The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 29 September 2010

Session 3

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

Wednesday 29 September 2010

CONTENTS

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
22nd Meeting 2010, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Bob Doris (Glasgow) (SNP)

COMMITTEE MEMBERS

*Patricia Ferguson (Glasgow Maryhill) (Lab)
*David McLetchie (Edinburgh Pentlands) (Con)
*Alasdair Morgan (South of Scotland) (SNP)
*Mary Mulligan (Linlithgow) (Lab)
*Jim Tolson (Dunfermline West) (LD)
*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
*Malcolm Chisholm (Edinburgh North and Leith) (Lab)
Alex Johnstone (North East Scotland) (Con)
Alison McInnes (North East Scotland) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Patrick Harvie (Glasgow) (Green)
Alex Neil (Minister for Housing and Communities)

THE FOLLOWING GAVE EVIDENCE:

Mike Dailly (Govan Law Centre)
Patricia Ferguson (Glasgow Maryhill) (Lab)

CLERK TO THE COMMITTEE

Susan Duffy

LOCATION

Committee Room 2

Scottish Parliament

Local Government and Communities Committee

Wednesday 29 September 2010

[The Convener *opened the meeting at 10:00*]

Housing (Scotland) Bill: Stage 2

The Convener (Duncan McNeil): Good morning, and welcome to the 22nd meeting of the Local Government and Communities Committee in 2010. I remind committee members and members of the public to turn off all mobile phones and BlackBerrys.

Agenda item 1 is to consider the Housing (Scotland) Bill at stage 2, day 2. I welcome Alex Neil, Minister for Housing and Communities; Linda Leslie, bill team leader; Gillian Turner, principal legal officer; Ian Shanks, assistant Scottish parliamentary counsel; Joanne McDowell, right-to-buy policy manager; and Rachel England, policy analyst.

Members should note that the title of the sixth grouping of amendments that the committee will consider today has been changed, and it now reads "Right to buy: conditions" instead of "Preserved right to buy: conditions".

Sections 65 to 76 agreed to.

Section 77—Proposals: formulation

Amendment 40 moved—[Alex Neil]—and agreed to.

Section 77, as amended, agreed to.

Section 78 agreed to.

Section 79—Proposals: agreement

Amendment 41 moved—[Alex Neil]—and agreed to.

Section 79, as amended, agreed to.

Sections 80 to 83 agreed to.

Section 84—Manager of industrial and provident society: extra powers

Amendments 42 to 45 moved—[Alex Neil]—and agreed to.

The Convener: Amendment 46, in the name of the minister, is grouped with amendments 94 to 97, 107 and 114.

The Minister for Housing and Communities (Alex Neil): Amendment 46 and the other amendments in this group correct minor drafting errors in the bill as introduced. I will not detain members by going into them in detail.

I move amendment 46.

Amendment 46 agreed to.

Section 84, as amended, agreed to.

Sections 85 to 90 agreed to.

Section 91—Change of industrial and provident society's rules: supplementary

Amendments 47 to 49 moved—[Alex Neil]—and agreed to.

Section 91, as amended, agreed to.

After section 91

The Convener: Amendment 50, in the name of the minister, is grouped with amendments 60, 62 and 64.

Alex Neil: The amendments in this group all deal with organisational changes, such as changes to the articles of association of registered social landlords that are limited companies. Part 8 of the bill requires RSLs that are companies to seek the consent of the regulator to organisational changes. Where the regulator grants its consent to an organisational change, the amendments require the RSL to send a copy of that consent to the registrar of companies. That makes the procedure for RSL companies consistent with that for RSL industrial and provident societies.

I move amendment 50.

Amendment 50 agreed to.

Section 92—Restructuring, winding up and dissolution of industrial and provident societies

Amendment 51 moved—[Alex Neil]—and agreed to.

The Convener: Amendment 52, in the name of the minister, is grouped with amendments 53, 58, 59 and 70 to 92.

Alex Neil: These amendments seek to provide RSL tenants with the safeguard of the bill's ballot procedure when their landlord transfers their home to another landlord. As the legislation stands, it might not always be clear when an RSL is required to ballot its tenants on the transfer of houses to another RSL. For example, a transfer involving an industrial and provident society RSL must be supported by a majority of its members; however, those members might or might not be tenants, which means that the people affected might not have any say about a change in their landlord. I believe that that is unacceptable and

that tenants should have a say in whether their landlord changes.

As a result, the amendments seek to clarify that where such an RSL wishes to transfer some of or all its houses to another RSL, it must follow the bill's ballot procedure. They also adjust the ballot procedure. An RSL seeking to make a transfer that would result in a change of landlord must first ask the regulator for consent. If consent is granted, the transfer must be subject to the RSL either balloting or seeking the written agreement of the tenants whose houses would be transferred. Only if a majority of tenants who vote or who are asked for written consent are in favour of the transfer can the change of landlord go ahead. Such a safeguard is important not only for tenants but for landlords, as the need to secure tenant support will make it much harder for another landlord to contemplate a hostile takeover bid. I believe that the measure will be welcomed in particular by community housing associations and the Glasgow and West of Scotland Housing Forum of Housing Associations.

I move amendment 52.

Amendment 52 agreed to.

Amendment 53 moved—[Alex Neil]—and agreed to.

Section 92, as amended, agreed to.

Section 93—Restructuring of society

Amendments 54 and 55 moved—[Alex Neil]—and agreed to.

Section 93, as amended, agreed to.

Section 94—Voluntary winding up of society

Amendment 56 moved—[Alex Neil]—agreed to.

Section 94, as amended, agreed to.

Section 95—Dissolution of society

Amendment 57 moved—[Alex Neil]—and agreed to.

Section 95, as amended, agreed to.

Section 96—Restructuring and winding up of companies

Amendments 58 and 59 moved—[Alex Neil]—and agreed to.

Section 96, as amended, agreed to.

Section 97—Restructuring of company

Amendment 60 moved—[Alex Neil]—and agreed to.

Section 97, as amended, agreed to.

Section 98—Conversion of company into industrial and provident society

Amendments 61 to 63 moved—[Alex Neil]—and agreed to.

Section 98, as amended, agreed to.

Section 99 agreed to.

Section 100—Voluntary winding up of company

Amendment 64 moved—[Alex Neil]—and agreed to.

Section 100, as amended, agreed to.

Section 101—Regulator's power to petition for winding up

Amendment 65 moved—[Alex Neil]—and agreed to.

Section 101, as amended, agreed to.

Section 102—Asset transfer on dissolution or winding up

Amendments 66 to 69 moved—[Alex Neil]—and agreed to.

Section 102, as amended, agreed to.

Section 103 agreed to.

Section 104—Disposals not requiring consent

Amendments 70 and 71 moved—[Alex Neil]—and agreed to.

Section 104, as amended, agreed to.

Section 105 agreed to.

Section 106—Tenant consultation: other disposals

Amendments 72 and 73 moved—[Alex Neil]—and agreed to.

Section 106, as amended, agreed to.

Sections 107 and 108 agreed to.

Section 109—Disposals resulting in change of landlord

Amendments 74 to 76 moved—[Alex Neil]—and agreed to.

Section 109, as amended, agreed to.

Section 110—Special procedure: tenant consultation, ballot and consent

Amendment 77 moved—[Alex Neil]—and agreed to.

Section 110, as amended, agreed to.

Section 111—Consultation with tenants

Amendments 78 and 79 moved—[Alex Neil]—and agreed to.

Section 111, as amended, agreed to.

After section 111

Amendment 80 moved—[Alex Neil]—and agreed to.

Section 112—Further information

Amendments 81 to 83 moved—[Alex Neil]—and agreed to.

Section 112, as amended, agreed to.

Section 113—Ballot

Amendment 84 moved—[Alex Neil]—and agreed to.

Section 113, as amended, agreed to.

10:15

After section 113

Amendment 85 moved—[Alex Neil]—and agreed to.

Section 114—Unaffected tenants

Amendments 86 to 89 moved—[Alex Neil]—and agreed to.

Section 114, as amended, agreed to.

After section 114

Amendment 90 moved—[Alex Neil]—and agreed to.

Section 115 agreed to.

After section 115

Amendments 91 and 92 moved—[Alex Neil]—and agreed to.

Sections 116 to 127 agreed to.

After section 127

Amendment 93 moved—[Alex Neil]—and agreed to.

The Convener: Amendment 140, in the name of the minister, is grouped with amendments 140A, 141, 141A and 146 to 152.

Alex Neil: Amendment 140 and the related amendments in the group provide for exemptions in the 20-year rules for social landlords—housing associations, local authorities and their connected bodies. The Government supports widening the options for affordable housing in rural and urban areas, which is why I have lodged amendments 140, 141 and 146 to 152 to exempt social landlords from the 20-year rules. I invite Mr Morgan not to move his amendments 140A and 141A.

The Government consulted on changes to the 20-year rules and had detailed discussions with stakeholders. That confirmed broad support for limited reform of the 20-year rules to remove barriers to affordable housing. The Government has consistently said that the overall land tenure reforms that are in place should not be removed. We have had regard to the views of the Law Society of Scotland and the Scottish Law Commission and we accept that more far-reaching changes to the 20-year rules should be contemplated only in the context of a full review of property law by the Scottish Law Commission and should not be introduced at stage 2. That is why we have proposed only limited changes to the 20-year rules, which focus on social landlords.

Amendment 140 will widen the options that are available to social landlords when leasing property by exempting them from the 20-year limit on residential leases. The amendment applies only to new property leases when the social landlord is the tenant. The rights of individual tenants of social landlords will not be disturbed.

Amendment 141 is broadly similar to amendment 140. At present, the blanket right of redemption of a standard security after 20 years allows redemption of a security that is intended to have a longer term. That limits Scottish associations' options for long-term funding, such as bond finance and pension-fund investment, although such funding is available in other parts of the United Kingdom. Demand has been expressed by housing associations for access to new long-term funding products. Amendment 141 will give social landlords the option to give up their right to redeem debt early if they wish to do so. That will put them on the same footing as associations in other parts of the UK and will enable them to participate in long-term funding products.

Amendments 146 to 152 are technical amendments that are consequential to amendments 140 and 141. They improve the clarity and consistency of definitions of "social landlord" and a "body connected" to a social landlord. I ask the committee to support amendments 140, 141 and 146 to 152 in my name.

I am very sympathetic to the difficulties that are faced by many people in rural communities, such as those faced by the Dumfries & Galloway Small Communities Housing Trust, when trying to access affordable housing. However, I have reservations about the amendments in Mr Morgan's name.

My amendments open up options for long-term leasing and funding for affordable housing. They widen the funding and leasing options for all rural landlords. Rural housing bodies should not be disadvantaged by this significant change. After all, around half of all designated rural housing bodies are either housing associations or local authorities anyway, and they will benefit automatically from the changes that the Government proposes.

I am concerned about the unintended consequences that might result from the widening of the exemptions to the 20-year rules to bodies other than social landlords that Mr Morgan seeks. That goes further than many respondents to the earlier consultation called for, and further than what the Scottish Law Commission suggested would be acceptable or desirable.

One reason why the Government has not proposed wider exemptions to the 20-year rules is that doing so would disturb the land tenure reforms that lie at the heart of the Land Tenure Reform (Scotland) Act 1974. It would have the effect of opening up exemptions to a range of private sector landlords over which there would be few controls or possible interventions. We have said all along that that is not what we want to do. I am unconvinced that Mr Morgan's amendments offer significant and further practical advantages over and above the proposed changes to the 20-year rules in the Government's amendments. I ask Alasdair Morgan not to move amendments 140A and 141A.

I move amendment 140.

Alasdair Morgan (South of Scotland) (SNP): I say to the minister at the outset that I plan to move amendment 140A.

The minister is correct to say that we have heard concerns, particularly from rural areas, about the supply of land for publicly provided affordable housing—including from social landlords—and privately rented housing. Indeed, in 2009, the Rural Affairs and Environment Committee, on which I served, produced a report on rural housing in which we drew attention to the problems that the 20-year rules were causing.

