The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 2 May 2012

Session 4

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ECONOMY, ENERGY AND TOURISM COMMITTEE
14th Meeting 2012, Session 4

CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

*John Wilson (Central Scotland) (SNP)

COMMITTEE MEMBERS

*Chic Brodie (South Scotland) (SNP)
Rhoda Grant (Highlands and Islands) (Lab)
*Patrick Harvie (Glasgow) (Green)
*Angus MacDonald (Falkirk East) (SNP)
*Mike MacKenzie (Highlands and Islands) (SNP)
*Stuart McMillan (West Scotland) (SNP)
*John Park (Mid Scotland and Fife) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Fergus Ewing (Minister for Energy, Enterprise and Tourism)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 2

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 2 May 2012

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

Land Registration etc (Scotland) Bill: Stage 2

The Convener (Murdo Fraser): Welcome to the 14th meeting in 2012 of the Economy, Energy and Tourism Committee. I welcome the Minister for Energy, Enterprise and Tourism and his team. I was going to welcome members of the public but, for some strange reason, those who packed the public gallery last week have not made a return visit. I do not know whether that is something to do with your appeal, minister, or whether there is some other reason.

I remind all members to turn off their mobile phones and other BlackBerry-type devices. We have apologies from Rhoda Grant.

We have one item to deal with this morning: stage 2 of the Land Registration etc (Scotland) Bill. I will make a few remarks about how the meeting will be conducted. All members should have with them a copy of the bill as introduced, the marshalled list of amendments that was published on Monday and the groupings paper, which sets out the amendments in the order in which they will be debated.

The running order is set by the rules of precedence that govern the marshalled list. Members should remember to move between the two papers. I will call all amendments in strict order from the marshalled list; we cannot move backwards on the list.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in a group to speak to and move that amendment and to speak to all the other amendments in the group. Members who have not lodged amendments in the group but who wish to speak should indicate that by attracting my attention in the usual way. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up. If the minister has not spoken in the debate on the group of amendments, I will invite him to do so just before I move to the winding-up speech.

Following debate on each group, I will check whether the member who moved the first amendment in the group wishes to press it to a vote or to withdraw it. If they wish to press ahead, I will put the question on that amendment.

If any member wishes to withdraw their amendment after it has been moved, they must seek the committee's agreement to do so. If any committee member objects, the committee will immediately vote on whether to agree to the amendment, without a division on whether to withdraw it.

If any member does not want to move their amendment when called, they should say, "Not moved." Please note that any other MSP may move such an amendment under rule 9.10.14 of the standing orders. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in any division is by show of hands. It is important that members keep their hands clearly raised until the clerk has recorded the vote.

By convention, the convener of the committee has a casting vote in the event of a tie. I intend to use it on the basis of the balance of the arguments that were heard in the debate.

I remind members of my interest, in that I am a member of the Law Society of Scotland.

Minister, do you wish to say something by way of introduction?

The Minister for Energy, Enterprise and Tourism (Fergus Ewing): No.

The Convener: In that case, we will proceed.

Sections 1 to 6 agreed to.

Section 7—The proprietorship section of the title sheet

The Convener: The first group of amendments concerns additional information in relation to proprietors. Amendment 4, in the name of Rhoda Grant, is grouped with amendments 48, 5 and 6. In the absence of Rhoda Grant, I assume that John Park will move the amendment.

John Park (Mid Scotland and Fife) (Lab): Amendments 4 to 6 are designed to include provisions in the bill that will enable us to get further information about land ownership, which is an issue that came up regularly during the committee's deliberations on the bill. I know that the issue has a resonance not only in the Parliament, but across Scotland.

The provisions in section 7 lay down the base rules to get further information about the proprietor. The amendments seek to ensure that a requirement is placed on the keeper of the registers of Scotland.

In recognition of some of the challenges that are involved, one of the amendments seeks to establish an important principle in relation to the type of detailed information about beneficial ownership that we will require in the future. The amendment is designed in recognition of the fact that it would be challenging to get information on a retrospective basis.

I move amendment 4.

Patrick Harvie (Glasgow) (Green): Amendment 48, in my name, is intended to deal with the same issue that Rhoda Grant's amendment 4 addresses.

During stage 1, the committee heard a number of different options for how to address the general principle that we need to be able to acquire more information about the real ownership of land in Scotland. In our stage 1 report, we expressed sympathy with that principle. We did not agree with any particular model, but we said:

"We consider that the Scottish Government should reflect further on options for ensuring that the land registration system reduces the scope for tax evasion, tax avoidance and the use of tax havens, and that the Government should explain prior to Stage 2 what additional provisions can be included, whether in the Bill or otherwise, to achieve this objective."

It might be that the minister will feel that neither my suggestion of an amendment to require additional information about ownership at the point of application for registration, nor Rhoda Grant's suggestion is the way to go, but I hope that he will use this opportunity to tell us the extent to which the Government has reflected on those issues, following our stage 1 report, and whether he considers that any changes to the bill could help to achieve the objectives that we set out in our report. We are in a time when even the Chancellor of the Exchequer describes tax avoidance as morally repugnant. I hope that we can all agree on that.

Fergus Ewing: Amendments 4 to 6, in the name of Rhoda Grant, would allow land register rules to specify additional information in relation to a proprietor. The intention would be that the Scottish ministers would make rules with the effect that that information would be added to the proprietorship section of the land register.

Amendment 48, lodged by Patrick Harvie, would require an application for land registration to include information identifying everyone who gains an economic benefit from land ownership.

It appears to me that the amendments are an attempt to deal with an issue that was identified at stage 1 about the beneficial ownership of land. Indeed, Mr Harvie has confirmed that to be the case. The apparent mischief that Rhoda Grant and Patrick Harvie seem to be seeking to prevent is that people might, arguably, through the use of companies that are registered in offshore tax havens, hide the fact that they own land in Scotland. It is believed that that might be done for tax-avoidance reasons.

I do not believe that the amendments would cure those ills, if that is indeed what they are. In fact, the result is more likely to be a disincentive to people buying and selling land in Scotland and, indeed, an unworkable system of land registration for the keeper of the registers.

In particular, the requirement to disclose the true owner of a foreign company that is seeking to invest in Scotland might well lead to that company deciding that Scotland is not a place where it would wish to do business. That is not something that we wish to see. Also, if shares in such a company are traded on a daily basis, as would be the case in most publicly quoted companies throughout the world, the effect of the amendments would be that the keeper would have to adjust the land register on a daily basis to reflect who owns the land. That is a matter of indisputable legal fact.

That would lead to the creation of a bureaucracy of gargantuan proportions, serving no purpose whatsoever. Having to carry out such work would, in my opinion, require hundreds of extra staff at the land register and would lead to an extraordinary and completely pointless increase in the level of fees paid by ordinary users of the land register of Scotland, who use it for the purpose, by and large, of purchase and sale of properties.

I add that the bill as it stands can already provide for what Rhoda Grant's amendments seek to achieve. I wish to be helpful by pointing members' attention to section 111(1)(e) of the bill, which I am sure they will have noticed. Section 111(1) provides that

"The Scottish Ministers may, by regulations, make land register rules—"

and paragraph (e) states:

"requiring the Keeper to enter in the title sheet record such information as may be specified in the rules or authorising or requiring the Keeper to enter in that record such rights or obligations as may be so specified".

I think that that provision allows the keeper to enter into the register any information as may be specified. Plainly, that allows an opportunity for what Mr Harvie seeks to do or what Mr Park and Ms Grant seek to do to be further considered by means of subordinate legislation. In future, if the Parliament perceived there to be a need for the land register to include additional information, that could therefore be added to the rules if a workable mode of doing so could be found and if it were felt desirable to do so. However, for the reasons that I

have set out, very careful consideration would have to be given before using those powers.

I am particularly concerned about the presumably unintended consequences of Patrick Harvie's amendment 48. Those are that an applicant for land registration would have to provide information not only about who owns the land, but about anyone who gains an "economic benefit" from it. For example, if a landowner allows someone to operate a business on the land, the amendment appears to require all those people to be identified in the land registration application. An example from Mr Harvie's own region of Glasgow is that, if someone wished to buy the Barras, the application for land registration of the property would have to identify every market trader.

I urge Mr Harvie and Mr Park to consider withdrawing or not moving their amendments.

The Convener: I ask John Park to wind up and indicate whether he will press or withdraw his amendment.

John Park: I understand that "gargantuan" means quite a lot of regulations. I think that that is the message that the minister was trying to convey to us at that point.

Although I acknowledge the minister's point about the power being available under the bill to make further provisions in future, we are trying to recognise the live concern and aspiration of people outwith the Parliament that has been expressed in evidence to the committee, and to address the issue now. With that in mind, I will press the amendment.

