



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 6 October 2010

Session 3

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Scottish Parliament

Wednesday 6 October 2010

[The Presiding Officer *opened the meeting at 14:00*]

Time for Reflection

The Presiding Officer (Alex Fergusson):

Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is May Nicholson of the Preshal Trust.

May Nicholson (Preshal Trust): Hello. It is lovely to be here with all of you today.

I was born and brought up in a famous place: Ferguslie Park in Paisley. People used to say about the street where I was born, “If you want to stay alive, stay away fae Logan Drive.” However, I would not change my upbringing for anything. We were a really poor community. We did not have anything materially but, boy, we had a great community spirit. Neighbours were good neighbours. The Bible speaks about being a good neighbour, and that is what it was like. If one person in our community was ill, all the rest would rally around. Today we have lost that unity in our community. We do not know or help our neighbours.

At the age of 15, I was an alcoholic. One night I went out and drank so much while popping tablets that I took an overdose. I lay in a coma for a week. When I came out of it, I was put in a mental hospital. At 15 years of age, I was wired into the wall and given what is known as electric shock treatment. That was the most frightening experience that a wee lassie of 15 could go through. When I had the shock treatment, I was not knocked out; it was given to me while I was wide awake.

I spent 11 months in the mental hospital, but the first thing that I did when I got out was go for another drink—that was the grip that drink had on me. However, 28 years ago, a wonderful thing happened. As you know, the life of a drunk involves shoplifting, lying in prisons—you name it. However, 28 years ago, I found a faith in the Lord Jesus Christ. The Bible says:

“when the Son sets you free you are free indeed”.

On that day, Jesus set me free from drink and all that goes with it. From that day, I have worked to help people like me.

A friend and I founded Preshal Trust in Govan and Linthouse. When I started the trust, I brought a kettle and a toaster from the house to a wee church hall; today we have bought our building.

We work with alcoholics, with drug addicts, with people with mental health issues, with people who are socially lonely, with the gangs in the park, in Cornton Vale prison and in Shotts prison. We started the trust seven years ago with nothing; today I employ 17 workers. We work with all problems, but I am told that I work even with normal people. If you meet one, introduce me, because I have never in my life met a normal person.

We offer different courses, arts and crafts, a fishing club for the men and pool. We do loads of work on literacy and numeracy. I will tell you a wee story. Mary came along to our project. When she was six, her mother put her in a home. At 11, she ran away to find her mother, who told her that she would come back for her but never did. When Mary ran away, she asked a man where the Gallowgate was. He took her up a close, and you know what happened. When Mary turned up at our line-dancing class, we found out that she could not read and write. She got on to one of our literacy and numeracy courses, and we taught her to read. About four years ago, she gave her life to the Lord. She had been in prison and, like me, she had been an alcoholic. Her life was totally turned around, and she has never gone back to her previous way of life.

Our president is the Duchess of Montrose. She comes into our project, she gets her sleeves rolled up and she knows everyone by name.

If it was not for having a personal relationship with the Lord Jesus—he is the only one who can change lives; no one else can.

If any of you wants to read my biography, “Miracles from Mayhem”—I have done two books, and Sir Alex Ferguson has done a bit in them—you should get in touch with the Preshal Trust, and you can read the whole story. I’m shaking from my toes right up to my head here.

Business Motions

14:06

The Presiding Officer (Alex Fergusson): Our next item of business is consideration of business motion S3M-7156, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revised business programme for today.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Wednesday 6 October 2010—

delete

5.00 pm Decision Time

followed by Members' Business

and insert

6.00 pm Decision Time

followed by Members' Business—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item is consideration of business motion S3M-7149, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Legal Services (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Legal Services (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the Stage being called) or otherwise not in progress:

Groups 1 to 3: 20 minutes

Groups 4 to 7: 55 minutes

Groups 8 to 10: 1 hour 35 minutes

Groups 11 to 14: 2 hours

Groups 15 to 17: 2 hours 20 minutes

Groups 18 to 22: 2 hours 55 minutes.—[Bruce Crawford.]

Motion agreed to.

Legal Services (Scotland) (Bill): Stage 3

14:07

The Presiding Officer (Alex Fergusson): We come now to stage 3 proceedings on the Legal Services (Scotland) Bill. Members should have the bill as amended at stage 2, the revised marshalled list and the groupings, which I have agreed as Presiding Officer. The division bell will sound and proceedings will be suspended for five minutes before the first division. The period of voting for that first division will be 30 seconds. Thereafter, we will allow a voting period of one minute for the first division after a debate, and 30 seconds for all other divisions.

Section 1—Regulatory objectives

The Presiding Officer: We come now to consideration of amendments, starting with group 1, on regulatory objectives, et cetera. Amendment 1, in the name of the Minister for Community Safety, is grouped with amendments 2 to 6.

The Minister for Community Safety (Fergus Ewing): I can say without fear of contradiction that this will be a very long afternoon. I am grateful, however, to my colleagues in various parties with whom discussions have taken place, especially over the past fortnight, which I hope will help to smooth proceedings to some extent this afternoon. For that I thank them all.

Amendments 1 to 4 are drafting amendments that adjust some ordering in the lists of regulatory objectives and professional principles in sections 1 and 2 in order to keep things that were added at stage 2 within the structure of those sections, but without changing their effect.

Amendments 5 and 6 ensure that the requirements that are placed on the Scottish ministers to act in a way that is compatible with the regulatory objectives and to consult in relation to their functions under part 4 do not extend to their functions under sections 96(c) and 98A(1). Those functions are not of the same regulatory character as the Scottish ministers' other functions in the rest of part 4, as they relate, respectively, to receiving information from the Scottish Legal Aid Board and to making orders under the Legal Profession and Legal Aid (Scotland) Act 2007. It would not be appropriate to require the Scottish ministers to be bound by the regulatory objectives or to consult in relation to those functions.

I move amendment 1.

Bill Aitken (Glasgow) (Con): I concur with the minister. It will be a lengthy afternoon, but matters have been facilitated and truncated to some extent

by the discussions that have taken place, which is to everyone's benefit.

The amendments in group 1 are straightforward. It is important that "the interests of justice" are set out as the primary aim.

One might have thought that amendments 3 and 4 were unnecessary, given that I think that all members would expect any solicitor or legal practitioner to treat their clients' business as confidential. That should be regarded as a principal requirement. However, it does no harm to stipulate it in the bill.

Amendments 5 and 6 demonstrate the Government's view that amendments to the Legal Aid (Scotland) Act 1986 in section 96 and to the Legal Profession and Legal Aid (Scotland) Act 2007 in section 98 do not sit comfortably with the regulatory requirements that are outlined in sections 4 and 4A. After consideration, I concur that there is merit in that view. The Government is correct to amend the bill in that regard.

Fergus Ewing: We thought carefully about whether it was necessary to make explicit in the bill a duty of confidentiality. Members such as Mr Brown and me, who were practising solicitors in a former life, have the duty of confidentiality to clients ingrained in our DNA, so at first sight it appeared that the duty was so basic that it did not require to be explicitly incorporated into legislation.

However, there is the obvious fact that the bill sets out and makes explicit the other duties, principles and objectives. Therefore, it occurred to us that to omit the duty of confidentiality might be regarded by some people as a failure to make clear that there is such a duty. That is why we lodged amendments 3 and 4. I am grateful that they appear to enjoy support in the Parliament.

The Presiding Officer: We move to the question. I remind members that if they do not agree to an amendment they should make it very obvious that that is the case.

Amendment 1 agreed to.

Amendment 2 moved—[Fergus Ewing]—and agreed to.

Section 2—Professional principles

Amendments 3 and 4 moved—[Fergus Ewing]—and agreed to.

Section 4—Ministerial oversight

Amendment 5 moved—[Fergus Ewing]—and agreed to.

Section 4A—Consultation by Ministers

Amendment 6 moved—[Fergus Ewing]—and agreed to.

Section 5—Approved regulators

The Presiding Officer: Group 2 is on limit on the number of approved regulators. Amendment 121, in the name of Richard Baker, is grouped with amendment 152.

Richard Baker (North East Scotland) (Lab): Regulation has been at the heart of the debate on the bill. We have considered how to ensure that there is a robust regulatory regime in order to enable the new alternative business structures to work effectively and to ensure that they are properly regulated. The need for robust regulation is clear if we are to ensure that the provisions on access to legal services and fit and proper persons in relation to investors work.

Ministers did not support the idea of a legal services board such as has been established in England and Wales to oversee regulation, but suggested that it will be sufficient for there to be a small number of regulators. Indeed, they said that they expect only the Law Society of Scotland and the Institute of Chartered Accountants of Scotland to apply.

On that basis, I hope that amendments 121 and 152 will not cause difficulty for the minister. It is important to allay concern that the bill could allow for a multiplicity of regulators. If it transpired that a significantly larger number of regulators than two or three were to be appointed, there would be legitimate concerns about consistency and uniformity of regulation in all parts of the legal services industry. Some regulators might be less stringent than others, and the context would be one in which only limited funds were available to support regulation.

To address the matter, I suggest that we limit the number of regulators to no more than three. However, I understand that the new approach to the legal services industry will develop all the time, so I have sought to give the Scottish ministers the ability to approve additional regulators by statutory instrument, should there be a good argument for their doing so. The approach would give the Parliament the ability to take a view on whether it would be appropriate to appoint a larger number of regulators. That is a more robust approach to developing the regulatory framework than an approach that simply works on the assumption that only two bodies will apply. On that basis, I hope that the minister and members will support amendments 121 and 152.

I move amendment 121.

14:15

Bill Aitken: I concede that Richard Baker's argument contains a degree of logic, but we are to some extent talking in a vacuum, in that the number of potential regulators is very restricted. I cannot imagine that there would be more than two: the Law Society of Scotland and the Institute of Chartered Accountants of Scotland. We will not see potential regulators queuing outside St Andrews house to lodge applications if the bill is passed at decision time. Even if that were to happen, I do not think that the Scottish ministers would appoint an unnecessary number of regulators. I question the necessity of amendment 121, and, consistent with lines that I have taken in the past, I do not believe that we should have unnecessary things in legislation.

Robert Brown (Glasgow) (LD): I agree with Bill Aitken. Amendment 121 is interesting, but it does not fulfil a purpose. I am not a fan of the principle of regulatory competition, which in a small jurisdiction such as Scotland is a bit of a nonsense. Legal firms and firms that provide legal services should be regulated by the Law Society of Scotland. That is not the framework that the bill sets out, but it is difficult to conceive—as Bill Aitken rightly says—of anyone else materialising as a regulator; ICAS is perhaps the only possibility.

The one body that I would not want to be allowed in is the Solicitors Regulation Authority in England and Wales. That is not for nationalist or protectionist reasons, but because it could sound the death knell of the independent profession in Scotland. I understand that the authority is not statutorily empowered to be a Scottish regulator as such, but I hope that the minister can assure us in his reply that any necessary steps have been or would be taken to prevent that situation from arising.

There is neither magic nor logic in restricting the number of regulators to three, as Richard Baker's amendment seeks to do, particularly if that can easily be changed under the second part of the amendment. I oppose amendment 121.

Fergus Ewing: Sections 5 to 35, in part 2 of the bill, deal with the provisions on approved regulators, as part of a peculiarly Scottish approach to the issue. As Robert Brown mentioned, a different approach has been taken south of the border, which involved setting up a body that requires staff and premises and is costly to run; the costs extend to several million pounds.

The system that the Government has set out in the bill avoids that expense: the expense detailed in the financial memorandum, to which I will come in a moment, is relatively modest in comparison. We will not go down the route that has been taken

south of the border, although, to take up Mr Brown's language, to characterise that body coming in as sounding a "death knell" is unduly cataclysmic and not in keeping with the usual moderation that we expect from the Liberal Democrat approach to politics.

Turning to the text of amendment 121, one reason for opposing it is that there should be no impediment to appropriate "professional or other" bodies, to which section 5(1) refers, seeking to be regulators. Nonetheless, having reached this stage, it does not seem that there will be a long queue waiting outside St Andrews house, Drumsheugh Gardens or anywhere else to take on the role. It is difficult to see how there could be any regulatory competition, because it is hard to see how any financial gain could be made; that is a new Liberal Democrat oxymoron that has been brought into the debate today.

I therefore see no reason to oppose Richard Baker's amendment, because it provides for no more than three regulators and we do not expect at present that there will be more than three, although if there are that can be dealt with under the second part of amendment 121.

For that reason, in the interests of following a consensual approach whenever possible in relation to the bill, and in light of the arguments that Mr Baker put to me in private in a series of meetings—

Members: Oh!

Fergus Ewing: With his colleagues, I hasten to say. For those reasons, we are happy to support the amendment.

The Presiding Officer: I call Mr Baker to wind up. I can give you only one minute, I am afraid.

Richard Baker: I will not need it, Presiding Officer.

Suffice it to say that I welcome the minister's support for amendment 121. It will allay any potential concerns about the regulatory framework. I acknowledge the points that Bill Aitken and Robert Brown made, but I think that they are working on the basis of supposition. Amendment 121 gives certainty, and I am pleased with the minister's comment that we can proceed on that basis.

The Presiding Officer: The question is, that amendment 121 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. As it is the first division of the afternoon, there will be a five-minute suspension.

14:20

Meeting suspended.

14:27

On resuming—

The Presiding Officer: Now that everyone is in the chamber, I remind all members that when we come to any vote, it is up to members to let the Presiding Officer know when they do not agree with the question that has been put. The question was that amendment 121 be agreed to. It was not agreed to, so there will be a division. Please vote now.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Hume, Jim (South of Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Presiding Officer: The result of the division is: For 89, Against 29, Abstentions 0.

Amendment 121 agreed to.

Section 6—Approval of regulators

The Presiding Officer: Group 3 is on approval and conditions etc. I must exercise my power under rule 9.8.4A to extend the first time limit to allow those who have a right to speak to do so. In this instance, I am afraid that that applies only to the minister.

Amendment 7, in the name of the minister, is grouped with amendments 8 to 20 and 76 to 79.

Fergus Ewing: Following various amendments at stage 2, section 6, which provides for the approval of regulators, was left in a slightly confusing and inconsistently drafted state. Amendments 7 and 9 to 18 seek to improve the drafting and to ensure internal consistency in the section without overturning the effect of Opposition changes that were made at stage 2.

Amendment 8 seeks to ensure that potential approved regulators have an understanding of the application of the regulatory objectives and professional principles, rather than just an understanding of the objectives and principles. Amendment 19 is a drafting amendment.

Amendment 20 seeks to correct an omission at stage 2, whereby the bill does not provide for the restrictions relating to the categories of licensed provider or legal services to be varied.

Amendments 76 and 78 seek to remove the requirement for the Lord President's consent to be given in relation to the certification of applicants as approving bodies of confirmation agents, and to the addition or variation of conditions that are attached during that process. I resisted the amendments at stage 2, and noted that Robert Brown was, in his words, slightly less than convinced that the area requires the Lord President's involvement. Although I am not seeking to reverse the similar requirements that have been inserted into part 2, I maintain that the Lord President's having such a role in relation to confirmation agents is unnecessary. Furthermore, the Lord President has indicated that he has no strong views in relation to his role under part 3, as opposed to part 2. The Lord President noted that there is no requirement for his consent in respect of the regulation of non-lawyer will writers, so removing the requirement for confirmation agents is consistent with those provisions.

Amendments 77 and 79 are drafting amendments.

I move amendment 7.

14:30

The Presiding Officer: As I explained, there is no time to allow other members to speak.

Amendment 7 agreed to.

The Presiding Officer: Does any member object to the minister moving amendments 8 to 20 en bloc?

Robert Brown: I object to amendment 8 being moved with the others.

Amendment 8 moved—[Fergus Ewing].

The Presiding Officer: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley)

(Lab)

Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross)

(LD)

Tolson, Jim (Dunfermline West) (LD)

The Presiding Officer: The result of the division is: For 102, Against 15, Abstentions 0.

Amendment 8 agreed to.

Amendments 9 to 16 moved—[Fergus Ewing]—and agreed to.

After section 6

Amendments 17 and 18 moved—[Fergus Ewing]—and agreed to.

Section 7—Authorisation to act

Amendments 19 and 20 moved—[Fergus Ewing]—and agreed to.

Section 8—Regulatory schemes

The Presiding Officer: Group 4 is on compensation arrangements. Amendment 21, in the name of the minister, is grouped with amendments 25, 27, 27A, 27B, 28, 28A, 29, 86, 135, 88, 136 and 89. I draw members' attention to the pre-emption information that is given on the groupings.

Fergus Ewing: Amendments 21, 25, 27, 28 and 29 relate to compensation arrangements for licensed legal services providers. At stage 2, there was broad agreement that clients of licensed providers should be given the same protection against fraud as the Scottish solicitors guarantee fund gives to clients of traditional law firms, and that that is one of the most crucial issues to resolve if alternative business structures are to be successful. However, following stage 2, the bill did not fully provide for a compensation fund for licensed providers because of the defeat of certain Government amendments following concerns that were expressed by the Law Society of Scotland about the use of the guarantee fund by licensed providers that it did not regulate.

I committed to discussing the matter with the Law Society during the summer and I am glad to be able to report that those discussions were extremely constructive. The Law Society of Scotland is now content for the guarantee fund to be used by other approved regulators as long as it has an oversight role and can inspect licensed providers in certain circumstances.

The Institute of Chartered Accountants of Scotland is the only other body that has thus far expressed an interest in becoming an approved regulator, and it is also content for the Law Society to have the role.

I have therefore lodged amendments 21, 25, 27, 28 and 29, which will require approved regulators either to establish their own compensation fund or

to use the guarantee fund. I have also lodged amendments to give the Law Society a monitoring and inspection role in relation to the guarantee fund, which will be discussed in a later group of amendments.

My amendments requiring approved regulators to choose the guarantee fund or to set up their own compensation fund apply equally to all approved regulators. However, Robert Brown's amendment 27A would exclude the Law Society from the provisions and makes specific provision for it that includes denying it the option of establishing an alternative compensation fund. I do not fully understand the rationale behind the amendment and see absolutely no reason for making separate provision for the Law Society when the general provisions are fit for purpose.

Robert Brown's amendment 27B is also unnecessary. In addition, I do not think it appropriate to state in the bill what details must be supplied to the Law Society; instead, I intend to set out any necessary details in regulations that will be made under proposed new subsection (2) of my amendment 29.

Robert Brown's amendment 28A would require the Law Society to make rules requiring its licensed providers to make contributions to the guarantee fund. My amendment 28 already requires that approved regulators that choose to use the guarantee fund make rules requiring their licensed providers to make contributions to it. Amendment 28A would be necessary only if the Law Society were treated differently from all other regulators.

It is vital that the clients of licensed providers have the same protection against dishonesty as the clients of traditional firms. Our provisions are designed to achieve that. Nevertheless, it is important to ensure that those arrangements, which allow a licensed provider to use the guarantee fund, do not extend to the provision of non-legal services, such as accountancy, that are provided by a licensed provider. That would put a disproportionate burden on the guarantee fund and would not be consistent with its purpose. Therefore, amendment 86 ensures that licensed providers are covered by the guarantee fund only in connection with their provision of legal services. Amendment 88 is consequential on that change.

The Presiding Officer: I am afraid that I must hurry you, minister.

Fergus Ewing: Bill Aitken's amendment 135 would extend the list of persons to whom grants cannot be made. I will listen with interest to what Mr Aitken has to say on his amendments 135 and 136. Since my time is short, I will foreshorten the four remaining pages of my speech. I am bound to say, though, that there are difficulties of a

technical nature regarding the amendments that would, I fear, cause problems.

I move amendment 21.

Robert Brown: As has been said, section 8 relates to the compensation arrangements and the Law Society's guarantee fund. In principle, it seemed to me entirely wrong that the Government should require the Law Society to give access to the benefits of a fund that has been built up by the contributions of solicitors, with some millions of pounds in it, to other entities over which the Law Society has no regulatory power. I was surprised that the Law Society did not seem to be prepared to defend against that proposition further.

I do not understand why the minister does not understand amendment 27A. The Law Society already has a guarantee fund arrangement and does not need to set up another one to deal with any new bodies that it might regulate beyond the existing ones. Therefore, the intention is, under the section that amendment 27 would insert, to disapply the other arrangements because neither option A nor option B would be appropriate to the Law Society. Amendment 28A is a consequential amendment.

Amendment 27B covers the other situation, in which an outside regulator opts to access the guarantee fund. It seems entirely reasonable that the Law Society should be notified of that before the entity is licensed, leaving it to make such further inquiries as are reasonable.

I am sympathetic to Bill Aitken's amendments 135 and 136, which seem to narrow matters down sensibly and to provide the cover that the guarantee fund is intended to provide. An obvious and equitable arrangement seems to be being proposed in that regard.

Bill Aitken: The minister is correct in stating that all members are concerned to ensure that, when things go wrong, clients have an opportunity of a recovery. My amendment 135 requires a bit of further explanation and an answer from the minister. It appears that the minister is of the view that amendments 86 and 88 deal with the issue. However, under amendment 135, there would be a greater provision for a grant from the guarantee fund, which may not be made to compensate a licensed provider, or investors who control the licensed provider, for dishonesty by the licensed provider. Clearly, we cannot allow a situation to arise in which people benefit from their own dishonesty. If the minister is able to convince me that his amendments deal with the matter, I will not move amendment 135.

Amendment 136 would insert a provision into section 43 of the Solicitors (Scotland) Act 1980 to ensure that a claim on the guarantee fund can arise only in the event of loss from dishonesty

when the licensed provider is providing legal services. On the face of it, I consider that to be more comprehensive than the Government's amendment 86, but I am open to persuasion in that respect, and will listen to the minister's summing-up speech carefully.

James Kelly (Glasgow Rutherglen) (Lab): I agree with Bill Aitken when he stresses the importance of the guarantee fund, and I recognise the work that the minister and the Law Society have done to improve the bill as it has proceeded to stage 3 by ensuring that the guarantee fund and the compensation fund are in place in relation to wholly owned solicitors and licensed legal services providers. Obviously, the Government amendments seek to effect that.

On Robert Brown's amendments, I am sympathetic to amendment 27A. It is entirely logical that, as the Law Society currently operates the guarantee fund, it would not need to choose between option A and option B. Similarly, on amendment 27B, it is appropriate that the Law Society should be advised by licensed providers about whether they are opting for the guarantee fund or the compensation fund. It has to understand the position if people are applying to access the fund. I am also sympathetic to amendment 28A, which makes it clear that the Law Society must produce rules to clarify how licensed providers would make contributions to the guarantee fund. Clearly, we are entering a new set of circumstances, and the amendments would bring greater clarity.

Bill Aitken's amendments 135 and 136 would provide extensions to cover licensed providers and put in place a formal link to legal services. I am sympathetic to the amendments, but will listen to what the minister says in his summing-up speech.