I am very happy about the exemptions that the minister is suggesting. I accept the point that half of all rural housing is provided by RSLs, but we have to remember the split in rural communities between what might be called urban rural areas, or small towns in rural areas with perhaps 1,000 to 1,500 people, where housing is largely supplied by RSLs, and much smaller communities of around 50 or 100 people, where RSLs do not operate. Indeed, RSLs find it very difficult to operate in such places. The problem is how to provide housing in those areas to allow people to continue to work there. The Rural Affairs and Environment Committee felt that a case could be made for allowing organisations such as the Dumfries & Galloway Small Communities Housing Trust to avail themselves of the same exemption that registered social landlords can use.

The minister said that there might be a lack of control over such bodies. Under the Title Conditions (Scotland) Act 2003, the Scottish ministers must recognise these bodies in the first place. The 2003 act also gives the Scottish ministers the power to withdraw such recognition. The minister has powers in his hand to deal with the issue. I hear what he says, and I am sure that none of us wishes to upset the Scottish Law Commission, but I invite him to go away and think hard about the issue. There is a problem in the rural part of rural areas, and I do not think that the minister's amendments totally address it. Something further is needed.

I move amendment 140A.

Mary Mulligan (Linlithgow) (Lab): Mr Morgan made a good case in relation to rural housing. We must keep in mind the report that the Rural Affairs and Environment Committee produced. However, I am aware of housing associations that have developed in small areas, perhaps supplying only three or four houses at a time, which would not be precluded from exemption from the 20-year rules.

The committee's briefing from Scottish Churches Housing Action suggested that small community housing or land trusts would be encompassed by amendments 140A and 141A, and it is with such organisations in mind that Mr Morgan lodged the amendments. Will the minister respond to that?

Under amendment 140, proposed new section 8(3A)(b) of the Land Tenure Reform (Scotland) Act 1974 would exempt

"a body connected to a social landlord".

Will the minister say a little more about that? We acknowledge and are supportive of the efforts that are behind amendment 140, but we would appreciate further clarification before we decide how to support the approach.

David McLetchie (Edinburgh Pentlands) (Con): I have considerable sympathy with the amendments in Alasdair Morgan's name. The minister referred to the genesis of the rules in the 1974 act. My dim recollection from my days as a young lawyer is that the 1974 act sought to abolish the possibility of creating new monetary feus and that the reason for incorporating into the act a 20-year limit on residential leases was to avoid the leasehold system becoming a substitute for the feudal system, which could have been a back-door way of perpetuating a feudal system that involved the payment in perpetuity of a feu or rent to a

landowner. The 1974 act had a narrow purpose, not a wide-ranging purpose, as has been suggested, and must be seen in the context of what people were seeking to do in relation to the feudal system and the payment of monetary burdens on land.

In that regard, it seems to me that Alasdair Morgan is proposing not a wholesale recasting of the legislation, as has been suggested, but a minor extension of what the minister has proposed to a small number of additional bodies. In that context, if new funding models for housing associations require modification of the 20-year rules, as the minister claimed, I quite fail to understand why the same flexibility in new funding models should not be extended and available to the sorts of housing bodies that Alasdair Morgan described. We will not do great violence to the system by supporting the amendments in his name.

Alex Neil: On Mary Mulligan's request for clarification, a "body connected" will normally be a subsidiary that is not registered—that is the best example of a body connected and will cover the vast bulk of cases, although there might be others.

I am at one with Alasdair Morgan on what he is trying to achieve. He was absolutely right in what he said about small communities in rural areas. The problem with amendments 140A and 141A is that they might open the floodgates to other people. Although the Scottish ministers recognise bodies under the Title Conditions (Scotland) Act 2003—I think that that is right—there are no criteria for registration and it might well be that some organisations would not be appropriate and could be used as a vehicle to widen the scope of what we intend to do.

If Alasdair Morgan agrees to withdraw amendment 140A and not to move amendment 141A, I undertake to lodge appropriate amendments at stage 3—after some discussion with Mr Morgan and other relevant stakeholders—to try to achieve the objective to which I think everyone has signed up, which is to deal with the problem in small rural communities in a way that does not open the floodgates to others, or to any potential misuse or unintended consequences.

10:30

Alasdair Morgan: I hear what the minister says, but I am not sure that all his concerns are well founded. Section 43(5) of the Title Conditions (Scotland) Act 2003 gives him the power to prescribe which bodies are rural housing bodies, and it sets out that one of the principal functions of any such body must be

"to provide housing on rural land or to provide rural land for housing."

Section 43(8) of the 2003 act says:

"The Scottish Ministers may, by order, determine"

that such a body

"shall cease to be a rural housing body."

It may be that the courts might be asked to intervene and decide that the minister has exercised that power unreasonably, which may be what concerns him.

However, given what the minister has said, his basic sympathy and the fact that this is not the final stage of the bill, I seek the committee's leave to withdraw amendment 140A.

Amendment 140A, by agreement, withdrawn.

Amendment 140 agreed to.

Amendment 141 moved—[Alex Neil].

Amendment 141A not moved.

Amendment 141 agreed to.

Section 128—Re-accommodated persons: protection of right to buy

Amendment 94 moved—[Alex Neil]—and agreed to.

The Convener: Amendment 142, in the name of Mary Mulligan, is grouped with amendments 136, 158, 137 and 138.

Mary Mulligan: The intention of amendment 142 is to ensure that tenants who are forced to move because of the antisocial behaviour of a neighbour or of someone in the locality who is targeting them do not lose their right-to-buy entitlement.

MSP colleagues who have had experience of such cases have raised such incidents with me, and although we should not necessarily make legislation on the back of individual circumstances, they are relevant to the discussion today. For example, antisocial behaviour might have been perpetrated by an owner-occupier, or there may have been no witnesses who were willing to come forward, but there was clearly a problem, and housing officers or police took the view that the only way to resolve it was for the tenant to move home. The bill seeks to strike a balance in relation to the right to buy, so it would be unfair that someone in such a situation should be penalised twice: first by having to move, and secondly by losing their right-to-buy entitlement.

I suspect that that would happen only rarely, and, as I have intimated, it should be done with the support of the relevant local authority or police, so the power should not be abused. The impact would not be strong with regard to maintaining the balance that the bill seeks to promote in relation to

the right to buy. I hope that members feel sympathetic enough to support my amendment.

I move amendment 142.

Jim Tolson (Dunfermline West) (LD): The Lib Dem amendments aim to make the right-to-buy legislation fairer for tenants and buyers.

After 30 years of the right to buy, most of the council housing stock—about 75 per cent—has been sold off, and very few council houses have been replaced. The Lib Dems do not wish to remove the right to buy altogether, but we aim to make it fit for the 21st century.

We believe that, although the Government's bill goes some way to bringing social housing into the 21st century, it does not do enough to protect the rights of existing tenants or to provide enough existing or new housing to prospective tenants. I understand why the Conservatives do not want even the moderate reforms that we have suggested being taken forward—after all, they introduced the right-to-buy legislation in the first place—but I am surprised, as are many Labour councillors, members and activists to whom I have spoken, that Labour is almost as unlikely to back those reforms as the Conservatives are. Most of them thought that a party that is led by Iain Gray and Ed the Red Miliband would have been happy to support our reforms, which would mean that more public sector housing would be retained in the public sector. Is not that the reason why those houses were built in the first place?

The Liberal Democrats believe that if a tenant wishes to move home, they should do so in the full and certain knowledge that they would forfeit their right to buy. That would not remove the right to buy from sitting tenants, but it would help to retain valuable stock in the social rented sector. The Liberal Democrats believe that leaving out section 128 of the bill would help in that regard. It is intrinsically unfair that tenants who have had a period of discontinued tenancy should retain their right to buy. Our proposal would prevent the continuation of that anomaly.

Amendment 158, which covers the cross-references between sections 128 and 129, is consequential on amendment 136.

On amendment 137, a fundamental flaw of the right to buy, particularly after 30 years, is that it has become a disincentive to local authorities to replenish the housing stock. With discounts of up to 65 or 70 per cent, no self-respecting local authority will build new houses that could be purchased by a transferring tenant for a similar level of discount. It simply does not make economic sense to build a house for, say, £100,000 and then to sell it for £35,000. Therefore, the Liberal Democrats aim to remove paragraph (2)(a) of proposed new section 61ZA of the Housing (Scotland) Act 1987 to exempt new tenants from the right to buy, and to encourage local authorities to build new homes to meet the huge housing need that exists and provide a vital boost to the construction industry at this time.

Amendment 138 would remove, in certain circumstances, the exemption to the right to buy for tenants of new-supply social housing.

Bob Doris (Glasgow) (SNP): I will restrict myself to talking about Mary Mulligan's amendment 142 and leave the question about how red the Milibands are to another day.

Amendment 142 is well intentioned, and I have a lot of sympathy for it. I am, however, worried because I am not sure that the committee has looked in detail at what the consequences of what is proposed would be and the evidence base for it. I know anecdotally from my constituency cases that many housing associations use discretionary powers to transfer tenants from one house to another before there is an evidence base to evict on the ground of antisocial behaviour. They do that sympathetically and compassionately in many cases, but I am worried that they may be less likely to do that if they knew that there were going to be knock-on consequences to the right to buy. That is perhaps an unintended consequence of the proposals. However, I have sympathy for them, and there might be an opportunity to return to issues, perhaps not in this bill but in future legislation.

David McLetchie: I whole-heartedly support Mary Mulligan's amendment 142. I am familiar with the circumstances that she outlined in which people have been rehoused as a consequence of their neighbours' antisocial behaviour over a long period of time. I entirely agree that their rights should not be prejudiced through having to move home for their safety and that of other members of their family. Therefore, the amendment is entirely to be welcomed.

It will be no surprise to Mr Tolson or other committee members that I am wholly opposed to his amendments 136 to 138 and 158. Like many such proposals, they are based on a total failure to understand the facts of the situation. Mr Tolson opened his remarks by suggesting that 75 per cent of council housing has been sold off as a result of the right to buy. If he had consulted the committee's stage 1 report, he would have found that the figure for public housing under council and social landlords in 1979 was 1,040,000 and that the number had reduced to 594,000 in 2009. That is not a decline of 75 per cent; it is a decline of approximately 40 per cent.

Mr Tolson's assertion completely ignores the fact that in many instances the stock was transferred from council housing to housing

association ownership pursuant on stock transfer legislation. If we want to look at the figures on the impact of the right to buy, we have to look in the round at the total housing stock that is held by councils and registered social landlords. For that reason, the amendments have no basis in fact.

Equally, the assertion that if we do not abolish the right to buy people will not build any new homes is complete and utter nonsense. If he looks at the statistics—which are, again, helpfully compiled in the appendix to the committee's report—Mr Tolson will find that from 1979 to date more than 137,000 new houses have been built for rent by councils and housing associations. Indeed, some of the highest levels of building were at times when right-to-buy sales were at their peak. Therefore, the suggestion that the right to buy prevents new homes from being built is frankly nonsensical. Indeed, the right to buy facilitates the construction of new affordable homes because it gives councils and housing associations sale receipts with which they can finance construction. That is what the record and the facts demonstrate. I urge members to dismiss Mr Tolson's amendments.

John Wilson (Central Scotland) (SNP): I do not want to get into a debate with David McLetchie on the rights and wrongs of the right to buy and what it has delivered for Scotland in the past 30 years. I want to concentrate on amendment 142 by Mary Mulligan. If we are going to retain the right to buy, I have some sympathy with the concern that tenants who may be forced to move house through no fault of their own should be afforded the retention of the right to buy. I hope that the minister will hear that and take it on board. Although he may not support the amendment today, I hope that he will look at the issue again, because many tenants are in that position.

The situation is slightly different in housing associations, but those who are housed by local authorities and currently have the right to buy may lose that right if they are forced to move because of the actions of others around them. As Mary Mulligan indicated, it would be a double dunt to tenants who would first have to move to get away from a situation that is not of their making, and would, secondly, lose out on the right to buy, if that right is to be retained.