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

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 4 disagreed to.

Section 7 agreed to.

Sections 8 and 9 agreed to.

Section 10—What is entered or incorporated by reference in a title sheet

The Convener: The next group of amendments is on references to entries in the register of inhibitions. Amendment 7, in the name of the minister, is grouped with amendment 9.

10:15

Fergus Ewing: I declare my interest as a member of the Law Society of Scotland, albeit a non-practising one.

Amendments 7 and 9 are minor technical amendments that have been introduced to clarify how entries in the register of inhibitions should be disclosed on the land register and when they should be entered on that register.

The keeper's policy and practice has been to disclose entries in the register of inhibitions on a land register title sheet when it appears to the keeper that the entry may have an effect on the validity of a deed that has been submitted for registration. In the Scottish Law Commission's report on land registration, it recommended that that practice should be provided for in the bill.

Section 10(2)(c) of the bill introduced that recommendation, but on further reflection it was not clear what the keeper must do to reflect entries in the register of inhibitions on the land register and when they must be shown. Amendments 7 and 9 clarify what the keeper must do in those situations.

The main amendment in this group is amendment 9. It clarifies that the keeper should reflect an entry in the register of inhibitions on a title sheet only when subsequently registering a deed, the validity of which might be affected by the register of inhibitions entry. That will be achieved by entering a note on a title sheet after the decision has been taken to register a deed. Amendment 7 is consequential to the changes made by amendment 9.

I move amendment 7.

Amendment 7 agreed to.

Section 10, as amended, agreed to.

Sections 11 to 20 agreed to.

Schedule 1 agreed to.

Section 21 agreed to.

Section 22—General application conditions

Amendment 48 moved—[Patrick Harvie].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 48 disagreed to.

Section 22 agreed to.

Sections 23 and 24 agreed to.

Section 25—Conditions of registration: certain deeds relating to unregistered plots

The Convener: The next group of amendments is on conditions of registration in relation to references to the plot. Amendment 8, in the name of the minister, is the only amendment in the group.

Fergus Ewing: Amendment 8 is a minor technical amendment that inserts the word "real" into section 25, making it consistent with the wording used in section 24, to which section 25 refers.

I move amendment 8.

Amendment 8 agreed to.

Section 25, as amended, agreed to.

Sections 26 to 31 agreed to.

After section 31

Amendment 9 moved—[Fergus Ewing]—and agreed to.

Sections 32 to 37 agreed to.

Section 38—Order in which applications are to be dealt with

The Convener: The next group of amendments is on the order in which applications for registration are to be dealt with. Amendment 10, in the name of the minister, is the only amendment in the group.

Fergus Ewing: The purpose of this technical amendment is to regulate the order in which the keeper must deal with an application for voluntary registration and a triggered application to register a deed over the same land. The effect is to state that the voluntary application must be dealt with first. If this were not the case the triggered application would have to be rejected.

I move amendment 10.

Amendment 10 agreed to.

Section 38, as amended, agreed to.

Sections 39 to 41 agreed to.

Section 42—Prescriptive claimants

The Convener: The next group is on the notification of prescriptive claimants. Amendment 49, in the name of Patrick Harvie, is grouped with amendments 50 to 52.

Patrick Harvie: Again, the amendments in the group relate to a set of issues that members will be well aware of, on which we took significant amounts of evidence.

There are various ways of dealing with prescriptive claims. With these four amendments, my suggestion is, first of all, a process of notification. Notification takes place twice—first by the applicant for registration, and then again by the keeper. Under amendment 50, notification of a desire for a prescriptive claim goes to local elected members at all levels, including members at local authority, Scottish Parliament, Westminster and European level, as well as to community councils and other bodies as might be defined by the land register rules. If members choose to support the amendment, we might refine those levels. For example, perhaps not every member of the European Parliament would want to hear about every prescriptive claim. However, we have heard that such claims are few in number.

Amendment 52 entitles those who are notified, in addition to the Crown, to raise an objection to a prescriptive claim. The intention is that uncontroversial prescriptive claims to which the local community consents would go through. However, if the local community does not consent, the person who wants to make the claim would have to think again and try to convince people that the claim should be supported. If consent is not given to the acquisition of land in that way, I think that that is a reasonable barrier to allowing the claim to go forward.

Amendment 51 adds a 60-day notice period for related notification processes. Amendment 49 is consequential to the other amendments. I hope that the minister, and perhaps other members, will be able to reflect on the intention behind the amendments.

I move amendment 49.

The Convener: Members will recall that the issue attracted a lot of debate during stage 1. No other members wish to speak on the group of amendments, so I invite the minister to do so.

Fergus Ewing: The amendments in the group relate mainly to who should be notified, and when, when someone makes an application to become a

prescriptive claimant. I point out that the bill reflects the keeper's current practice. The practice works well, and most of the evidence that the committee heard from lawyers and others was that stakeholders are happy with that practice.

The current practice that the bill places on a statutory footing strikes the right balance between bringing abandoned land back into use and protecting the rights of any true owner. I am concerned that the amendments would add a significant administrative burden to the prescriptive claimants system for no benefit. Indeed, an applicant who wished to start the 10-year prescriptive period would not only have to comply with the provisions in the bill—including notification of the owner of the land—but would have to notify every elected official in the area at every level of government from the community council to the European Parliament.

On top of that, the proposed provision envisages that subordinate legislation would require notification to local residents and business interest groups. Such an approach is unnecessary and unhelpful as it would discourage people from becoming prescriptive claimants, with the result that land will remain abandoned and its economic potential unrealised.

The amendments would require the keeper to expend time and resource that could be more usefully applied elsewhere. The increased costs to the keeper would have to be passed on to the home-buying public in higher fees.

I explained in my stage 1 evidence that applications for prescriptive claims are often made by people who have lived in the family home for a number of years, but who, for whatever reason, lack the formal legal links in title from their parents or grandparents. I understand that that is sometimes an issue for rural farms. The prescriptive claimant provisions will allow such people to regularise their title in a straightforward fashion. To require them to notify such a large number of people would in my view be completely disproportionate. Accordingly, I ask Patrick Harvie to seek to withdraw amendment 49.

Patrick Harvie: I am a wee bit disappointed that the reaction to this group of amendments has been so extreme. We are talking about something in the order of 20 persons to be notified: the elected members in the local ward and constituency and perhaps a community council. In very rare circumstances, a piece of land might straddle a ward or community council boundary, which might increase the number of letters to be sent. However, it is difficult to think of sending out 20 copies of a letter as a significant additional burden or as generating huge additional costs with which the taxpayer would be burdened.

The minister's comment that stakeholders are happy with the current practice suggests that there is a limited view of who the stakeholders are. It seems to me that the wider community should be regarded as having a stake in the ownership of land in that community. Therefore, I will press amendment 49 and I intend to move the other amendments in the group.

The Convener: The question is, that amendment 49 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 49 disagreed to.

The Convener: The next group is on prescriptive claimants: conditions on period of possession. Amendment 11, in the name of the minister, is grouped with amendments 12 and 13.

Fergus Ewing: Amendments 11 to 13 form a package of amendments that implement a commitment in relation to prescriptive claimants that I gave to the committee during the stage 1 evidence session. As the committee will recall, concern was raised by stakeholders about the provision that requires seven years abandonment of land to be established before a person can start the 10-year period for prescriptive acquisition of that land. Amendment 11 will remove the seven-year period, but retain the one-year occupation period, under which a person who wishes to take a prescriptive title must prove that they have occupied the land for that year. Other effective safeguards are retained: the 10-year prescriptive period that must run on possession; and the notification procedure. I consider that the approach achieves an appropriate balance between the rights of those who wish to bring abandoned land back into use and those who have an underlying title but who do not use the land.

Amendments 12 and 13 are consequential on amendment 11.

I move amendment 11.

The Convener: I welcome the amendments. The committee considered the issue at stage 1

and took quite a lot of evidence on it from the legal profession, which expressed concern about the seven-year period and the practical difficulties that it would cause. In our stage 1 report, we said that the issue should be looked at again. I welcome the fact that the Government has lodged amendments to reduce the period to one year's vacancy prior to an application, rather than seven.

Amendment 11 agreed to.

Amendment 50 moved—[Patrick Harvie].

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 50 disagreed to.

Amendment 51 moved—[Patrick Harvie].

10:30

The Convener: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 51 disagreed to.

Amendments 12 and 13 moved—[Fergus Ewing]—and agreed to.

Section 42, as amended, agreed to.

Section 43 agreed to.