Fergus Ewing: On Robert Brown's amendments, I point out that the guarantee fund is not the Scottish solicitors guarantee fund—it is a statutory fund. It is perceived to be the solicitors fund, but it was set up by statute for Scotland. Therefore, it would be wrong for the bill to make separate provision for solicitors as a regulator as opposed to any other regulator. There must be a uniform system.

I can assure Bill Aitken that there is no question of anyone benefiting from their own dishonesty by virtue of the provisions of the bill: quite the opposite is the case. The bill contains a robust regulatory regime that will ensure that any such conduct is most stringently dealt with.

My answer to Bill Aitken's advocacy of amendments 135 and 136 is that they are not necessary, because the matters that they deal with are dealt with and fully covered in my amendments. Amendment 86 will limit the use of

the guarantee fund to losses that are suffered by reason of dishonesty on the part of licensed providers. Amendment 136 would essentially have the same effect, but my amendment 86 will insert the provision in the correct place in the bill. In addition to that technical argument, there is a substantive argument, which is that Mr Aitken's amendment 136 refers to those who manage or control a fund having given an "irrevocable undertaking" that, in the event of a grant being made out of the guarantee fund, they will reimburse the Law Society the amount that was paid out. It has not been made clear at all why such an amendment to the Solicitors (Scotland) Act 1980 is thought to be necessary, as no equivalent provision is present in that act in relation to solicitors or incorporated practices. Because of that, I feel that there are ambiguities and uncertainties in the amendment, although I entirely accept Mr Aitken's aims and purposes.

I respectfully invite Mr Brown and Mr Aitken not to move their amendments.

Amendment 21 agreed to.

14:45

The Presiding Officer: Group 5 is on areas where the Lord President's agreement is required. Amendment 22, in the name of the minister, is grouped with the amendments 23, 24, 30, 31, 36, 37, 40 to 42, 122, 58, 60 and 117.

Fergus Ewing: As I mentioned earlier, I do not intend to seek to overturn the stage 2 amendments to the bill that require the Lord President's consent before the Scottish ministers can take various actions under part 2. However, my amendments in group 5 will make slight drafting changes to the provisions. In particular, they will require the Lord President's "agreement" rather than "consent". That is more appropriate wording in the context of the primary role for the Scottish ministers, but it does not change the intended effect. In my view, the provisions are also worth restructuring a little for the sake of readability.

Robert Brown's amendment 122, which is supported by James Kelly, relates to the step-in powers in section 35, which allow the Scottish ministers by regulations to create a body to act as an approved regulator, or to act as one themselves if that is necessary for the continued effective regulation of licensed providers. Before stage 2, the Justice Committee and the Law Society raised concerns about those powers and when they might be used. That was absolutely appropriate. Consequently, I lodged an amendment that provided that such regulations are not to be made unless ministerial intervention is necessary as a last resort. That clarification was

provided in order to respond to the committee's clear invitation and, indeed, to the cross-party arguments on the matter.

As I stated in relation to a similar amendment at stage 2, I question the need for the Scottish ministers to be required to have the Lord President's consent before taking action. Stepping in would be a matter of last resort in accordance with the regulatory principles. The key argument is that it might require to be done very quickly in an emergency situation. We are talking about a last resort. The situation is unlikely to occur, but if it did, it would be an emergency. In an emergency, one needs to act quickly. I therefore have some concerns about amendment 122, but of course I will listen to what Mr Brown has to say.

I move amendment 22.

The Presiding Officer: I call Robert Brown to speak to amendment 122 in a minute and a half, if he can.

Robert Brown: I will be quicker than that.

I am not sure that the minister explained the workings of section 35 correctly. What we are talking about is the making of regulations rather than the stepping-in per se. The process of making regulations would take a certain amount of time in any event, so I am not overly persuaded by that point. When we are dealing, as we are in other sections, with a body that becomes an approved regulator, with what happens in that context, and with the step-in by ministers, it seems to me that, in principle, the arrangements surrounding that ought to be at least partly the responsibility of the Lord President, who should therefore be involved in the decision-making process.

I am not impressed by the point about speed, which arises after the regulations have been made when step-in occurs, rather than at the time of making the regulations.

James Kelly: After consideration at stage 2, the committee felt that it was appropriate for ministers to have step-in powers to create a regulator of last resort in appropriate circumstances. I support Robert Brown's amendment 122, which would give the Lord President a say in that process. On the minister's point about speed and emergencies, we live in a modern technological age, when people are available via mobile phones, e-mail, the internet and so on. We can quickly contact people on the other side of the world, so it is surely not beyond us to get hold of the Lord President when he is only on the other side of Edinburgh.

Fergus Ewing: I listened carefully to what Mr Brown and Mr Kelly said. In the light of their arguments, and given that the bill elsewhere—indeed, throughout part 2—provides a role for the

Lord President and requires him to be approached for his agreement, in the interests of both consensus and verisimilitude, I will accept the course of action that is proposed.

Amendment 22 agreed to.

Section 9—Reconciling different rules

Amendments 23 and 24 moved—[Fergus Ewing]—and agreed to.

Section 14—Practice rules: general

Amendment 25 moved—[Fergus Ewing]—and agreed to.

Section 17—Performance report

The Presiding Officer: Group 6 is on references to licensed legal services providers. Amendment 26, in the name of the minister, is grouped with amendments 32, 43, 44, 47 to 49, 56, 57, 65 and 69.

Fergus Ewing: All the amendments in the group are minor drafting changes that will abbreviate the term “licensed legal services provider” to “licensed provider”.

I move amendment 26.

Amendment 26 agreed to.

After section 19

Amendment 27 moved—[Fergus Ewing].

Amendment 27A moved—[Robert Brown].

The Presiding Officer: The question is, that amendment 27A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)

Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)

Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McGregor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 57, Against 62, Abstentions 0.

Amendment 27A disagreed to.

Amendment 27B moved—[Robert Brown].

The Presiding Officer: The question is, that amendment 27B be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)

Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)

McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 56, Against 62, Abstentions 0.

Amendment 27B disagreed to.

Amendment 27 agreed to.

Amendment 28 moved—[Fergus Ewing].

Amendment 28A moved—[Robert Brown].

The Presiding Officer: The question is, that amendment 28A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)

McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 57, Against 62, Abstentions 0.

Amendment 28A disagreed to.

Amendment 28 agreed to.

Amendment 29 moved—[Fergus Ewing]—and agreed to.

Section 22—More about governance

Amendments 30 and 31 moved—[Fergus Ewing]—and agreed to.

Section 24—Assessment of licensed providers

Amendment 32 moved—[Fergus Ewing]—and agreed to.

After section 25

The Presiding Officer: Group 7 is on the Law Society's inspection role etc. Amendment 33, in the name of the minister, is grouped with amendments 34, 35, 38, 39 and 137.

Fergus Ewing: During stage 2, the Law Society expressed concerns about plans to allow licensed providers that it does not regulate to contribute to and be covered by the guarantee fund. I suggested that giving limited monitoring and oversight functions to the Law Society may provide some comfort, and had extensive discussions with it over the summer to resolve that important matter. Those discussions were useful in setting out what that role should involve.

Amendments 33 to 35 will require approved regulators to report to the Law Society any breaches of the practice rules relating to accounting and auditing. They must also make available to the Law Society any financial compliance inspection reports. If the society has concerns that are not resolved following

discussions with the approved regulator, it can report the matter to the Scottish ministers, who will take action, if necessary. The Law Society can seek permission from the Scottish ministers to inspect documents relating to financial matters that are held by the licensed provider if it thinks that that is necessary to ensure that the relevant accounts rules are being complied with. The Scottish ministers will, of course, treat such requests with urgency where necessary.

Those inspections would be a last resort. I certainly do not expect them to be commonplace, but it is appropriate to make provision to allow them. I hope that that reassures those who still have doubts about allowing licensed providers to be covered by the guarantee fund.

Amendment 137, in the name of Bill Aitken, also makes provision for an oversight inspection function for the Law Society. However, unlike in my amendments, there is no role for the Scottish ministers in relation to any action that is taken by the Law Society, and there is no requirement for the society to consult the approved regulator.

My proposed model is the result of extensive discussions with the Law Society and the Institute of Chartered Accountants of Scotland over the summer. It will confer a monitoring and inspection function that is consistent with the framework in the bill, and will allow the society to minimise risks to the guarantee fund while not interfering unduly in the business of other approved regulators that have the primary role in monitoring compliance with their accounts rules.

In the light of those assurances, I will listen to Mr Aitken with interest, but hope that he will consider not moving amendment 137.

I move amendment 33.

Bill Aitken: When the Justice Committee was dealing with the matter in question, there was a unanimous view that things should be kept as tight as possible. I question whether proposed new subsection (2) in amendment 33 is adequate. That subsection will, of course, require an approved regulator to report to the Law Society instances in which things have either been proven to have gone wrong or there are significant suspicions. However, it seems that, historically, reports under those headings are normally made by third parties. The whistleblower is frequently a member of staff or the police.

In respect of proposed new subsection (3) in amendment 33, should not there be a requirement that the approved regulator provide information on the regulator's proposed action following a report to the Law Society?

On amendment 35, does the minister believe that giving the licensed provider 48 hours' notice

of an inspection is prudent? I fully accept that I may have a fairly devious mind, but does not that simply provide the provider, who may be under suspicion, with a warning that a potential fraud is being investigated?

On amendment 34, I would be grateful for the minister's reassurance that there would be no unnecessary delay in the Scottish ministers' granting consent for any proposed action under proposed new subsection (5).

I will listen carefully to what the minister has to say before I decide what to do with respect to amendment 35.

The Presiding Officer: I call Robert Brown, who has two minutes.

Robert Brown: Twenty seconds will probably do, Presiding Officer.

I speak in general support of Bill Aitken's amendment 137. It seems reasonable to me that the Law Society should have the power that is suggested to investigate the circumstances of an entity that it is obliged to indemnify but does not regulate. However, I confess to concerns about whether the amendment would convey effective powers to do that, as it appears that it contains no enforcement provisions, nor any duty to comply on the entity. Perhaps the Government's rule-making powers are wide enough to cope with that. I think that the provision is also supported by the Law Society, which regards it as necessary. There may be issues to do with the suggested wording, but the matter is important and I hope that the minister can, at the very least, give some reassurance about the interrelation between the Law Society's position and the arrangements around the regulated entity.

Fergus Ewing: I am happy to respond to points that have been made in the debate.

It is plain that ensuring that there are appropriate arrangements to protect the public and clients of licensed service providers is one of the more serious issues in the bill. The Scottish Government's proposed amendments were discussed at length with the Law Society and ICAS over the summer, and a great deal of thought has gone into the question of their efficacy.

I am happy to give Bill Aitken the assurance that the Scottish ministers would act swiftly in the event that their permission was sought to invoke the powers. I emphasise that we do not anticipate that the powers are likely to be used frequently: they will not be used as a matter of common practice. The history of claims to guarantee funds does not suggest that the powers are likely to be used frequently, but it is nonetheless important that the provisions are thorough and sufficient.

Mr Aitken's proposed measures are, for the reasons that I outlined, technically infelicitous. The amendments that we have lodged, with considerable thought, address the necessary aspects of regulation without being disproportionate, and they cover the need for proper enforcement. Therefore, I encourage members to support the Government amendments and I invite Mr Aitken, in the light of those assurances, to consider not pressing amendment 137.

Amendment 33 agreed to.

Amendments 34 and 35 moved—[Fergus Ewing]—and agreed to.

15:00

Section 26—Additional powers and duties

Amendments 36 to 38 moved—[Fergus Ewing]—and agreed to.

Section 27—Guidance on functions

Amendment 39 moved—[Fergus Ewing]—and agreed to.

Section 29—Measures open to Ministers

Amendments 40 to 42 moved—[Fergus Ewing]—and agreed to.

Section 31—Cessation directions

Amendment 43 moved—[Fergus Ewing]—and agreed to.

Section 32—Transfer arrangements

Amendment 44 moved—[Fergus Ewing]—and agreed to.

Section 35—Step-in by Ministers

Amendment 122 moved—[Robert Brown]—and agreed to.

Section 37—Eligibility criteria

The Deputy Presiding Officer (Alasdair Morgan): Group 8 is on the majority ownership rule. Amendment 45, in the name of the minister, is grouped with amendments 45, 46, 46A to 46F, 123, 63, 114, 154, 155, 115, 116 and 118. I draw members' attention to the pre-emption information on the groupings sheet.

Fergus Ewing: Amendment 45 will clarify that sections 37 and 37A, which deal with eligibility criteria and majority ownership by regulated professionals, both apply for the purposes of licensing a licensed provider.

My amendments 46, 46D to 46F and 114, Richard Baker's amendments 46A to 46C and 154, and Robert Brown's amendments 123 and 155 all relate to external ownership of licensed providers. As many members will be aware, external ownership has been the subject of much discussion and deliberation in the past few years. The legal profession has been split by the issue, with a series of impassioned debates and votes taking place before stage 2. However, a measure of consensus has been achieved, with the Law Society council now supporting the compromise position that was inserted at stage 2.

I argued strongly against that compromise, which requires 51 per cent of any licensed provider to be owned by solicitors or other regulated professionals. My preference was for the greater opportunities that would be provided by 100 per cent external ownership. However, given the support of the Law Society and the Opposition parties for the compromise, I have decided not to pursue further amendments on that at stage 3.

Amendment 46 will simply improve the drafting and ensure that the definition of "regulated profession" and other related terms can be further specified by regulations that will be subject to affirmative procedure.

I believe that the compromise, which was achieved at no small cost to those involved, should not be thrown away lightly, and I suggest with great respect that Richard Baker's amendments 46A to 46C risk doing that. They would require 51 per cent solicitor ownership and limit ownership by those who are not regulated professionals to 25 per cent. That would be a fundamental shift from the compromise that was agreed at stage 2 and would perpetuate unnecessary restrictions on the business models that solicitors can adopt. For example, the amendments would prevent business models that would otherwise be likely to form, such as firms of accountants or surveyors that employ a number of solicitors to offer legal services.

Amendments 46A to 46C would severely restrict access to external capital, which would reduce the ability of Scottish firms to expand and compete with firms in England, which are soon to benefit from the full implementation of the Legal Services Act 2007. The model would fail to increase competition significantly in the legal services market, which would be to the detriment of the legal profession, consumers and the Scottish economy. Furthermore, the 25 per cent model was not supported at stage 2, nor was it supported by the legal profession at the latest special general meeting of the Law Society.

The current provisions on external ownership were supported by all Opposition parties at stage 2, the Law Society, four of the largest law firms in

Scotland, ICAS and various consumer groups, all of which have expressed reservations about Richard Baker's amendments. For those reasons, I strongly urge members to continue to support the compromise, which was so difficult to achieve, and not to impose further restrictions that have not been debated properly, are not supported by the Law Society, ICAS or consumer groups, and which degrade significantly the potential benefits of the bill.

Robert Brown's amendment 123 would require 51 per cent of any licensed provider to be owned by solicitors, but proposes no restrictions on the remaining 49 per cent. That would still rule out many potential business models, such as an accountancy firm employing solicitors and sharing ownership with them to provide legal services to its clients. Again, I strongly urge members to reject amendment 123.

My amendments 46D to 46F are an attempt to provide comfort to those who still have concerns about the ability of regulated professionals to own licensed providers. As it stands in my amendment 46, section 37A allows but does not compel Scottish ministers to make regulations about what is to be regarded as a "regulated profession" and the other related terms. Concerns were raised that if Scottish ministers were not to set out what is meant by "regulated profession", it would be unclear which persons were covered by that definition and so could have a controlling share in a licensed provider.

Amendment 46D ensures that Scottish ministers must make regulations about what is or is not a regulated profession. Amendment 46E retains the optional nature of the power in relation to the other related terms that are less crucial. Amendment 46F requires the Scottish ministers to have the Lord President's agreement and to have consulted various bodies before making such regulations. That amendment was lodged after representations by Mr Baker and, in particular, Ms Craigie, for which I am grateful.

Amendment 63 indicates how the term "solicitor investor" is to be interpreted in part 2. The other amendments make minor changes.

I strongly urge Mr Baker and Mr Brown not to move their amendments.

I move amendment 45.

Richard Baker: The most important debate that we will have in these proceedings is on majority ownership of the new businesses that will be created through the establishment of alternative business structures. I understand that the minister has moved from his original position, whereby businesses could have been owned entirely by investors from outwith the legal profession or any other regulated profession, to the position

currently in the bill, whereby 51 per cent of the business must be owned by solicitors or members of other regulated professions.

Dave Thompson (Highlands and Islands) (SNP): Will the member give way?

Richard Baker: I apologise to Mr Thompson, but I do not have time.

The minister has lodged amendments to provide further definition of regulated professions, which is welcome. Despite the Law Society's current view, as outlined by the minister, anyone who has followed the passage of the bill will recognise that the issue has been bitterly contested in the society. It is also important to know that those with significant reservations about the bill have sought to make constructive proposals so that consensus can be reached. For our part, we have moved from our stage 2 position, where we advanced the proposal for no more than 25 per cent ownership by non-solicitors, to my amendments today, in which we propose that 49 per cent of a firm could be owned by other regulated professionals and up to 25 per cent could be owned by investors who are not from regulated professions.

There are still those who have great concerns about what the reforms will mean for their profession. The bill brings with it a comprehensive new regulatory structure, but not the new Legal Services Board that we have seen in England and Wales and not the same level of investment in regulation either—the financial memorandum indicates that investment in regulation by the Scottish Government could amount to just £100,000.

We understand that in the proposed structure there are a number of provisions on fit and proper persons to invest. Nevertheless, fear remains about possible attempts by those who are involved in criminal activities to invest in firms. Although we are told that the reforms will bring benefits to consumers, with one-stop shops for legal advice, accountancy advice and other services, concerns have been expressed about how that will affect small legal firms that serve small and rural communities.

The problem that we come back to again and again is that the argument that this reform will be of clear benefit to our legal services industry, however well intentioned, is based on supposition. Indeed, my understanding is that, currently, external ownership of legal services providers in England is at no more than 20 per cent—a lower percentage than the percentage proposed in my amendment—and that proposals to move to 100 per cent external ownership south of the border are scheduled not to come in for a year.

If the bill is passed, the structure for regulation will be in place and the opportunity will exist to

make changes to the percentages of ownership. We favour an incremental approach, which will allow for more evidence to be presented to show that the system will be beneficial to both the legal services industry and consumers. Our amendment 46A would allow that approach to be taken.

At stage 2, an amendment was agreed to to allow ministers to vary by regulation the percentages of ownership. We are sure that that could be done expeditiously.

I do not believe that requiring 51 per cent majority ownership for solicitors would prevent the one-stop-shop model, such as a small firm of one solicitor and an accountant, as the firm could be constructed to be in line with the provisions of our amendment 46A.

I have received representations that some law firms that support the change might deregister in Scotland if other investors and regulated professionals are not allowed to have a majority ownership. However, we have to realise that in any event, the changes raise the potential for firms to be bought by businesses outwith Scotland.

If amendment 46A is agreed to, it will introduce a provision that takes us to where England and Wales are, the new regulatory structure will be introduced and ministers will have the power to bring forward regulations to change the percentages, should that be shown to be desirable. I do not see what significant delay would be caused by agreeing to amendment 46A.

Should my amendment not be agreed to, we will support amendment 123 in the name of Robert Brown, but we believe that our amendment 46A presents the most sensible and logical approach, and we will press it.

Robert Brown: As Richard Baker said, this is the single most important group of amendments, which go to the heart of the purpose of the bill. The argument has also been at the heart of the Law Society's protracted and rather confusing wrangles about the bill. The position that we have heard the minister take is very strange, as he vehemently opposed the 51 to 49 per cent ownership share at stage 2, but now supports it as a compromise.

There are issues with multidisciplinary partnerships, which I think are familiar to existing solicitors. However, those are different to situations where a legal entity is owned or controlled by outside investors. We might describe this as not so much Tesco law but the Robert Maxwell situation. That option is favoured by most but not all of Scotland's largest legal firms, because they think that it provides a level playing field for access to the lucrative English legal market, which dominates the continent, because so many commercial contracts are expressed in

English law or subject themselves to the jurisdiction of the English courts.

Much play is made of the potential for a solicitor in a rural town to partner an accountant to provide a viable entity and a local one-stop shop. That might happen, but there is no bar at present to their sharing office or back-office functions and it is not a common situation. It seems to me that each of the two professionals still has to have a living income for themselves, regardless. I cannot help but conclude that the advantages for the rural town, solicitor and public are to some extent a fig leaf.

The purpose and core of the bill is aimed at the large firms, and it is designed primarily to enable them to become larger by buying other firms here or south of the border. I am not sold on the idea that that is necessarily in the public interest. It seems to me that it is just as possible that they will instead be bought by even larger English firms.

Fergus Ewing: Will the member give way?

Robert Brown: Not just now.

However, the large firms tell us that the bill is needed to keep them in Scotland to support a growing legal services market that is headquartered here, trains a large number of Scots lawyers and contributes a large whack to the master policy.

At stage 2, I successfully lodged the Law Society compromise, which I hoped might be the basis of a legal consensus. That has not really proved to be the case, and we need to look again at the issue. Amendment 123 is designed not, as the Law Society suggests, to reverse the stage 2 compromise but to develop it.

It should also be said that the issue should be judged not entirely on whether the Law Society of Scotland is supportive—important though that is, its support has been a rather moveable commodity over time—but on whether it is in the public interest. The bill as amended at stage 2 provided that

"51% of the entity is owned, managed and controlled"

by solicitors and/or members of other professions. It may have been difficult to define management and control in terms of percentages, which is perhaps why the Scottish Government has, in its amendment 46, rephrased the wording to a

"51% stake in the total ownership or control of the entity".

Notwithstanding that the wording is weaker, we all accept that this is the basis for going ahead.

15:15

Fergus Ewing: Will Mr Brown confirm that the Law Society compromise position, which the

Government supports, was reached after years of difficult and bruising internal debate, whereas his proposal has never been debated and was not brought forward until two weeks ago? The legal profession has had no opportunity to debate his proposal.

Robert Brown: I hear what the minister says, but the debate has been around for a long time. The matter has been debated across the profession with different people putting forward a range of propositions at different stages.

My amendment 123 requires that the majority 51 per cent stake is held by solicitors alone, with other professionals and investors being the 49 per cent minority. That is the right solution, certainly at this stage. As the minister knows, under section 52(2A) of the bill, the percentage can, of course, be amended up or down by way of Scottish statutory instrument. The Law Society suggested that the proposal would prevent likely business models, such as firms of accountants or surveyors, employing solicitors. The fact is that it would not, but it would require things to be done in a certain way. If difficulties arise, there are powers under sections 99 and 99A to alter the percentage by statutory instrument to

“make different provision for different purposes”.