Alex Neil: I will start with Mary Mulligan's amendment 142. I thank her for raising the issue of antisocial behaviour, and I share her concern and the concerns that have been expressed by other committee members. However, the power already exists in effect, and the amendment is therefore redundant, as it would merely reinforce the law as it stands.

I draw the committee's attention to the fact that social landlords have existing powers under section 61(10)(b)(iv) of the Housing (Scotland) Act 1987. I am surprised that Mr McLetchie is not familiar with it, because it was passed under a Tory Government. The powers can be used to exercise discretion in dealing with breaks in occupation that are a consequence of a tenant's being a victim of antisocial behaviour.

Therefore, I believe that there is no need for amendment 142. Social landlords will be familiar with the specific details of each case. It is appropriate and in keeping with the spirit of the concordat that they should consider whether it is appropriate to disregard a break in a tenancy as a result of antisocial behaviour when calculating a tenant's eligibility to buy. Social landlords already have the power to do so, although I accept that perhaps they are not fully aware of that power. I thank Mary Mulligan for bringing that to our attention. I will bring to the attention of local authorities, in particular, the power that they already have under existing legislation.

10:45

I must say that Mr Tolson's speech might make me sound like a raving moderate. I turn to his amendment 136 and the closely related amendment 158. Under the modernised right to buy, a tenant is required to be in continuous occupation of a house or houses for five years before they can apply to buy. Amendment 136 would mean that tenants who had a break in their tenancy as a result of situations that were outwith their control would have to restart their qualifying period for the right to buy. That would affect several groups: first, those who agreed to move at the request of the landlord because their house was being demolished; secondly, those who moved following a court order that terminated an earlier tenancy that was obtained by the landlord, for example because of overcrowding; thirdly, those who would otherwise have succeeded to a tenancy but who could not do so because the house had been designed or adapted for use by a person with special needs; and, fourthly, tenants and joint tenants who challenged a landlord's decision that they had abandoned their tenancy, resulting in a court ruling that they had not, in fact, done so.

If amendment 158 were to be taken together with Jim Tolson's amendment 136, the same categories of tenants would, for the same reasons that were outwith their control, be classed as new tenants following the break in tenancy and would, therefore, not have the right to buy. The amendments would be clearly contrary to a key policy aim of the bill, which is that a tenant who is required, for reasons that are outwith their control, to move from a house that they rent under a Scottish secure tenancy should not be

disadvantaged by the reforms. The committee's stage 1 report commented:

"the Scottish Government has ensured that those tenants with an existing right to buy retain that right. The Scottish Government has also taken into account situations where tenants could be disadvantaged by the reforms and included exemptions to protect them."

Existing tenants would clearly be disadvantaged by Mr Tolson's proposals. Under amendment 136, they would be required to restart their full five-year qualifying period if they had been occupying a property but had experienced a break in tenancy for reasons that were outwith their control. If amendment 136 was taken together with amendment 158, such tenants would lose the right to buy altogether. If amendment 158 alone was agreed to, we would have additional concerns that, as drafted, it would be ineffective in achieving its aims.

Amendment 137 is similar to amendments 136 and 158, but it would mean that a landlord would decide whether the right to buy continued to apply to a new tenancy. Again, it would remove automatic protection for certain types of tenants—first, tenants who have challenged a landlord's decision that they had abandoned their tenancy, with the court ruling in the tenant's favour; and, secondly, tenants who would otherwise have succeeded to a tenancy of a special needs house.

Amendment 137 differs from amendments 136 and 158 in that it would actually remove existing tenants' rights under the Housing (Scotland) Act 2001. Because amendment 137 would remove the automatic treatment of continuous occupation and put that at the discretion of the landlord, it would be contrary to our commitment not to interfere with existing tenants' rights. In the context of Shelter's proposal to move all tenants with a preserved right to buy on to modernised terms, the committee's stage 1 report said that it

"does not consider it ... appropriate ... to take away existing rights that have been accrued by tenants."

The effect of amendment 138 would be that tenants would lose the right to buy in situations in which, in the interests of fairness, it would seem inappropriate to remove it. The amendment would remove all the exceptions to the new limitation on the right to buy of new-supply social houses that will be introduced by section 131.

Again, those who would be affected by amendment 138 would be people with existing entitlements who are affected by circumstances outwith their control. For example, a tenant might have to move to a new-supply house because the landlord is demolishing their previous house; the landlord might not inform the tenant within the set timescale that they do not have a right to buy the new-supply house; the tenant might move to a new-supply house because the landlord had obtained a court order for termination of a previous tenancy because the property was overcrowded or had been specially adapted for a person who no longer lived there; other accommodation might be made available because a landlord has wrongly considered a property to have been abandoned or because the house to the tenancy of which a person would be entitled to succeed has been specially adapted and the person does not require the adapted property; or, indeed, the tenant might, before the date of the provision order's commencement, occupy a new-supply social house under a short Scottish secure tenancy that has since been converted to a Scottish secure tenancy. The point is that tenants would lose the right to buy over a new-supply house in situations in which it would seem unfair to remove it.

I invite Mary Mulligan to withdraw amendment 142 because the law is already in place and ask Jim Tolson not to move amendments 136, 158, 137 and 138.

Mary Mulligan: I thank committee members for supporting amendment 142. In response to Mr Doris, though, I should say that I was suggesting not that people be given additional rights but that they be allowed to maintain their own right. However, the minister has explained that current legislation already encompasses the matter.

The minister started off by talking about local authorities and then mentioned social landlords, and I want to be doubly clear that the legislation covers all social landlords, not just local authorities.

Alex Neil: It does.

Mary Mulligan: I thank the minister for that clarification. Under those circumstances, I will seek the committee's permission to withdraw amendment 142.

On amendments 136, 158, 137 and 138, I have to say that Mr Tolson clearly knows how to make friends. Given the minister's very comprehensive response to those amendments and the obligatory statistics that Mr McLetchie has provided, I will simply say that at stage 1 the committee thought long and hard about the changes that were being proposed to the right to buy and recognised that a balance needed to be struck. The principle that the committee sought to apply—and which will apply equally to amendments that will come later—was that although the increased demand for rented accommodation needed to be addressed, people's existing rights should not be removed. In trying to achieve that balance, we went some way towards taking on board the proposals in the bill. As Mr Tolson's amendments are not helpful in that respect, I will not be supporting them.

Amendment 142, by agreement, withdrawn.

Amendment 136 moved—[Jim Tolson].

The Convener: The question is, that amendment 136 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Tolson, Jim (Dunfermline West) (LD)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

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

Amendment 136 disagreed to.

Section 128, as amended, agreed to.

After section 128

The Convener: Amendment 154, in the name of David McLetchie, is grouped with amendments 164 and 165.

David McLetchie: The Housing (Scotland) Act 2001 introduced the so-called modernised right to buy, which applied to all new tenants from 30 September 2002, and to most tenants transferring to another property after that date. That poor and pale imitation of the generous right to buy that was introduced by Mrs Thatcher increased the qualifying period for the right to buy from two years to five years, reduced the starting discount after five years to 20 per cent for all properties, and reduced the maximum discount to 35 per cent of the market value, subject to a £15,000 ceiling.

As the committee's stage 1 report notes,

"The figure of £15,000 was fixed in statute and has not been revised. As it is not index-linked, the figure has effectively reduced in value."

In a most helpful parliamentary answer of 12 May 2009, the minister advised me that, had the £15,000 figure been linked to the retail prices index, it would have been worth £18,446 as at September 2008. In a later answer, the minister advised:

"Had the £15,000 cap been indexed to the CLAG (Communities and Local Government) house price index for Scotland ... the maximum monetary discount would be £28,626.49 as at September 2008."—[*Official Report*, *Written Answers*, 28 May 2009; S3W-24086.]

Convener, £15,000 is a mean and miserable discount. It discourages and deters tenants from buying their homes, and deprives local authorities of receipts that could be usefully employed in building new, affordable homes or improving the existing stock. I am grateful to Shelter Scotland for pointing out that, for the average council house sale, because of the £15,000 ceiling, the maximum discount was only 18.75 per cent in 2009-10, and thus the 35 per cent threshold has become largely notional.

If the committee agrees to amendment 154, which seeks to increase the maximum discount to £25,000, in line with property inflation since the discount was first introduced in 2001, that would mean a much more generous 31.25 per cent discount on the open-market value of the average council house. Again, I thank Shelter Scotland for doing the maths for me and other members of the committee.

However, the Shelter briefing on the subject is rather disingenuous when it claims that the effect of my proposal would be to reduce receipts to local authorities. I think not. The purpose of having a monetary ceiling fixed in statute was to discourage the exercise of the right to buy and allow it to wither on the vine. In that respect, it has proved to be effective but it is, of course, wrong. We need to encourage sales to generate receipts to fund new, affordable housing programmes, given the substantial reductions in funding support that will be coming down the line from Government to housing associations and councils. That is why I commend my amendment to members and invite their support.

I move amendment 154.

Patrick Harvie (Glasgow) (Green): Let me see whether I can do this without losing friends. Members do not need a history lesson on the right to buy and the long-standing debate on the principle. In speaking to this group of amendments and the previous group, David McLetchie has laid out his position clearly, and I am not at all surprised by the Conservatives' continued support for the policy.

At the same time, there has been a majority in favour of a process of reform, including ministers from the current and previous Administrations, and I would like to persuade the committee that my amendments—the mathematics and principles of which are supported by Shelter—seek to continue and complete that process. I argue that they would do so in a way that is consistent with the reforms that have been undertaken to date.

Essentially, the modernised right to buy does not apply to tenancies that were taken up before September 2002. Sales under the unreformed terms and conditions continue, and make up the majority of sales. Discounts are higher in Scotland than they are in England and Wales, even if Mr McLetchie wishes them to be higher. If we include sales under the unreformed terms and conditions,

we are looking at average discounts of 55 per cent, according to research by Professor Steve Wilcox in 2008. That is very nearly double the average discount rate south of the border and represents a continued loss of public assets.

11:00

It has long been argued by some people that right-to-buy sales do not represent the loss of a home—that the home is still there and is still being lived in. However, such a high rate of discount represents a loss, and I think that it is an unjustifiable loss; those who pursued reform in the past and the current Administration should agree with that.

Some people will still be happy to see social housing sold off at almost any price, but those of us—everybody else—who wish to strike a better balance between the interests of those who wish to buy, those who hope to rent and the public at large should not be willing to see sales continuing under the unreformed terms and conditions. My amendment 164 would end that situation by ensuring that the reformed right to buy would become the standard for everyone.

Amendment 165 would bring the provision into effect upon royal assent, which would prevent any opportunistic rush to pressure tenants into buying before the terms change.

I hope that members, including the minister, will take the view that my proposals simply represent the completion of a reform process that has been under way for some time, for which there should be a progressive majority in the Parliament. If the minister does not accept that argument and does not intend to support amendments 164 and 165, it would be helpful to hear from him at what point he thinks it would be appropriate to adopt such an approach—or is he set against completing the reform process in the future?

Alex Neil: I thank Mr McLetchie for his amendment 154, but as he is aware, the Scottish Government's policy is to further restrict right-to-buy sales, and increasing the maximum discount that is available through the modernised right to buy to £25,000—I notice that Mr McLetchie did not use the now in-vogue consumer prices index, rather than the RPI—would not be helpful in achieving our policy objectives. It would also reduce the right-to-buy receipts that would be available to landlords for investing in either existing or new housing, which defeats Mr McLetchie's argument.

Amendments 164 and 165 would move all tenants with a preserved right-to-buy entitlement on to modernised terms. That clearly interferes with existing rights, as tenants with a preserved right to buy may expect to be able to exercise the more favourable rights at some point in the future. As I have stated previously, the Government's policy is not to interfere with the existing rights of tenants. Furthermore, there has been no consultation with stakeholders on the proposal, and it was not supported by the committee in its stage 1 report.