Section 44—Notification of prescriptive applications

Amendment 52 moved—[Patrick Harvie].

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 52 disagreed to.

Section 44 agreed to.

Sections 45 and 46 agreed to.

Section 47—Closure of Register of Sasines etc

The Convener: The next group is on closure of register of sasines: consultation and procedure. Amendment 14, in the name of the minister, is grouped with amendments 34 and 38.

Fergus Ewing: In its stage 1 report, the Subordinate Legislation Committee suggested that Scottish ministers should consult stakeholders prior to an order being made to close the register of sasines. If such a duty is added to the bill, the committee recommended that the procedure for the making of such an order could be amended from affirmative to negative. The Scottish Government always intended to consult before making an order to close the register of sasines. In the particular circumstances of this provision, the Government is happy to put that in the bill and agree to the Subordinate Legislation Committee's suggestion.

Amendment 14 will insert into the bill a requirement for Scottish ministers to consult

"persons appearing to have an interest"

before making an order to close the register of sasines. Amendments 34 and 38 are intended to change the procedure for the delegated powers from affirmative to negative.

I move amendment 14.

The Convener: Minister, could you give us an example of

"other persons appearing to have an interest in the closure of the Register of Sasines"

whom ministers might approach?

Fergus Ewing: The purpose of the consultation would be to gather the views of those who would be affected most directly by the closure of the register of sasines. In the main, consultees would be solicitors, lenders, local authorities, public bodies, government departments, large landowners, and representatives such as Scottish Land and Estates. The Scottish Government would like to ensure that all those who might be affected would have the opportunity to raise any concerns that they might have prior to an order being made.

The closure of the register of sasines is likely to be carried out in a planned and structured manner, possibly by closing the register in different parts of Scotland at different times, just as the land register was opened in different counties at different times—starting with Renfrewshire, if memory serves. There is also the potential for closing the register to only some deeds as an interim measure rather than closing it in toto. Again, the Government wishes to seek the views of all those who will be affected before any final plan is put in place. I hope that that further information is of use to the committee.

Patrick Harvie: I am fully supportive of the intention to consult widely, but just a little unsure why that implies that the negative procedure should be used. It seems to me that the belt-and-braces approach would be quite reasonable. Asking the current minister, or future ministers, to come to Parliament when the decision is made, to explain the approach and to use the affirmative procedure does not appear to be a huge burden. Perhaps my instinct is that most decisions should be approved by Parliament rather than by ministers. In this case, I do not see that it would be a huge burden to ask ministers to come to Parliament and explain the approach.

The Convener: As no other members wish to comment, I invite the minister to wind up.

Fergus Ewing: I will not take personally Patrick Harvie's instinctive dislike of my use of ministerial powers. I have made plain that we wish to consult widely and appropriately, in the envisaged event of the closure of the register of sasines. As you know, convener, that is unlikely to happen any time soon. Nonetheless, plainly it makes sense that there should be wide consultation at such time as it is appropriate that those matters be considered.

On Mr Harvie's specific point regarding the type of procedure to be used, we have followed the advice of the Subordinate Legislation Committee.

Amendment 14 agreed to.

Section 47, as amended, agreed to.

After section 47

The Convener: The next group is on completion of the register: target dates, etc. Amendment 53, in the name of Patrick Harvie, is grouped with amendments 54 and 55.

Patrick Harvie: Third time lucky, convener. As with the previous group, this relates to an issue that we discussed at stage 1 and on which we reached slightly clearer agreement. At paragraph 58 in its stage 1 report, the committee agreed that

"maintaining one land register is a more efficient system. Given the very slow progress of land registration since the 1979 Act"

we recommended

"the setting of a target and interim targets, even if aspirational, on the face of the Bill."

The policy memorandum makes it clear that the completion of the land register is the bill's primary policy objective. The slow progress towards that policy objective seems a reasonable excuse for us to consider setting a date.

My suggested approach gives ministers some discretion. It asks them to set, by order:

"(a) a date by which 80% of the land in Scotland is to be included on the register, and

(b) a date by which all of the land in Scotland is to be included on the register."

Ministers would be expected to bring forward that order within six months of the bill receiving royal assent.

Amendment 54 asks for a regular report on progress towards those two targets, once they have been set. It suggests a three-yearly reporting cycle, which would not be a huge burden on ministers. It asks for assessments of whether particular types of land are proving to be more problematic and of any barriers to the completion of the register, and for a statement of the actions that ministers and the keeper intend to take towards completion.

Amendment 54 also includes a requirement for

"an assessment of the extent to which the proprietorship of land held in any form of common ownership has been identified and included in the register".

That relates to a slightly separate issue, on which I had thought about lodging a different group of amendments, with regard to local authorities' duties to identify common land. However, there seemed to be significant complexities with that, and requiring ministers to assess the situation, as part of a range of issues on progress towards the

completion target dates on which they would report, seemed to be a simpler way forward.

Amendment 55 requires ministers, again, to use the affirmative procedure to establish the target dates by order. I hope that the minister will be willing to welcome the committee's agreement to recommend the setting of target dates and that he will respond to my arguments.

I move amendment 53.

John Park: I support what Patrick Harvie said about amendment 53. Throughout the discussion on the bill, it has been clear that we should boost its level of transparency and send a clear signal about what we are trying to achieve, given the criticism that we have made of the Land Registration (Scotland) Act 1979 and the lessons that can be learned from that.

I would hate us not to put in place any clear targets to ensure that the bill will be successful. We should support amendment 53, because what it proposes would send out a clear message to all those who engage with the land register in a more general sense. It would allow MSPs to examine regularly the level of resource and support, and the Government direction, that would be required to ensure that the targets are met. That can only be good for the bill and for ensuring that the eventual act is a success.

Mike MacKenzie (Highlands and Islands) (SNP): The bill is aimed at completing the land register sooner rather than later. However, that should be done in a seemly and careful way without undue haste. I would find it deeply worrying if ministers felt that in order to achieve targets they had, in effect, to attempt to coerce landowners into registration. I am therefore not happy with amendment 53.

Chic Brodie (South Scotland) (SNP): I support what Mike MacKenzie said. As someone who is normally obsessed by outcomes and targets, I have some sympathy with what is proposed in amendment 53. However, with regard to the objectives of registration, particularly voluntary registration, what the amendment seeks implies a compulsion to achieve targets and force them rather than try to get a clear register. I am sure that, outwith the bill, the minister will work with the keeper to ensure that the committee's objective of getting the register completed as soon as possible is achieved.

The Convener: In the stage 1 report to which Patrick Harvie referred, paragraph 58, which we agreed to, states that

"the Committee recommends the setting of a target and interim targets, even if aspirational, on the face of the Bill."

I invite the minister to respond to the debate.

Fergus Ewing: We considered this issue very carefully because the committee in its deliberations and in particular in paragraph 58, to which the convener just referred, raised the idea that targets may be worth considering. We responded to that suggestion in our written response to the committee.

I have listened carefully to what members have said, but we do not agree with the approach of setting statutory targets. I will explain why. First, completion of the land register is dependent to a large extent on the closure of the register of sasines under section 47, which we discussed a moment or two ago. The Subordinate Legislation Committee noted that the closure of sasines was a significant step and recommended that the bill should be amended to ensure that ministers consult stakeholders before closing the sasines register. As I have just explained, we agreed with that suggestion and have just agreed to an amendment to that effect. In my view, it would be wrong to set targets when the outcome of the consultation to which we have just agreed is not known.

Secondly, amendment 53 and others seem to be concerned more with land mass coverage than title coverage. I am not convinced that we should seek to prioritise completion of the land register in that manner. I understand that Mr Harvie wishes to know the answer to the question of who owns Scotland and that increased title coverage is the way to answer that question. I have some sympathy with that view, because that aim is indeed desirable. However, many people are less concerned with who owns Scotland in general and are more concerned that when they buy and sell property, and in particular when they remortgage their home, they have an effective, swift and reliable system that does not involve them in disproportionate expense. That, after all, is the prime function of the land registers of Scotland. It is sensible to point that out because it was not pointed out by the committee in recommendation 58, nor has it been alluded to other than by implication.

I agree with the comments that Mr Brodie and Mr MacKenzie made on compulsion. Logically, the only way in which there could be achievement of the targets would be for Governments to require, compulsorily, registration of title. On policy grounds, we do not feel that that is correct. In the system that we have, entries on the register are determined not by the Government, not by the state, but by individuals—whether individual natural persons or companies—deciding when they wish to do property transactions.