I hope that the minister is prepared to accept my amendment 123. The entities will, in any case, be subject to the regulatory objectives, which among other things are to support the rule of law; protect and promote the interests of justice, consumers and the public interest generally; promote competition in the provision of legal services; and promote an independent, strong, varied and effective legal profession. I hope that the minister will confirm that he sees those noble aspirations not only as words but as a way to regulate robustly the new entities.

I hope that the Government will go to the extent of refusing registration and imposing stringent conditions on ownership and control beyond section 37A, where that is necessary. Ownership and control are not the same thing. I am not sure whether, among all the furore, we have analysed the issue fully. For the time being, amendment 123 in my name represents a satisfactory position across the profession, allows development and meets Richard Baker’s important test of being able to move forward to an extent incrementally and cautiously. That is extremely important.

The Deputy Presiding Officer: I will need to limit the remaining speakers to no more than two minutes.

Bill Aitken: From the start, it was clear that there were fears about how the bill would impact on the Scottish legal system. Although some fears may have been exaggerated, there can be no

doubt that they were held sincerely. Equally, there can be no doubt that the majority—if not the unanimous—view of those who were involved in the bill was that we do not want to see the application of so-called Tesco law in Scotland. On that basis, I for one felt that a 49 per cent restriction on external investment was appropriate, and I have heard nothing thus far to change my view. We need to bear in mind the enabling powers under which a Government could, in years ahead and on cause shown, amend the percentages.

Mr Baker’s amendment 46A fails under several headings. It would leave the Scottish profession at a disadvantage within the UK single market. As we have heard in the debate, it would impact on smaller practitioners who seek to combine their operations.

Amendment 123, in the name of Robert Brown, and his consequential amendment 155 have a similar disadvantage. Mr Brown is genuinely concerned about access to justice, particularly in Scotland’s smaller communities. I say to him that the bill as it stands will be of assistance. I accept in part his argument that there are ways in which two practitioners in a small county town could get around the situation, but it would be convoluted and difficult, and we would make life rather difficult for them.

I have heard nothing to change my original view. We have achieved a sufficient compromise.

Patrick Harvie (Glasgow) (Green): The minister knows that my concerns at stage 1 were sufficient for me to vote against the general principles of the bill. Since then, I have tried to listen to all sides. The changes that were made at stage 2 addressed my concerns somewhat. However, if I am to be persuaded to accept the Government’s position in the amendments that are before us today, I would like the minister to reply to one specific question, which comes from the briefing that Thompsons Solicitors has provided to MSPs. In the first few bullet points of the briefing, Thompsons argues:

“The theory that underlies the Bill is untried and untested”.

It likens passing the bill to opening Pandora’s box and says that “the consequences are irretrievable”. There are those who regard the bill as something of an experiment. Every experiment should have failure criteria. What are the failure criteria for this experiment? Is Thompsons wrong when it says that the consequences would be irretrievable? Are the changes that we would make by passing the bill reversible?

Dave Thompson: Mr Baker was a wee bit frightened to take an intervention from me—he had plenty of time to do so. Given the compromise

on external ownership that was agreed at stage 2 and the position of the Law Society after many months of debate, it is odd that Mr Baker is now trying to overturn the agreed position and impose additional restrictions. I wonder why he is doing that.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The answer to Mr Thompson's question is that this is democracy and stage 3 consideration of the bill. Richard Baker is perfectly entitled to lodge amendments on any subject relating to the bill.

I support amendment 46A, in the name of Richard Baker, and encourage members to do so. Like other members who have spoken today, I welcome the minister's move at earlier stages from 100 per cent to 51 per cent on the ownership issue. However, this is an important matter, and we should not take a leap in the dark. We are changing the way in which law firms have operated for years. We cannot do that if we have any doubts in our mind. I still have doubts about the people who will introduce capital to legal firms. I want us to be able to regulate and control that activity.

Amendment 46A is a measured amendment that takes a cautious approach. The bill and the changes that were made at stage 2 will still allow ministers to move the ownership percentage up and down. Let us put a toe into the water and see whether the arrangement works. If it does, the minister will have the opportunity to raise the percentage.

I agree totally with Patrick Harvie's comment that the arrangement "is untried and untested". Amendment 46A would give us a way of trying it and of testing whether the market works. I urge members not to take a step into the unknown, to take a cautious approach and to support amendment 46A.

Nigel Don (North East Scotland) (SNP): Cathie Craigie's remarks sum up the problem that we have. Rightly, she is concerned about taking a step into the dark. The issue is who will bring their money in. However, the issue that is before us now is the structure of the people who will run the businesses, which is a different matter. We address the issue of who puts money into businesses by ensuring that they are fit and proper people, not by deciding what fraction of the population are lawyers or anyone else.

Cathie Craigie: Will the member take an intervention?

Nigel Don: I fear that I do not have time.

Cathie Craigie: Will the member give way?

The Deputy Presiding Officer: Order.

Nigel Don: I am sure that Mr Baker will be able to wind up.

I am concerned about another issue. I understand where amendment 123, in the name of Robert Brown, is coming from; the Justice Committee debated the issue on many occasions. However, I am concerned that, as the minister pointed out, Mr Brown has lodged an amendment that is untried and has not even been consulted on. We have talked about 51 per cent of ownership being in the hands of professionals, but we have never talked about its being in the hands of lawyers. That is not ICAS's position or the Law Society's position. Does it worry the member that he has lodged an amendment that has not been consulted on and is no one's policy?

James Kelly: There is no doubt that the debate on this issue has been heated throughout the process. It has been characterised on one side by people who are concerned about the independence of the legal profession; about the impact on small firms, particularly in rural areas; and about the potential for undesirable elements to enter the profession. That has been countered on the other side by people who have argued in favour of the 100 per cent ABS position, saying that it would promote jobs and opportunity and would help to grow the Scottish economy. Richard Baker's constructive amendment balances out both sides, taking into account the concerns on both sides of the argument.

Patrick Harvie makes a valid point: the Justice Committee found that there was a complete lack of evidence in support of the 100 per cent ABS position. That is why we should adopt an incremental position, taking things cautiously and a step at a time, but giving the present and future Governments the power, under Scottish statutory instruments, to make changes to the structures.

On the minister's point about business models, I reject the notion that the proposal would be anti-business. McGrigors, under its current format, has expanded into Northern Ireland. Earlier this year, it opened a tax office in Manchester. Under the model that Richard Baker has proposed, it could continue to expand. That is the correct route to go down. It would support economic growth, and it would also protect the independence of the Scottish legal profession.

Fergus Ewing: The Scottish Government entirely respects the very strongly held views, both within and outwith Parliament, in the debate that has taken place on this issue.

With regard to the two principal amendments in this group, it is fair to say that Mr Baker's amendment 46A was substantially considered by the profession, but it was clearly rejected. Robert Brown's proposal, on the other hand, has not been

debated within the profession. I am not being unfair to Mr Brown when I say that I extracted that from him in my intervention.

The profession has been considering this thorny issue for years—years of bruising, turbulent, divisive internal debate. That process of debate resulted in a compromise that was hard won by the proponents of 100 per cent ABS, who thought that that was best, but who, in the interests of a unified profession, decided to approve the compromise.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Is not our role here in Parliament to protect the interests of the public, rather than those of any particular profession?

Fergus Ewing: Patently it is to protect the interests of the public. I was just coming on to that.

We should not throw away years of hard work, which has seen a very difficult debate being concluded with a majority position that we have moved towards by compromising.

As regards protecting the public, consumer bodies have lobbied every member of the Parliament, as Mr Rumbles knows, arguing that the proposal will deliver a better deal for consumers. Relatively small practitioners, such as Austin Lafferty, have argued that it will serve as a quality control test for lawyers in providing a better, perhaps even cheaper, service for their clients, something which, I respectfully suggest, the public might welcome—speaking as a former practising solicitor.

Patrick Harvie asks whether the changes that are to be made are reversible. Section 99A says yes. The percentages relating to ownership can be changed. That means that they can be reduced or increased. The procedure is available. If Mr Harvie's fears were proven true, the Parliament could consider the matter again and act to reverse the situation.

Patrick Harvie: I am aware of the text of the bill in that regard, but could the minister comment on the practicality of reversing the provision and reducing the proportion to zero, should serious unintended consequences be identified at a later stage?

15:30

Fergus Ewing: We would act as we do in every other way, in committees of the Parliament, by considering the matter as swiftly as possible after proper consultation and debate. The approach is practical. That is what the bill, which has nearly 100 sections and nine schedules, provides.

After a debate that has been fought so hard and for so long, within and outwith the Parliament, if

we join together and support the compromise that is supported by the Law Society of Scotland, ICAS and consumer bodies that represent the public interest, we will be doing a good thing for Scotland. I strongly believe that there will be new opportunities, businesses and jobs for many young people in the next generations in this country. The ingenuity that McGrigors and other firms have shown in taking advantage of business opportunities, to which Mr Kelly referred, will lead to many of our constituents having the chance to pursue new careers, new opportunities and new jobs. That is good for Scotland.

Amendment 45 agreed to.

Section 37A—Majority ownership

Amendment 46 moved—[Fergus Ewing].

Amendment 46A moved—[Richard Baker].

The Deputy Presiding Officer: The question is, that amendment 46A be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)

Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 40, Against 76, Abstentions 0.

Amendment 46A disagreed to.

Amendments 46B and 46C not moved.

Amendments 46D to 46F moved—[Fergus Ewing]—and agreed to.

Amendment 46, as amended, agreed to.

Amendment 123 moved—[Robert Brown].

The Deputy Presiding Officer: The question is, that amendment 123 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)

McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 56, Against 61, Abstentions 0.

Amendment 123 disagreed to.

Section 39—Head of Legal Services

Amendment 47 moved—[Fergus Ewing]—and agreed to.

Section 40—Head of Practice

Amendment 48 moved—[Fergus Ewing]—and agreed to.

Section 41—Practice Committee

Amendment 49 moved—[Fergus Ewing]—and agreed to.

Section 46—Conditions for disqualification

The Deputy Presiding Officer: Group 9 is on references to penalties and offences. Amendment 50, in the name of the minister, is grouped with amendments 51, 128, 53, 54, 75 and 84.

Fergus Ewing: Amendments 50, 51, 53 and 54 will make changes to sections 46 and 50, which set out the levels of fines and terms of imprisonment that can lead to disqualification from named positions within licensed providers or to a presumption that a person is unfit to invest in such an entity.

I have some concerns—which are shared by the Law Society—that the levels of fines and the terms of imprisonment that are specified in those sections are not consistent. Amendments 50 and 51 will alter section 46 to specify a fine that is equivalent to level 4 or more on the standard scale instead of level 3, and a sentence of imprisonment of one year or more instead of two years. Amendments 53 and 54 will do the same for section 50.

Amendment 128, which was lodged by Bill Aitken and is supported by James Kelly, provides that a non-solicitor investor should be presumed to be unfit if he or she has been convicted of an offence that involves violence, in addition to offences that involve dishonesty as the bill currently specifies. The bill refers specifically to

dishonesty because it has relevance—as is obvious—for legal work. Violence does not, and would in any event fall under the general provisions in the bill that relate to crimes. A person is presumed to be unfit if they are sentenced to a specified term of imprisonment or fined an amount that is equivalent to the relevant level on the standard scale, so convictions for serious violent offences would already lead to a presumption of unfitness. However, I have some sympathy with Bill Aitken's position, and I will listen carefully to what he says on the matter.

Amendments 75 and 84 will insert new sections that provide for corporate offences, to ensure that responsible officials as well as organisations commit an offence under parts 2 and 3 if the act in question involves their connivance, consent or negligence.

I move amendment 50.

Bill Aitken: I am pleased that the Government lodged amendment 51 to reduce the specified term of imprisonment from two years to one year, although in a less consensual debate I might have commented that one has to do an awful lot that is bad under the soft-touch approach that currently applies in Scotland to get a sentence of that dimension.

More seriously, the amendment of the financial penalty to level 4 is sensible. It is possible to impose substantial fines under road traffic legislation—for example, in lieu of disqualification where the court has the option of disqualifying under totting-up procedures—which would unfairly preclude someone from participating in the legal profession.

Amendment 128 in my name, which I am gratified that James Kelly supports, seeks to insert in the appropriate section the word “violence”. My thinking in that regard is that someone who has a conviction that involves significant violence should not be considered as an appropriate investor in a firm that provides legal services.

At the committee stage, and again today, Cathie Craigie suggested that there were concerns that some persons of dubious character might insinuate themselves in the legal profession. It is clear that we seek to do everything that is possible to prevent that from happening, and the Government is to be congratulated on taking steps to make it tougher—indeed virtually impossible, I would hope—for such individuals to enter the profession. Although the concept of the Corleone brothers being involved in a legal firm is undoubtedly far-fetched, we need to ensure that the bill is as robust as possible.

James Kelly: I support amendment 128, which was lodged by Bill Aitken.

As Bill Aitken said, the Justice Committee raised a concern in considering the bill that in opening up the ownership potential there is potential for those who have links to serious and organised crime to have access to legal firms. Clearly, it is important in that regard to disbar people who have been found guilty of crimes of dishonesty, and Bill Aitken's amendment seeks to extend that pool to cover those who have committed crimes of violence. That is entirely logical and will help to ensure that only appropriate people enter such firms.

Fergus Ewing: I have listened carefully to what Bill Aitken and James Kelly have said, although I am not entirely sure that I agree with the remarks about soft-touch justice—an issue on which I imagine I would have the support of Ken Clarke and Ed Miliband. However, setting aside that point as it is not directly relevant to the matters before us, I have some sympathy for amendment 128. In the light of the arguments by Mr Aitken and Mr Kelly, I am minded to support it.

Amendment 50 agreed to.

Amendment 51 moved—[Fergus Ewing]—and agreed to.

Section 47—Designated persons

The Deputy Presiding Officer: Group 10 is on designated persons. Amendment 124, in the name of Bill Aitken, is grouped with amendments 125, 52 and 127.

Bill Aitken: Amendment 124 seeks to tighten up a definition. Section 47(2) states basically that a designated person is a person who is designated

“by the licensed provider to carry out legal work”,

but it is not clear what is meant by the term “legal work”. Some aspects are easily definable—the conveyance of property, the preparation of wills and so on—but, as legal work can include giving advice or providing representation, lawyers often prepare documents and complete forms. Would that be included in the definition? In my view, probably not. The amendment makes the matter clearer, and it links to the definition of legal services in section 3.

Amendment 125, which is also in my name, seeks to tighten the legislation. The criteria for eligibility as a designated person is made clear under section 47: basically, employees, managers and investors are all eligible. What happens, however, when someone who has been disqualified from being head of legal services, head of practice or a member of the practice committee is also eligible for designation? There are many instances in which that would apply. Clearly we do not wish a disqualified person to be

capable of appointment as a designated person, and amendment 125 would prevent such an event from occurring. The Government may argue that disqualification under section 44 would deal with the matter, but the application of section 46 depends on some action being taken by the approved regulator while section 47 applies automatically. I will listen to the minister with some interest.

I move amendment 124.

Fergus Ewing: Amendments 124 and 127 would change the words “carry out legal work” to “provide legal services” in connection with designated persons. That may seem like a subtle change, but it is not. There is an important distinction between the provision of legal services by an entity and the connected work performed by those within it. Legal work covers the broad range of work that is done by solicitors, paralegals and other staff. Legal work, especially that which is performed by paralegals, may be technical and specific; it might not be classed as the provision of legal services as set out in section 3.

To ensure that designated persons can do the same work as they would do in a traditional firm, the current drafting should be maintained. If it were not maintained, the danger would be that they could not continue to do what they legitimately do at the moment. That would plainly be an unintended consequence. I have several other pages of objections, but that is perhaps one of the most telling, so I move on to my amendment 52.

Amendment 52 will remove the provision that allows an investor who does not work in the licensed provider to be a designated person. Robert Brown lodged a similar amendment at stage 2, which I opposed because I was concerned that it might have unintended consequences. After having reflected, I am now satisfied that it will not, and I therefore agree that there is no need for section 47(3)(b)(ii).

In light of that truncated version of my objections to Mr Aitken’s amendments, I respectfully invite him to withdraw amendment 124 and not to move amendments 125 and 127.

The Deputy Presiding Officer: I am exercising my powers under rule 9.8.4A(c) of standing orders to extend the time limit that we have just reached to avoid the debate being curtailed unreasonably. I call James Kelly—he has one minute.

James Kelly: I briefly indicate support for Bill Aitken’s amendments 124, 125 and 127. I think that he is correct to get the proper terminology in the bill, and it is appropriate that we look at that point. The points about disqualification that he makes on amendment 125 are valid, too. I indicate support for the amendments.

Bill Aitken: Perhaps I can save some time. If not exactly persuaded by the minister’s eloquence, I can see the force of his argument that there could be an unintended consequence in what I have proposed. I am still far from happy, but on the basis of what has been said I will withdraw amendment 124 and not move the other amendments in the group in my name.

Amendment 124, by agreement, withdrawn.

Amendment 125 not moved.

Amendment 52 moved—[Fergus Ewing]—and agreed to.

Amendment 127 not moved.

Section 50—Factors as to fitness

Amendment 128 not moved.

Amendments 53 and 54 moved—[Fergus Ewing]—and agreed to.

15:45

The Deputy Presiding Officer: Group 11 is on investors. Amendment 55, in the name of the minister, is grouped with amendments 59, 61 and 62.

Fergus Ewing: Section 53A was inserted at stage 2 to ensure that questionable investors could not hide behind the corporate veil. However, the phrase

“control or substantial influence in the body’s affairs”,

which was inserted by an amendment that was lodged by Robert Brown, presents some difficulty, as no indication is given of how those terms are to be measured. Amendment 55 seeks to substitute Mr Brown’s term with

“ownership or control of the body, or ... any other material interest in it”.

That will ensure that when it considers a non-solicitor body’s fitness to be an investor, a regulator must consider the fitness of those who have, to any extent,

“ownership or control of the body, or ... any other material interest in it”.

Section 52(2) allows the Scottish ministers to make regulations about interests in licensed providers and to make provision for licensing rules about persons who have an interest in a licensed provider. Amendment 59 seeks to clarify that such regulations may include further provision about what counts as an interest in a body that has an interest in a licensed provider. That might be necessary to ensure that when the fitness of a body that is investing in a licensed provider is considered, the fitness of those persons who are involved in that body may also be considered.

Amendment 61 seeks to extend the definition of a solicitor investor to include firms of solicitors and incorporated practices. Amendment 62 seeks to extend it to include registered foreign lawyers. Those who can own law firms in Scotland should not be subject to the fitness test. Amendment 62 seeks to correct the omission of registered foreign lawyers that was effected at stage 2.

I move amendment 55.

Amendment 55 agreed to.

Section 50A—Ban for improper behaviour

Amendment 56 moved—[Fergus Ewing]—and agreed to.

Section 51—Behaving properly

Amendment 57 moved—[Fergus Ewing]—and agreed to.

Section 52—More about investors

Amendments 58 to 63 moved—[Fergus Ewing]—and agreed to.

Section 54—Ceasing to operate

The Deputy Presiding Officer: Group 12 is on ineligibility to be a licensed provider. Amendment 64, in the name of the minister, is grouped with amendments 129, 66 to 68 and 130.

Fergus Ewing: Following the insertion at stage 2 of provisions that require majority solicitor or other regulated profession ownership, the Law Society of Scotland raised concerns about temporary situations that would result in the failure of a licensed provider to meet the majority ownership criteria. That could happen, for instance, following the death of a solicitor owner. It is clear that revoking a licence in such a situation would be disproportionate. Therefore, amendment 64 will give approved regulators the discretion not to revoke a licence when they are satisfied that the situation is temporary and that clients are sufficiently protected.

Additionally, I think that it would be useful to give approved regulators further flexibility, so amendment 66 will allow an approved regulator to suspend a licence pending rectification of the situation, if that is appropriate.

Bill Aitken's amendment 129 is not strictly necessary, as licensed providers are already required to notify their regulator without delay should the circumstances in section 54(1) arise. However, I feel that it would be useful to set a deadline, as Mr Aitken's amendment seeks to do, so on reflection I have decided to support amendment 129.

Mr Aitken's amendment 130 is unnecessary—there is no need to state that a licensed provider continues to be licensed if its licence is not revoked under section 54.

I move amendment 64.

Bill Aitken: Amendment 64 has merit in that, when taken together with amendments 67 to 68, it will allow some protection against a lacuna that might arise when there is a temporary lack of eligibility. Clearly there could be serious difficulties for a business if there is a short-term difficulty that could, in certain circumstances, prejudice the business. There is merit in all the amendments in that respect, and it should be supported. Amendment 129 seeks to restrict the period involved, and having heard the minister on that, I have nothing to add.

Amendment 64 agreed to.

Amendment 65 moved—[Fergus Ewing]—and agreed to.

Amendment 129 moved—[Bill Aitken]—and agreed to.

Amendments 66 to 68 moved—[Fergus Ewing]—and agreed to.

Amendment 130 not moved.

Section 55—Safeguarding clients

Amendment 69 moved—[Fergus Ewing]—and agreed to.

Section 65—Complaints about providers

The Deputy Presiding Officer: Group 13 is on complaints against licensed providers. Amendment 131, in the name of Bill Aitken, is grouped with amendments 70 to 74, 132 and 80 to 83.

Bill Aitken: Amendment 131 seeks to expand upon the bill by adding to the category of individuals about whom a conduct complaint can be made. Section 65 will insert a new section 57A into the Legal Profession and Legal Aid (Scotland) Act 2007. That new section concerns complaints about licensed providers, and new section 57A(4) of the 2007 act will say:

"A conduct complaint may not be made about a licensed provider, but—

(a) such a complaint may be made about a practitioner within such a provider".

It might be thought that I am being slightly pedantic but—

George Foulkes (Lothians) (Lab): No!

Bill Aitken: I am pleased to hear my colleagues contradicting me, Presiding Officer.

The 2007 act defines a practitioner as “a firm of solicitors”, “an incorporated practice” and “a solicitor”. On the basis of that wording, new section 57A of the 2007 act will mean that conduct complaints will relate only to the legal profession. Given that the *raison d’être* for the bill is to allow the legal profession to enter into partnerships with other persons, it is imperative that conduct complaints can be made about designated persons. The effect of my amendment is to make it clear that such complaints can be made to the regulator in respect of that particular discipline. The other amendments are not objectionable.

I move amendment 131.

Fergus Ewing: Amendments 131 and 132, in the name of Bill Aitken and supported by James Kelly, would allow conduct complaints against designated persons to be made to the Scottish Legal Complaints Commission. That is not appropriate. The commission deals with complaints about legal practitioners who are regulated by professional bodies, such as solicitors and advocates. It does not deal with complaints about other members of staff who are working for traditional law firms, such as paralegals; such complaints would be dealt with internally by the firm. It would be odd if a paralegal were to take the rap for his boss; that does not seem to be a principle that many of us would support, and it is not the system at the moment. The current position is proportionate and complaints about designated persons who are not solicitors or other legal professionals should be treated in the same way.