I invite David McLetchie to withdraw amendment 154 and Patrick Harvie not to move amendments 164 and 165.

David McLetchie: I used neither CPI nor RPI in arriving at my figure. I used as my guide the Scottish Government's own house price index, as the minister would have been aware had he listened more carefully to my speech.

Although I do not support Patrick Harvie's amendment 164, I am grateful to him for illustrating the very point that I have made relative to my amendment on the modernised right to buy. If members consult the committee's report, in particular its helpful statistical annex, they will see that in 2008-09 a total of 2,705 homes were sold under the Conservative's—the generous Mrs Thatcher's—preserved right to buy, whereas only 261 homes were sold under the miserable Labour-Liberal modernised right to buy.

In other words, Patrick Harvie's point is quite correct: very few homes are sold under the modernised right to buy, and the bulk of sales are derived from the preserved right to buy. That has generated £110 million of receipts for reinvestment into new affordable housing. The desire to increase that investment in new affordable housing lies behind my suggestion that we increase the discount, as doing so would increase the rate of sales and generate additional funds for that very worthwhile purpose. Therefore, I press my amendment 154.

I am sorry that Mr Harvie will not have an opportunity to sum up on his amendments, but I hope that I have fairly illustrated the points that he was making in speaking to them.

The Convener: The question is, that amendment 154 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McLetchie, David (Edinburgh Pentlands) (Con)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Tolson, Jim (Dunfermline West) (LD)
Wilson, John (Central Scotland) (SNP)

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

Amendment 154 disagreed to.

Section 129—Limitation on right to buy: new tenants

The Convener: Amendment 157, in the name of Patrick Harvie, is grouped with amendment 155. If amendment 157 is agreed to, amendments 158 and 137 will be pre-empted.

Patrick Harvie: It is a delight to share a group again with David McLetchie. Perhaps we can keep the argument going a little longer and reflect on whether some people did not notice anything going wrong with the property market in recent years and the connection between that and the economic situation in which we find ourselves.

With amendment 157, I urge the Government—with, I hope, the support of other parties that have supported reform in the past—to go a little further than the bill currently does. The minister wishes to restrict the right to buy for the new supply of social rented housing, which I welcome. That will go some way towards reducing the serious impact of the right to buy on the availability of homes to rent.

However, the Government has not taken the same approach to new tenancies. As Mary Mulligan argued in relation to a previous group, it is natural that a new tenancy is not taken by choice in some circumstances—for example, when a tenant is moved because their home is to be demolished or is to be used by someone with special needs. My amendment would give protection in such circumstances. Purely technical succession to a surviving partner, for example, would also incur protection.

When a new tenancy is taken on by choice, however, the need to carry forward the pre-existing right to buy into the new tenancy does not appear to be overriding. The Government's proposals—welcome as they are—would reduce right-to-buy sales by an estimated 21 per cent. My amendment would reduce sales by an estimated 33 per cent—that is calculated with the Government's figures—and would do so without removing existing rights to buy from tenants under their existing tenancies. That approach is consistent with the progress of reform to date, as the 2001 act applied the modernised right to buy to new tenancies and not just to tenants of new houses.

I am sure that all committee members are concerned not only about the number of people who are on housing lists throughout Scotland, but about the prospect that the demand for social housing will increase. The Government is right that providing new supply can be one way of helping to meet the need, but we all know that new supply will face serious financial barriers in the coming years. My amendment would give the committee the clearest option for ensuring that we are as well placed as we can be to meet that need through the retention of housing for social rent.

I move amendment 157.

David McLetchie: Amendment 155 would delete section 129, scatter salt on the foundations and preserve for tenants the rights to buy that the previous Labour-Liberal Democrat Scottish Executive conferred on them in the 2001 act, which gave them a modernised right to buy. That was a poor and pale imitation of the right that Mrs Thatcher conferred on tenants, but it nonetheless deserved a limited welcome, because it acknowledged two key points.

The first key point is that owning one's own home remains an aspiration and a motivator for many Scots. People who are on lower incomes should be assisted to own their own homes in the communities in which they live, which would be all the better for having a diversity of tenures. The recognition that home ownership is to be encouraged is of course why the Scottish National Party promised in its 2007 manifesto to give first-time buyers £2,000 grants, even if it ditched that promise rather smartly.

That consideration aside, the desire of Government to facilitate the aspiration of home ownership is why we have shared ownership and shared equity schemes. As I have said in previous debates, why does the Scottish Government devote more than £40 million per annum to facilitating schemes that give a council tenant of five years' standing the opportunity to buy a new house on a new estate, while being hell-bent on denying the same tenant the opportunity to buy the home and remain in the community in which he has lived for the past five years? That simply does not make sense.

The second key point, which was recognised when the modernised right to buy was introduced in 2001, is the role that receipts from right-to-buy sales can play in financing new affordable housing. As the committee pointed out in its stage 1 report, since the right to buy was introduced in 1980 sale receipts have amounted to £7 billion overall. In real terms, at today's prices, that amounts to more than £11 billion. Those receipts facilitated the construction by councils and housing associations of more than 137,000 new affordable homes for rent, and they financed the improvement of many more homes for the benefit of tenants who chose to remain tenants rather than become home owners.

The Scottish Government wants to do away with an important source of revenue at precisely the time when affordable housing budgets are likely to

be squeezed significantly. That is sheer madness. In their evidence to the committee, housing associations and the Parliament's Finance Committee highlighted the negative impact of a drop in sales on future programmes of new building and improvement. We ignore that evidence at our peril. That is why we should continue to give new tenants the right to buy their homes after five years, should they wish to do so.

Alex Neil: I understand that Mr McLetchie intends to retain the maximum duration of pressurised area status designations at five years, rather than the 10 years that are proposed in the bill. The changes that are proposed in the bill are intended to make such designations more effective in responding to local housing need—I am sorry, I have got a step ahead of myself in my notes. I was carried away by Mr McLetchie's speechifying.

I am advised that there are technical issues with amendment 157. As I understand it, it tries to do four things: first, to provide that tenants of all houses that are first let after the date of commencement will not have the right to buy; secondly, to remove the right to buy from tenants who move from a house that is let under an SST to another house, unless the move followed a court order or agreement to demolish; thirdly, to treat succession as the creation of a new tenancy, so that the tenant will not have the right to buy, with limited exceptions; and fourthly, to treat assignation as the creation of a new tenancy, so that the tenant will not have the right to buy.

The part of amendment 157 that would end the right to buy for tenants who move from one house to another or who succeed to or are assigned a tenancy clearly goes against our commitment not to interfere with existing tenants' rights, because tenants currently retain the right to buy in such circumstances. In response to Shelter Scotland's proposal to move tenants with the preserved right to buy on to the modernised right to buy, the committee said in its stage 1 report that it

"does not consider it an appropriate course of action to take away existing rights that have been accrued by tenants."

As I understand it, the other part of amendment 157 would provide that tenants of all houses that are first let after the date of commencement would not have the right to buy. The approach is similar to the approach in the new-supply provisions in section 131, but it would not work as well as section 131 will work, because it would protect a smaller pool of houses and would not protect tenants who move to a new-supply house in situations that are not a voluntary choice, for example as a result of demolition.

I understand that the effect of amendment 157 would be that any tenant who moved to a new-supply house would lose the right to buy for that property and any older properties in relation to which they might have a tenancy in future. Under section 131, such tenants will lose the right to buy the new-supply property but will be able to exercise the right to buy over older properties to which they might move in future. Our approach in section 131 therefore protects tenants' existing rights.

11:15

As for Mr McLetchie's amendment 155, which seeks to remove the limitation on the right to buy for new tenants, the Government does not support such a move as it would strike out one of our significant measures for reducing right-to-buy sales. The committee indicated its support for our approach to ending the right to buy for new tenants. In its stage 1 report, it says:

"The Committee considers that ending the right to buy for new tenants taking up a Scottish secure tenancy on or after the date that section 129 comes into force and for people returning to social housing after a break is an appropriate approach to addressing the need for social rented housing in Scotland in the coming years. The Committee is of the view that this will not disadvantage tenants who have built up an entitlement to the right to buy under the existing legislation."

Because amendment 157 would interfere with existing tenants' rights and because amendment 155 would remove our restrictions on right to buy for new tenants, I ask Patrick Harvie to withdraw amendment 157 and David McLetchie not to move amendment 155. I hope that I have got that right, convener.

Patrick Harvie: Mr McLetchie has told us again about the value that he places on the aspiration for home ownership, which is a continuing theme in the debate over right to buy and what lies behind many of the reasons for its introduction. The idea is that home ownership should be the tenure of choice to which everyone should aspire and that the Government should support it.

Mr McLetchie asked why public money should be devoted to schemes that support home ownership in some circumstances but do not support tenants in homes that were built for the social rented sector. I argue that the problem goes far deeper. Why have we allowed owner occupation to be presented in such a way? The idea that owner occupation is the only aspirational choice and that anything else is an option of last resort is neither a law of nature, nor a long-standing common feature in other European countries.

The dramatic growth of home ownership in recent decades has been neither entirely benign nor entirely harmful. We should recognise its harmful and beneficial impacts and, indeed,

reforms of the right to buy have been characterised by the search for a balance between aspirational owners and tenants and wider society.

The minister objects to amendment 157, arguing that it would remove existing rights. Redefining the circumstances in which an existing right can transfer to a new tenancy is not the same as redefining the right in absolute terms. After all, as the circumstances are defined in law, we are able to change them in law. We are simply talking about a change in the law, not the removal of fundamental human rights.

Although I do not expect amendment 157 to find huge support on the committee, I will press it to a vote to see whether there is any support at all for it. Finally, I hope that the minister, in his closing comments on a group of amendments or in his response to other amendments, will at some point say something about the future of reform, where he sees the reform agenda going in the long term, or the point at which he will consider other solutions to ensure that we retain the maximum number of homes for social rent instead of allowing sales simply to continue.

The Convener: The question is, that amendment 157 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

Abstentions

Tolson, Jim (Dunfermline West) (LD)

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

Amendment 157 disagreed to.

Amendment 158 moved—[Jim Tolson].

The Convener: The question is, that amendment 158 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Tolson, Jim (Dunfermline West) (LD)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

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

Amendment 158 disagreed to.

Amendment 137 moved—[Jim Tolson].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Tolson, Jim (Dunfermline West) (LD)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

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

Amendment 137 disagreed to.

Amendment 155 moved—[David McLetchie].

The Convener: The question is, that amendment 155 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McLetchie, David (Edinburgh Pentlands) (Con)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Tolson, Jim (Dunfermline West) (LD)
Wilson, John (Central Scotland) (SNP)

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

Amendment 155 disagreed to.

Section 129 agreed to.

Section 130—Pressured areas: amendments

Amendment 95 moved—[Alex Neil]—and agreed to.

The Convener: Amendment 159, in the name of David McLetchie, is grouped with amendment 160.

David McLetchie: The concept of pressured area status was introduced by the Housing (Scotland) Act 2001 as a limitation on the exercise of the modernised right to buy. The intention was

to enable councils to maintain their housing stock in a limited number of localities where there are particular pressures of demand and a limited supply of affordable housing for rent.

As of June 2010, 16,249 tenancies were subject to a pressured area status designation and, under the existing legislation, the status applies for a five-year period, at the end of which the local authority concerned may apply for an extension should circumstances dictate that that is still the appropriate course of action.

It should be noted that the grant of pressured area status is not, and was not intended to be, a backdoor method of frustrating the right to buy, although some bodies such as the Scottish Federation of Housing Associations apparently believe that it should be, as it has proposed that pressured area status should be a default designation and that councils should have to make a detailed case for the right to buy to exist. That perverse and institutional view of the world is completely contrary to the fundamental principle that the right to buy is a right conferred on a tenant to purchase.