10:45

To move to a system in which we had targets in a bill, stating that we must achieve something within a specified time, would be meaningless unless that provision were accompanied by a strategy that allowed the target to be implemented, and that could happen only if compulsory powers were to be used extensively and quickly. The Government does not think that that is appropriate. Ergo, it logically follows from that, as Mr Brodie and Mr MacKenzie's arguments adumbrated, that unless there is compulsion, there can be no realistic means of Government targets being readily achievable. If that argument is correct, as I think that it must be—although it is not an argument that I am reading from the script in front of me—it follows that the setting of targets would not achieve the purpose, admirable though it may be from some perspectives. For those reasons, the approach that the committee urged that we consider carefully should not be accepted, although I stress that we considered it carefully.

I turn to more technical aspects. In so far as amendment 53 applies to Scottish ministers, it could distort priorities in relation to other matters, if there were to be cost implications. If achieving the targets meant that the taxpayer was to pay for the cost of registration fees, from what other source would those costs come? Would it come from the health service or education? Money does not grow on trees. Public money must be used well and stewarded properly. If we are simply to say that an unlimited amount of cash be disposed to the task of achieving a target of registering all land in Scotland within five or 10 years, it is reasonable to ask who would pay the bill. If landowners do not want to pay the bill—and they have indicated that they do not—the taxpayer would have to pay it. If the taxpayer has to pay the bill, it would be at the expense of operations in the health service or children's education. That is a simple matter of fact and of making correct choices in government.

On amendment 54, the information that the proposed reports would necessitate would not be easy to obtain. I struggle to see how the keeper would be able to assess the rate of registration of different types of land without expending massive time and resource. Amendment 54 would require those reports to be submitted, which would oblige the keeper to perform a huge amount of work for a purpose that is not immediately apparent.

Moreover, it is not clear exactly what is meant by different types of land. A huge amount of property throughout Scotland is in common ownership, from a home that is owned by a husband and wife to a play park that is owned by 50 homes in a development. Making

"an assessment of the extent to which the proprietorship of land that is held in any form of common ownership has been identified and included in the register"

would be extremely burdensome. Any administrative burden means additional cost, which in turn would mean the possibility of much higher fees.

For all those reasons, I urge Mr Harvie to consider withdrawing the amendments.

Patrick Harvie: On the previous group of amendments that I spoke to, I said that the minister's reaction had been a wee bit severe. Clearly I have underestimated his capacity for overreaction. If I had included in the amendments the timescale that he implies—I think that he mentioned five or 10 years—he might have a case for saying that all public spending in Scotland would grind to a halt in the single-minded pursuit of the completion of the land register. It is a wee bit much to suggest that that is the case.

The amendments give ministers—whether the current minister or a subsequent minister—plenty of discretion, in the short term, to introduce an order that sets the target dates and to come back to the Parliament and amend those dates if it seems that they are not achievable in the timescale that was initially thought. That gives ministers sufficient discretion to progress the completion of the land register at a pace that is reasonable in their view, not only in the Parliament's view.

I will comment briefly on logical consistency. The minister suggests that there is a problem with the logic of the amendments. I suggest that there is a problem with the logic of a bill that sets as its principal policy objective the completion of the land register but does not say how that will be achieved.

The minister suggests that the only way that a target date could be achieved is through compulsion. To be frank, that is the only way that the minister's own policy might be achieved. If a small number of landowners holds out against registration, eventually, the completion of the land register—the policy objective of the bill—will be achieved only by compulsion. It would be for the Government and the Parliament of the day to decide whether landowners who held out against registration should be required to pay or whether the taxpayer should be willing to stump up on their behalf.

The idea of setting a target date does not change that. Setting a policy objective of the completion of the land register implies that, at some point, compulsion might—I emphasise "might"—be required. In fact, the keeper-induced registration process that is provided for in the bill sets out the mechanism that might, one day, be

used for that. The principle of setting a target date simply crystallises the idea that the policy objective is real rather than phantom.

I am clearly disappointed that the minister disagrees, but I press amendment 53.

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Fraser, Murdo (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 1.

Amendment 53 disagreed to.

The Convener: That was a bit closer than last time.

Amendment 54 moved—[Patrick Harvie].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Fraser, Murdo (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 2, Against 5, Abstentions 1.

Amendment 54 disagreed to.

Sections 48 to 51 agreed to.

Schedule 2 agreed to.

Sections 52 to 57 agreed to.

Section 58—Effect of advance notice

The Convener: The next group is on advance notices. Amendment 15, in the name of the minister, is grouped with amendments 16 to 18, 35 to 37 and 39 to 41.

Fergus Ewing: The scheme for advance notices that the Scottish Law Commission developed was designed to protect deeds over properties that were registered in the land register. It did not apply for first registrations.

In response to the consultation that was carried out prior to the bill being introduced to the Parliament, the decision was taken to expand the scheme to cover applications for first registration. Stakeholders strongly supported the move.

Amendment 16, which is the main amendment in the group, ensures that advance notices in relation to deeds triggering first registration will offer the same protection as advance notices in relation to deeds of registered plots. Amendments 15 and 17 are consequential on amendment 16. Amendment 18 is a minor technical amendment that has been launched to clarify that all discharged advance notices relating to a registered plot will be entered into the archive register.

Amendments 35 to 37 and 39 to 41 relate to delegated powers and are the result of discussions with the Subordinate Legislation Committee. They ensure that when potentially significant powers—such as excluding deeds from the advance notice scheme or altering the effect of an advance notice in relation to certain deeds—are used, they will be subject to the appropriate level of parliamentary scrutiny.

I move amendment 15.

Amendment 15 agreed to.

Section 58, as amended, agreed to.

After section 58

Amendments 16 and 17 moved—[Fergus Ewing]—and agreed to.

Section 59 agreed to.

Section 60—Discharge of advance notice

Amendment 18 moved—[Fergus Ewing]—and agreed to.

Section 60, as amended, agreed to.

Section 61 agreed to.

Section 62—Meaning of "inaccuracy"

The Convener: The next group is on inaccuracy: provisional entries. Amendment 19, in the name of the minister, is the only amendment in the group.

Fergus Ewing: As members know, section 62 is entitled "Meaning of 'inaccuracy'". Amendment

19 is a minor technical amendment that relates to the definition of inaccuracy, which is always a helpful definition for parliamentarians and others.

Section 62(1)(d) provides that a provisional marking is an inaccuracy, but that is not quite right—we might say that it is inaccurate. A provisional marking indicates that an inaccuracy might exist, but prescription might be running to cure it. A provisional marking should not be an inaccuracy; rather, it should be a marking that is provided for in special circumstances under the bill.

I move amendment 19.

Amendment 19 agreed to.

Section 62, as amended, agreed to.

Section 63 agreed to.

Section 64—Proceedings involving the accuracy of the register

The Convener: The next group is on proceedings involving the accuracy of the register. Amendment 20, in the name of the minister, is grouped with amendment 21.

Fergus Ewing: Amendments 20 and 21 are minor technical amendments to provide consistency in the bill. The provision that amendment 20 adds will allow the keeper to appear before a court or a tribunal in proceedings in which questions about what is to be done to rectify a manifest inaccuracy in the register are being considered. Amendment 21 moves section 64 to after section 79, to align section 64 with the provisions for rectification in part 8.

I move amendment 20.

Amendment 20 agreed to.

Section 64, as amended, agreed to.

Amendment 21 moved—[Fergus Ewing]—and agreed to.

Sections 65 to 70 agreed to.

Section 71—Keeper's warranty

The Convener: The next group is on exclusions from the keeper's warranty. Amendment 22, in the name of the minister, is grouped with amendments 23 and 24.

Fergus Ewing: Amendments 22 to 24 are technical amendments that relate to the keeper's warranty under the bill. Warranty is one part of the new state guarantee of title that the Scottish Law Commission designed. One of the commission's recommendations, with which I agree, was that warranty should not apply to overregistration. When the keeper, as the result of an administrative or mapping error, includes in a title more land than the deed being registered conveyed, the keeper's warranty should not apply to the extra area, because the applicant has never owned the land in question and has suffered no loss.

The amendments will ensure that the SLC's scheme on overregistration applies consistently to all types of registration, as warranty is possible under the bill for keeper-induced registration and voluntary registration.

I move amendment 22.

Amendment 22 agreed to.

Section 71, as amended, agreed to.

11:00

Section 72—Keeper's warranty on registration under sections 25 and 29

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

Section 72, as amended, agreed to.

Sections 73 to 76 agreed to.

Section 77—Claims under warranty: quantification of compensation

The Convener: Amendment 25, in the name of the minister, is grouped with amendments 26, 27 and 42.