Amendment 70 will require approved regulators to pass on any complaints that they receive about legal practitioners to the SLCC to ensure that such complaints are dealt with. That mirrors a similar requirement on professional organisations, such as the Law Society or the Faculty of Advocates, in the Legal Profession and Legal Aid (Scotland) Act 2007.

The other amendments make minor adjustments relating to how approved regulators and approving bodies deal with regulatory and conduct complaints. That is to ensure that the relevant parts of the said act apply, following some minor concerns that were raised by the SLCC.

Amendments 71, 80 and 83 are minor drafting amendments.

In light of my earlier remarks, I respectfully invite Bill Aitken to withdraw amendment 131 and not to move amendment 132.

Bill Aitken: Although I do not entirely share the minister’s fairly optimistic approach regarding the running of legal firms nor think that it is unheard of for paralegals and others to “take the rap”, I am persuaded that, in the vast majority of firms,

responsibility for the error or any misconduct would revert to the partner concerned, who would, no doubt, take disciplinary action against his underling. On that basis, I seek permission to withdraw amendment 131 and I will not move amendment 132.

Amendment 131, by agreement, withdrawn.

Amendments 70 to 74 moved—[Fergus Ewing]—and agreed to.

Amendment 132 not moved.

After section 70A

Amendment 75 moved—[Fergus Ewing]—and agreed to.

Section 74—Certification of bodies

Amendments 76 to 78 moved—[Fergus Ewing]—and agreed to.

Section 81C—Certification of bodies

Amendment 79 moved—[Fergus Ewing]—and agreed to.

Section 83—Complaints about agents and writers

Amendments 80 to 83 moved—[Fergus Ewing]—and agreed to.

After section 84A

Amendment 84 moved—[Fergus Ewing]—and agreed to.

After section 85

The Deputy Presiding Officer: Group 14 is on regulation of estate administrators. Amendment 133, in the name of Richard Baker, is grouped with amendment 153.

Richard Baker: I lodged these amendments as a result of discussions with the Society of Trust and Estate Practitioners. It considers that, for the purposes of adequate consumer protection, the administration of an estate in its entirety should be a regulated activity. It argues that fraud and incompetence are most likely to occur during the administration of the estate when the deceased’s funds are being handled and when the provisions of the will are being implemented.

Those areas are currently unregulated in the bill and, as the bill is drafted, the regulation of confirmation agents would cover only the preparation and submission of the application for confirmation of the deceased person’s estate. That is a significant but small part of the estate administration process. Significant issues regarding the administration of an estate will arise

in other aspects of estate administration—for example, in the administration of the correct division of assets among the beneficiaries. That activity is not currently within the scope of confirmation services as described in the bill; therefore, my amendments seek to broaden its scope to include the activities of estate administrators and to provide a definition of that term.

The Society of Trust and Estate Practitioners has made strong arguments for expanding the provisions of the bill in that way, including providing examples of fraudulent activity that has occurred at points of the process that, as the bill stands, would not fall within the compass of its provisions for regulation. On that basis, I hope that my amendments will be supported by ministers and by Parliament.

I move amendment 133.

Fergus Ewing: Amendment 133 would allow the Scottish ministers to make regulations for the regulation of estate administrators. There have been suggestions from various parties, including the Scottish Law Agents Society, that, as Richard Baker has said, our regulation of confirmation agents and non-lawyer will writers does not go far enough and that regulation should be extended to the whole executry process, not all of which is a reserved matter requiring the involvement solely of solicitors.

However, additional regulation in those areas would be a significant expansion of the regulatory regime in part 3 and would require further consultation to allow an assessment to be made of the potential impact on those who are currently involved in the process. For example, extending regulation to executors could catch a huge number of people who are involved in administering estates, perhaps including relatives of the deceased, who are often named as the executors. I am sure that it is not Richard Baker's plan that an ordinary individual who is winding up his dad's or his mother's estate, which may not involve a lot of money, should be involved in regulation or additional expense. There is no reason why people in that situation should have to incur additional burdens and costs. They can do the work themselves, often with a bit of help from sympathetic court staff and others. However, regulation could potentially prevent such people from being involved, leading to the additional cost of employing appropriately qualified persons to wind up an estate in every case.

The matter has not been debated. In considering the bill, we have pursued an approach of avoiding pushing through things that have not been properly debated and consulted on. This is an example of an area in which more thought and consultation is needed before we act. For those

reasons, I do not support Richard Baker's amendments and respectfully invite him to withdraw amendment 133 and not to move amendment 153.

16:00

Richard Baker: The minister raises valid issues, but I am not quite convinced that they are impediments to making this change, which he says that they are. To be fair to the Society of Trust and Estate Practitioners, it raised the issues with members prior to stage 2 and stage 3, and they have been carefully considered. Once more, I will err on the side of caution when it comes to regulation. I think that the bill is a logical vehicle by which we can address the issues that the society has raised. I think that there is not a huge gulf between us in terms of getting to the right position, but the bill would be made more robust by the inclusion of the provisions, so I will press the amendment.

The Deputy Presiding Officer: The question is, that amendment 133 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)

Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 40, Against 69, Abstentions 0.

Amendment 133 disagreed to.

After section 91

The Deputy Presiding Officer: Group 15 is on firm-level regulation. Amendment 134, in the name of Bill Aitken, is grouped with amendments 138 and 139.

Bill Aitken: Amendment 134, combined with the other suggested amendments to the 1980 act, would set up a system of annual registration of practice units. The amendment tries to promote a level playing field between licensed providers and traditional firms of solicitors. Under part 1, licensed providers, which can only be entities, are required to be licensed by an approved regulator. That could mean that licensed providers have a more efficient and cost-effective licensing regime than traditional firms. The amendment would give the Law Society discretion to introduce rules for the registration of firms in addition to the current rules on individual registration. The Law Society would not be able to introduce such rules unless they are approved by the Lord President and its membership.

The amendment would allow not only for the creation of a level playing field for licensed providers, but for a consistent approach to be taken to levies relating to all practice units, irrespective of type, and would allow the Law Society to ensure a fair distribution of the costs that are involved in running the society by relating those costs to the type of practice that benefits from the regulatory and representational roles that the society fulfils.

Amendment 138 would modify subparagraph (2A) of paragraph 1 of schedule 3 to the 1980 act by inserting into it the words,

"partners in a registered firm of solicitors, or ... in a case where the registered firm of solicitors is a sole practitioner, a single solicitor practising under the solicitor's own name or a solicitor otherwise practising as a sole practitioner."

The amendment is consequential on the earlier amendment.

The Law Society should be able to attract income from specific courses that it might run for the benefit of solicitors. It is only appropriate that it should be able to charge accordingly.

If I receive assurances from the minister that the existing regime is permissive of that, I will seek to withdraw the amendment.

I move amendment 134.

Robert Brown: I am not particularly enthusiastic about amendments 134, 138 and 139. I know that the Law Society's position is that bills that affect the solicitor profession do not come along very often so it needs to take advantage of the opportunity, but the amendments are significant in allowing change to the basis of contributions to the society and the Scottish solicitors guarantee fund, and they have not been consulted on by the Government or, I think, the Law Society itself. I believe that the ground should be prepared before the Parliament is asked to approve the changes. I will be interested to hear the minister's response, but I believe that the matter should be dealt with at another time.

James Kelly: I oppose amendment 134. I am not convinced that the provision should be in the bill or that the Law Society should have the powers that would be vested in it by the change. Specifically, I am concerned about proposed new paragraph 6C of schedule 1 to the 1980 act, which would allow the Law Society to impose a special subscription and, further to that, different types of special subscription. There is no description of why it would do that. There have been tensions recently within the Law Society and allowing it to impose such subscriptions could undermine the harmony that we hope will break out if the bill is passed later today.

Fergus Ewing: Amendment 134 would allow the Law Society to make rules that require firms of solicitors to register with the council and to charge an entity-level fee for that registration. That is in addition to the individual practising certificate fee.

First, solicitors are under a duty to inform the society of their place of business and any changes to it, so a list of firms should already be available to the society. Secondly, given the permissive nature of the bill and the undertaking that I have given throughout that it will not have a significant impact on traditional firms that do not choose ABS, I have serious concerns about making such a fundamental change to the society's fee-charging structure. Regardless of any requirement for the profession to vote on such a change before implementation, it would appear to be a significant new levy imposed by a bill that I have repeatedly argued will not significantly affect those who choose not to form licensed providers. Indeed, I understand that certain members of the profession have already expressed some reservations about the new fee.

I understand that the society has discussed its proposals with certain groups within the

profession. I have discussed the amendment in a meeting with the president of the Law Society and his colleagues and I understand his position and their concerns on these matters. However, I respectfully believe that a more comprehensive consultation should be carried out before significant changes are made. My experience is that changes to fee structures are almost inevitably more complex than they first appear to be, and that they often have unforeseen consequences. Therefore, without proper consideration being given to the implications of the change, I cannot support amendment 134.

Amendments 138 and 139 would allow the Law Society to gather guarantee fund contributions from registered firms at an entity level rather than from individual principals. As with the proposed entity-level fee, I have concerns about that, given the lack of consultation with the profession, especially as it might result in some firms being charged more than at present. I say that having made robust representations to the SLCC that resulted in its reducing the levy by £40 for each solicitor in Scotland, which resulted in a saving of £0.5 million for the profession. In that regard, we have some good form in saving solicitors some cash.

I invite Bill Aitken to withdraw amendment 134 and not to move amendments 138 and 139.

Bill Aitken: I am sure that the legal profession will sleep easier in their beds of a night knowing that the minister is enthusiastically pursuing savings in that respect.

I have listened to the views of my colleagues. There was some value in the amendments and it was appropriate to canvass views on them, but I will not press amendment 134 or move amendments 138 and 139.

Amendment 134, by agreement, withdrawn.

Section 91D—Use of Guarantee Fund

The Deputy Presiding Officer: Group 16 is on guarantee fund contributions. Amendment 85, in the name of the minister, is grouped with amendments 87 and 90 to 93.

Fergus Ewing: Amendments 85, 87, 91 and 92 make minor technical changes to provisions relating to the guarantee fund in the Solicitors (Scotland) Act 1980. They ensure that individual solicitors who are members of incorporated practices are referred to where appropriate. Under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, the Law Society is obliged to maintain a compensation fund in relation to independent conveyancing and executry practitioners. Under a memorandum of understanding, the Scottish ministers currently underwrite claims on the fund. The society has

recently confirmed that there is little money in the fund and that it is not fit for purpose. As there is only one such practitioner, and no further practitioners are possible in future, further contributions to the fund will be extremely limited.

The Scottish Government and the Law Society agree that an acceptable solution is to allow the sole remaining practitioner to contribute to and be covered by the guarantee fund. That would result in the present liability on the Government being removed, thereby saving public money. Amendments 90 and 93 extend the guarantee fund to cover such practitioners and require them to contribute to it, while repealing the relevant section of the 1990 act.

I move amendment 85.

Amendment 85 agreed to.

Amendments 86 and 87 moved—[Fergus Ewing]—and agreed to.

The Deputy Presiding Officer: Amendment 135, in the name of Bill Aitken, has already been debated. If amendment 135 is agreed to, I cannot call amendment 88.

Amendment 135 moved—[Bill Aitken].

The Deputy Presiding Officer: The question is, that amendment 135 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)

Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKee, Ian (Lothians) (SNP)

McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 67, Against 44, Abstentions 0.

Amendment 135 agreed to.

Amendment 136 moved—[Bill Aitken].

The Deputy Presiding Officer: The question is, that amendment 136 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Hume, Jim (South of Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Against

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)

Brankin, Rhona (Midlothian) (Lab)
 Brown, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)

Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 29, Against 82, Abstentions 0.

Amendment 136 disagreed to.

Amendment 89 moved—[Fergus Ewing]—and agreed to.

Amendment 137 not moved.

Amendment 90 moved—[Fergus Ewing]—and agreed to.

Section 91E—Contributions to the Fund

Amendment 91 moved—[Fergus Ewing]—and agreed to.

Amendment 138 not moved.

Amendments 92 and 93 moved—[Fergus Ewing]—and agreed to.

Amendment 139 not moved.

After section 91G

16:15

The Deputy Presiding Officer: Group 17 is on operation of the Law Society. Amendment 141, in the name of Bill Aitken, is grouped with amendments 142 to 144 and 150.

Bill Aitken: Amendment 141 seeks to modify the provisions of the Solicitors (Scotland) Act 1980 relating to membership of the Law Society.

The Law Society has been carrying out an exercise in which it seeks to modernise and revise its constitution. A number of problems have come to light as a result of that exercise. It is not clear who can become an honorary member of the society or whether it can have as associate members solicitors, students or other legally qualified persons. Amendment 141 seeks to remedy that.

Amendments 142 to 144 are consequential on amendment 141.

My amendment 150 seeks to amend schedule 1 by clarifying for the avoidance of doubt that the Law Society can change certain functions that it carries out. The amendment is merely to clarify that those powers exist and are in statute rather than implied.

I move amendment 141.

Fergus Ewing: Amendments 141 to 144, in the name of Bill Aitken, would make changes to the Solicitors (Scotland) Act 1980. They relate to membership of the Law Society. I understand that

the society is currently revising its constitution and that those changes have been included in the latest draft, which is yet to be debated and voted on. I am not clear why the membership provisions in the 1980 act are thought to be insufficient or why the society wishes to extend its membership to include non-solicitors. That came as something of a surprise to me. I understand that there has been a consultation on the draft constitution, but it is still to be determined whether the profession will be in favour of the changes. The proposals may therefore be subject to further change. Given that the policy behind them is unclear, at least to the Scottish Government, I cannot support amendments 141 to 144.

Amendment 150, which is also in the name of Bill Aitken, would allow the Law Society to charge fees

“in respect of the discharge of the Society’s functions.”

The society has indicated that such fees would not be charged for services that are currently funded by the practising certificate fee, but would be charged in connection with other solicitor or non-solicitor services that are provided. The society currently has the power to charge fees in certain situations, including for the provision of training under section 5 of the 1980 act, so I am unsure about exactly which services it wishes to be able to charge for. Therefore, I do not support amendment 150. In view of the society’s current powers, the lack of clarity that exists and the lack of a concluded and resolved debate within the profession, I respectfully invite Mr Aitken to withdraw amendment 141 and not to move the rest of the amendments in the group.

Bill Aitken: There is a lack of clarity in the position, although I could suggest a circumstance in which a non-solicitor might be considered as a member of the Law Society. The society might wish to have on board an academic professor of law who may not be a solicitor and may not have either a practising certificate or a qualification in that direction. However, I take the minister’s point that the consultation exercise is not yet complete, and as a result, I will not pursue the matter.

I was gratified to hear from the minister that the Law Society has the ability to make the appropriate charges for specific courses or work that is carried out for a number of specific clients rather than generally. That deals with the point on which I wished to canvass opinion, and I will not pursue the matter now that that is on the record.

Amendment 141, by agreement, withdrawn.

Section 92—Council membership

Amendments 142 to 144 not moved.

Section 93—Regulatory committee

The Deputy Presiding Officer (Trish Godman): Group 18 is on the regulatory committee. Amendment 94, in the name of the minister, is grouped with amendments 95, 145, 96, 97, 146, 147, 98, 148, 149 and 99 to 104.

Fergus Ewing: This group relates to the regulatory committee. To give brief background information, section 93 makes provision requiring a regulatory committee to be established by the council of the Law Society and for all regulatory functions of the council to be delegated to it. Section 93 also sets out rules relating to the committee, which will ensure that it performs its regulatory functions independently. In all other respects, the committee will be the same as any other committee that is established by the council.

Amendment 95 will require the council to ensure that the regulatory committee carries out such functions as are delegated to it under proposed new section 3B(1) of the Solicitors (Scotland) Act 1980. That addresses the Law Society's concerns that, although the council will remain legally responsible for such functions, it might not be able to ensure that they have been carried out, as such action could be classed as undue interference under proposed new section 3B(2A) of the 1980 act.

The policy intention in providing for a regulatory committee is that all regulatory matters that were previously dealt with by the council be transferred to that committee, which should operate independently of the council. A key part of that independence is that the regulatory committee alone should make decisions about regulatory matters. If the council retains the ability to exercise regulatory functions without reference to the committee or to revoke the delegation of functions to the committee, the whole concept of splitting off the regulatory functions would be undermined. Therefore, amendment 96 will clarify that, once the council has delegated its regulatory functions to the regulatory committee, it must not exercise such functions through any other means. However, amendment 97 will ensure that, when specific action is required by the council to ensure that its regulatory functions are achieved, the council has the ability to take such action, but only as explicitly directed by the regulatory committee.

Amendment 145, in the name of Bill Aitken, would remove the wording

"(acting in any other capacity)"

in proposed new section 3B(2A) of the 1980 act. That wording was inserted because the regulatory committee is part of the council and so, in prohibiting the council from interfering unduly in the regulatory committee's affairs, it is important to clarify that that does not affect the council acting in

its particular capacity as the regulatory committee. Therefore, I do not support amendment 145.

Amendments 146 to 149, in the name of Robert Brown, also relate to the regulatory committee. Amendment 146 would allow the council to set performance targets, standards and timescales for the regulatory committee, despite the prohibition on undue interference in the business of the regulatory committee. The Law Society has raised concerns about what would and would not be classed as undue interference in the regulatory committee's business, so it might be worth setting out the intention behind that provision. The regulatory committee will in most respects be just another committee of the council, so the council will have a legitimate oversight role in relation to it. For example, requiring regular reports to be made, exercising proper financial control and the removal of members under certain circumstances are all reasonable actions and are consistent with the independent functioning of the regulatory committee. Those functions would not, in my opinion, be classed as undue interference.

On the other hand, some of the functions that the Law Society has in mind would likely be classed as undue interference. Examples would be setting the strategic direction of the committee or, as in amendment 146, setting targets, standards or timescales for the committee's work. Such actions would in my view cast doubt on the regulatory committee's independence. The committee must be able to set its own strategic direction, free from the influence of the council, and dictate the standards and timescales of its work.

Amendment 147 is unnecessary because, as I said, the prohibition on undue interference would not prevent the council from removing members of the regulatory committee in certain reasonable circumstances, such as the member being insolvent.

Amendment 148 would require the council to appoint one of its lay members as the convener of the regulatory committee, rather than allow the committee to appoint its convener. I do not agree with that proposal. It is vital that the regulatory committee be independent. I believe that removing its ability to appoint its convener would undermine that independence.

Amendment 149 is completely unnecessary, as the 1980 act already provides that any committee of the council can delegate functions to a sub-committee. The Law Society has raised concerns about whether a sub-committee of the new regulatory committee should be required to have a lay member as its chairperson and whether it should be able to co-opt members who are not on the regulatory committee. As a regulatory sub-committee might deal with technical issues, I

consider that it might be appropriate for a solicitor to chair it and for the committee to be able to co-opt those who are most able to deal with the issues that are under consideration. Accordingly, amendment 99 makes such provision.

However, I also consider it appropriate that Scottish ministers have a power to prescribe the maximum number of persons on any regulatory sub-committee and what proportion of the regulatory committee or sub-committee may be co-opted. New section 3E of the 1980 act, which will be inserted by amendment 103, provides for that. The society has also raised concerns about potential disputes between the council and the regulatory committee. New section 3D of the 1980 act, which will be inserted by amendment 103, therefore provides that arbitration be used to resolve such disputes, with an arbiter who is to be appointed by the Lord President should the parties fail to agree on one. I hope that that will never be necessary but, in the event of any problems, the provision allows a proportionate response to resolve the issue while avoiding recourse to the courts.

The definition of regulatory functions is expanded slightly in new section 3F of the 1980 act to include the society's functions in respect of conveyancing, executive practitioners and registered European and foreign lawyers. Further examples are added to the list of particular regulatory functions to improve clarity.

New section 3G of the 1980 act provides that if the society becomes an approved regulator, its regulatory functions include any relevant functions in relation to that role. Amendment 104 defines the regulatory committee for the purposes of the 1980 act.

I respectfully invite Mr Aitken and Mr Brown not to move their amendments.

I move amendment 94.

Bill Aitken: Amendment 145, in my name, seeks to improve the drafting of the bill and takes out the phrase:

“(acting in any other capacity)”.

I consider the phrase to be imprecise because the Law Society has only one capacity. I have not yet heard sufficient from the minister to enable me not to move amendment 145.

Amendments 146 and 147 might have some merit and I shall listen to Robert Brown's arguments. Amendment 148 seems to tidy up some wording, although the difference between “non-solicitor members” and “lay persons” is a little obscure and defeats me at present.

Amendment 149, in my name, would simply enable the regulatory committee to delegate its

authority to a sub-committee. It would correct what seems to be a deficiency in that the bill envisages that there will be sub-committees of the regulatory committee, but makes no provision for delegation from the regulatory committee to such sub-committees. I need to hear the minister being a little more persuasive under that heading before I decide where to take my amendment.

Robert Brown: This is a significant group of amendments that would affect the working of the council of the Law Society and its relationship with the regulatory committee. I agree entirely with the minister's assessment of the need to define clearly the relationship between the two bodies. That is one of the difficulties that lie behind some of today's amendments.

I am unenthusiastic about Government amendment 103, which seems far too elaborate. I note in particular provision for arbitration in new section 3D of the 1980 act. We will have lost the plot entirely if the council and the regulatory committee fall out, and I think that the minister agrees with that. I understand that the Law Society takes the view that the provision on arbitration is a disproportionate response. It is fair to say that, where an arbitration arrangement is in place, it acts as a slight disincentive to sorting the problem directly. I will not vote against the amendment because it contains lots of other measures, but I will be interested in the minister's response to my comments.

I am also bothered by amendment 97, which provides for the regulatory committee not just to decide things in its remit but to give directions to the council on such matters. As the minister suggested, that might follow from the society's independent statutory status, but it does not sound right. I hope that the minister will elaborate on the need for that provision and the circumstances in which it might apply. It seems a trifle odd that the provision has been thought of only at stage 3; I do not think that we considered it at an earlier stage.

The Law Society's view is that the regulatory committee should be independent of the council, but I agree with it that that does not mean that the regulatory committee should be unaccountable or unconnected to the council. Amendments 146 to 148 are designed to allow the council to set standards of performance for the regulatory committee. I do not agree with the minister that that would impinge on its independent role. They also provide for what happens if a member of the committee becomes unable to discharge their functions, or unsuited to doing so. In that regard, given the confusion that surrounds this issue, it does no harm to have that specifically laid out, against the background of the other things that say that the council cannot interfere with the regulatory committee.

It is important to link the committee properly with the council by providing that it be convened by a lay member of the council. At present, that is not required. The difference between a lay member and a non-solicitor member is not really the issue; the point at issue is that the committee should be convened by a member of the council who is not a solicitor.