The bill proposes to extend the designation period from five to 10 years. That is a recipe for abuse of the system and would deny tenants their rights. It would wholly undermine the principle that the right to buy should be the norm and pressured area status the exception. For that reason, the change should not be supported and we should sustain the position as set out in the 2001 legislation, which was promoted by the previous Labour-Liberal Democrat Executive for reasons that were sound then and remain sound now. I look forward to the support of those colleagues in sustaining the policy that they pursued in government.

I move amendment 159.

Patrick Harvie: I am trying to continue my constructive theme wherever possible. Amendment 160 seeks to progress further a process of reform that has been under way for some time and which ministers in both the current and previous Administrations have been able to support. The introduction of pressured area status was a welcome change in the 2001 act, but it excluded older tenancies from the suspension of the right to buy. It is worth remembering that that is a suspension of a right; if the suspension of the right to buy for newer tenancies can be justified and not seen as the removal of an existing right, I would argue that the suspension of the right to buy for older tenancies can been seen in the same light. Given the strict criteria that are applied to the designation of pressured area status, there is no rationale for continuing to exclude older tenancies. If the committee supports amendment 160, tenancies that date from before September 2002 will be treated as others are in pressured areas. The right to buy would be suspended for all houses in such areas. That is consistent with the purpose of pressured area status, and would ensure that it achieves the maximum protection for the availability of houses for social rent in areas in which the need is identified.

Mary Mulligan: I welcomed the introduction of the pressured area status and I welcome the extension of it in the bill. I have two reasons. Pressured area status recognises the pressure in a local area, and allows local authorities to respond to that as they see fit. From his earlier remarks, I think that Mr McLetchie might underestimate local authorities when he assumes that they will use pressured area status as a blanket ban on the right to buy. To come back to a point that Mr McLetchie made, I think that local authorities will have to decide whether they want to lose the possible receipts, and will balance that with the demand that exists in their area. Extending the maximum designation period is the right thing to do.

Section 130 says:

"A designation under subsection (1) has effect for such period, not exceeding 10 years".

Does the minister have information on how local authorities will respond? Does he envisage that they will go for the maximum of 10 years? What might the impact of amendment 159 be, particularly on designation in smaller areas and of particular house types?

Jim Tolson: I agree with Patrick Harvie's sentiment that we need to retain as much of the stock in the social rented sector as possible to fulfil the desperate housing need that our constituents bring to our case loads. I do not intend to vote against the amendments in his name.

Alex Neil: As I was saying earlier, I understand that David McLetchie is seeking to maintain the maximum duration of a pressured area status designation at five years rather than the 10 years that is proposed in the bill.

In response to Mary Mulligan's questions, from our discussions with the Convention of Scottish Local Authorities and local authorities, we anticipate that in most cases, local authorities will exercise the measure for up to 10 years. We are talking about particularly pressured areas in most cases.

In response to Mary Mulligan's other question about the new power that local authorities have to designate, say, four or five-apartment houses rather than all houses, that will be a useful tool. The indications are that, in many areas, there is a dire shortage of four or five-apartment houses but more availability of, say, three-apartment houses. I

expect the power to be used extensively. Local authorities, individually and through COSLA, have welcomed the additional flexibility that they now have, as well as the fact that they will no longer have to come to the minister for approval. Local authorities themselves will have the power to make the decision.

11:30

The proposed changes to the use of pressured area status designations are intended to make them more effective in responding to local housing needs. There will be supporting guidance that will be developed with stakeholders. The extension of the maximum duration of a pressured area status designation is an important element in the package. It will provide local authorities and landlords with greater flexibility to address housing pressures where appropriate need is identified. The bill also allows local authorities to amend or revoke designations, including their duration. I note that the committee stated in its stage 1 report:

"The Committee supports the proposals to extend the period for pressured area status up to a maximum of ten years. It believes that this will help local authorities respond to local housing demand and retain social housing for tenants."

I understand that, with amendment 160, Patrick Harvie intends to restrict further the right to buy by making tenants who have a preserved right to buy subject to the application of pressured area status designation, which is a provision that covers only tenants with a modernised right to buy. Although that would not completely remove the existing rights that several hundred thousand tenants hold, it would have the effect where criteria for pressured area status designations are met of restricting the exercise of those rights. I believe that that goes against the commitment that ministers made from the outset of introducing these reforms not to affect existing rights. On Shelter's proposal to move all tenants with the preserved right to buy on to modernised terms, the committee said in its stage 1 report that it did not consider that it is an appropriate course of action to take away existing rights that tenants have accrued. Accordingly, in the interest of ensuring the effective management of existing social rented housing stock levels and in the interest of fairness to existing tenants, I ask David McLetchie to withdraw amendment 159 and Patrick Harvie not to move amendment 160.

David McLetchie: I will press amendment 159. Fairness to tenants would mean sustaining and not denying the rights of tenants. Denying the rights of the working class in Scotland appears to be the course of action on which the Scottish National Party and its collaborators in the Parliament are intent. I, for one, am not.

Mary Mulligan said that local authorities may not apply for pressured area status on the new extended basis. She may be right in saying that, particularly if they are authorities that recognise the strength of the argument that I have made persistently this morning on the importance of using receipts from sales to finance new affordable housing projects. We have to be aware of the reality that lies behind my amendment.

If I am not miscalling the minister—I would never intend to do so—I think that he has said on more than one occasion in the committee and in the Parliament that he regards pressured area status as an underused designation. Local authorities have had more than a nod and a wink to encourage them to make more applications for pressured area status, with the implication being that they would be given a fair wind and favourable consideration. It is in that context that we have to consider the proposal to extend the maximum designation period from five to 10 years. I firmly believe that the present Government and some authorities intend to use that as a backdoor method of removing rights that have been conferred on working people in this country. Frankly, those who seek to do that should be ashamed of themselves.

I most certainly do press amendment 159.

The Convener: The question is, that amendment 159 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McLetchie, David (Edinburgh Pentlands) (Con)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Tolson, Jim (Dunfermline West) (LD)
Wilson, John (Central Scotland) (SNP)

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

Amendment 159 disagreed to.

Amendment 160 moved—[Patrick Harvie].

The Convener: The question is, that amendment 160 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)

Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

Abstentions

Tolson, Jim (Dunfermline West) (LD)

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

Amendment 160 disagreed to.

11:34

Meeting suspended.

11:38

On resuming—

Amendment 96 moved—[Alex Neil]—and agreed to.

Section 130, as amended, agreed to.

Section 131—Limitation on right to buy: new supply social housing

Amendment 97 moved—[Alex Neil]—and agreed to.

The Convener: If amendment 138 is agreed to, I cannot call amendment 98.

Amendment 138 moved—[Jim Tolson].

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

Members: No.

The Convener: There will be a division.

For

Tolson, Jim (Dunfermline West) (LD)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

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

Amendment 138 disagreed to.

The Convener: Amendment 98, in the name of the minister, is grouped with amendments 99 and 156.

Alex Neil: Amendment 99 seeks to widen slightly the definition of "new supply social house". Section 131 defines it as housing that is let under a Scottish secure tenancy for the first time after 25 June 2008, which is the commencement date for new supply social housing. Without amendment to the provisions, properties let under a Scottish secure tenancy before 25 June 2008 that were sold and subsequently reacquired by a social landlord after 25 June 2008 would not be defined as new supply social housing.

The main way in which social landlords reacquire former social housing is through the Government's mortgage-to-rent scheme. That scheme enables local authorities and housing associations to buy properties from owners who would otherwise face the threat of repossession by a lender. It allows families to remain in the community, but as social renters rather than owners. In some cases, the house that is bought is former social housing stock. Approximately 1,200 properties have been acquired by the social housing sector through mortgage to rent since the scheme began in 2003.

I have discussed the proposed change with stakeholders on my Housing (Scotland) Bill stakeholders board, and they are supportive.

Amendment 98 is also related to properties that are reacquired by social landlords. It seeks to give home owners who are selling their property to a social landlord in order to live there in future under a Scottish secure tenancy adequate notice about the effect of the sale on their future right to buy. Amendment 98 will establish a position where the home owner will be notified no less than seven days before the conclusion of missives that they will be unable to purchase the house in future through the right to buy, because the house will be regarded as new supply social housing.

Amendments 98 and 99 make it clear that all properties that are reacquired by social landlords will be defined as new supply social housing and will therefore be unavailable to purchase through the right to buy. They will ensure that owners who agree to sell to a social landlord in order to rent the property back are given adequate notice of the impact on their future right to buy.

Amendment 156 would remove the provision in the bill to restrict the right to buy new supply social housing. The committee is supportive of our approach. The stage 1 report says:

"The Committee agrees with the provisions contained in the Bill to limit the right to purchase new supply social housing."

I invite David McLetchie not to move amendment 156 and to stick to the recommendations of the committee.

I move amendment 98.

David McLetchie: The recommendations of the committee were in fact the recommendations of the majority of the committee, not of the well-informed dissenting minority.

The purpose of amendment 156 is to delete section 131 from the bill in its entirety, thus preserving the modernised right to buy for new supply social housing. It has been argued—we have heard it this morning—that if the right to buy is not abolished for new social housing, no new social housing will be built. That is nonsense, like many of the other nonsenses that are parroted about the right to buy and its impact.

The historical record, as set out in the very helpful annexes to the committee's stage 1 report, shows that, from 1979-80 to date, a total of 137,744 new houses for social rent were built by Scotland's councils and housing associations. Throughout the 1980s and 1990s, under a Conservative Government, when the right to buy was at its peak, between 3,279 and 7,708 new affordable homes were built for rent every single year. That was possible because of the benefits of recycling sale receipts into the construction and improvement of new affordable housing.

11:45

The fundamental difference between my party and others in the Parliament on this issue is that, as far as we are concerned, affordable housing is affordable whether it is rented from a social landlord or owned by the occupiers, who might have been assisted in that regard either in purchasing their house at a discounted price through the right to buy or in participating in Government-supported shared equity or ownership schemes. Our concern is to increase the total stock of affordable housing. Some people are obsessed with the notion of who owns affordable housing and seem to think that only housing that is rented through a council or another social landlord can possibly be classified as affordable. That is reflected in the absurd and often-made claims that selling a council house means that it is lost, as if, as I have said before, it had been towed out into the middle of the North Sea and sunk instead of continuing to provide a home for the working family that bought it and lived in it for many years.

I am sorry to say that the worst example of that narrow mindset came in evidence to the committee from the Scottish Federation of Housing Associations, which said that it would oppose the right to buy even if it would release £250 million a year into our housing associations' coffers to build more affordable homes in Scotland. We need to get away from that narrow mentality. Sustaining the right to buy can help us to build more affordable homes for our people in the future and to increase and improve Scotland's housing stock.

Bob Doris: I will not be supporting amendment 156. In fact, I am quite tired of hearing time and again about the right to buy. I remind committee members and others that everyone has the right to buy; it is known as going to a bank and getting a mortgage. We can agree or disagree over the terms of those mortgages, but everyone has the right. I think that the Conservatives are simply painting themselves as overly dogmatic by claiming that the way ahead is to shoehorn people into owner occupation. Indeed, the banks and other associated financial sector took the same dogmatic approach to the market economy and, given the problems that we have had in that respect, I am glad that these reforms will go through. I hope beyond hope that at same point the Conservatives will end their pursuit of free marketeering and the introduction of the right to buy at all costs, irrespective of social need and the social housing that our society desperately needs.

The Convener: I call the minister to wind up.

Alex Neil: To be honest, convener, I think that the arguments have been rehearsed fairly well this morning. I have nothing to add. Indeed, I know that the committee has more items to deal with this morning so, instead of detaining you, I will simply leave the matter there.

The Convener: The question is, that amendment 98 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
McLetchie, David (Edinburgh Pentlands) (Con)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Wilson, John (Central Scotland) (SNP)

Against

Tolson, Jim (Dunfermline West) (LD)

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

Amendment 98 agreed to.

Amendment 99 moved—[Alex Neil]—and agreed to.

Amendment 156 moved—[David McLetchie].