Fergus Ewing: The purpose of amendments 25 to 27 and 42 is to move the delegated power to set interest rates in relation to compensation payable under the bill, under three different heads of claim, from the negative procedure to the affirmative procedure. The Subordinate Legislation Committee considered that the power to set interest rates under various heads should not be drawn more widely than is appropriate to give effect to the intended policy. The committee also considered that those powers had a significant enough effect that the affirmative procedure would be suitable.

The Government indicated in its response to the Subordinate Legislation Committee's stage 1 report that it was content, in this instance, for the procedure to be changed. In order to allow that change to be made, amendments 25 to 27 provide that Scottish ministers set the rate of interest to be paid in separate regulations, rather than in the land register rules.

Amendment 42 makes such regulations subject to the affirmative procedure.

I move amendment 25.

The Convener: I am sure that that will be welcomed by the Subordinate Legislation Committee.

Amendment 25 agreed to.

Section 77, as amended, agreed to.

Sections 78 and 79 agreed to.

After section 79

The Convener: The next group of amendments concerns the referral of questions to the Lands Tribunal for Scotland. Amendment 43, in the name of Mike MacKenzie, is the only amendment in the group.

Mike MacKenzie: The committee has heard from various witnesses about errors in the land register. Given that to err is human and that, inevitably, in any system that we devise there will always be errors, and also taking into account the fact that those errors often come to light at the point of a property transaction in which the buyer and seller involved might be the innocent victims of a historical error, I think that it is only reasonable that we attempt to provide a process for dispute and error resolution that is more efficient than the traditional court remedies. It seems to me and other members of the committee that the Lands Tribunal offers a possibility of a less acrimonious, more efficient and possibly even more cost-effective means of dispute resolution.

I move amendment 43.

The Convener: The committee considered this issue carefully at stage 1, and there was a lot of interest among members in the possibility of extending the powers of the Lands Tribunal to deal with disputes, primarily on the basis that it might provide a quicker and more cost-effective option for those concerned than having to go through the sheriff court or the Court of Session, which is currently the case. Of course, as the minister will no doubt confirm from his experience, in most of those cases, the majority of the cost is made up by legal fees, which would not necessarily be much lower if a case were sent to the Lands Tribunal.

Fergus Ewing: I welcome the work that the committee has done. I also thank Mr MacKenzie for lodging amendment 43 and for the work that he has done on it. I broadly support the arguments that he has put forward. The amendment will result in more cases being determined by the Lands Tribunal and fewer being dealt with in the Court of Session. That is a good thing, for the reasons that members have given.

Mr MacKenzie is aware that I have asked officials to review the provision contained in the amendment in advance of stage 3, in case there are any technical changes that need to be made. Subject to that caveat, the Government is happy to support the amendment. Ensuring that the Lands Tribunal will continue to determine underlying property disputes at an earlier stage gives parties fuller access to the valuable expertise of the Lands Tribunal.

Mike MacKenzie: The committee recommended in its stage 1 report that the matter be looked at, and I am delighted that the minister seems to be with me. There is nothing further that I can usefully add.

Amendment 43 agreed to.

Section 80—Rectification: compensation for certain expenses and losses

Amendment 26 moved—[Fergus Ewing]—and agreed to.

Section 80, as amended, agreed to.

Sections 81 to 90 agreed to.

Section 91—Quantification of compensation

Amendment 27 moved—[Fergus Ewing]—and agreed to.

Section 91, as amended, agreed to.

Section 92 agreed to.

Section 93—Electronic documents

The Convener: The next group is on requirements of writing. Amendment 28, in the name of the minister, is grouped with amendments 29 and 30.

Fergus Ewing: Amendments 28 to 30 are technical amendments concerning provisions relating to the Requirements of Writing (Scotland) Act 1995. The effect of amendment 28 is that regulations making provision about the effectiveness of, formal validity of or legal presumptions about the authentication by a granter of an electronic document will be subject to the affirmative rather than the negative procedure. Amendment 28 is the result of concern that was expressed by the Subordinate Legislation Committee and this committee that the power in proposed new section 9E(1)(b) of the 1995 act has significant enough effect to be subject to the affirmative procedure.

Amendment 29 is a technical amendment to ensure that it is clear that the same basic rules on probativity in relation to registration in the land register apply to paper documents as they do to electronic documents.

Amendment 30 is a consequential, technical amendment to section 13 of the 1995 act to clarify that an exclusion in relation to recording in the register of sasines also applies to registration in the land register.

I move amendment 28.

Amendment 28 agreed to.

Section 93, as amended, agreed to.

Section 94 agreed to.

Schedule 3—Amendment of Requirements of Writing (Scotland) Act 1995

Amendments 29 and 30 moved—[Fergus Ewing]—and agreed to.

Schedule 3, as amended, agreed to.

Sections 95 to 98 agreed to.

After section 98

Amendment 5 moved—[John Park].

The Convener: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 5 disagreed to.

Sections 99 to 105 agreed to.

Section 106—Fees

The Convener: The next group is on keeper-induced registration: fees. Amendment 1, in my name, is the only amendment in the group.

Members will recall that, at stage 1, we took quite a lot of evidence on keeper-induced registration. As members will understand, there were good arguments for why it is necessary for the keeper to have the power to induce registration if we are trying to complete the register, and I am not aware that anyone objected to that principle. However, although people who want to register land in conducting a transaction or on a voluntary basis should be expected to pay a fee, a different question arises with keeper-induced registration, because that is an involuntary act by the owner of the property in question.

It seems unfair on someone who is sitting there happily owning property and who has no particular interest in having it registered that the Government or the keeper comes along and says, "We're going to register your land and sting you with a bill, potentially for several hundred pounds or even more, for the privilege of us doing so." Indeed, we heard in evidence that, even if the fee was zero, considerable costs might be attached to the property owner. The owner would presumably want to instruct their own lawyers to check the work that the keeper was doing, so they would already be incurring a cost. To impose a fee on top of that would appear to be draconian.

It would be wrong to assume that we are talking simply about large estates, as some people might say, because we will be dealing potentially with any property that is not likely to change hands over a long period of time. That might include large estates, but it might also include properties—as the minister pointed out earlier—such as family farms, which often stay in the hands of one family for a very long time, or a small tenement flat where an elderly widow is living, which has been in the family throughout her life and which she has no intention of selling. For that widow to get stung with a bill for several hundred pounds for something that she does not want not only would be unfair but might well put her in financial difficulty.

We might also deal with other types of properties that are held in trust—for example, church buildings, church halls, village halls, scout huts and the like. Those are never likely to be sold or change hands, and for the Inverness-shire scouts to be stung with a bill from the keeper for keeper-induced registration of their scout hut would seem to be unfair and unreasonable.

It is therefore correct that we establish the principle that there should not be a fee for keeper-induced registration. The minister said in the stage 1 debate that there was no intention of charging a fee for keeper-induced registration in the current session of Parliament. Although that is welcome, it does not go far enough. It is important that the principle is established and put in the bill that, on the ground of equity, no fee should be charged for keeper-induced registration at any point in the future.

I move amendment 1.

Patrick Harvie: It is worth remembering that section 106 allows ministers to make

"different provision for different cases or for different classes of case."

It should not be beyond the wit of Government to come up with an approach that draws a distinction between the wee old granny, whom Murdo Fraser so touchingly described, living in her tenement flat, and the wealthy landed person who is, as Murdo

Fraser said, sitting quite happily owning some land.

It is important to recognise that, if the process of completing the register is in the public interest, which the Government clearly thinks it is—and the committee agrees—there is a reasonable requirement that people comply with that process. There is a lengthy opportunity for people to register voluntarily, and it is reasonable in the first instance for that to cost less than keeper-induced registration in order to give people an incentive to comply and to bring land on to the register. It would be regrettable if we tied the hands of any future Administration by saying that it cannot impose any kind of fee, even for those who just dig in their heels and stubbornly refuse to co-operate with the idea of land registration. A future Parliament or Government might come to regret not having the flexibility to set fees appropriately given the various situations that land can be in.

11:15

Chic Brodie: I endorse that. The convener used the word "equity". I endorse what has been said about looking at the scale of applicants. At stage 1, the committee debated the issue of trying to complete the land register as quickly as possible. Particularly if we can discount fees, there is no inhibition on owners of land, particularly large tracts of land, to voluntarily register land that they own.

Fergus Ewing: The debate is interesting. Amendment 1 would prevent a fee from being charged for keeper-induced registration. I appreciate the rationale behind the amendment and I have paid close attention to the evidence from Scottish Land & Estates and others who have expressed the view that it would not be fair to charge a fee for keeper-induced registration. As the convener alluded to, I gave assurances during the stage 1 debate that no fees will be charged for such registrations during the current parliamentary session. However, I also stated that the bill allows fees to be payable for keeper-induced registration.