I accept that this is a tricky area and that there is a sometimes delicate balance between the regulatory and representative functions of the Law Society. It has been said that there is a degree of tension in the Law Society following the debates about the bill in general. There need to be appropriate linkages to improve confidence, facilitate good working and produce a corporate response on some of these issues. The amendments in my name, which, subject to the minister's comments, I intend to pursue, will help.

16:30

Richard Baker: It is important that disputes between the regulatory committee and the council of the Law Society can be resolved. Of course, ultimately the council is the accountable body of the society, including the regulatory committee. There must be clear provision for the council to resolve any dispute that it might have with the regulatory committee.

We understand why the society has promoted amendments that would give the council a limited ability to intervene in the function of the regulatory committee but, ultimately, we do not agree with that approach.

We have raised the issue that the Law Society is now to be a representative, disciplinary and regulatory body. We believe that the regulatory role should at least be clearly separate from the society's other functions.

We lodged amendments at stage 2 that would have created even clearer delineations between the different functions and committees.

We support the model for resolving disputes in the amendments in the name of the minister and we believe that he has proposed the right approach. However, we do not support the approach that is proposed in the amendments from Robert Brown and Bill Aitken.

We heard Bill Aitken's argument about sub-committees and, like him, we will be interested to hear the minister's response on that issue.

Fergus Ewing: I took some time to set out the arguments on this matter—longer than I took in debates on previous groupings—because of the importance of getting it right. Section 93 is a significant, important section. Along with the consideration of the guarantee fund issue, there

has been a lot of debate, thought and work on this issue over the summer.

I appreciate the points that Mr Brown made and the Law Society's position. The amendments that we have lodged offer the correct approach. As Mr Baker has said, the regulatory committee needs to have a measure of independence and to be able to operate separately. That will be possible under the provisions that we have introduced.

I want to respond in detail to some of the points that have been made. First, Mr Aitken raised a point about amendment 145. This is a somewhat technical and legalistic argument, but amendment 145 would remove the words

“(acting in any other capacity)”

from new section 3B(2A) of the 1980 act, which is inserted by section 93 of the bill. That wording was inserted because the regulatory committee is part of the council and so, when prohibiting the council from interfering unduly in the affairs of the regulatory committee, it is important that that does not include the section of the council that is legitimately carrying out those regulatory functions—the regulatory committee. Therefore, we do not support amendment 145, as the removal of those words could lead to some ambiguity about the different roles of the council.

I think that I addressed some of Mr Brown's arguments in my lengthy opening remarks. Suffice it to say that I do not think that providing for arbitration is disproportionate. We in the Government encourage arbitration. It need not be a long or complex procedure. The role of the Lord President is to appoint an arbiter, not to adjudicate. Arbitration will not be conducted before him or the inner house of the Court of Session. It will be conducted by an arbiter. It is a simple process that avoids litigation and going to court. That is the point of arbitration. I do not believe that providing for it is disproportionate and I do not believe the argument that creating a provision for arbitration is a disincentive to use it. That is a surprising proposition and we do not support it.

I do not believe that confusion surrounds this section, which is straightforward, clear cut and based on principle. I commend it to the Parliament. I respectfully invite Mr Brown not to move the amendments in his name. I invite Bill Aitken not to move amendment 145.

Amendment 94 agreed to.

Amendment 95 moved—[Fergus Ewing]—and agreed to.

Amendment 145 moved—[Bill Aitken].

The Deputy Presiding Officer: The question is, that amendment 145 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)

Smith, Margaret (Edinburgh West) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

Against

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 70, Against 43, Abstentions 0.

Amendment 145 agreed to.

Amendment 96 moved—[Fergus Ewing]—and agreed to.

Amendment 97 moved—[Fergus Ewing.]

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

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)

Russell, Michael (South of Scotland) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Hume, Jim (South of Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Deputy Presiding Officer: The result of the division is: For 85, Against 29, Abstentions 0.

Amendment 97 agreed to.

Amendment 146 moved—[Robert Brown].

The Deputy Presiding Officer: The question is, that amendment 146 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)

McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 13, Against 100, Abstentions 0.

Amendment 146 disagreed to.

Amendment 147 moved—[Robert Brown].

The Deputy Presiding Officer: The question is, that amendment 147 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)

McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 100, Abstentions 0.

Amendment 147 disagreed to.

Amendment 98 moved—[Fergus Ewing]—and agreed to.

Amendment 148 moved—[Robert Brown].

The Deputy Presiding Officer: The question is, that amendment 148 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Against

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)

Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 100, Abstentions 0.

Amendment 148 disagreed to.

Amendment 149 not moved.

Amendments 99 to 104 moved—[Fergus Ewing]—and agreed to.

Section 94A—Notification if suspension lifted

The Deputy Presiding Officer: Group 19 is on disciplinary provision. Amendment 105, in the name of the minister, is grouped with amendments 106 to 110, 112 and 113.

Fergus Ewing: The amendments in the group relate to discipline.

Members: Oh!

Fergus Ewing: I hear that members are listening—that is encouraging.

At stage 1, an amendment was lodged that sought to alter the Solicitors (Scotland) Act 1980 so that a solicitor's practising certificate would automatically be suspended if they had been convicted by any court of an act involving dishonesty or had been sentenced to a term of imprisonment. Such suspensions are already possible in those circumstances, but the Law Society wishes to prevent convicted solicitors from practising without waiting for the completion of the Scottish Solicitors Discipline Tribunal process.

The amendment was not moved at stage 2, but I undertook to discuss the issue further with the Law Society, which has agreed that automatic suspension is not appropriate and that a discretionary power for the council of the society to suspend practising certificates in such

circumstances is more suitable. We have also agreed that there should be a right of appeal to the court. Amendments 105 to 107, 112 and 113 make necessary amendments to achieve those objectives.

I move amendment 105.

Amendment 105 agreed to.

Amendments 106 to 110 moved—[Fergus Ewing]—and agreed to.

After section 94A

The Deputy Presiding Officer: Group 20 is on the accounts fee. Amendment 111, in the name of the minister, is the only amendment in the group.

Fergus Ewing: During my discussions with the Law Society, it was suggested that it might make the purpose of the guarantee fund clearer if the society could charge a separate fee to cover financial compliance work. The society suggested that, as with the guarantee fund fee, only principals and incorporated practices should pay. The guarantee fund contribution would be reduced accordingly and would cover only the costs of administration of the fund and grants from it. Amendment 111 inserts new section 37A into the Solicitors (Scotland) Act 1980 to make provision for the new accounts fee.

I move amendment 111.

Amendment 111 agreed to.

Amendment 112 moved—[Fergus Ewing]—and agreed to.

Amendment 150 not moved.

Before section 98

Amendment 113 moved—[Fergus Ewing]—and agreed to.

After section 98

16:45

The Deputy Presiding Officer: Group 21 is on amendments to the 1980 act. Amendment 151, in the name of Bill Aitken, is grouped with amendment 156.

Bill Aitken: These two amendments seek to amend the 1980 act, and they are in consequence of or in connection with the amendments that were made to the complaints procedure in the 2007 act. Amendment 156, the principal amendment of the two, is necessary in order to dovetail the new complaints procedure into the 1980 act and to make it work more effectively. That is the crux of the argument, and I shall listen to the minister with interest.

I move amendment 151.

Fergus Ewing: Bill Aitken's amendments 151 and 156 make certain changes to the 1980 act that were proposed by the Law Society of Scotland some time ago. They were said to be consequential to the Legal Profession and Legal Aid (Scotland) Act 2007.

Although such changes could ordinarily have been made using the power to make ancillary provision that is contained in the 2007 act, that power is currently limited in scope, owing to changes made through the UK Legal Services Act 2007. However, I lodged a stage 2 amendment to amend the Legal Aid (Scotland) Act 2007 to ensure that the power to make ancillary provision can be used as intended, including in areas that have been altered by the UK Legal Services Act 2007. That stage 2 amendment now appears in the bill as section 98A.

Given that the issues can be addressed through that section, and that I undertake to consider addressing them in subordinate legislation, I respectfully invite Bill Aitken—if he agrees that that deals with the issues adequately—to withdraw and not move amendments 151 and 156 respectively.

Bill Aitken: On the basis of the ministerial undertaking that has been provided, I will not proceed with the amendments.

Amendment 151, by agreement, withdrawn.

Section 99—Regulations

Amendment 152 moved—[Richard Baker].

The Deputy Presiding Officer: The question is, that amendment 152 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)

Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Russell, Michael (South of Scotland) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)

Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Hume, Jim (South of Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney) (LD)
 McGregor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Deputy Presiding Officer: The result of the division is: For 85, Against 28, Abstentions 0.

Amendment 152 agreed to.

Amendment 114 moved—[Fergus Ewing]—and agreed to.

Amendment 153 not moved.

Section 99A—Further modification

Amendments 154 and 155 not moved.

Amendments 115 and 116 moved—[Fergus Ewing]—and agreed to.

Schedule 3—Censure

Amendment 117 moved—[Fergus Ewing]—and agreed to.

After schedule 8

Amendment 156 moved—[Bill Aitken].

The Deputy Presiding Officer: The question is, that amendment 156 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McGregor, Jamie (Highlands and Islands) (Con)

McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

Against

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)

McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 15, Against 99, Abstentions 0.

Amendment 156 disagreed to.

Schedule 9—Index of expressions used

Amendment 118 moved—[Fergus Ewing]—and agreed to.

Long Title

The Deputy Presiding Officer: Group 22 is on the long title. Amendment 119, in the name of the minister, is grouped with amendment 120.

Fergus Ewing: Amendments 119 and 120 will amend the long title so that it reflects the provisions that were inserted at stage 2 in relation to the regulation of non-lawyer will writers and lay representation.

I move amendment 119.

Amendment 119 agreed to.

Amendment 120 moved—[Fergus Ewing]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Legal Services (Scotland) (Bill)

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-7105, in the name of Fergus Ewing, on the Legal Services (Scotland) Bill.

16:53

The Minister for Community Safety (Fergus Ewing): I am delighted to open the final debate on the bill, and I thank members for their contributions this afternoon. I especially thank members of the Justice Committee, which was so ably convened by Bill Aitken. They bore the brunt of the work and we are grateful. We are also grateful for the discussions that have taken place during the past several days and which have allowed the relatively swift transaction of business this afternoon, although that swiftness might not have been evident to all members who were here.

When the bill was introduced in the Scottish Parliament last year, I recall one member saying that it would be a straightforward, simple and uncontroversial bill. How wrong he was. It turned out to be more complicated than that, and the debate in the legal profession has been heartfelt, especially during the past year.

When I took responsibility for the bill it seemed to me necessary, reasonable and fair to meet the people who had strong objections to and reservations about the bill on grounds of principle as well as pragmatic argument. I met those people and I respect their views.

The debate has been turbulent and bruising at times, but it has always been conducted by those who are ultimately concerned for the continued success and independence of the legal profession in Scotland, and for the importance of Scots law and the Scottish legal system—a view that we all hold.

The late Donald Dewar, who was remembered earlier this week in a marvellous piece of work, said that Scotland was the only country in the world that had a legal system but lacked its own Parliament. I think that as a proud Scottish solicitor he would have been interested in taking part in this debate.

The debate has been difficult and has aroused strong emotions that have not waned entirely. Discussion will no doubt continue after the bill is passed, but I believe that a measure of consensus on the compromise position that was so long fought for has been reached today by the Parliament and the Law Society of Scotland. The legislative process can perhaps be viewed as an informal, unwritten partnership between the Parliament and the Law Society acting in tandem,

as well as involving other professions and individuals.

It could be said—and some believe—that the profession has driven the legislation, as it reached a compromise that we adopted as our own. Richard Baker and Robert Brown have today rightly expressed strong strands of argument and views that are no doubt still held and argued among significant minority sections of the legal profession. It was right, and I am pleased, that we debated those today. I am somewhat pleased, not to say relieved, about the outcome for those particular amendments, but I pay tribute to everyone who played a part in drafting them.

The bill has the potential to modernise the legal profession, and it will expand the opportunities that are available to solicitors, especially, as I have said on many occasions, to young solicitors in the generations to come. I am entirely confident that solicitors in Scotland—mainly, although not exclusively, those from larger firms—will take advantage of the opportunities that will, if the bill is passed, be available to them. I firmly and fervently believe that those opportunities would not be available if it was not for the bill.

I am particularly pleased that the creation of those opportunities costs very little in taxpayers' money. The bill will allow business to create business, and will enable the business ingenuity of the Scottish legal profession to be employed to that end. It will enable Scottish solicitors to compete with ever greater success with their counterparts south of the border, especially if we as an institution go on—as I hope, believe and expect that we will—to reform the courts in Scotland and deliver a civil court system that is capable of acting more swiftly and involves less expense.

There are huge advantages to be obtained from the bill, and I hope that businesses will embrace rather than fear the changes. In addition to allowing the big firms to deploy opportunities at that end of the market in commercial and technical areas of law, and in significant bodies of law in which the profession has perhaps lost out to England, I fervently believe that the bill will benefit high-street solicitors. They will be able to join with chartered accountants—provided they are approved, as they will be—and other professionals to share premises and costs, and to offer an improved service to their clients and to new clients. I believe that that is all to the good.

I will say in closing that the bill makes other provisions—subordinate but significant—for the regulation of non-lawyer will writers. That was given overwhelming support in our public consultation and I am pleased to say we have taken a lead on England in that area. The bill gives new and important functions to the Scottish Legal

Aid Board, which has been praised by, for example, Scottish Women's Aid, and it also makes provision that will allow court rules to be made to permit lay representatives, or McKenzie friends, to make oral submissions in court.

I am pleased to speak in support of the bill, which I commend to the chamber.

I move,

That the Parliament agrees that the Legal Services (Scotland) Bill be passed.

17:00

Richard Baker (North East Scotland) (Lab):

This has not been straightforward process. It has been a rather arduous one, and the reforms, while important, have been subject to much greater debate than we might have anticipated. Like the minister, I thank for their work the Justice Committee and all those who have worked on the bill or been involved in making representations on it.

As the minister said, a great deal of effort has gone into the work to improve the bill and to try to forge a greater consensus between those with differing views on it, who see it as either a threat or an opportunity for the legal services industry in Scotland. As I stated earlier, the problem is that we are working on predictions of how we hope the reforms will work. The evidence does not exist at the moment because the long-anticipated movement to 100 per cent external ownership of legal services businesses south of the border will not now come into effect until the end of next year at the earliest.

The key for us has been to try to move to allowing new investment into our legal services sector, which has been through challenging conditions due to the global recession, while assuaging some of the concerns that have been expressed about how the system can be effectively regulated and about potential negative impacts on access to justice for consumers.

That is why we, like Robert Brown, have supported an incremental approach and sought to achieve a balance in setting in the bill a structure for legal services providers that allows for multidisciplinary firms and external investment and, in advance of potentially varying the percentages on ownership on the basis of evidence of the reforms' success, provisions that enable ministers to introduce regulations to do just that.

Far from falling behind the situation in England and Wales, we have now moved to a position in which non-solicitors can own greater percentages of legal services firms than is currently the case south of the border. That was the case not only

with the position reached at stage 2, which as the minister rightly said was a concession from the Government's previous position, but in the amendments that Robert Brown and I pursued today.

I could not take Dave Thompson's intervention because of a lack of time—nothing else, I assure him. Much as he may have thought that he was going to ask me a good question, I was not particularly troubled or intimidated. I say to him that it is important to acknowledge the Law Society's current position and welcome the input that we have had from it, but its position has been a moveable feast and a hotly debated issue. I am sure that the Law Society will be pleased that the bill has come to a resolution—we have all heard from Michael Clancy, who has worked hard on it—but I am sure that there will be a lot of debate on how it will be implemented.

We have always said that, in reforming our legal services sector in Scotland, the first principle must be to maintain and improve access to justice. We must now be vigilant about whether that comes to pass with the new framework for the sector that will be implemented as a result of the bill.

I am pleased that the minister supported my amendments on the number of regulators, which allayed my fears. Robert Brown and Bill Aitken did not share them, but they were fears for me so the minister's move was welcome and important.

I concede again that the minister made concessions at stage 2. Although the bill is not in the form for which we have argued, I hope that it proves to be the case that access to legal advice and representation in small and rural communities is not disadvantaged. I hope that benefits from new capital in existing firms will accrue to the sector, and that there will be benefits for social enterprise. However, we must monitor developments carefully so that the issues about which concerns have been raised do not come to pass.

In the final analysis, instead of objecting to the principle of the bill, we have sought a consensus position, whereby the reforms can be agreed to, but they will start at a more cautious level. On that basis, albeit with the reservations to which I have referred, we will support the passing of the bill at decision time. An issue that is crucial in giving us comfort in doing so is the potential that exists to vary the percentages of ownership through regulation, which was agreed to at stage 2. I make it clear that if we were to form the Administration after the election, we would look at the situation as it developed and would have one eye on developments in England and Wales.

The fact that we will enable the bill to go through does not mean that we concede the argument on

majority ownership that we pursued through my amendment on the issue earlier today. We stand ready to bring regulations back to Parliament in the next session that would give effect to that proposal, should we conclude that the circumstances suggest that that is necessary. However, the important caveat, as I have said, is that we will allow the bill to be enacted. We can but hope that it will bring the benefits that the minister is bullish about. The consideration process has at times been difficult because of the technical and complicated nature of what is an important bill, but Parliament has undoubtedly devoted significant energy to its scrutiny, as the minister said.

We may have different views on how best to reach the goal of ensuring access to justice and a thriving legal profession in this country, but that is what we all want, and we recognise that it is the intention behind the minister's approach to the bill. Despite the reservations that I have expressed, we hope that that will be achieved once the bill is passed.

17:06

Bill Aitken (Glasgow) (Con): As the member who was somewhat optimistic about how the debate would proceed, it is with some inhibition that I rise to speak.

Matters were made particularly difficult because the legal profession was—for the best of all possible reasons—deeply divided, and we were not able, until comparatively recently, to get a consensus view. That is why I took the view that the 51 per cent/49 per cent restriction on the ownership of licensed providers would provide a degree of reassurance, and I am pleased that that reassurance has been provided in respect of certain members of the legal profession.

Although the lobbying has been relentless, it has been done in an entirely appropriate manner, with great courtesy and moderation. Everyone who gave evidence to the Justice Committee or who approached party spokesmen and party representatives directly did so in a highly courteous and constructive manner, and I congratulate them on that.

Of course, the bulk of the work on the bill came to the Justice Committee, and I thank my colleagues on the committee, who looked at the bill remarkably thoroughly and achieved a degree of compromise as the legislative process proceeded. That does them a great deal of credit.

There are certain aspects of the bill that should be stressed. The first is its permissive nature. No one requires to avail themselves of the benefits of the bill unless they wish to do so; no one is compelling law firms to go down the alternative

business structure route. However, I have absolutely no doubt that it will make business easier and that it might make viable businesses that might not otherwise be viable—particularly those in rural areas and smaller towns, where joint operational working, which can be done at the moment by sharing the back-room facilities, would not provide what is required.

In addition, the bill is flexible, as Richard Baker said. In the years ahead, Governments may look at the arrangements for which it provides and say that they are working well; if they are not working, the percentages can be adjusted accordingly. That flexibility exists.

The bill offers tremendous opportunities. Every business nowadays requires to look at the opportunities and to deal with the threats that confront it.

There can be no doubt that, if we do not pass the bill, some of Scotland's law firms could find themselves in difficulty and at a serious disadvantage to firms down south as they seek to avail themselves of the provisions in the Legal Services Act 2007, which was passed by the Westminster Parliament. The Scottish legal profession is a significant contributor to the Scottish economy and we could not take that risk. However, because of the permissive nature of the bill, those who do not wish to go down that route need not do so.

The process has been long, complex and convoluted. Some members now know much more about the running of law firms than they did—with the exception of Robert Brown, who ran one. The debate has been carried out entirely appropriately. The legislation is worth while, and the law profession in Scotland, of which we are rightly proud, can now move forward with confidence.

17:11

Robert Brown (Glasgow) (LD): As everyone has agreed, the bill, which began as a technical bill, became increasingly more convoluted as it progressed, but it has been significantly improved by input from witnesses and following parliamentary scrutiny.

Most significantly, we now have a simple, non-bureaucratic solution that allows citizens advice bureaux and other advice agencies to employ a solicitor if they wish without getting entangled in the main provisions of the bill.

The regulatory and professional principles have been tightened up and improved, as have the role of the Lord President, protections against fraud, penalties on defaulting entities and individuals, and the fitness test for investors. The definition of a designated person has been sorted out.

Provision has been made to regulate will writers, and the Scottish Legal Aid Board has a more comprehensive role in providing information about, monitoring and ensuring access to justice, which, as everyone has said, is a key issue across Scotland. All those provisions are good and worthy of support at stage 3.

At stage 1, I reserved the Liberal Democrat position on our attitude to the bill. I am aware that there was a considerable furore when it became known that we had doubts about the attitude that we should take to the bill at stage 3. If Michael Clancy, who is in the public gallery, did not already have grey hairs, he will have them as a result of the bill's progress. I make no apologies for that, because in many ways, the bill goes to the heart of the legal profession in which I and others in the chamber spent many years of our professional careers.

Undoubtedly, the climate in which the debate was conducted has become much frostier since the banking crisis. We saw the downside when cautious bankers with 300 years of Scottish prudence and banking ethics in their genes were replaced by whizz-kid salesmen whose job was to sell financial products as if they were cans of beans. To be quite honest, at stages 1 and 2, no one on the Justice Committee would have supported the bill had such arrangements not already been approved in England. That is, of course, part of the backcloth to the bill.

The case for the bill was less than overwhelming. It is not enough to aver baldly that competition is a good thing or that we need to have a level playing field with England. Competition can lead to monopoly and entities that are too large or dominant, and there can be interference with the ethics and independence of the profession. The level playing field could mean not just Scottish firms advancing in England, but Scottish firms being swallowed up by larger English predators. It is worth noting that McGrigors, one of the large firms that supported the bill, now has more lawyers in London than it has in Glasgow, which is a trend that it anticipates will accelerate. That has come about under the current arrangements. In August, out of a total of 420, McGrigors had 160 lawyers in London and 140 lawyers in Glasgow.

That reflects a general trend. Research by IFSL Research in 2009 identified that Scottish law firms have grown in recent years, not only consolidating their hold over the domestic market, which is a good thing, but increasingly becoming involved in international work. It is interesting to note that the largest international firms in London base between 45 and 65 per cent of their lawyers outside the United Kingdom, which is a reflection of the dominance of English law in international

commerce and dispute resolution. Again, all that is part of the backcloth to the bill.