The Convener: The question is, that amendment 156 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

McLetchie, David (Edinburgh Pentlands) (Con)

Against

Doris, Bob (Glasgow) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)

McNeil, Duncan (Greenock and Inverclyde) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Mulligan, Mary (Linlithgow) (Lab)
Tolson, Jim (Dunfermline West) (LD)
Wilson, John (Central Scotland) (SNP)

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

Amendment 156 disagreed to.

Section 131, as amended, agreed to.

The Convener: That concludes today's consideration of amendments. At next week's meeting, the committee will consider the remainder of the bill at stage 2. I thank the minister, his team and everyone else.

11:49

Meeting suspended.

11:51

On resuming—

Subordinate Legislation

Home Owner and Debtor Protection (Scotland) Act 2010 (Transitional and Savings Provisions) Order 2010 (SSI 2010/316)

Police Pensions (Additional Voluntary Contributions) Amendment (Scotland) Regulations 2010 (SSI 2010/320)

The Convener: We now consider two Scottish statutory instruments. No member has expressed concern about the instruments and no motions to annul have been lodged. At its meeting on 21 September, the Subordinate Legislation Committee agreed that it did not want to draw the Parliament's attention to the instruments on any of the grounds in its remit. Do members agree to make no recommendation on either instrument?

Mary Mulligan: I do not want to hold up the meeting, but I want to welcome the stage that we have reached with the Home Owner and Debtor Protection (Scotland) Act 2010, the provisions of which will now be enforced. It is appropriate that Mr Dailly is here as we agree to make no recommendation on SSI 2010/316.

The Convener: That was nice.

If no other member wants to comment, does the committee agree to make no recommendation on either instrument?

Members *indicated agreement.*

Property Factors (Scotland) Bill: Stage 1

11:53

The Convener: Item 3 is oral evidence on the Property Factors (Scotland) Bill. I welcome our witnesses: Patricia Ferguson MSP, who is not unknown to us; and Mike Dailly, who is principal solicitor at Govan Law Centre. I invite the witnesses to make introductory remarks before we move to questions.

Patricia Ferguson (Glasgow Maryhill) (Lab): Thank you for the invitation to discuss the bill, which would regulate property factors. The committee has taken quite a lot of evidence on the bill, to which I have listened with great interest. It is a wee while since I sat in the witness seats at a committee table, but it is good to be here to discuss a member's bill.

It is fair to say that, among those who have given evidence so far, and more generally in the country, a consensus is emerging that action is required. We suspect that property factoring is one of the last industries in Scotland to be unregulated in any way. Given the level of complaints, which is borne witness to in an Office of Fair Trading report, and given the number of complaints that, I am sure, are presented to many constituency members daily, it seems appropriate that action should be taken.

The bill seeks to provide a preventive element that will provide more transparency and more accountability to home owners. It also seeks to provide a remedy when issues and problems occur. It reserves the right to exercise an ultimate sanction against those who fail home owners. I stress that that would be an ultimate sanction. I believe that the bill will do all three of those things. I look forward to answering the committee's questions.

The Convener: Mr Dailly, do you have anything to add?

Mike Dailly (Govan Law Centre): I am happy to move to questions.

The Convener: That is helpful, given the time. I will go directly to Malcolm Chisholm.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I have a question on part 2 of the bill. Obviously, there are many issues on part 1, but we have spent less time on part 2 in our evidence taking. I am interested in dispute resolution procedures. There is a tension between two suggestions—the suggestion in the bill and the idea of an ombudsman service. What problems do you see with an ombudsman service? More fundamentally, I am interested to know a bit more about how you envisage the model that you propose working in practice.

Mike Dailly: The nature of factoring disputes is that there are technical issues about the state of the premises, factually complex issues to resolve and complicated issues of contract law. Given that nature, such disputes lend themselves more to being determined by a quasi-judicial forum such as that proposed in the bill. An ombudsman scheme is not designed for that type of dispute resolution.

As members will know, the bill reflects and builds on the existing structure of the private rented housing panel, which has been fairly successful. I have a summary by Professor Pete Robson of the University of Strathclyde of the operation of the private rented housing panel in the past couple of years, which I can give to the committee clerk. Between September 2007 and April 2009, the panel dealt with in the order of 175 applications. Professor Robson concludes that, on the face of it, there is a high level of success for tenants, with 45 per cent of cases being withdrawn. The reason why they are withdrawn is because the sanction, or statutory remedy, that is available to tenants is basically knocking heads together. Because the panel that part 2 proposes would underpin the system and would have enough oomph and powers to back it up, the bill would not result in lots and lots of cases; instead, it would result in lots of resolutions.

Malcolm Chisholm: Will you say a bit more about how that structure would work and who would be on it? Would there be lots of bodies or one for the whole of Scotland?

Mike Dailly: The private rented housing panel is in effect built on the old rent assessment panel for Scotland, which is still operational but which I suppose is dying out as time goes by. The infrastructure of the rent assessment panel has been around for a long time, and the Housing (Scotland) Act 2006 introduced the private rented housing panel and committees based on that infrastructure. Part 2 of the bill suggests that we could use that existing infrastructure in Scotland—staff and people have already been appointed. Sure, there would be training issues and we might have to recruit additional chairpersons, for example, but I do not think that it would cost much money to use a structure that we already have to provide a real solution for home owners. That is why it was decided that the panel was the best forum to use in part 2.

12:00

Malcolm Chisholm: That is helpful. I will ask one more question, just in case I do not get in again.

Setting aside part 1, which I support, the other big issue is switching and the difficulties of doing that. It has not been dealt with in the bill, but we have heard a lot of evidence about it. Indeed, I have dealt with a lot of cases related to it in my constituency. Although switching is not dealt with in the bill, could amendments on switching be lodged? In view of the evidence that has been presented, would you be minded to lodge them?

Patricia Ferguson: I will begin, and Mr Dailly can add to what I say.

It is fair to say that we hope that registration will help to ensure that there are fewer instances of people reaching the stage at which they feel that switching is the best option for them. People often want to switch because they have had an unsatisfactory experience with their factor, and sometimes, if you probe more deeply into the case, you find that it is over a relatively small issue, such as work being done badly or bills not being transparent. Problems of that nature can be addressed by the registration element of the bill. Switching is not necessarily the be-all and end-all, because people would have to ensure that they were switching to a factor who would do a better job. Registration would also be important in that situation.

It is important to note that the service offered by a factor is not like a utility. If someone's telephone or power provider is not good, they will look around and take the opportunity to switch, but with a factor, someone's action is consequential on a lot of other people. They do not act as an individual; they act as part of a group. The opportunity to persuade the group that there is an issue can be limited and difficult.

Switching is not the be-all and end-all, and other things can be done to tackle the problems. However, I am happy to look at switching if colleagues feel that it is important.

Mike Dailly: I will be candid and say that whenever a member's bill is being drafted—by what is a very small team—we try to keep it as focused and robust as possible. There will always be other issues that could be improved on, such as switching in this case, so there could be scope for improvements. We were conscious not to get down into title deeds and real burdens, which is another area of Scots law.

My final point on switching is that it is a powerful market solution. To varying degrees, it works for financial services and utilities—people switch their gas and electricity. As Patricia said, the difficulty with the property factors market in Scotland is that consumers are not individuals. The situation is much more complicated: we are talking about four, six or even more consumers acting together. If we are thinking of switching as a solution, there will always be an inherent difficulty, because of the nature of the beast.

That is why the bill looks at a two-part solution. The first is saying that we should raise the standards in Scotland, which will help consumers in general. The second is saying that there will always be individual consumers who are not happy and who cannot persuade their neighbours to switch, so for them we will provide an accessible remedy. They will not need a lawyer or legal aid or to worry about expenses; the process will be inquisitorial.

Mary Mulligan: Like my colleague Malcolm Chisholm, I am interested in dispute resolution, so let me ask a couple of questions about the private rented housing panel. The first is about its operation and how often you think it would need to meet. What would the practical arrangements be? The second question is on the financial provision. Is there sufficient provision in the financial memorandum?

Patricia Ferguson: If I am perfectly honest, it is hard to predict how often the panel would have to meet, but I suspect that it would have to be as often as workload demanded. The panel might begin by meeting infrequently and then have to increase its operation. The current panel on which we have based the proposal has a budget of about £400,000 a year. Albeit that it is in the early stages of its operation, it has never reached its maximum; it has always had spare capacity. Our view is that the cost of the panel will not be particularly onerous. The overall budget will be manageable. That aspect is not of particular concern to us.

Mike Dailly: I think that there would be a good take-up from the advice sector in Scotland, whether that is law centres, citizens advice bureaux, money advice centres or solicitors. I think that they view part 2 of the bill as a useful remedy. Earlier, I cited the number of cases before the private rented housing panel that are resolved without going the distance, which offers quite an encouraging sign. Once people can apply to the proposed home owner housing committee, cases could be resolved without having to proceed much further. Obviously, that means that the overall cost would be reduced.

Mary Mulligan: That is helpful in relation to disputes. I have a more general question on the size of the problem. Many members have given examples from their case loads, including in a chamber debate, of how often problems arise. It would be interesting to know what encouraged you

to draft the bill. How big are the problems? What are the impacts?

Mike Dailly: Govan Law Centre first got involved because we could see what was happening day in, day out during the previous parliamentary session. If you look at our small claims courts—what we call our debtor courts—you will see that they are swamped by property factors raising actions for payment. Some of the actions are legitimate, but others involve the addition of all sorts of costs, and there are issues with overcharging.

Property factors are getting not only decrees but exceptional attachments—the old warrant sales. I have had many cases of people being sequestrated because of factors. There was a case in the press just last week of a woman who had not paid a factor's bill of a few hundred pounds and who ended up with a bill for a million pounds. The case ended in bankruptcy. She lost her legal aid and the whole situation exploded.

I ask you to think about the fact that small claims courts up and down Scotland are dominated by cases involving property factors. There are some good factors out there, but I would go as far as saying that some factors are engaged in what I describe as debt farming. When clients get into arrears, those factors exploit the situation by adding all sorts of charges and repeatedly taking the client to court. That is one of the biggest areas of consumer detriment in Scotland.

Patricia Ferguson: My interest arose as a result of constituents telling me of such issues, as a result of which I contacted Mike Dailly for advice. Since I have put my head above the parapet, not a day has gone by without someone from somewhere in Scotland contacting me to seek advice. As the constituency member for a Glasgow constituency, there is a limit to the advice that I can offer to people around Scotland. Usually, I give people some general advice, but I then have to pass on enquiries to colleagues who represent other areas of Scotland. If someone contacts me when their situation has been raised in the print or other media, I find that I can spend a considerable part of my day trying to deal with their case.

Mike Dailly has spoken clearly of the situation in our small claims courts. We also know of property factors who threaten court action. They go as far as lodging the action but never take it to court. They say to the debtor—that is how they view the person—"I will not take you to court. I will carry on discussing this with you. By the way, your charges are still the same, except my fees for the court action are added on to what you already owe me." I know of a case in which that has happened on six occasions and the owner-occupier has had to negotiate with the factor on that basis. That is not acceptable in this day and age.

Mary Mulligan: Thank you. That sets a useful context for us.

Jim Tolson: You will recall that when we considered the Disabled Persons' Parking Places (Scotland) Bill, I strongly queried the costs. Similarly, I seek your assurance that the costs and financial impact of your bill will not be significant. You claim that the provision will be largely cost neutral; indeed, in paragraph 103 of the financial memorandum, you say:

"It is anticipated that the register would be operated by a small staff located, for example, within the Scottish Government's Housing and Regeneration Directorate or"

other

"such body".

I find that quite unusual. How do you respond to concerns that the financial memorandum does not provide a robust assessment of the bill's likely cost implications?

Patricia Ferguson: Mike Dailly will answer that question, as he has the figures.

Mike Dailly: I drafted the financial memorandum. As we have said, the process has been difficult, but I drew some comfort from the Scottish Government's stakeholder working group on a proposed accreditation scheme for property managers. For example, the £750 to £1,000 that we have proposed as the cost of registration per factor came from that group, which had suggested those as rough figures for the cost of an accreditation scheme.