I find myself in agreement with Mr Harvie on the point that section 106 confers powers to make

"different provision for different cases or for different classes of case",

and that therefore the bill has in-built flexibility that can be used to good effect by future Administrations.

The bill seeks to provide an improved framework for registration and sets out powers for future development. Of course, a power to charge a fee does not necessitate a fee being charged. Any fee order will be subject to the affirmative procedure, which will allow Parliament to scrutinise fully the level of fee that is set. If the current Government or a subsequent one eventually considered charging a fee for keeper-induced registrations, I expect that there would be a full consultation on the proposal and that responses would be considered carefully. However, that stands alongside the undertaking that I have given that no such fees will be charged for keeper-induced registrations during this parliamentary session. Amendment 1 would unnecessarily restrict the freedom of ministers to devise a fair fees regime across all the keeper's functions.

Another strand of argument that members have discussed is about how the fees that the keeper charges, or does not charge, can influence behaviour, particularly of large estates, whose titles are by and large not registered in the land register and are perhaps not likely to be registered in the near future. In our view, the registration fees that Registers of Scotland currently charges already act as an incentive to register voluntarily and most especially to those large estates. The reason for that is simply that the maximum fee that is charged is considerably less than the actual cost of doing the work of transferring the title of a large estate from the register of sasines to the land register. Therefore, at present, it is a simple matter of fact that there is an in-built incentive for large estates to voluntarily register the title.

The keeper and I have written in the *Journal of the Law Society of Scotland* and other such august publications to encourage those who advise landed estates to take advantage of the current level of fees. Apart from anything else, a future Administration might decide that fees should be on a full cost recovery basis or should be increased in some way. That is a legitimate policy area for future Administrations to consider.

Some members have said that we should have a system of fees that encourages voluntary registration, the implication being that we should reduce the fees for voluntary registration. We are open to further reasoned arguments and consideration of the matter, but I wanted to make the point clearly and at some length to set out that the current system is a form of incentive, albeit that it might be seen as a modest one. In some cases, particularly for the largest estates, the ad valorem fee will be, frankly, a bargain basement figure. I wanted to make that point again, just as I have made it to Scottish Land & Estates and others who might be affected.

By and large, I agree with you, convener, that when it comes to the decision whether to register land voluntarily, the level of the registration fees will be far less of an issue than the legal fees, because the legal work that is involved in the registration of large estates is probably pretty massive. I have encouraged the public sector—for

example, the Forestry Commission—to bring forward more voluntary registrations, and I am heartened by the positive and encouraging response that I have had.

I wanted to set the matter in context. There is one further argument that I invite you to consider, convener, before I ask you to consider withdrawing your amendment. If it were the case that no fee could be charged for a compulsory registration, what would be the advantage of a voluntary registration? Rather than voluntarily registering their property, a landowner might say, "There's no point in voluntarily registering the property, because if it's compulsorily registered later, I won't have to pay anything." There would be a disincentive against voluntarily registration. If amendment 1 were agreed to, it would achieve the opposite of what I think the committee wishes to achieve, namely that we work by negotiation, persuasion and agreement with landowners throughout the country, rather than by compulsion, to complete the register.

For those reasons—forgive me for amplifying the answer beyond my script—I urge you to consider withdrawing amendment 1.

The Convener: Thank you, minister. I now have the opportunity to wind up on the group.

In the minister's final point, I think that he argued against himself, because he made the point a moment ago that the level of the registration fees is probably a secondary consideration in the decision whether to go for voluntary registration. Given that the legal fees will outweigh the registration fee substantially, I do not think that the latter will necessarily be a factor. My amendment is about a point of principle—that the Government should not come in and take action in relation to somebody's property that incurs a cost for them. That is a form of taxation by the back door. If it is what the Government is intending to do, it should set that out explicitly.

I think that there was an element of confusion in the comments of Patrick Harvie and Chic Brodie. I entirely accept that it is in the public interest to complete the register, but I do not think that what I propose would stand in the way of that. It is simply a question of who pays the costs and whether it is appropriate for the state to come in and register somebody's land without their consent and charge them a fee for it. I do not think that that is a fair and reasonable approach. Therefore, in the interests of the tenement-living grannies of the land, the Inverness-shire scouts and, indeed, all the voluntary groups throughout the land, I will press my amendment.

The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)

Against

Brodie, Chic (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Park, John (Mid Scotland and Fife) (Lab)
Wilson, John (Central Scotland) (SNP)

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

Amendment 1 disagreed to.

Section 106 agreed to.

Section 107—Duties of certain persons

The Convener: The next group is on duties of certain persons. Amendment 2, in my name, is the only amendment in the group.

Amendment 2 addresses a point that was covered in our stage 1 report. It relates to some evidence that the committee heard about the provisions in section 107, on the time for which the duty of care will last when a solicitor lodges an application for registration.

At stage 1, the concern was put to the committee that the duty of care that is described in the bill will last until the registration process is completed. The difficulty with that is that the registration process can sometimes be very long; indeed, it can sometimes take many years to complete registration. During stage 1, the committee heard that titles south of the border have been in the system for years, with no sign of those being completed. That leaves a solicitor in a situation in which their duty of care could last for many years after they have retired. When the Scottish Law Commission originally considered the matter, it recommended that the duty of care should cease at the point at which the application for registration is made, which seems to me to be an entirely reasonable point at which to draw the line.

I move amendment 2.

Fergus Ewing: The intention behind amendment 2 appears to be to limit the duty of care that is owed by certain parties to the keeper so that, once the deed is delivered or the application is submitted, no further duty is owed. The amendment does not recognise that, when an application for land registration is made, there are often on-going discussions between the applicant, through their solicitor, and the keeper about how the application should be registered. In my view, the duty of care to give the keeper accurate information must subsist during that period.

I note that the amendment replicates what was proposed in the Scottish Law Commission's report, but that report stated that there was a strong case for extending the duty of care to the date on which the keeper makes the registration decision, which is the position that the bill takes. Indeed, one of the commissioners favoured the approach that the bill now takes. I agree with that view. I also agree that there is a general public interest in the accuracy of the land register and that, consequently, the duty of care should last until the application has been finally dealt with. It is right that if the granter of a deed or an applicant for registration or their representative becomes aware of something that is detrimental to the application, they should continue to be under a duty to inform the keeper. Therefore, I respectfully ask Mr Fraser to consider withdrawing amendment 2.

The Convener: I thank the minister for his response, but a point still needs to be addressed, particularly in relation to the timescale that is involved. For that reason, I will press amendment 2.

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

Members: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)

Against

Brodie, Chic (South Scotland) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Park, John (Mid Scotland and Fife) (Lab)
Wilson, John (Central Scotland) (SNP)

Abstentions

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 2 disagreed to.

Section 107 agreed to.

Section 108—Offence relating to applications for registration

The Convener: The next group of amendments is on offence relating to applications for registration. Amendment 44, in my name, is grouped with amendments 45, 31, 46, 32, 33, 3 and 47.

It is fair to say that, at stage 1, the most contentious piece of the bill and the piece on which we took most evidence was probably section 108 and the new offence that is being created. The committee heard a lot of evidence from the legal profession in particular. There was concern that section 108 was too broad in scope; that it would create a new offence that might be difficult to enforce; that it would, in practice, add little to the existing law; and that the way in which it would be applied to people who were unintentionally involved in criminal activities might well be draconian.

Members will recall that, as a committee, we struggled to get a lot of evidence in support of section 108. We invited the Association of Chief Police Officers in Scotland to come and give evidence, but it indicated that the representative who was going to give evidence did not support section 108, so they did not come to the committee. Although the minister and, to be fair, the Solicitor General came and made the case in support of the section, there was a distinct lack of third-party support for the creation of the new criminal offence.

Members will see that the amendments that I have lodged take a range of different approaches. They provide a menu of options for members to consider in relation to section 108.

In its stage 1 report, the committee asked the Scottish Government to look again at section 108. The minister lodged amendments 31 to 33 in that regard, but having looked at them carefully I am concerned that they do not represent a serious attempt to address the concerns that we expressed in our report. We need to consider the alternative approaches that I am proposing.

11:30

Amendment 3 would simply remove section 108 from the bill. The rationale for that is that there are statutory and common-law offences that cover the mischief complained of. The common law provides for the offence of fraud and attempted fraud, which extends to false representation by writings, words or conduct, and further offences are provided for in the Proceeds of Crime Act 2002, part 7 of which sets out offences that relate to money laundering.