Parliament's job is to do its best to get the structures right to maximise opportunities for the Scottish economy and to get higher standards, more efficient practice and more satisfaction for clients. We want firms to remain headquartered in Scotland, so that Scottish lawyers have maximum business and job opportunities, and so that the brand of the Scottish solicitor is a top one that can straddle the English common law and the continental civil law systems to best effect. The bill should be judged on those criteria, but that judgment is surrounded by unpredictability. However, ultimately, and with the caveats and restrictions that are in the bill, Liberal Democrats have concluded that we should support it.

The dominant view of the large firms must be taken into account. In the public interest, we have subjected the proposition to close examination, and we are persuaded that cautious movement in that direction is appropriate.

The bill makes provision to adjust the ownership percentages up or down, and the regulatory powers should be enough, in principle, to control and monitor untoward development. The motivation, however, must be advantage to the Scottish economy, not the interests of individual firms. Central to that argument remain the issues of independence and professional ethics. The large firms and the Law Society of Scotland have taken on a considerable responsibility. They and the Government must show that the new flexibilities will be used wisely and in the public interest. There is a very large element of suck it and see in this debate.

17:15

Nigel Don (North East Scotland) (SNP): I am grateful to Robert Brown for that summary of the bill's provisions, as it saves me having to say one or two things that I would otherwise have said. I will pick over some of the issues that members have not said much about.

I reinforce the view that the bill is a facilitating piece of legislation and remind the profession that there is no requirement for anybody to do anything at all. I commend the minister for ensuring that—in his own words—the bill

“will not have a significant impact on traditional firms”

and for generally resisting the temptation to lodge further amendments. That is good in principle. Although I understand why the Law Society would have liked to have had lots of amendments lodged along the way, I think that we have the right things separated out in the bill. Nevertheless, we must be prepared to return to the issue at some stage, to

give the Law Society the help that it has been looking for.

Like the minister, I acknowledge the concerns of some folk within the profession about the competence and appropriateness of the bill. Some of those people are in the public gallery this afternoon, seriously outnumbering the press. Perhaps that reflects the fact that they understand what we have been doing and the press do not.

I am glad that we have sorted out the guarantee fund, which should be open to all. I am particularly pleased that we have established that it does not cover the non-legal services that businesses may provide. I can see some difficulty—even the odd court case arising—in sorting out what are legal services and what are not, but at least we have made that principle clear.

I turn to the Law Society's powers of inspection, the powers of regulators themselves and all the issues of external ownership and how the businesses might work. However well we have drafted the provisions in the bill—let us do ourselves the honour of assuming that we have framed the powers in it perfectly—it is only as good as the use that people make of those powers to reflect what is going on around them, to regulate, to inspect and to control. I say that partly because, in recent crises, institutions such as the Financial Services Authority have had the powers to do all sorts of things but have somehow failed to use them. We must ensure that the powers that the bill invests in folk are properly used and that soft-touch regulation is used only where a soft touch is appropriate. It is hugely important that we have the right people doing that.

My final point has been raised on several occasions but has been ducked. As far as I can see, there is no specification regarding the description of the new organisations. If a firm is predominantly lawyers but happens to have an accountant and a surveyor, what will it call itself? If a firm is predominantly accountants but happens to have a lawyer and a surveyor, what will it call itself? If a firm is a bunch of surveyors who have taken on a lawyer and an accountant, what will it call itself? I suspect that common sense will come up with some decent answers in those cases. However, when firms are composed of very mixed combinations of professions, I wonder whether the public will get confused and whether there will be an opportunity for sleight-of-hand representation. Perhaps we should think about having proper descriptions somehow or other.

17:19

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Like other members, I would like to thank everyone who has taken part in the parliamentary

process of the bill, including the clerks and all the people who gave written and oral evidence to the committee. As our convener Bill Aitken said, all the members of the committee know more about legal services now than they did at the start. In fact, it is a pity that we have only four minutes each in which to speak, as we could all go on and on, sharing our detailed knowledge.

A great deal of bartering has gone on in the Justice Committee, and every party that is represented on the committee has made concessions. That is what the Parliament was supposed to be about: discussion and an attempt to reach consensus where possible, as well as recognising when you are beaten and accepting what the majority says.

Throughout this process, I have attempted to widen access to legal services that are available to the constituents whom we all represent, while maintaining the independence and security of solicitors firms, particularly small and well-established independent solicitors firms that have roots in their local communities.

Tonight, I want to focus on two areas that will come as no surprise to anyone. The first is the issue of citizens advice bureaux now being able directly to employ solicitors, and the second is the issue of external investors staking a claim in solicitors firms.

I welcome the proposals that will, if the bill is passed tonight, apply in relation to the legal options for organisations such as citizens advice bureaux, the Cumbernauld unemployed workers centre, which I talked about last week, and other organisations that give advice to our constituents. Those organisations provide a valuable service across our constituencies by offering our constituents an independent, accessible and effective service on a wide variety of subjects.

However, despite dealing with more than 24,000 legal issues last year, citizens advice bureaux are limited when it comes to giving comprehensive legal advice to the people who knock on their doors. The changes that the bill will introduce will permit citizens advice bureaux and other advice and law centres to employ solicitors. That is a good way forward. I just hope that the citizens advice bureaux and other organisations do not lose the links that enable them to benefit from the pro bono work that local solicitors do for them.

I know that we are short of time, so I will throw away some of my speaking notes.

The other part of the bill that I am interested in relates to external ownership of solicitors firms. There was a question about whether solicitors firms should be able to be completely owned by non-solicitors, whether they be individuals or larger organisations. Everyone in the committee

and the chamber knows the concerns that I have in that regard. I have expressed my fears about the groups or individuals who might seek to infiltrate the legal firms and the fact that we might be opening the door to them. I still have concerns about what will happen if the bill is voted through tonight. However, because there are many good things in the bill, I will support it, but I am entitled to state my concerns.

I acknowledge that the minister has come a long way from a position of allowing 100 per cent non-solicitor ownership to allowing only 49 per cent non-solicitor ownership, and I believe that he has handled the bill in the way in which the Scottish Parliament should be dealing with legislation, but I still have doubts about the matter, and I take comfort from the fact that the bill contains powers to adjust that percentage. As I said, the bill contains so many good things that the concerns that I have about that element will not stop me supporting it at decision time.

17:25

Dave Thompson (Highlands and Islands) (SNP): The Legal Services (Scotland) Bill will introduce a long-needed change to allow Scotland's legal professionals to compete on a level playing field in the international marketplace. That is to be welcomed. In recent years, our law firms have been hampered by an inability to present potential customers with the same complete package of professional services that rival firms from other European nations are able to offer.

The changes that are set out in the bill will help our lawyers to join forces with accountants, estate agents, property surveyors and other professionals to present potential clients with the complete package of professional services that is needed for any major business deal. That co-ordinated approach is far more attractive to any major company from overseas that wants to do business in Scotland and it is the type of service that they are used to being offered in the majority of countries in which they operate. However, it is not just big business that stands to benefit from the changes that the bill seeks to introduce; consumers will also benefit. The new way of delivering a wider range of professional services will also bring welcome benefits for smaller private clients.

At present, unless a business is big enough to be able to employ its own in-house team of solicitors, actuaries, management accountants, architects and taxation specialists, it is at a disadvantage. When Scotland's small businesses are pursuing a major project, they are forced to put together a group of professionals who then have to work together as an ad-hoc team. Any football

manager will tell you that that is not a recipe for success. With the introduction of the changes that are contained in the bill, our small businesses and private clients will, for the first time, be able to access in their local communities the same comprehensive range of advice and services that their larger competitors have long been able to draw upon.

Richard Baker: Mr Thompson makes the point that our firms here in Scotland will be able to compete with firms overseas on the same basis. What other country in Europe has the structure of legal services providers that is proposed in the bill? Where is it operating at present, as far as Mr Thompson knows? As I understand it, it does not operate anywhere else in Europe.

Dave Thompson: The point is that we are creating a structure that will allow solicitors, lawyers and others to work together for the benefit of consumers, small businesses and others. The bill will give us a real competitive advantage in that.

The advantages of the changes in the bill do not end there. Buying or selling a home is probably the most important transaction that most private citizens will ever undertake, and the bill will allow the public access to a wider range of professional services from a single provider. Many of those services would not have been available through a traditional lawyer's office.

Robert Brown: Will the member take an intervention?

Dave Thompson: No, thanks.

I am pleased to note that the bill also includes proposals for the Scottish Government to appoint regulators to oversee the sector and guarantee the good conduct of those involved. I and other members of the Justice Committee will, I am sure, take great interest in watching to ensure that the arrangements are sufficiently robust to ensure that the good name of Scotland's legal establishment is undiminished by the new arrangements.

I have been encouraged to hear that organisations that represent the interests of the public, and also the Law Society of Scotland, have given their support to the changes. Consumer Focus Scotland has taken a close interest in the formulation of the bill and its director Marieke Dwarshuis today urged members to back the bill, which, in her words,

"will support the development of a more open, innovative and competitive legal services market in Scotland, which better meets the needs of those using legal services."

That appears to me to be good advice from an independent but informed source.

I am pleased that the Opposition now plans to support the bill. I am sure that the minister, Fergus Ewing, is looking forward to introducing various regulations under the new legislation after the next election.

17:29

Bill Butler (Glasgow Anniesland) (Lab): I say to Mr Thompson that I think we will leave the next election to the electorate.

My colleagues on the Justice Committee will recall that, at first sight, the bill's policy objectives appeared to be worthy and relatively uncontroversial, not to say somewhat dry and even esoteric. How wrong we all were.

The bill has excited passionate debate in the legal profession—particularly relating to outside investment and ownership—the like of which has not been seen in modern times. The controversy provoked a referendum and a number of special general meetings, which demonstrated the depth of feeling and division of opinion within the legal profession. It even moved Mr Michael Clancy, in his letter of 26 April this year to members of the Law Society, to note with admirable diplomacy and restraint that

“these expressions of democracy ... show ... there is no consensus in the profession on two important areas—external ownership; and solicitor participation in a minority role in an entity with other professional participants.”

Quite so.

One of the most prominent opponents of the bill, Mr Mike Dailly of the Govan Law Centre, put it rather more robustly. Members will recall his briefing in April this year, which said:

“We do not believe the Bill as presently drafted contains appropriate safeguards”.

He went on to say that

“the particular concept of Alternative Business Structures adopted in the Bill does not lend itself to acceptable safeguards for those citizens requiring access to justice or a legal service.”

Indeed, according to Mr Dailly, safeguards need to be put in place to

“protect the public interest and the independence and professional ethics of solicitors subject to ABS.”

That division of opinion in the legal profession in respect of that fundamental but controversial provision has been understandably mirrored throughout the bill's parliamentary consideration. At stage 2, given that I had—and still have, to some degree—real sympathy for the concerns of those who adopt Mr Dailly's argument, I lodged amendment 227 and 77 consequential amendments, the effect of which would have been to limit to 25 per cent non-solicitor ownership of a

law firm. The discussion that followed was robust, considered and worth while. However, I accept that the majority of my colleagues felt that such a limit would be too restrictive, and incompatible with the policy intention of the bill. My amendment was disagreed to. Given my respect for my colleagues on the Justice Committee, I did not move the 77 consequential amendments in the group. I considered that it was merciful not to do so.

In the end, the committee agreed to amendment 317, in the name of Robert Brown, which would create a cap of 49 per cent on external ownership of a licensed legal services provider. Despite the minister's robust arguments in favour of 100 per cent ownership by external investors, in order that firms could more easily develop innovative new business models, go into partnership with other professionals and raise external capital, the committee—correctly, in my view—supported Robert Brown's compromise.

Today, we have debated fairly energetically further refinements in respect of that provision. Although my clear preference was for the compromise in amendment 46A, in the name of Richard Baker, and my fallback position was for amendment 123, in the name of Robert Brown, both amendments were disagreed to. So be it. As a democrat, I accept the will of Parliament. Given the welcome movement in the Government's stance at stage 2, we have at least arrived at a rational compromise on the matter, especially since the Government's amendment 378, which was agreed to at stage 2, will allow Scottish ministers to amend, by statutory instrument, the percentage of majority ownership that is permissible, and to repeal the threshold requirement, if circumstances change. That is an entirely sensible position.

I hope that when we come to decision time shortly, Parliament will accept that we have arrived, at long last, at journey's end, and agree to the bill as amended today.

The Presiding Officer (Alex Fergusson): We come to closing speeches. Decision time will be at 6 o'clock, so members can have slightly longer than was indicated. I call Mike Pringle. You have about 6 minutes, Mr Pringle.

17:34

Mike Pringle (Edinburgh South) (LD): I am not sure that I will need it, Presiding Officer.

I am pleased to confirm what my colleague Robert Brown said in his conclusion, which is that the Liberal Democrats will support the bill when we vote tonight.

I add to the congratulations to Bill Aitken and the Justice Committee. I have no doubt that the bill

was a marathon. Bill Butler referred to that, too. I think that committee members thought that they were all in for a bit of a canter. My colleague Robert Brown spent a huge amount of time on the bill, so it is perhaps a relief that we have only one justice committee in this session of Parliament or it might have been a justice committee such as I was on in the previous session that considered the bill. I congratulate Robert Brown on the huge amount of work that he did during the progress of the bill.

At stage 1, the Justice Committee concluded that the advantages of the bill are less clear for smaller Scottish firms and consumers, so we were concerned at the outset that the bill might benefit larger firms at the expense of smaller practices and of consumer access. However, we were and are aware of the view that, due to the changes that have occurred in England and Wales, the bill is necessary to allow Scottish firms to innovate and compete in the modern market.

Many representations from all sides have been made to all members about the merits or otherwise of the bill. Bill Aitken was absolutely right to say that the arguments have been short, long, varied and well argued. I congratulate everybody who lobbied members, because that was the right thing to do.

Members have alluded to the fact that the Law Society of Scotland has been divided over external ownership and solicitor participation in a minority role in an entity with other professional participants. As we have heard, the society has taken a number of votes on the alternative business structure as proposed in the bill. The vote went one way, then the other and then back again. The society finally agreed to adopt a compromise position: it supported majority ownership, with 51 per cent of a law firm having to remain with solicitors or solicitors with other regulated professionals. Of course, I preferred, perhaps like Bill Butler, the Liberal Democrat position, which Robert Brown has exposed at stage 3. However, as Bill Aitken said, we all live in a democracy, and we are where we are. I hope that the progress towards ABS proves to be a success. I am sure that many people, including in the Law Society, will keep a close eye on that progress.

Of course, the bill is not just about ABS. There are other good things in it, which I will come back to later.

It was generally agreed by the committee and by those who gave evidence to it, including the minister and the Law Society, that the main opportunities that the bill will provide will be for the larger firms in Scotland, or at least three or four of them. I understand that one firm—perhaps the biggest in Scotland—is still against the bill. It is

clear that there could be benefits in ABS for the larger Scottish law firms, as outlined by the minister. Bill Aitken was right that legal firms do not have to go down the ABS line, but I hope that the aspirations of larger firms that have lobbied hard for the bill and ABS will be realised.

It is much less clear that there will be obvious benefits for other users or smaller Scottish law firms, for which the bill could create more risk as a consequence of other competitors being able to enter the market. The committee concluded that, although the bill may be of significant importance for the larger Scottish law firms, the advantages for smaller Scottish law firms and, indeed, for consumers are less clear.

As I said, the bill is not just about ABS; it successfully tackles a number of other issues. Perhaps the argument about ABS has meant that those issues seem to have got lost. Because of lack of time, I will briefly mention just a few of them.

On access to justice, in the light of concerns that rural areas will be disproportionately affected by increasing competition, a Scottish Government amendment that aimed to strengthen the duty of the Scottish Legal Aid Board to monitor the availability and accessibility of legal services in Scotland was agreed to. The bill will, of course, allow for the employment of solicitors by charities—I congratulate Cathie Craigie on going into that matter in considerable detail. That will allow solicitors who are employed by citizens advice bodies and others to give advice directly to third parties.

The bill includes the first regulated framework for will-writing services. Two constituents of mine lobbied me on that, and I welcome that framework. Finally, I am pleased about the acceptance of McKenzie friends, which have been available south of the border for a considerable time. Many of us have been lobbied on McKenzie friends for a considerable time, from well before the Justice Committee dealt with the bill. I think that many people will benefit from McKenzie friends. That is an excellent provision.

The bill is important and, as Robert Brown rightly said, it is much about what will happen—he used the term “suck it and see”. The bill has tackled a number of important issues, and I am pleased to confirm that the Liberal Democrats will support it at decision time tonight.

17:40

Bill Aitken: This small debate ends a long and convoluted process, but there have been a number of worthwhile comments, some of which I will refer to. Nigel Don stressed the importance of regulation and the very real duties that will fall on

the Law Society, the Institute of Chartered Accountants of Scotland or any other body that is appointed as a regulator. Members are well aware of the problems of ill-considered regulation and the approach that was adopted to the regulation of the banks, which has had the most appalling consequences. I am certain that those who regulate the legal profession and legal services will ensure that nothing of that type happens.

Mr Don also raised the issue of designation, which is a matter that must be addressed. People who go into a shop on a main street in any of Scotland's communities must know what they are going to get, and there must be no subterfuge. The bill should certainly assist us in travelling in that direction.

Cathie Craigie referred to the fact that the bill will enable citizens advice bureaux, for the first time, to have legal representatives on their staff, which is entirely worth while. Throughout the process, she has rightly been concerned about the danger of criminal elements becoming involved in the legal profession. I have no basis in fact for saying this, but it would not be impossible for that to happen under the existing system. Certainly, we must safeguard against that, which is why I was particularly keen to ensure that the bill was as tight as possible, a view that was shared by all members of the Justice Committee and which has been reflected in the will of the Parliament.

Bill Butler took some responsibility for the initial view that the bill would not be controversial. He was proved to be significantly wrong. However, as he always does, he pursued the democratic process in a remarkably fair and measured manner. He lodged an amendment for consideration by the committee that would have lowered the allowed proportion of outside investment in firms. Having lost that argument, he sportingly eschewed the opportunity to move the 77 consequential amendments. I assure members that that left him in high regard with his convener and other committee members.

Mr Butler stated that we are now at the end of the process. Like all democrats, he accepts that the arguments that were canvassed well by Mr Baker and Mr Brown did not succeed. I know that those in the legal profession who fought robustly in opposition to the bill will now realise that we have come to the end of the process. They will continue to serve the legal profession of Scotland in the manner that they have done, in some cases for many years, and they will continue to be a credit to that profession.

The Scottish legal profession has an opportunity to move on from the divisions that have arisen in the past couple of years. The profession, like every section of the economy, faces challenging times. I return to the point that the profession

would have been extremely exposed if we had not introduced legislation. That has been a major concern to us. I hope that the profession can now build on the provisions in the bill.

Mike Pringle was correct to point out that, although ABS was the predominant issue in the deliberations, the bill has other important aspects. He highlighted the enlightened McKenzie friend provision, which will enable persons—sometimes very vulnerable persons—to attend court with much more confidence than they might otherwise have done.

The McKenzie friend provision is one of many provisions that were in the Lord Justice Clerk's recommendations on the civil justice system. I make the worthy suggestion—although it might not be entirely relevant to the debate—that we must get moving with the civil justice reforms. Unless we do so, dissatisfaction will continue with the number of days involved and the inappropriate procedures that are being followed.

The afternoon has been long and the process has been very long, but we have reached a satisfactory conclusion. We are justifiably proud of the Scottish legal profession, which makes an outstanding and important contribution not only to the Scottish economy but to Scottish civic life. It can now move forward with confidence, in the knowledge that it has the opportunity to organise its business systems to enable it to continue to succeed.

17:46

James Kelly (Glasgow Rutherglen) (Lab): I am delighted to make the closing speech for the Scottish Labour Party. As other members have said, the process has been long and arduous. I pay tribute to the Justice Committee clerks, the Government's bill team and all those who have worked on the passage of the bill, which is complicated and technical—and that is before we get to the politics.

As I said in the stage 1 debate, the start of the process last November was my first outing as a member of the Justice Committee. A couple of people—perhaps even the committee's convener, Bill Aitken—told me privately that the bill would not be controversial, although we would see how it went. That did not turn out to be the case.

As many members have said, the Law Society has had heated discussions, annual general meetings, special general meetings and extraordinary motions. At times, I thought that I had been transported back to the Labour Party in the 1980s.

Bill Butler: Hear, hear. [*Laughter.*]

James Kelly: So much so that when Bill Aitken moved amendment 141, to allow associate membership of the Law Society, I was tempted to support it on the basis that I could join up and join in.

To be serious, the situation has been difficult for the Law Society. We must record our admiration for its past president Ian Smart, and for people such as Michael Clancy, who have put in an enormous amount of work to try to heal the wounds, reach a compromise solution that the Law Society can support and have a bridge to Parliament, to keep the process going—the minister touched on that. That has helped us to reach where we are.

The big issue that divided us in the Parliament—although I am sure that we will not be divided at decision time—was ownership. It is recognised that the Government has moved from its original position of allowing 100 per cent ownership of ABSs by others to 51 per cent ownership by regulated professionals and 49 per cent by others. Other members, including my colleague Richard Baker and Robert Brown, have promoted other positions and advanced the arguments articulately. However, as Bill Butler said, we are democrats and we need to accept the will of Parliament. The Labour Party will support the bill at decision time. It is recognised that the Government has moved from allowing 100 per cent ABS ownership by others and tried to address the concerns of lawyers and individuals throughout communities in Scotland.

I also recognise the move that has been made to enhance the role of the Lord President. One of the early concerns was that the bill vested too much power in the hands of ministers. The enhanced role for the Lord President in the bill will ensure that there is a counterbalance, which I am sure will help Government ministers, whether the current team or another that is elected in future.

I welcome the fact that the number of regulators has been limited to three. I agree with Robert Brown, who said earlier that there is the potential for too much complexity. We do not want to be overburdened with regulators, which could make the system too cumbersome and not effective for good market processes.

I support the fact that the arrangements around the guarantee fund have been resolved. There will be a guarantee fund administered by the Law Society, but there will also be the option of a compensation fund for other regulators that enter the field. That will address some of the concerns. The guarantee fund, which provides guarantees to customers who suffer wrongdoing at the hands of unscrupulous solicitors, is held in high esteem in the Scottish legal system.

I agree with the points that my colleague Cathie Craigie made about citizens advice bureaux and unemployed workers centres being able to take on solicitors. That is a positive aspect of the bill. She managed to mention the Cumbernauld and Kilsyth unemployed workers centre for the second week in a row, for which she is to be commended. That shows what a doughty fighter she is for her constituency, which I am sure will lead to her re-election next May.

One concern that I have raised throughout the process relates to the financial memorandum—I see the minister smiling. The sums in the financial memorandum, of £37,000 for the approval of regulators and £29,000 for monitoring, are not really adequate. At one point, someone pointed out—I do not know whether it was the minister—that, on the Legal Services Bill in England, the £6 million for regulation was like an overpriced Rolls-Royce. It seems to me that we have a 1970s Hillman Imp for our regulation and monitoring, which is not adequate.