Such schemes are not cheap and, as you will see, the bill contains provision for the Scottish Government to delegate the running of the register to a third party. One might argue that it might be cheaper to make it one of the Scottish Housing Regulator's functions, because the infrastructure costs have already been covered and all that would be required would be the hiring of some staff. That would keep the costs manageable. As for the home owner housing committee, it would all be down to take-up, but I think that the costs would be very efficient, given the use of existing infrastructure that Patricia Ferguson alluded to with regard to the private rented housing panel.

The Scottish Government's own stakeholder working group even discussed, at a meeting on 18 June 2009, the costs of mediation. I am a fan of mediation, but it is not necessarily suitable where there is inequality of arms between the parties and issues of fact and law are in dispute. Through the working group, the Scottish Government noted that a mediation service would cost something like £35,000 to set up and £1,000 for each case, which means that the cost of dealing with a couple of hundred cases would be £235,000. As mediation is nowhere near as effective as the proposals in

part 2 of the bill, I think that our approach represents fantastic value.

Jim Tolson: A lot of that depends on the finances being raised and on people paying the fees. First, many factoring companies are quite small, and a sum of £750 to £1,000 could be significant, so how are you proposing to help in that respect? Secondly, the SFHA and others have argued that housing associations should not have to pay registration fees or indeed should not be included under the bill's auspices for the factoring that they effectively carry out. If it turned out that RSLs were effectively exempt from the bill, would that severely affect the bill's financial planning?

Patricia Ferguson: I do not think so, because the decision whether RSLs would be subject to a fee would be at ministers' discretion, and I imagine that, in arriving at a conclusion, any minister would consider the overall package of costs, expenditure and income. The fact that fees are on a sliding scale would help smaller factors who might not have the same income as larger ones.

12:15

Mike Dailly: Sections 3(4) and 7(4) would give the Scottish ministers quite a lot of discretion on the level of fees and on how fees are arrived at. They would also give the Scottish ministers the ability to decide whether some people should not have to pay fees. It would be up to the Scottish ministers to decide on fees—I suppose that that is passing the buck. They might decide—I am sure that they would—that a small factor should pay pro rata, perhaps in relation to the number of houses. That would be fair. Ultimately, the decision would be for the Scottish ministers.

As for RSLs and councils, one argument is that everybody should pay into the pot, but the arrangements would be up to the Scottish ministers.

Patricia Ferguson: I understand that the stakeholder working group on accreditation that the minister established felt that some payment was needed, so making the property manager part of the structure had a value. The payment of a fee is important.

Bob Doris: I, too, will focus on the bill's costs, but I would like you to take that as a compliment, because I feel no need to take evidence from you on the general principles. In this series of evidence sessions, the need has been established—the principles sit there—but I am genuinely worried about the cost implications. If I as a home owner had an issue with my factor that I could not resolve internally with them, what would be my first port of call under the bill?

Mike Dailly: Do you mean as an individual consumer?

Bob Doris: Yes.

Mike Dailly: You would complain to your factor and say, "I'm not happy about this," and you would hope that your factor took that on board and resolved the situation. As the committee has heard in evidence, would that that were so—the process does not happen in that way in most cases, unfortunately. The bill would require the customer to exhaust the complaints process, or at least to use it until no scope for consensus with the factor existed. After that, a home owner would be entitled to apply to the home owner housing panel.

Bob Doris: Who would inform me of that process? I want to pick through the different financial costs. Would the factor have a statutory obligation to inform me that that was my next recourse, should I choose to take it?

Mike Dailly: The beauty of the code of conduct in part 1 is that a property factor would have to meet agreed standards. The Scottish Government's working group has done a huge amount of work on what those standards could be. The code of conduct could include requirements to do X, Y and Z.

Scotland is fortunate to have a fairly robust network of advice agencies—we have CABx, money advice agencies, law centres and 10,500 solicitors. The ability to use the bill could be disseminated through the existing network. When people said, "Look, I'm not happy," they would be advised of the remedy.

Bob Doris: I am trying to get at whether people would seek advertising budgets across Scotland to promote the consumer rights under the bill. Would the advice sector seek funding to build capacity in its sector for taking people through the process?

Mike Dailly: The answer is no.

Bob Doris: To both points?

Mike Dailly: The answer is no because all that has been described is happening right now. All the misery from people trying to sort out disputes with factors happens now. People go to law centres, CABx, local agencies—

Patricia Ferguson: Or MSPs.

Mike Dailly: Or MSPs. People say, "Look, I'm trying to get some resolution here."

I am enthusiastic about the bill. If it were passed, I think that people would sing out loud that at last we have a remedy that ordinary people can use. People would not have to instruct a lawyer or be intimidated by the courts, as happens at the moment. If a person goes up against a factor in a sheriff court, they might be lucky to have legal aid,

but that involves complications, too. People can be hammered for court expenses. The system in the bill is simple and inquisitorial, not adversarial. I genuinely believe that people would use the system.

Bob Doris: Finally, on demand, which feeds into costs as well, I have no doubt that Patricia Ferguson is inundated with work every time there is publicity about the bill. She is the person to whom people throughout Scotland go to find out more about the bill. There would be an influx of inquiries. As a back-bench MSP for the Glasgow region, I am not short of cases involving factoring disputes; indeed, I receive them on a weekly basis. Have you estimated the demand on the home owner housing panel in year 1? I suspect that it would be substantial.

Patricia Ferguson: The point is that the registration scheme would obviate the necessity for many people to take matters to the second stage. I hope that it would have that effect. That is why I spoke at the beginning about there being a preventive element to the bill. At this point, it is impossible to pin down the number of people who would go to the second stage having exhausted the first stage, but I suspect that there would be a flurry in the first year or so and that things would die down to a level that could be planned for year on year. In particular, if factors found that they were coming up against the panel and adjudications were being made against them, they would get their house in order if that were not already the case. Therefore, the proposals would help to weed out many problems in the longer term. That was part of the plan in laying out the bill in the way in which it is laid out.

Mike Dailly: If a lot of that work is taken out of the sheriff courts, for example, the wheels of the rest of the judicial system will be oiled. It is not a bad thing to think about that.

Bob Doris: I do not want to detract from the focus of the bill, but I want to get my head around something. I will not ask how many staff there would be, where they would be located and whether they would move around the country. However, have you thought about piloting the home owner housing panel in one area of the country first, to see how matters progress and to determine the budgetary constraints around it, before expanding its coverage?

Mike Dailly: I am getting visions of long grass.

Bob Doris: Not at all. That is a genuine question.

The Convener: Visions of certain parts of Glasgow.

Bob Doris: I might have suggested Glasgow as an ideal place for a pilot.

Mike Dailly: Obviously, there are examples from the past of ministers and the Parliament deciding that it was a good idea to test something out. I respect that approach, but we have overwhelming evidence. According to last year's OFT market study, a third of the customer base is not happy, and two thirds of people who complain remain unhappy. I cannot think of any other sector in which people are so unhappy.

I do not think that we necessarily have to go down the road of piloting, because we have already had the private rented housing panel, and that has had success. It has not cost a fortune; rather, its cost has been reasonable. People in Scotland are suffering huge consumer detriment. I have talked about people who have been made bankrupt. Members might want to think about a health warning for some factors; they might want to think about saying, "Watch out. You could lose your home with this factor." People can lose their homes with factors—admittedly, a minority of factors. The issue is so serious that people need a solution from their Parliament.

David McLetchie: You may have heard the enunciation of the Neil doctrine last week; that regulated people should not pay fees to their regulators. That was in the context of the Scottish Housing Regulator. I think that there was a degree of backtracking on that doctrine by the time we got to property factoring.

I want to clarify your intentions. Do you take the view that the overall objective of the registration fee level, however it should be scaled with reference to the size of factors, should be to have full cost recovery so that the registration scheme can be effectively self-financing? Is that your basic proposition?

Mike Dailly: In the case of financial services in the UK, for example, the Financial Services Authority is funded by the financial services industry. The proposition that businesses should fund the regulator is good.

The difficulty with property factors is that we need to take cognisance of the fact that housing associations and councils are public bodies, so there is an issue around whether we expect them to pay for a regulator as well. However, as a proposition, that kind of full cost recovery is a sound principle.

David McLetchie: I can see an argument that there should not be a registration scheme for a housing association that is managing the stock of which it is the landlord, but a number of housing associations work through subsidiaries—my son works for one of them—so they are effectively actively engaged in the market and looking to turn their skills in factoring and property management to managing and factoring properties other than

those which they own. In that situation, it would seem to be equitable for housing associations to be registered, to level the playing field for everyone else in the market.

Mike Dailly: You make a fair proposition. At Govan Law Centre, we are solicitors working for a charity and we have to pay the same levy to the Law Society of Scotland and the Scottish Legal Complaints Commission as other lawyers. I suppose we are a social enterprise and running a business. Your point is good: if RSLs are running a business, the cost of paying for the registration scheme is part of the cost of that business, and it could be factored in.

The overall figures that we are talking about for registration are reasonably modest. If we consider the number of property factors and the number of housing associations and councils, the more people contribute to the scheme, the more sustainable and viable it will be.

David McLetchie: Thank you for that.

The bill would give ministers the power to deregister property factors. What is the process leading to deregistration? How is any hearing or adjudication on deregistration, which is a significant sanction, to be conducted before the minister makes up their mind? Are we satisfied that that process is relatively fireproof, or will people be rushing off to the Court of Session to seek judicial reviews of ministerial decisions to strike them off registers?

12:30

Mike Dailly: I believe that the proposed process is robust. It is in section 8, which says

"Scottish Ministers may remove a property factor".

It is important to remember that the power is discretionary. As I am sure the committee has heard, it is anticipated that deregistration would be a last resort.

If the Scottish ministers believed that a property factor was no longer a "fit and proper person" or since registration had

"failed to demonstrate reasonable compliance with—

(i) the code of conduct"

or had, for example, ignored an order of the homeowner housing committee, the minister would be empowered to removed that property factor from the register.

There is an in-built piece of protection, in section 8(4), which covers the human rights points related to article 8 and article 1 of the first protocol of schedule 1 to the Human Rights Act 1998. Section 8(4) states:

"Before removing a property factor ... the Scottish Ministers must—

(a) give notice to the responsible person"

in that property factor unit that that

"is under consideration",

so that they know that their jaicket is on a shoogly nail. The property factor then has an opportunity to make representations. It is therefore almost a belt-and-braces approach. Even when a factor has failed to operate as a fit and proper person, there is still that last opportunity to say, "We have now put in place solutions." I think that the ethos of the bill is not to look to deregister any business; it is saying, "You will get all the opportunities that are fair and reasonable to try to get you to comply with what we"—if the Scottish Parliament passes the bill—"think is fair and reasonable."

David McLetchie: But that mechanism does not seem to me to involve, shall we say, a very strong interrogation and assessment of the claims and counter-claims that may be being made about the suitability or performance of the factor. I presume that a minister would not make this kind of provisional decision unless various complaints have flooded into his office from a number of tenants. Is it really satisfactory to say, "Well, the answer to that is that the minister makes up his mind on the basis of the complaints,"—which are not tested—"sends a notice out to the factor and says, 'Let me know what you think of this'" and someone can effectively have their business ended on that basis?

Mike Dailly: To be fair, there is also provision in the bill for the homeowner housing committee to recommend that deregistration be considered and there is scope in section 8(4) for the factor to make oral representations. There is provision to ensure that deregistration is not something that would be done on a nod. You would have to have pretty solid evidence that there had been not only one failure to comply, because obviously mistakes happen, but, I suspect—remember that there is discretion on the part of the ministers—that operating the system reasonably ministers would look for a course of conduct in a number of examples. Even then, they would say, "Look, please get your act together." If that did not happen, there would then be a body of evidence. That is how we see the system working.

Patricia Ferguson: Deregistration would require sustained failure across the organisation; it would not happen as a result of one individual being concerned or complaining.