The Law Society of Scotland said:

"the Society is of the opinion that when a solicitor is completing and submitting registration forms they are effectively making a statutory declaration. If the solicitor provides false or misleading information in that declaration, then the making of false or misleading statements, whether intentionally or recklessly, may be pursued as contempt with the penalties that establishment of that offence carries ... As well as criminal sanctions, the Society, as the regulator of the solicitors profession in Scotland, has strict rules in place to prevent and address any kind of wrongdoing by a practising solicitor".

The Law Society went on to say:

"Where a solicitor is found to be in breach of the Society's Rules, then the Society may take disciplinary action against that individual or firm of solicitors. The

Society, therefore, is of the opinion that there exists sufficient deterrent in the form of existing law and practice rules to deter the mischief complained of."

The Law Society also thinks that the introduction of the offence is disproportionate to the threat that is presented. Little evidence has been presented to the committee to demonstrate that there is a substantial problem that requires to be addressed. Any such problems could be pursued under existing criminal law.

If members think that amendment 3, by removing section 108 altogether, goes too far, I have offered an alternative approach in the other amendments in my name. Amendments 44 and 45 would remove the word "reckless" from section 108. As we heard in evidence, there is concern about the use of the word in Scots law. The Law Society's view is that "recklessness" is not a settled term in Scots law. The society said:

"Case law suggests that this should be an objective approach, with behaviour falling far below that of the competent person in the defendant's position. Applying this principle to conveyancing transactions, this is likely to demand a very high level of proof of malpractice, and will require expert evidence being lead to show that the solicitor's actions fell far short of that of a competent practitioner."

It would therefore be extremely difficult to prosecute for reckless conduct, so the inclusion of the word "reckless" offers no improvement on the current law of fraud. The Law Society is able to impose sanctions to deal with recklessness, should that be a concern.

Amendment 46 would provide a defence where a solicitor had followed the legal advice and regulations that the Law Society or approved regulator provided. That seems reasonable, given that the Law Society provides guidance to solicitors on money laundering regulations. The approach would ensure that solicitors could properly defend themselves in the context of the new offence that section 108 will create.

Amendment 47 would provide for a yearly review of the operation of section 108, should it be implemented. That would be appropriate and would allow everyone involved, particularly the legal profession, to ascertain whether section 108 had achieved its aims and met the policy objectives.

I move amendment 44.

John Wilson (Central Scotland) (SNP): The convener referred to the evidence from ACPOS and specifically to the individual who was invited to give evidence to the committee but who indicated that he was not prepared to come along and speak to section 108 because he did not support the ACPOS position. I just put on the record that the ACPOS position was quite clear and that ACPOS reaffirmed it in its written submission by indicating in a letter to the committee that it continued to support section 108. Although the individual officer was not prepared to come along and speak to section 108, ACPOS clearly indicated its continued support for the section.

The convener's comments, if taken out of context, might seem to imply that ACPOS was not in favour of section 108, but ACPOS made it clear that it was in favour of it in its written evidence, and it subsequently confirmed in its letter to the committee its continued support for the section.

The Convener: Thank you for that clarification. My apologies to the minister, because in all the excitement I forgot that I should have invited him to speak to amendments 31 to 33, and all others in the group.

Fergus Ewing: Thank you very much indeed. I will respond to the arguments in relation to the convener's amendments. I will seek to do so comprehensively because, as the convener said, the amendments refer to the issue that created the most controversy and discussion in the committee. I therefore think it right and proper that I spend some time tackling the various issues involved.

In general terms, mortgage fraud is a very serious matter that is linked to serious organised crime groups. As a society, we may not be able entirely to eliminate fraud, but we can, should and must do everything that we can to disrupt fraudulent activity. It is important that I set out the scale of the problem. The National Fraud Authority estimated in its annual fraud indicator that fraud cost the United Kingdom £38.4 billion in 2011—that is £38,000 million, of which £1,000 million was mortgage fraud. It is therefore, by any judgment, an enormous problem.

Lenders are becoming increasingly concerned about mortgage fraud. That became even more apparent to me when I had a preparatory meeting with Kennedy Foster of the Council of Mortgage Lenders and Kate Marshall of the Lloyds banking group before we started to deal with the bill. It is vital that those transacting on the land register continue to have confidence in the register's accuracy.

The offence that we propose will apply to both fraudsters and their lawyers. Solicitors are of course gatekeepers. The convener and I have been solicitors, who were in the privileged position of being gatekeepers of the land registers of Scotland. Solicitors have responsibility, not simply to their clients but to society, as officers of the court, not to turn a blind eye to fraudulent behaviour.

Unfortunately, the keeper always has a number of live cases in which solicitors are thought to be engaged in, or facilitating, fraud. The Scottish Crime and Drug Enforcement Agency has

identified that there are no fewer than 291 individuals, including hauliers, financiers, security experts, lawyers and accountants, who are professional facilitators and specialists who provide vital advice and support to crime groups.

The bill's provisions will never apply to lawyers who are simply careless or who do what every lawyer does but are taken in by fraudsters. The provisions will require lawyers who have recklessly turned a blind eye to suspicious behaviour, or who have closed their mind to information that would raise the suspicions of a diligent lawyer, to explain that behaviour.

Having set the scene with those general remarks, I will now turn to each of the amendments in the group. On amendment 3, which seeks to remove the offence provision from the bill, I have already said that mortgage fraud is a serious matter that has links with serious organised crime groups and that we need an offence that goes further than the present alternatives. The convener has argued that the provision in the bill does not do so because it duplicates existing law. We say without fear of contradiction that, despite the existing law, the other offences that are in force and the Law Society's role as regulator of the legal profession, the problem of organised criminals and their advisers committing mortgage fraud has not been effectively addressed. I regret that, but it is a matter of fact. As a result, I do not support amendment 3.

Amendments 44 and 45 seek to remove the element of recklessness from the offence. This is an important issue, so I want to be quite clear in my comments. The inclusion of the recklessness element is exactly what makes this offence go further than the other statutory and common-law offences that are currently in force and to which the convener has quite fairly alluded. In policy terms, amendments 44 and 45 would have the same effect as removing the offence altogether; in other words, if we take out the element of recklessness, we will simply be restating the law. Obviously, there would no purpose in that.

There has been some debate about how recklessness is understood in Scots law; indeed, that might be one of the reasons why the amendments seek to remove it from the offence. If I may, I will remind the committee of certain examples of the term's use that were cited by the Solicitor General for Scotland in her evidence. It is used in section 30 of the Wildlife and Natural Environment (Scotland) Act 2011 in relation to information on deer culling; in section 3 of the Computer Misuse Act 1990 in relation to any unauthorised act that can be carried out recklessly; and throughout the Sexual Offences (Scotland) Act 2009 in relation to a number of offences. Indeed, in her evidence, the Solicitor General specifically read out the offence provision in section 26 of the Charities and Trustee Investment (Scotland) Act 2005, which says

> "It is an offence for a person to provide any information or explanation to OSCR or any other person if—
>
> (a) the person providing the information or explanation knows it to be, or is reckless as to whether it is, false or misleading in a material respect".

That wide range of different statutory provisions, encompassing a range of activity in this country, demonstrates that the term "reckless" is routinely used. I submit, therefore, that the element of recklessness should be in the offence provision because it will help the Lord Advocate and the Solicitor General to prosecute mortgage fraudsters without prejudicing ordinary people, including solicitors, who are the victims of fraud.

I believe that the Law Society of Scotland, with which we have closely engaged in the process—and with which we will continue to engage as long as it wishes—has argued that the term is vague and lacks coherence. That was not Lord Prosser's view in the case of Her Majesty's Advocate v Harris (1993 SCCR 559), in which he judged recklessness to be a familiar concept that was readily conveyed to and understood by juries. Such a view must carry considerable weight.

Indeed, recklessness is more than simply carelessness or negligence; it requires us to look at conduct in light of its consequences. In other words, recklessness relates to conduct either in the face of an obvious danger or in circumstances that show complete disregard for danger. It involves a kind of wilful blindness or, at least, indifference to the circumstances. For example, a solicitor who suspects that information provided is materially false or misleading but simply accepts the risk and submits the application is likely to be guilty of committing the offence recklessly.

I wanted to deal with the point at length because it is only right that we respond at length to a matter that the committee has taken the time to ask us to examine. I am comforted by the fact that the committee is content for section 108 to remain in the bill but, for the reasons that I have outlined, I cannot support amendments 44 and 45.