Where does the process leave us? Let us hope that as we move forward, legal firms throughout Scotland will be able to take advantage of the bill in order to grow, enhance their services, build the Scottish economy, create jobs throughout Scotland and enhance the role of Scottish legal firms on the international stage. Let us also hope that we will deliver an enhanced service and access to justice for legal services customers throughout Scotland.

17:53

Fergus Ewing: As members will appreciate, I have absolutely no desire to repeat myself and repeat the arguments that I made in opening the debate. Instead, I will start by paying tribute to the fact that, throughout the chamber, members have mentioned the other parts of the bill—the parts that concern not the future regulation of solicitors but other matters, all of which are important. Mr Pringle, Cathie Craigie, Bill Butler and most other members covered some of those areas.

I will mention one measure that I do not think was referred to specifically: the duty that section 96 imposes on the Scottish Legal Aid Board to monitor the availability of legal services. That was included at my suggestion, because, among other reasons, I attended a Scottish Women's Aid conference recently and heard Sheriff Mackie make the impassioned and effective argument that there are gaps in legal provision for women who are subjected to violence in this country, which is an absolute scandal. Those women do not have access to legal aid, and the solicitors who do the work do not have sufficient training, expertise or experience. The Scottish Legal Aid Board will now have a duty to monitor those gaps, and Scottish

Women's Aid will be on the access forum that will help to inform advice to ministers. My late wife, Margaret Ewing, played a huge part in the campaign to address domestic abuse, which still goes on today. The good work that is being done in this country to tackle that scourge that we all deplore should not pass unremarked.

I will respond to one or two points that have been raised—I do not really have to, but I am that kind of minister. *[Laughter.]* Nigel Don always asks the questions that ministers hope will not be posed in debates. That is a rare talent, which we are grateful that he possesses. His question was, "What will they be called?" I reassure him that we have thought about that. Under section 90(3), LLSPs will not be able to call themselves solicitors without clearance from the Law Society, but they will be able to do so with its agreement. I hope that Mr Don's mind is now at rest.

I will not repeat my earlier points on ABSs, but I will address questions that were raised on the subject. Sporadic references were made to whether ABSs are in operation in other countries, particularly other European countries. My information is that the introduction of ABSs is not limited to England, Wales and Australia as was suggested. I understand that ABSs are part of an international trend. Indeed, across Europe they are being considered in some form—albeit, I concede, mostly limited—or they already exist. I have much more detail on that. Happily, I will spare members an exposition of the detail.

Members: Hear, hear.

Fergus Ewing: It seems that that is another very popular move on my part.

Many members fairly expressed their reservations about the bill that we will pass today, which we recognise. I know of Cathie Craigie's hard work on the Justice Committee. She articulated the views that many have expressed. Likewise, Robert Brown and Mr Aitken expressed the common view that none of us has the divine prescience that would enable us to predict how the provisions of the bill will operate. Ministers are most certainly not complacent in thinking that we have produced a work of total perfection and that the bill will help the Scottish legal profession to reach the sunny uplands of business opportunity. However, I am convinced that we have produced a Scottish solution to an issue that needs to be dealt with right now. Mr Aitken was absolutely right to say that if we had not dealt with the matter now, Scottish solicitors could have been at severe disadvantage. I think that all members recognised that from the Justice Committee's stage 1 report.

As I said, we are not complacent; we understand the reservations. We cannot predict with certainty how the bill will turn out. That said,

we are convinced that it will create many new opportunities, jobs and employment, particularly for young Scottish lawyers in the generations to come.

I thank all the members who took part in the debate, particularly the party spokespeople: Richard Baker and James Kelly, Robert Brown and Mike Pringle, Bill Aitken and John Lamont, and Patrick Harvie. I have to say that Robert Brown kept us very busy over the past fortnight. We are very grateful to him for all the additional work, which we had not entirely anticipated would be necessary, but that is parliamentary scrutiny, that is why we are here, and that is the lot of ministers.

I thank my officials who have produced a system that will not—as in England—cost several million pounds with a new quango. We may have produced a regulatory model that is not a Rolls-Royce but a Hillman Imp. I had a Hillman Imp once; it was a marvellous car. It broke down only once, on the way to catch the ferry to Mull. The system will cost only a very small amount of money. That is a good thing, particularly when money is tight. I am proud that that Scottish solution has been applied.

I thank the Law Society; its current president Jamie Millar; its past president Ian Smart; and last, but certainly not least, Michael Clancy, who has spent so much time in the Scottish Parliament that we might make him an honorary MSP, had we the powers so to do. I commend the bill to the chamber and thank all members for the courteous and constructive way in which they have participated in its consideration.

Business Motion

18:00

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-7160, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 27 October 2010

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by SPCB Question Time

followed by Ministerial Statement: Literacy Action Plan

followed by Health and Sport Committee Debate: Report on out-of-hours healthcare provision in rural areas

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 28 October 2010

9.15 am Parliamentary Bureau Motions

followed by Scottish Liberal Democrats' Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time
Europe, External Affairs and Culture;
Education and Lifelong Learning

2.55 pm Scottish Government Debate: Carers
and Young Carers Strategy

followed by Standards, Procedures and Public
Appointments Committee Debate:
Report on Draft Revised Code of
Practice for Ministerial Appointments to
Public Bodies

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 3 November 2010

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Housing
(Scotland) Bill

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 4 November 2010

9.15 am Parliamentary Bureau Motions

followed by Scottish Government Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time
Health and Wellbeing

2.55 pm Scottish Government Business

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business.—[Bruce Crawford.]

Motion agreed to.

Parliamentary Business Motions

18:01

The Presiding Officer (Alex Fergusson): The next item of business is consideration of two Parliamentary Bureau motions. I ask Bruce Crawford to move motion S3M-7162, on suspension of standing orders, and S3M-7161, on the designation of a lead committee.

Motions moved,

That the Parliament agrees that, for the purpose of allowing up to 20 minutes to debate motion S3M-7154 on Thursday 7 October 2010, the second and third sentences of Rule 10.6.5 of Standing Orders be suspended.

That the Parliament agrees that the Equal Opportunities Committee be designated as lead Committee in consideration of the Forced Marriages etc. (Protection and Jurisdiction) (Scotland) Bill at Stage 1.—[*Bruce Crawford.*]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

18:01

The Presiding Officer (Alex Fergusson): There are three questions to be put as a result of today's business.

The first question is, that motion S3M-7105, in the name of Fergus Ewing, on the Legal Services (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Legal Services (Scotland) Bill be passed.

The Presiding Officer: The second question is, that motion S3M-7162, in the name of Bruce Crawford, on suspension of standing orders, be agreed to.

Motion agreed to,

That the Parliament agrees that, for the purpose of allowing up to 20 minutes to debate motion S3M-7154 on Thursday 7 October 2010, the second and third sentences of Rule 10.6.5 of Standing Orders be suspended.

The Presiding Officer: The third question is, that motion S3M-7161, in the name of Bruce Crawford, on the designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Equal Opportunities Committee be designated as lead Committee in consideration of the Forced Marriages etc. (Protection and Jurisdiction) (Scotland) Bill at Stage 1.

BBC Alba

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-6991, in the name of Ted Brocklebank, on congratulations to BBC Alba. The debate will be concluded without any question being put.

Motion debated,

That the Parliament congratulates the BBC Alba partnership on two years of what it considers to be its groundbreaking achievements in Gaelic broadcasting, including securing exclusive coverage of Scottish football, rugby and national cultural events; believes that BBC Alba has established itself as a cornerstone of public service broadcasting and an important source of commissioning revenue for the independent production sector, and would welcome steps for the widening of the distribution of BBC Alba by licensing its transmission on Freeview, the popular digital television platform, so as to allow full access to it for viewers throughout Scotland.

18:03

Ted Brocklebank (Mid Scotland and Fife) (Con): Feasgar math a' chàirdean. Tha e na thoileachas mòr dhomh an deasbad seo a thoirt don Phàrlamaid. Bidh fios aig buill gu bheil ùidh air a bhith agam bho chionn fhada ann an Gàidhlig agus cultar na Gàidhlig agus tha e na thoileachas mòr dhomh meal a naidheachd a chur air BBC Alba airson dà bhliadhna air leth soirbheachail de bhith a' craoladh phrògraman telebhisean air a' Ghàidhealtachd ann an cànan nan Gàidheal.

As most members will have gathered, I was saying how pleased I am to be able to bring this debate before Parliament tonight. Members will know of my long-standing interest in the Gaelic language and culture. I am delighted to be able to congratulate MG Alba on two highly successful years of broadcasting television programmes from the Gàidhealtachd in the tongue of the Gael.

I confess to the chamber that, in a largely misspent youth, I wasted too much time chasing a rugby ball. Indeed, that passion intruded well into adulthood, and I was still turning out for my former pupils team when sensible people had already switched to croquet. These days, I get my fix by watching rugby on television. Last Friday night, I switched on BBC Alba to watch the Magners league fixture between Edinburgh and Ulster. It was a great game. This season, I have been able to watch all the matches featuring Edinburgh and Glasgow live on BBC Alba. It seems incredible that Scottish rugby fans can see their top teams live only on the Gaelic channel. The fact that the commentary is in Gaelic in no way spoils the coverage—I can see what is happening and pick up Gaelic sporting phrases as something of a bonus.

Like hundreds of thousands of others who are fortunate enough to have satellite television, my viewing has been hugely enhanced by the arrival of BBC Alba. For us, it is normal to switch to the Gaelic channel for programmes ranging from gardening to mountaineering, from cooking to ceilidhs and from documentaries and in-depth interviews to exclusive coverage of football and rugby matches. For those of you who were fooled by my opening few words, I say that I have little Gaelic, but I find the English subtitles totally adequate for understanding the programmes. Subtitles are also a useful prompt for those of us who are still trying to learn the language.

In tonight's motion, which celebrates the first two successful years of BBC Alba's existence, we not only praise the channel's achievements but welcome the wide support for licensing its transmission on Freeview so as to allow full access for viewers throughout Scotland. It is ridiculous that Scots who cannot afford satellite TV should be denied a whole range of excellent Scottish-produced programmes.

About 70 per cent of Gaelic speakers with access to satellite TV watch BBC Alba for an average of six hours a week. That is not surprising. However, despite only 23 per cent of TV sets in Scotland receiving it, BBC Alba has built up a loyal audience of about 200,000—some 5 per cent of viewers all over Scotland are watching more than 1.5 hours each week. It is clear that if the channel were available on Freeview, it would get a huge surge in viewership, and I believe that there would be a corresponding surge in interest in Gaelic language and culture.

Later this month, at its next meeting, the BBC trust will make the vital decision on whether the channel should be licensed on Freeview. Two years ago, the regulator, the Office of Communications, recommended that Channel 4 should make space for S4C in Wales, which happened a year later. It also recommended that ITV should make space for the Irish language channel in Northern Ireland in 2010, and planning for that is under way. Ofcom also recommended that BBC Scotland should make space for BBC Alba. Following Ofcom's clear steer, we await the BBC trust's decision with interest.

The trust would do well to consider that, as well as creating Gaelic language and cultural benefits, BBC Alba has allowed for the development of Scotland's hard-pressed independent TV production sector. Half the programme hours that were made by independents in 2009 were for BBC Alba. That is a remarkable figure, given the channel's size and financial position. As a former indy, I cannot stress enough how vital that extra production has been to the sector. In genres other than news and current affairs, Alba made more

programmes than either STV or BBC Scotland for Scottish audiences—and that after only two years.

I understand that the channel will be launching its new schedule tomorrow, and I can exclusively reveal that among the programmes on offer will be continued live coverage of Magners league rugby matches, the ever popular trad music awards and the return of “Horo Gheallaidh”, which is a particular favourite of mine. I am told that there is also to be a documentary on redheads and a series on working dogs. All those shows will be of interest to viewers throughout Scotland but, unless they have a satellite dish, they will not be able to view them. That is despite the fact that Alba is funded entirely by the taxpayer, either through the licence fee or directly by the Scottish Government.

Why has it taken the BBC trust so long to make up its mind about the switch to Freeview? Apparently, it is because, to make access for Alba, the BBC would need to take its radio services off Freeview between 5 pm and midnight. It turns out that the vast majority of people in Scotland who listen to radio on Freeview are tuning into stations that are available on FM/AM, including Radio Scotland, Radio 1, Radio 2 and 5 live. They will still be able to gain access to those stations on analogue radio, on the internet, on Sky or on cable.

According to research that has been carried out by the BBC, fewer than 4,000 listeners are at risk of losing some digital radio listening. I am a huge radio fan and I recognise how important it is for sections of the community, but are we really saying that the possibility of 4,000 radio listeners having to tune in elsewhere to get their programmes is more important than the principle that all Scots should have Freeview access to the only TV channel offering programmes in Scotland's first language? Surely not.

I never tire of reminding members that it was a Conservative Secretary of State for Scotland, Malcolm Rifkind, who set up the fund to support Gaelic television. In my then role as a current affairs producer, and with access to the fund, I launched the first weekly Gaelic news show in Scotland, “Crann Tara”—fiery cross.

The fiery cross has burst into full flame during the past 20 years. I wish Alba even greater success as it moves into its third year, and I look forward to the BBC trust doing the right thing, by allowing viewers all over Scotland to enjoy the diversity and quality of the Gaelic programmes that BBC Alba is producing. Moran taing.

18:10

Alasdair Allan (Western Isles) (SNP): Anns a' chiad dol a-mach, bheir mise taing mhòr do Ted Brocklebank airson an deasbaid seo a chumail.

Tha ùidh làidir agus eòlas farsaing aig Mgr Brocklebank ann an craoladh na Gàidhlig, agus tha sin a' nochdadh an-diugh.

Tha cothrom againn a-nochd “meallaibh-urnaidheachd” a ràdh ri BBC Alba às dèidh dà bhliadhna a' craoladh. Is math a rinn e, gu dearbh. A' coimhead air ais dha na ciad prògraman aig BBC Alba, tha e doirbh a chreidsinn gur e dà bhliadhna bhon oidhche ainmeil sin nuair a chuir iad am prògram mu dheidhinn Elvis air. Ma tha BBC Alba a' dearbhadh aon rud, 's e sin gu bheil a' Ghàidhlig freagarrach airson cuspair sam bith fon ghrèin—eadar ball-coise no rugbaidh, drama no Russell Brand a dhèanamh is dòcha. Seo “exclusive” dha Mgr Brocklebank: an sreath phrògraman mu na daoine ruadh air an robh e a' bruidhinn – tha mise ann.

Air sgath 's nach eil BBC Alba air Freeview fhathast, chan eil BBC Alba ri fhaotainn ach air aon a-mach à gach trì telebhiseanan ann an Alba. Tha sin na chnap-starra mòr dhan stèisean, ach a dh'aindeoin sin, ge-tà, tha sluagh mòr a' coimhead air BBC Alba, le cairteal de mhillean neach-coimhead aig an t-sianal.

Ach gun àite sam bith air Freeview, tha an sianal a' crochadh air ff

reesat agus Sky. Mar a tha an t-seanfhaical a' ruith, tha Sky TV aig cuid ann am Barraigh, ach chan eil Barra TV aig mac màthar anns an Eilean Sgitheanach. Tha rudeigin air chall bho sin anns an eadar-theangachadh, tha mi ag aideachadh.

Dà bhliadhna air ais, bha dòchas làidir againn gum biodh Urras a' BhBC a' dèanamh co-dhùnadh air a' cheist mu Freeview ro dheireadh 2010. Tha mi deònach a chreidsinn gu bheil deagh thoil aig an Urras airson BBC Alba, ach tha sinn a' feitheamh fhathast. Tha dùil gum bi an t-Urras a' tighinn gu co-dhùnadh a dh'aithghearr mun cheist a bha iad a' faighneachd mun “public benefit” aig BBC Alba.

Cha bhi mi a' ruith tro na h-argamaidean a-rithist airson BBC Alba, bhon taobh chultarach neo eaconamach. Ach feumaidh sinn dèiligeadh gu luath leis na h-argamaidean an aghaidh Freeview. Cùm do shocair, TaxPayers Alliance.

Bha an t-Urras a' moladh aon rud mu dheidhinn seo a tha air nochdadh anns na phàipearan. 'S e sin nach biodh na stèiseanan rèidio aig a' BhBC a leanas air Freeview nuair a bhiodh BBC Alba air an adhar. Dhèilig Mgr Brocklebank ris an argamaid sin glè mhath. Bha pàipear-naidheachd neo dhà a' dèanamh ùpraid mhòr a-mach à seo ach chan eil duine sam bith ag ràdh gum biodh na stèiseanan seo a' dol a mach à bith. Dìreach gum biodh iad a' craoladh air rèidio traidiseanta, rèidio digiteach agus air-loidhne a-mhàin, seach troimh an telebhisean. Chan eil fianais sam bith ann gu bheil àireamhan mòr ag èisdeachd troimh an

telebhisean dha na stèiseanan seo. Bhiodh a' chuid a bu mhotha ag aontachadh gu bheil Freeview ann airson telebhisean anns a' chiad àite, seach rèidio. Nam biodh Freeview airson rèidio, cha bhiodh an t-ainm Freeview air.

Taing do Ted Brocklebank airson an deasbaid seo. Meallaibh-a-naidheachd BBC Alba air an dàrna co-latha-breith aige agus tha mi'n dòchas gum bitheamaid gur faicinn a dh'aithghearr air Freeview.

Following is the simultaneous interpretation:

In the first place, I would like to thank Ted Brocklebank for holding the debate. He has a great interest and wide knowledge in Gaelic broadcasting, and that was evident today.

We have an opportunity tonight to say congratulations to BBC Alba after two years of broadcasting. It has performed very well indeed. Looking back to the first programmes of BBC Alba, it is hard to believe that it is two years from that memorable night when it put on that programme about Elvis. If BBC Alba proves one thing, it is that Gaelic is suitable for any subject under the sun, from football to drama—and perhaps Russell Brand. This is an exclusive for Mr Brocklebank: the programme that he mentioned will include me.

Because BBC Alba is not on Freeview yet, it can be seen on only one out of three Scottish TVs. That is a big obstacle for the station but, despite that, many people are watching BBC Alba. A quarter of a million people regularly watch the channel.

However, without a place on Freeview the channel depends on freesat and Sky. As the Gaelic proverb goes, people in Barra have Sky TV, but nobody at all in Sky has Barra TV—something is lost from that in the translation, I admit.

Two years ago, there was great hope that the BBC trust would rule on the Freeview question before the end of 2010. I am willing to believe that the trust has good intentions for BBC Alba, but we are still waiting. I hope that the trust will come to a conclusion shortly about the question, following its consultation on the public benefit of BBC Alba.

I will not run through the cultural and economic arguments in favour of BBC Alba. However, we need quickly to deal with the arguments against Freeview. Calm down, TaxPayers Alliance.

The trust has one piece of advice about that, which has appeared in the papers. That is that the BBC network radio stations should not broadcast on Freeview while BBC Alba is on air. Mr Brocklebank dealt with that argument well. One or two newspapers made quite a big deal out of the issue, but nobody is saying that the radio stations will cease to exist; they are just saying that they

will be broadcast only on traditional radio, DAB digital radio and online, instead of through television. There is no evidence that big numbers of people listen to those stations through the television. The majority of people will agree that Freeview is there for television in the first place, not radio. If Freeview was for radio, it would have a different name.

I congratulate BBC Alba on its second birthday and I hope that we will see it shortly on Freeview.

18:14

Pauline McNeill (Glasgow Kelvin) (Lab): I thank Ted Brocklebank for keeping the issue live in our minds and I endorse the motion. I also commend Ted Brocklebank for the progress that he is making in Gaelic. He has strong credentials in the field and in broadcasting, so it is right that he has secured another debate on the subject. I offer my congratulations to two-year-old BBC Alba, and I will continue to campaign for its expansion and success.

I listened to the translation of Alasdair Allan's speech. He is perhaps a bit more famous—he has perhaps made BBC Alba a bit more famous—since yesterday, when he was literally assaulted by comedian Russell Brand in the Parliament lobby, in what can only be described as Russell style. I am sure that Alasdair had to look twice, as everyone else did, to see whether it really was Russell Brand. We all had a good laugh at that.

Operating from its base in Stornoway in the Western Isles, BBC Alba is probably the most significant contribution that has been made so far to sustaining and promoting the Gaelic language. It has become a significant broadcaster and producer of independent productions, which is helping us to reach the target of independent production that we need to achieve in Scottish broadcasting.

BBC Alba is the only general entertainment channel that is wholly managed and broadcast from Scotland, and 95 per cent of its content is provided by Scotland-based companies—a point that Ted Brocklebank made forcefully. A key point for those of us who are interested in broadcasting is that BBC Alba serves not only the purpose of sustaining the Gaelic language, but the important purpose of developing the independent broadcasting sector in Scotland.

We have spoken before in the chamber about the diversity of the channel, which attracts three non-Gaelic speakers for every Gaelic speaker. Its choice of programming has made it a channel that others want to watch. That is significant, and it demonstrates that the important issues in broadcasting are planning and programming. The channel is able to make use of the BBC network,

and the BBC should be congratulated on the work that it has done so far.

I turn to the wider issue of Freeview. When the BBC trust agreed to monitor the viewing figures and review the extension of the channel to Freeview, it seemed perverse that those who cannot see the channel were excluded from the monitoring. It is important to establish whether the channel has wider support. We know that there are 150,000 people who would like to see the channel but are not able to, and that must be taken into account.

Putting BBC Alba on Freeview would bring its coverage up to 83 per cent, so we should do that. I hope that the dispute with Virgin Media has now been resolved, because that would mean that a further 15 per cent of viewers would be able to receive the channel.

The MG Alba chairman, Alasdair Morrison, yesterday clarified the issue of the digital stations that are currently on that frequency. As has been said before, the radio stations would not be lost, as they would be available on FM, AM and DAB radio. Perhaps we can debate this point another day, but for that reason we should not progress too quickly to digital radio. We say that listeners would be able to access those stations on FM and AM, but a lot of people would be excluded if we moved too quickly to digital radio.

The diversity and success of the channel make it a winner. We in the Parliament have endorsed that view, and it is one of the issues on which there has been most consensus in the chamber. I hope that the BBC trust is listening to those who support the channel and to the Parliament. We look forward to a positive decision, and I look forward to getting the chance—which I have not yet had—to appear on BBC Alba. I will perhaps visit its headquarters in Stornoway in the better weather.

18:18

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Mòran taing, Oifigear-riaghlaidh. Tha mi toilichte dha-rìribh a bhith a' gabhail pàirt anns an deasbaid. Tha mi a' toirt taing dha Mgr Brocklebank airson a' chuspair a chur air beulaibh na Pàrlamaid. Tha seo gu math cudromach, chan eil teagamh ann an sin. Tha sinn a' cluinntinn a h-uile latha am meas a th' aig sluagh ann a bhith ag ionnsachadh agus a' faighinn a-mach mu dheidhinn Gàidhlig agus cultar agus cànan nan Gàidheal.