John Wilson: As I understand it, there are major differences between what is happening currently with property factors in tenemental blocks and flats and what we are now picking up and picked up in evidence from Greenbelt Group

Action in relation to residential areas where there are burdens.

I am interested in Mr Dailly's comment about not going into the issue of title deeds and burdens that are placed upon residents. What I picked up in discussions with various individuals after the evidence session with Greenbelt Group Action is that the burdens that may be applied to some residents in residential estates are increasing as time goes on. Their obligations under the title deeds and burdens are not being fully explained to them, particularly—in the examples that we have been given—in relation to woodland areas and sustainable urban drainage systems. We usually talk about general land maintenance, but when we are talking about SUDS and, potentially, roads responsibility landing on those residents, the cost could be great. I think Mr Dailly said that someone was being taken to court for recovery of £300; in some residential areas, we could be talking about costs of almost thousands of pounds. Has any consideration been given to the way some property developers are using the title deeds and burdens to offload some of their responsibilities for roads, SUDS, woodland areas and the like to individual residents?

Mike Dailly: You have raised a big issue. In some respects, the difficulty is that when someone buys a house they often focus on clinching the deal and getting the property; they do not necessarily look at all the detail and the issues that you talked about.

If the committee thinks that conveyancing solicitors need to do more to draw purchasers' attention to such issues, I am sure that you could make a recommendation to the Law Society of Scotland, which can produce practice notes and make recommendations on such issues.

I am not sure that the matter comes within the remit of the bill. However, land management companies are included in the definition of "property factor" under section 2(1)(c), so there is no doubt that such companies would be covered by the bill. I heard the evidence from Greenbelt Group, which seemed to suggest that it would not necessarily be covered by the bill. I accept that there are particular complications in that regard, but nevertheless I suggest that the company absolutely would come within the ambit of the bill.

Patricia Ferguson: Perhaps I can help John Wilson. Currently, if a factor is in place for a property, the home report is required to say so, which is helpful. However, I am not convinced that enough information is provided about the extent of the factor's responsibility or the costs that the home owner must take on.

I understand from what the Minister for Housing and Communities told the committee last week that a review of home reports is going on. I have written to the minister to suggest that the area be considered as part of the review, to ensure that home reports contain the broadest possible explanation of home owners' rights and responsibilities in such situations. People currently take on responsibilities without understanding the full ramifications of doing so.

John Wilson: In my area, residents bought on to an estate where a land management company was operating at the behest of the developer—as we heard from Greenbelt Group, land management companies take ownership of the land from the developer and leave the residents to pay for the maintenance of the land. There is another debate to be had about who owns the land and who is responsible for maintaining it, because that responsibility can be transferred to residents.

In the estate in my area, the maintenance company is refusing to carry out work, because the residents are refusing to pay the factoring fees that have been charged. It has also emerged that because of the age of the estate the road that leads into and around it has not been adopted by the local authority. Because the property developer no longer exists, residents could be liable. That brings us back to Patricia Ferguson's point about what home reports say about residents' liabilities. In an estate in which no land management company operates, the roads have not been adopted and the SUDS system has not been adopted by Scottish Water or anyone else, people might be walking into enormous liabilities.

Home reports will give details of the condition of the house and say that there is a property factor, but the home owner's liabilities might not be given in full. That might lead to problems for residents. For example, the residents who are represented by Greenbelt Group Action were hit with charges that they did not expect.

Patricia Ferguson: You are absolutely right. I wonder whether there is a more fundamental problem, which needs to be considered from a planning point of view. What are the relative responsibilities of developers in providing information to councils? What responsibilities do councils have in relation to on-going maintenance?

When we drafted the bill, we were conscious that there are big issues with people who live in homes that are affected by problems to do with woodland, SUDS or roads, and we thought that it would be iniquitous if the bill did not make any reference to them and provide at least some form of redress.

We accept that the bill cannot solve the underlying problem, but it at least allows people

the same transparency, openness and level of information about their bills, and the same opportunity to make a complaint and seek redress if there is a problem.

Alasdair Morgan: The financial memorandum says that the cost is unlikely to exceed the current budget for the housing panel. Does that mean the same amount again, rather than the amount in the existing budget? It can be read as both.

Patricia Ferguson: It is roughly the same amount again.

Alasdair Morgan: How many cases do you think will arise in the first year, given what you have said about the number of people who contact you? I know that it will perhaps be front loaded, but have you any idea at all?

Mike Dailly: The private rented housing panel dealt with fewer than 100 cases per annum in its first one or two years of operation. We would expect to get more cases than that, if we consider the number of people in Scotland who might avail themselves of the legislation.

Alasdair Morgan: You told us that Govan sheriff court is always full of property factors; it sounds as though there is a lot of activity.

Mike Dailly: It is Glasgow sheriff court.

Alasdair Morgan: Of course; I am going back a bit.

Mike Dailly: You are going back to about 1912—feelings are strong in Govan.

You are right: the courts throughout Scotland are very busy with property factors. It is so inefficient. Take eviction cases, for example. Whenever a tenant is evicted for a few hundred pounds of rent arrears, the court expenses will be added on. We do not want that to happen to people who are in financial difficulties. It would be helpful to have a solution to avoid that.

In all honesty we cannot predict the precise number—it is difficult for obvious reasons—but we certainly expect it to be greater than 100 per annum: possibly 200, if not more.

Patricia Ferguson: We hope that if the rest of the bill is enforced—including the elements that are there to protect people and to prevent them from ever having to make a formal complaint to an external body—and if the standard of service provided by property managers improves over time, the number of people who have a complaint will gradually reduce.

We hope that that would happen, but we cannot predict how it would work in practice.

Alasdair Morgan: I understand that.

The second element under part 2, which would, I think, involve a cost on the Scottish Administration to some extent and for which you have not supplied any details, concerns the property factor enforcement orders, which would presumably lead to costs in running the law courts. Do you expect those orders to be used a lot?

Mike Dailly: Herein lies the beauty of the interaction between parts 1 and 2. As Patricia Ferguson said, we hope that a case would be settled before it came before the committee, as often happens at present with the private rented housing committee.

The beauty is that if a case went through and a homeowner housing committee made a property factor enforcement order that was subsequently not enforced, the bill provides for sanctions in relation to ultimately failing to comply with the order and for the committee to pass back that information under part 1, to ascertain whether someone is a fit and proper person to be a factor.

What I am driving at here is that there is a compulsion: if someone wants to be a fit and proper person, they must comply with the decisions of the homeowner housing committee.

12:45

Alasdair Morgan: Given the litigious nature of some property factors—although you said that some of them are willing to go to court but not necessarily to proceed with the case—I wonder how many enforcement order procedures there might be. At that stage, the registrar would have to hang back, as the matter would be sub judice because an enforcement order was going through the court. How many enforcement order procedures might there be?

Mike Dailly: I do not envisage the enforcement order under part 2 necessarily resulting in more cost. Section 23 states:

> "A person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence."

It would be a criminal offence, so there are teeth. There are also teeth in the provision that information would be fed back to the Scottish ministers. That would build up information on a series of failures, which Patricia Ferguson talked about. Ultimately, there is provision in the bill for a property factor to appeal to the sheriff court, but that is restricted. The appeal can be only on a point of law, so there cannot be a rehearing of the facts of the case—it can be on only a fairly narrow point. The appeal must be made within 14 days of the decision being made. That is a fair and proportionate system.

Alasdair Morgan: I am concerned that costs might arise through the offence procedure, if an enforcement order is not complied with, or through appeals on a point of law. With due respect, that is why we have lawyers—so that they can make points of law where others might not see them.

Mike Dailly: You are right that there is scope for cost, but how many property factors will want to go down that road and end up being in that position? I suggest that not many would, and that the ones that ended up going down that road probably should not be property factors in the first place.

Alasdair Morgan: My final point relates back to part 1. You have alluded to the points that we have heard in evidence about the potential difficulties in the deregistration procedure in relation to consequences for tenants who find themselves without a factor because the factor has been deregistered. Obviously, there are particular difficulties with the land ownership model, but the problem would apply to all cases. You said that it was a last last resort, which I accept, but I wonder whether the complexities and difficulties of deregistration would make it a never-ever resort for the minister. That might take some of the sting out of the provision, because the rogue factors would say, "They're not going to deregister us because it's too complex." Those factors could spin things out, which they are clearly very good at doing.

Mike Dailly: Let us think about how that last last resort could work in practice. If one particular factor was deregistered, a process would have been gone through over a number of months. Issues that might seem to be fairly complicated, such as what happens to buildings insurance, might not be. Generally, when factors take out insurance, they do so on behalf of the owners in a property. Remember we are talking mostly about tenements, with units of four or six in a block. There is no reason why the owners cannot decide to self-factor or to appoint another factor. There would be a register of factors in Scotland, which would be helpful, because one big problem is that people do not know who the good factors are. Currently, it is a word of mouth and trial and error process whereas, under the bill, owners could decide using the list of factors.

My understanding of Greenbelt Group's evidence is that it has said, "You can't get rid of us very easily." Under the bill, if a land management company that owned land was deregistered, that company would have to appoint a third party to run the property factor services. I am not entirely sure that the problems that some folk have said are really complicated would be insurmountable in practice.

Alasdair Morgan: I do not want to spin this out, but you seem to have great faith in the legal system and in all the processes happening. My experience is that such things take for ever. You say that the company would have to appoint somebody. Legally, maybe it would have to do that, but how long would it take for the company to get round to it? For example, the company might have to appoint somebody else because it had an obligation to maintain an urban drainage system. Perhaps, when the matter was investigated, it would not be so clear that the company had that obligation, even though it certainly owned the land. That could become like Jarndyce and Jarndyce while, in the meantime, the amenities in the estate basically went all to hell.

Patricia Ferguson: We would be reluctant to have a gap in service to the home owner. We have deliberately worded parts of the bill, particularly section 8, to reflect that. For example, if a minister is considering deregistration, he must advise those who use the factor that that is the case. A period of notice is given so that alternative arrangements can be considered. It is possible to insert something in the bill so that a further period of notice should be given, after which the factor would cease to be the factor. That would allow the owner-occupiers to get together and decide who to appoint instead.

As Mike Dailly says, it would not be impossible to deregister a factor. It would not be easy, but the alternative would be for people to remain with a factor that might have been getting away with behaving appallingly for a number of years. In those situations, the provision will concentrate minds amazingly. People who were not keen to get rid of the factor because of the inconvenience to them would think, "Well, I have to go along to one meeting to choose a new factor" and it is likely that they would do that. My guess is that only one deregistration would need to happen for it never to happen again for 10 years.

Mike Dailly: Patricia Ferguson suggested how we could improve the bill to deal with Alasdair Morgan's point. That could come after section 8(4), which deals with the part when the Scottish ministers are considering whether somebody might be deregistered. As I said, that is when the factor has a chance to make representations to ministers. After section 8(4), we could have a provision that the Scottish ministers may give public notice of the removal, to let home owners know that their factor might be deregistered. It is a good point that nothing should be sprung on them.

Section 8(1) gives the Scottish ministers the power to set the date when the factor is removed from the register. So if ministers decided that somebody had to be deregistered, they could set the date for that to happen prospectively, which would give people notice and give them time to

make other arrangements. Mr Morgan makes a fair and practical point.

The Convener: As there are no other questions, I thank the witnesses for attending and for their evidence, which I am sure will be useful to the committee in its deliberations.

12:53

Meeting continued in private until 12:57.

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

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00
Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

Public Information Service
The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000
Fòn: 0131 348 5395 (Gàidhlig)
Textphone users may contact us on **0800 092 7100**.
We also welcome calls using the Text Relay service.
Fax: 0131 348 5601
E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders, subscriptions and standing orders
business.edinburgh@blackwell.co.uk

Blackwell's Bookshop

53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

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

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

Accredited Agents
(see Yellow Pages)

and through other good booksellers

e-format first available
ISBN 978-1-4061-6777-1

Revised e-format available
ISBN 978-0-85758-125-9

Revised e-format ISBN 978-0-85758-125-9