel Don: I am conscious of the fact that, a couple of weeks back, you and I were rather nearer to the subject than colleagues were.

I am grateful to those who have produced the numerous pieces of paper that are before us, but I still feel that I am not in a position to make a sensible judgment on the issue. I am grateful for the information that we have received, but two things are missing. First, we lack serious information on the background to what is happening in Europe. We have just considered the Criminal Justice and Licensing (Scotland) Bill. Like every other member, I have experience of what happens in Scotland and understand the background against which we consider matters, which allows me to make sensible comments or, I hope, no comment. I do not have the same European citizenship background, so I am not sure what the backdrop is. Secondly, even if I understood all of the subjects clearly, I am not sure in which areas we would be able to exert an influence and to see movement—in other words, I do not know what slack there is and what opportunity for influence may exist in some areas, partly because I do not know the background.

I am not in a position to say anything other than, "That looks interesting," "That's probably important," or "I'm not sure that's terribly important to Scotland." I do not have the background to be able to say what we will be able to do, where the people will come from or what the end results may

be. I am not sure how we can overcome that difficulty. I suspect that we may need to meet people who can answer such questions—people who have a background in what is happening in Europe. Our European officer may be able to do that. We need to hear from someone who is able to tell us that there is a huge range of opportunities in one area but that in another we must take either position A or position B, and that, instinctively, Scotland would want position A. I am struggling to know quite how to evaluate matters, as I cannot put more detail on them.

The Convener: I will fill in other members on the special knowledge that Nigel Don and I have. We spoke at a recent prestigious conference that was held in the Parliament by the United Kingdom Association for European Law. I gave a presentation on how I see the Lisbon treaty impacting on subsidiarity, especially on legislating in Scotland. Nigel Don dealt with the issue on a similar basis. What we said seemed to go down well—it should have done, given the amount of research that I had done into the matter, which is complex but important. I will copy the relevant papers to committee members.

Nigel Don's comments are sensible. We have the facility of inviting the European officer, Ian Duncan, to give us a presentation. Time will be available for that, now that we have finally managed to dispose of the Criminal Justice and Licensing (Scotland) Bill.

Angela Constance: Instinctively, I would be more drawn to hearing about the issues relating to children rather than to the issues relating to contract law, notwithstanding Nigel Don's comments—

The Convener: Those matters need not be mutually exclusive.

Angela Constance: However, I take on board the point that more issues might arise in those areas to which I am not instinctively drawn but that we should perhaps look at.

Bill Butler: I agree that we should ask for a report from the Parliament's European officer, Mr Ian Duncan, at the earliest possible opportunity. I also think that we should await the recommendations in the EERC's report on its inquiry into the Lisbon treaty and then come back to the issue in due course.

The Convener: If I detect the mood of the meeting correctly, we are agreed that we should ask the European officer to attend a future meeting, commission some localised research from SPICe on how European Commission legislation impacts on children—which would deal with the point that Angela Constance has, entirely appropriately, raised—and, at an early opportunity after the summer recess, further consider matters of JHA scrutiny with specific reference to the Lisbon treaty. Is that agreed?

Members *indicated agreement.*

Nigel Don: May I add one thought? I would be delighted to hear from the European officer, but can we also consider the possibility of hearing from others who have a serious interest? For example, if the Law Society of Scotland has its own European contact, he or she might be an extremely interesting person to hear from; there might be just one or two other folk out there who know an awful lot about the matter and from whom we might want to hear.

The Convener: That seems eminently sensible. Can we agree to that suggestion?

Members *indicated agreement.*

The Convener: We will pursue that.

That brings the meeting to a formal end. I remind members that the good progress that has been made over the past two weeks means that we will not require a meeting next week, unless an emergency arises, which I do not anticipate. I thank members for their attendance, in particular Aileen Campbell for attending as a substitute.

Meeting closed at 12:07.

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