Chaidh sgrùdadh a dhèanamh le Urras a' BhBC air cò mheud a bha a' cumail sùil air na prògraman a bha a' tighinn a-mach air BBC Alba, an robh barrachd a dhith orra, no ciamar a bha iad a' dol a dhèanamh sin. Bha dùil againn o chionn bliadhna

air ais a-nis gum biodh sinn a' faighinn na prògraman thuca air Freeview tron a' Ghàidhealtachd air fad. Cha do thachar sin fhathast, agus tha daoine a' fàs caran mì-fhoighidneach nach eil iad a' faighinn freagairt bho Urras a' BhBC.

Mar a chluinn sinn, feumaidh airgead ùr a thighinn a-staigh. Chan eil buidseit ionmhais aig BBC Alba prògraman ùra a stèidheachadh agus tha sinn a' faicinn gu math tric prògraman fo aon sheachdain a' dol a-staigh do phrògraman air an ath sheachdain. Feumaidh sinn a bhith a' cur fios gu BBC Alba gu bheil sinn ag iarraidh phrògraman ùr agus ma tha cothrom sin a dhèanamh feumaidh buidseit a bhith aige airson sin.

Tha e neònach gu bheil neart air a' Ghàidhealtachd ach nach eil am muinntir a' faighinn na prògraman anns a' Ghàidhlig. Tha mòran àitean nach eil a' faighinn prògraman TV idir. Chan eil cothrom aca sin a dhèanamh air mòran de na h-àiteachan anns a' Ghàidhealtachd, ach tha cothrom aca sin a thogail a-nis air Freeview agus chan eil mi a' tuigsinn carson nach eil Urras a' BhBC a' cur sin air adhart. Dhèanadh sin feum mòr. Tha Urras a' BhBC a' cantainn gum feum iad a bhith cinnteach gu bheil na h-àireamhan sluaigh a tha a' coimhead air BBC Alba àrd gu leòr airson adhartas a dhèanamh air prògraman. A-nis tha fios aig a h-uile duine nach cuireadh iad na prògraman sin a-mach air Freeview gum biodh na mìltean a bharrachd a' coimhead air na prògraman agus cha bhiodh duilgheadas sam bith aig Urras a' BhBC na h-àireamhan a tha sin fhaicinn a' dol suas.

Bidh cothrom againn air an t-seachdain sa tighinn agus air an ath sheachdain. Tha mi fhìn a' dol suas gu Gallaibh far a bheil Am Mòd Nàiseanta Rìoghail a' dol air adhart air an ath sheachdain. Nach biodh e uamhasach math nan tìgeadh Urras a' BhBC ron Mhòd a tha sin ag innse don t-sluagh gu bheil iad a-nis air co-dhùnadh a dhèanamh agus gu bheil iad a' dol a chur BBC Alba a-mach air Freeview airson a h-uile duine. Biodh cèilidh mòr againn an uairsin shuas ann an Gallaibh is tha mi cinnteach gum biodh Mòd dha-rìribh againn. Bheir mi cuireadh dhan a h-uile ball a thighinn suas gu Gallaibh chun Mhòd sin agus cèilidh dha-rìribh a bhith againn an sin. Is dòcha gun tìgeadh a-mach às an sin gum biodh Freeview aig a h-uile duine anns a' Ghàidhealtachd. Tha mi an dòchas co-dhiù.

Following is the simultaneous interpretation:

Thank you, Presiding Officer—I am delighted to take part in the debate. Before I begin, I thank Ted Brocklebank for bringing the issue before the Parliament. It is very important, and we hear every day how much people enjoy learning about Gaelic and the language of the highlander.

The BBC trust has carried out a survey of how many people watch the programmes on BBC Alba, whether they want more and how that could be done. About a year ago, we thought that the programmes would be available on Freeview throughout the Highlands. That has not yet happened, and people are losing patience with the lack of response from the BBC.

As we heard, BBC Alba needs extra funding. It does not have sufficient budget for new programmes and we often see programmes from one week being repeated the following week. We must find a means of getting new programmes, and the channel needs a specific budget for that.

With so many Gaelic speakers in the Highlands, it is a pity that not everyone can get the programmes on their television. That is just not possible in many parts of the Highlands. Freeview is, however, now available to the Highlands and I cannot understand why the BBC trust does not proceed down that path. It states that the number of people who can view BBC Alba is high enough to justify the channel, but everyone knows that if the programmes were on Freeview thousands more people would watch them. The BBC trust would see that the numbers would increase without difficulty.

This coming week, I am going up to Caithness where the Royal National Mod goes ahead next week. It would be very good indeed if, before the Mod, the BBC trust announced that it had concluded that it would broadcast BBC Alba on Freeview for all to see. We would have a great ceilidh up in Caithness, and I think that it would be a special event for the Mod. I extend a warm welcome to everyone to come and enjoy the Mod. We may hear that positive message about Freeview.

18:23

Jamie McGrigor (Highlands and Islands) (Con): I am delighted to speak in tonight's debate, and I congratulate my friend Ted Brocklebank on securing it. It is of particular importance and interest to many of my constituents in the Highlands and Islands, especially in Stornoway and the Western Isles, where I started my political career in 1996. I remember that I had a leaflet printed that said that the Conservatives had put £16 million into Gaelic. I wanted to emphasise that, so I got it translated into Gaelic. Unfortunately, the translator got the word for million wrong, and there was an article in the next *Sunday Express* that said that the Conservatives were putting £16 billion into Gaelic. I do not know what the TaxPayers Alliance would have thought of that—although it did me no harm.

The Scottish Conservatives have always been supportive of BBC Alba, and I pay tribute to all those who work for the channel and their achievements over the past two years. It really is an interesting channel. We agree with Bòrd na Gàidhlig that support for BBC Alba is essential for Gaelic's future and that its availability on Freeview is vital. The fact that BBC Alba is watched by many more people than there are Gaelic speakers is a strong demonstration of the quality of its programmes, but it remains a real concern that fewer than one in four television sets can receive it as it is currently available only on satellite and online platforms. That means that many of my constituents in the Highlands and Islands, many of whom are Gaelic speakers, are excluded from BBC Alba. That is surely unacceptable, and it must be addressed by the BBC trust.

All of us are impatient for a statement by the BBC trust, and we expect one before the end of the month. Given that we are going through the changeover from analogue to digital, now seems a good time for BBC Alba to be transmitted on Freeview. Many more viewers would be given access to BBC Alba who cannot get it on the ordinary analogue channels at the moment. When the BBC trust finally makes a decision—we hope that it will be positive—the channel can expect to gain an additional 150,000 to 180,000 viewers. The number of people who might lose their television radio, so to speak, is probably only about 3,000 or 4,000. That would be difficult for them, but they could always tune in somewhere else and it would be marvellous how many more viewers would be able to see BBC Alba.

In preparing for today's debate, I consulted my friend and constituent Brigadier John MacFarlane, who sings in the Taynuilt Gaelic choir. He rightly emphasised how beneficial BBC Alba had been in furthering youth interest in Gaelic culture, in the development of the language and in increasing people's vocabulary. He also praised the range and quality of the programmes on BBC Alba, describing "Eòrpa" as one of the best and most authoritative current affairs programmes available.

In a very short time, BBC Alba has established a formidable reputation and is rightly seen as one of the best ways of sustaining and promoting our Gaelic heritage, culture and language. We look to the BBC trust to take account of the consensus of people across Scotland and the political will of all parties in the Parliament by ensuring that more people can enjoy the channel by allowing it to be made available on Freeview.

18:27

Dave Thompson (Highlands and Islands) (SNP): Mòran taing, Oifigeir-riaghlaidh.

Meal-a-naidheachd air BBC Alba air an dàrna co-là-breith aige. Is e seo toradh a' chobhanntachd eadar am BBC agus MG Alba a tha air a bhith a' dol gu dearbh fhèin math bhon bhreith a-mach agus faodaidh na pàrantan pròiseil a bhith gu math toilichte le adhartas a' phàiste a-nis.

Is e Gàidhlig cànan aosmhor na h-Alba aig a bheil feum air àrdachadh ma tha i airson fhaighinn air ais a seann inbhe mar chànan làitheil a tha air a chleachdadh airson beachdachadh air a h-uile rud bhon aimsir agus slàinte gu saidheans agus feallsanachd. Cho fad is nach eil an cànan ga chluinntinn ach anns na seòmaran-teagaisg agus tallaidhean-ciùil, cha bhi Gàidhlig nas fheumaile na an Laideann nuair a tha daoine òga ri còmhraidh mu dheidhinn na beatha aca gu làitheil, an sgioba ball-coise as fhèarr aca no fiù 's poilitigs.

Is e aon de na h-adhbharan a tha BBC Alba cho cudromach gu bheil e a thoirt do ceudan de mhiltean de dhaoine an cothrom Gàidhlig a chluinntinn anns an t-suidheachadh nàdarra. Tha sin gu math cudromach airson luchd-labhairt òga Gàidhlig. Tha e mu dheidhinn àbhaisteachadh na Gàidhlig agus mun t-slighe fhada Gàidhlig a thoirt air ais mar chànan a tha ga cleachdadh gu cumanta.

Tha ceumannan mòra a' tachairt ann am foghlam tro mheadhan na Gàidhlig agus a-nis tha ginealach againn aig a bheil comas ionnsachadh agus smaoinreachadh mu dheidhinn matamataigs, saidheans agus innleadaireachd anns a' Gàidhlig. Co-dhiù, is e foghlam tro mheadhan na Gàidhlig dìreach aon de na rudan a dh'fheumas sinn leasachadh airson misneachd a thoirt don mhuinntir againn, luchd-labhairt na Gàidhlig, mar phàirt dhen bheatha làitheil aca.

Is e seo far a bheil BBC Alba a' fàs suas. Is e an dòigh, is dòcha, as comasaiche far am b' urrainn sinn Gàidhlig fhaighinn a-mach às na clasaichean agus a-staigh do chridhe ar coimhearsnachdan. Is e BBC Alba àrd-ùrlar ùr airson phrògraman inntinneach ùidheil air cuspairean eadar-dhealaichte a tha dìreach air rannsachadh agus air beachdachadh tro mheadhan na Gàidhlig. Is e sin prògraman le cuspairean a tha a' tarraing daoine a choimhead oirre agus, nuair a nì iad sin, tha luchd-coimhead a' faicinn Gàidhlig ann an dòigh thogarrach nuadh a tha freagarrach do choimhearsnachd an latha an-diugh. Is e seo dìreach a tha a dh' fheum againn ma tha sinn a' leasachadh agus a' leudachadh Gàidhlig agus is e seo as adhbhar gu bheil feum aig BBC Alba air Freeview.

Tha mi dealasach don Ghàidhlig. Tha mi fhathast ga h-ionnsachadh agus tha fhios agam dìreach cho priseil 's a tha an cothrom Gàidhlig a chluinntinn gu cunbhalach air telebhisean aig

uairean ciallach airson an fheadhainn, mar mi-fhìn, a tha a' feuchainn ri feabhas a chur air na sgilean cànan aca ann an àrainneachd far a bheil e doirbh Gàidhlig a chluinntinn ann an suidheachadh nàdarra. Gu mi-fhortanach, mar iomadach duine eile, tha mi a' cleachdadh Freeview agus mar sin cha b' urrainn dhomh BBC Alba fhaighinn airson a' Ghàidhlig agam a chur air adhart. Gu fìrinneach, chan fhaca mi BBC Alba a-riamh, ged a dh' èisd mi ris an rèidio air Freeview bho àm gu àm. Cha bhi e na chall mòr, co-dhiù, mura robh seo comasach agus faodaidh mi-fhìn, mar a h-uile duine eile, èisdeachd ris an rèidio gu math furasta le tòrr dhòighean eile, eadar-dhealaichte. Mar sin, chan eil mi a' smaoinreachadh gum biodh e na chruadal mòr airson àireamh bheag de dhaoine—mar a thuirt Mgr Brocklebank, dìreach ceithir mìle—a tha a' cleachdadh Freeview anns an dòigh seo roghainn eile a lorg.

Tha mi a' cur taic ris a' bheachd aig Bòrd na Gàidhlig gu bheil an t-ainm aig Freeview fhèin ga dhèanamh follaiseach gu bheil an sianal airson coimhead air, seach dìreach a bhith ag èisdeachd ris. Nam bheachd, tha na goireasan a' dol ga mhilleadh a bhith a' cleachdadh dìreach airson rèidio nuair am b' urrainn a chleachdadh airson telebhisean agus don bhuannachd mhòr airson luchd-labhairt na Gàidhlig, luchd-ionnsachaidh na Gàidhlig agus luchd-taice na Gàidhlig. Is e seo an adhbhar gu bheil mi cho toilichte gu bheil Riaghaltas na h-Alba agus iomadach buidheann culturach air a bhith a' tighinn ri chèile gus Urras a' BhBC a bhrosnachadh BBC Alba àite a lorg air Freeview. Tha mi an dòchas gum bitheamaid soirbheachail, a chionn 's gu bheil mi a' creidsinn gum biodh buaidh fìor mhath air a' Ghàidhlig nam biodh àite air Freeview aig BBC Alba, agus gum biodh buaidh mhòr aig seo air Alba cuideachd.

Following is the simultaneous translation:

I congratulate BBC Alba on its second birthday. This child of a partnership between the BBC and MG Alba has progressed well since its birth and the proud parents should be very pleased with the baby's progress.

Gaelic is an ancient Scottish language that needs to be nurtured if it is to reclaim its former status as an everyday tongue that is used to discuss everything from the weather and health to science and philosophy. As long as the language is heard only in classrooms and concert halls, there can be little hope of Gaelic being more useful than Latin to young people in chatting about the ordinary business of daily life, their favourite football team or even politics.

One of the reasons why BBC Alba is so important is that it gives hundreds of thousands of people the opportunity to hear Gaelic being used in an everyday way. That is particularly important for young Gaelic speakers. It is all about the

normalisation of Gaelic, and it will go a long way towards helping to restore it to its rightful place as a language in common use.

Great strides are being made in Gaelic-medium education, and we have a new generation of people growing up who can learn and think about maths, science and engineering in Gaelic. However, Gaelic-medium education is just one of the things that we must develop if we are to encourage our people to regard Gaelic speakers as a normal part of our daily lives.

That is where BBC Alba comes into its own. It is perhaps the most effective way of getting Gaelic out of the classroom and into the heart of our communities. BBC Alba is a new platform for exciting and interesting programming on a wide variety of subjects that just happen to be researched and discussed in Gaelic. They are programmes whose subjects draw people to watch them and, in so doing, expose viewers to Gaelic in a positive and modern way that makes it of relevance to today's society. That is exactly what we need if we are to develop and expand Gaelic, and that is why BBC Alba must be offered on Freeview.

I am enthusiastic about Gaelic, although I am still learning, and I know how valuable the opportunity to hear Gaelic regularly on television at sensible hours is for people like me who are trying to improve their language skills in an environment in which it is difficult to hear Gaelic in a natural setting. Unfortunately, in the same way as many thousands of others, I use Freeview and cannot get access to BBC Alba to help to improve my Gaelic. In fact, I have never seen BBC Alba although I do occasionally listen to the radio on Freeview. It would be no great loss, however, if that was not possible and I, like everyone else, can listen to the radio very easily using many different, relatively cheap, means. I do not, therefore, believe that it would be a great hardship for the small number of people who use Freeview for the radio to find an alternative.

I support Bòrd na Ghàidhlig's view that the name of Freeview is a clear indication that it is for watching rather than just listening to. It is a waste to use the facility for radio only when it can be used for television to the great advantage of Gaelic speakers, learners and enthusiasts. That is why I am pleased that the Scottish Government and a host of cultural organisations have joined forces to urge the BBC trust to grant BBC Alba its own slot on Freeview. I hope that we are successful, because I believe that access to Freeview will have a positive effect on Gaelic that will, in turn, have a positive effect on Scotland.

18:32

Peter Peacock (Highlands and Islands) (Lab):

I will be very brief. I strongly support Ted Brocklebank's motion. He has been a long-standing and distinguished supporter of Gaelic, and in the broadcasting world he was instrumental in helping to develop the notion that we ought to have much more television coverage in Gaelic.

As Ted Brocklebank rightly said, BBC Alba has been successful in its first two years. It has built on everything that has gone before, whether that be in the world of education, Gaelic-medium education, the development of Sabhal Mór Ostaig, the development of publishing books in Gaelic, or Gaelic arts and, indeed, in many other dimensions of Gaelic life. In a sense, BBC Alba is helping, hopefully through Freeview, to normalise and bring together everything in one place to give people access to the world of Gaelic that they otherwise would not have. That is one of the most important things that BBC Alba has done. It has opened up understanding, appreciation and insight into the language and world of Gaelic for all those who watch it who are not Gaelic speakers.

It was an extremely shrewd move for BBC Alba to get access to the rugby, football and the other events that it covers as part of its programming. That brings in a wider audience, which will help the development of Gaelic in the long term.

BBC Alba provides more opportunities for the independent sector to produce more programmes, as other members have described. That can only be a good thing for Gaelic producers, and for non-Gaelic producers because it will give them opportunities as well.

However, access to that wonderful new channel is limited and that cannot be right, for all the reasons that other members have set out. It is important for BBC Alba to move on to Freeview at the earliest opportunity. I, too, call on the BBC trust to make the right decision about that when it discusses the issue later this month.

One of the great strengths of Gaelic in Scotland is that it enjoys cross-party and all-party support. Despite Ted Brocklebank using the debate to promote Malcolm Rifkind, which he is perfectly entitled to do, it is true that all the political parties support Gaelic. Long may that continue, and I add my voice of support to the debate tonight.

18:34

The Minister for Culture and External Affairs (Fiona Hyslop):

Feasgar math. I welcome the opportunity to respond to the motion and to conclude the debate today. I pay tribute to Ted Brocklebank for bringing the motion to Parliament and for his consistent and persistent support for BBC Alba. I am intrigued by the new schedule,

including the programme on redheads. Alasdair Allan, as interviewed by Russell Brand, now has a ready-made audience. I welcome the themes that are addressed in the motion, which testify to the contribution of BBC Alba to Scottish economic and cultural life. Without doubt, BBC Alba is a significant addition to broadcasting in Scotland. I will offer some clear reasons why I believe that BBC Alba is to be commended for its achievements and deserves to have access to Freeview.

First, we should all welcome the boost that BBC Alba has given to the independent production sector in Scotland. As has been mentioned, last year BBC Alba commissioned more than 50 per cent of all the hours that were commissioned in that sector in Scotland. We should also welcome the jobs that have been created, the skills that have been retained and the artistic excellence that has been encouraged throughout Scotland. In addition, we should be mindful of the fact that much of that has been achieved in areas of low population density where a small number of jobs has an important impact.

BBC Alba should be congratulated on, along with its television services, its enhanced radio provision and its excellent online services for all ages, both of which have played a key role in sustaining the Gaelic language. Earlier this year, the Scottish Government provided MG Alba with £50,000 for a Gaelic learners website. I look forward to its being launched and to hearing more about it later this month.

BBC Alba should also be commended for extending the range of programmes that are available in Scotland. Indeed, I was delighted to see Linlithgow Rose, my home-town football team, win the junior cup when that match was broadcast on BBC Alba. Without doubt, public service broadcasting has been enhanced in Scotland as a result of the additional choice that is provided by BBC Alba in news, current affairs, sport, the arts, heritage and children's programmes.

We should all welcome the way in which BBC Alba has engaged young people in Scotland. It has developed children's programmes and educational materials. The innovative and successful film G competition is now in its third year, and MG Alba is supporting training in the media industry, Gaelic writing courses in further education and media courses in schools.

BBC Alba should also be congratulated on the high approval rating that it has received from its viewers, the strong appeal that it has among the Gaelic audience and its ability to attract new viewers and listeners to its programmes.

In addition, we should all welcome the contribution that BBC Alba makes to education

generally. BBC Alba supports Gaelic learning at all levels, and the channel can function, in effect, as a new Gaelic presence in the home to support the efforts of parents to pass on the language. There are many initiatives to support and promote Gaelic in Scotland, and I am confident that BBC Alba brings added value to our many other efforts—which Peter Peacock recognised and which have received support from all parties across the chamber—to create a secure future for Gaelic in Scotland.

I believe that BBC Alba has made a positive contribution to public service broadcasting in Scotland by boosting jobs and the economy, by promoting artistic excellence and the creative industries, by supporting education and learning, and by promoting Gaelic. Along with many other people throughout the country, the Scottish Government has been very impressed with the progress and achievements of BBC Alba, and we remain in favour of the proposal—which is supported by the BBC executive and MG Alba—to extend the channel's reach by securing access to Freeview.

Members will be aware that the Scottish Parliament unanimously endorsed that proposal in its debate on BBC Alba in February 2010. I followed that with a letter to the chair of the BBC trust on the matter. We are aware that the present proposal will have some impact on radio services, but we are persuaded that the gain for BBC Alba would be significant in comparison to the slight counterimpact on radio services. We hope that the trust agrees that the argument for BBC Alba's access to Freeview is compelling.

The vast majority of people who listen to radio on Freeview in Scotland listen to stations that are already available on FM or AM. Recent research suggests that the number of Freeview radio listeners who are at risk of losing access to their digital radio stations is around 4,000—as could be inferred from the original proposal for BBC Alba's transmission on Freeview of October 2009. That number compares with the expected 150,000 new viewers that carriage of BBC Alba on Freeview would bring.

We also take the view that Freeview access would be fitting recognition of the success and accomplishments of BBC Alba since its launch in 2008, and of the expectations of actual and potential viewers in Scotland. A compelling case has been made by many people, including Jamie McGrigor, that people are being denied the opportunity to receive BBC Alba. That is already happening; the question is whether the BBC trust will compound the situation or whether it will provide that opportunity.

We have heard impassioned pleas and expressions of support from Pauline McNeill,

Alasdair Allan and Dave Thompson, and we remain firmly supportive of the current proposal and hope that any slight reduction in radio service can be addressed by other means. Our hope is that the BBC will be able to find a long-term solution to the question.

I welcome the opportunity to agree with colleagues today on a number of issues, such as the strength of BBC Alba and the contribution that it makes to Scotland and Gaelic. Our consistent message has been that BBC Alba should have access to Freeview, and I assure members that I will write again to the BBC trust to draw its attention to the strength of cross-party support for that position, as expressed here today.

Meanwhile, we have a two-year anniversary to celebrate. I remember the Elvis programme that was mentioned earlier. I did not tune in to it deliberately; I found it by accident, but was drawn into it by its production values and the quality of its content.

Meal ur naidheachd do BBC Alba.
Congratulations to BBC Alba.

Meeting closed at 18:41.

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