11:45

As for amendment 46, the effect intended might be that, if the Law Society were to issue guidance on what solicitors should do in relation to land registration applications, compliance with such guidance would mean that the offence was not committed. In my view, the job of producing guidance on the application of criminal offences is for Government—not, with all due respect, the Law Society. In this case, the job is for the Crown

Office and the keeper of the registers. In fact, the Solicitor General and the keeper are committed to producing guidance on compliance in time for the provision coming into force. For that reason alone, I am against the amendment. Furthermore, it is unnecessary, because a solicitor who carefully and conscientiously followed their professional guidance and exercised good judgment would not be acting recklessly.

Moreover, amendment 46 might have an unintended consequence. If a solicitor failed to comply with the Law Society's guidance in a case, they would not be able to establish the defence under section 108(4). In short, the guidance might be a double-edged sword for lawyers and, in many cases, would leave them in a worse position. For that reason, too, I cannot support the amendment.

Amendment 47 seeks to require Scottish ministers to appoint an independent reviewer to review each year the operation of section 108. I have to say that I am not aware of any other offence provision on the statute book that is subject to such a review. That might be because it is simply unworkable.

Let me explain why I think such a provision is absent from other statutory offences, of which there are, of course, no shortage. For a start, how does one determine whether the provision has achieved its objectives? If no prosecutions were made under the offence over a certain period, the reviewer could say that that showed that it was not required. However, it might also show that the creation of the law had deterred fraudulent behaviour; after all, the purpose of creating a criminal offence in the first place is not only to ensure that those who do the crime face justice and, if prosecuted, get the disposal that they merit, but to deter others—particularly those in a privileged position such as solicitors, who are gatekeepers of the land register—from carrying out crime themselves. The existence of this new and potentially effective statutory offence would ensure that they knew that, if they were foolish enough to carry out such behaviour, it would potentially lead them to face justice and the disposals in question. Would a reviewer measure success by an absence or a plethora of convictions? It could be argued that both might mean success—or, indeed, failure—and that is perhaps why such a mechanism has not, as far as we are aware, been incorporated into the law of Scotland.

Finally, amendment 47 seeks to require the reviewer to determine the objectives behind section 108 and assess whether they remain appropriate. I have already given my views on the difficulty of determining whether the objectives behind the creation of the offence have been met. My more fundamental view is that it is the responsibility of Scottish ministers, who are held to account by Parliament and its committee, to determine whether Government measures to tackle fraud and serious organised crime remain appropriate. For all those reasons, I do not support amendment 47.

In relation to Government amendments 31 to 33, I should first state that, especially following the committee's invitation in paragraph 26 of its report, in which it signalled that it was content for section 108 to remain in the bill but recommended that we look again at its wording—and indeed welcomed my commitment in that respect—we have sought to take the matter extremely seriously.

Amendment 31 seeks to address the concern that section 108(4)(c) left an element of doubt about the steps that people would have to take to ensure that no offence was committed—and therefore to establish the defence—by removing that paragraph.

I have said that my officials consulted the Law Society of Scotland. Let me quote its view of the amendment:

> "The Society acknowledge the proposed amendment and is pleased to note that this addresses the concerns which the Society expressed in their written and oral evidence in relation to the last limb of the defence, which the Society suggested introduced the undefined concept of solicitors taking 'all such steps as could reasonably be taken'. Although the Society acknowledges the proposed amendment the Society's views on Section 108 in its entirety remains as that stated in both our oral and written evidence, in that Section 108 should be deleted."

I am grateful to the Law Society for its view and I am glad that it considers that the amendment addresses some of, but not all, its concerns. I stress that the Government remains unpersuaded that the rest of the Law Society's concerns need to be addressed for the reasons that I have stated. I hope that the change to the stringency of the requirements strikes the right balance, while still relying on solicitors to exercise their professional judgment without recklessness and with due diligence.

Amendments 32 and 33 are technical amendments that relate to reliance on the defence in court. They bring the notification requirements when someone is acting in reliance on information supplied by another into line with the latest criminal procedure legislation.

Amendment 32 adjusts the period of notice that a person must give to prosecutors to 14 days. It was previously seven days for the first appearance and one month thereafter.

Amendment 33 disapplies the rule that notice must be given to the prosecutors when the accused's defence statement contends that notification. The accused will have already given notice of the defence by lodging a defence

statement under one of the enactments referred to.

I hope that the committee will bear my representations in mind when it considers the amendments. Thank you.

Patrick Harvie: I was going to ask a specific question about amendment 46, but the minister's comments have clarified the point so I will leave it at that.

Chic Brodie: When the Solicitor General was before the committee, I questioned the use of the word "reckless". My question was answered fully, but being the cynical individual that I am, I went off to check. Indeed, although it is not widely used, it is an acceptable term and it is used in certain acts such as the Computer Misuse Act 1990.

I have read the Law Society's evidence and I take the minister's point. I would hesitate to ask the Law Society where the clinical evidence is because I am not sure what kind of answer I might get. In the Law Society's evidence, there are lots of comments about how the society is

"committed to ... all measures aimed at preventing and minimising any kind of fraudulent behaviour."

We have a situation—it might not be fraudulent—with regard to land that is being covered in the sport pages of our press. If the Law Society is so good at preventing such activities, I fail to see that.

Last week, I attended a breakfast meeting at the Fettes headquarters of Lothian and Borders Police. The subject matter was international terrorism and how terrorists are moving finance around, including through the buying and selling of land in such a way that money is laundered through the system into terrorist organisations. I am not convinced that the Law Society has any real measures to prevent that. Having gone through a situation recently that tested what a lawyer did in a particular situation that affected me, I find that some of the comments in the Law Society's evidence are not 100 per cent correct. The Law Society might feel that it is taking action to prevent certain activity that is against civil or criminal law, but it might want to take another look at how wider society perceives the organisation and its action within the union.

I cannot support any of the convener's amendments. I know that most lawyers are honest and have integrity but it is time for us to raise the bar.

The situation is not cosy. I mentioned a civil action in which I referred a solicitor to the Law Society. I won—if that is the right word—and the solicitor got a slap on the wrist and something written on their record for the next two years. Such behaviour is unacceptable, particularly in situations such as those that we are discussing. My opinion is bolstered by the breakfast meeting that I had last week. We must ensure that the bar is raised. We must do everything to enshrine the need to ensure that the profession is pristine in recording any action or data in relation to such activity.

The Convener: I am grateful to the minister for his detailed exposition of the law on mortgage fraud. I entirely accept that we have a problem with mortgage fraud and that there are bad people out there who are always trying to do bad things. I also accept that there may be a high number of mortgage fraud cases that go unprosecuted. However, I am not sure that it follows logically that we should introduce ever more draconian laws to try to catch people who we think are doing bad things. Perhaps we need to improve the gathering of evidence against such people as a way forward.

My concern—which I set out earlier; I do not intend to repeat the arguments—is that, if we introduce recklessness into the equation, people who have made a genuine error or mistake in completing an application form will end up facing criminal prosecution. That seems to be a disproportionate approach. I welcome the Government's amendments to section 108—I acknowledge that they are an improvement and I am happy to support them—but they do not go far enough. It seems to me that the proposed response is both disproportionate and unlikely to achieve its policy objective. For that reason, I intend to press amendment 44.

The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)

Against

Brodie, Chic (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Park, John (Mid Scotland and Fife) (Lab)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 44 disagreed to.

Amendment 45 not moved.

Amendment 31 moved—[Fergus Ewing]—and agreed to.

Amendment 46 moved—[Murdo Fraser].

The Convener: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)

Against

Brodie, Chic (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Park, John (Mid Scotland and Fife) (Lab)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 46 disagreed to.

Amendments 32 and 33 moved—[Fergus Ewing]—and agreed to.

Amendment 3 not moved.

Section 108, as amended, agreed to.

After section 108

Amendment 47 moved—[Murdo Fraser].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Fraser, Murdo (Mid Scotland and Fife) (Con)

Against

Brodie, Chic (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Abstentions

Park, John (Mid Scotland and Fife) (Lab)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 47 disagreed to.

Sections 109 and 110 agreed to.

12:00

Section 111—Land register rules

Amendment 6 moved—[John Park].

The Convener: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Park, John (Mid Scotland and Fife) (Lab)

Against

Brodie, Chic (South Scotland) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
MacDonald, Angus (Falkirk East) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 6 disagreed to.

Section 111 agreed to.

Section 112—Subordinate legislation

Amendments 34 to 38 moved—[Fergus Ewing]—and agreed to.

Amendment 55 not moved.

Amendments 39 to 42 moved—[Fergus Ewing]—and agreed to.

Section 112, as amended, agreed to.

Sections 113 and 114 agreed to.

Schedule 4 agreed to.

Section 115 agreed to.

Schedule 5 agreed to.

Sections 116 to 120 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. Thank you. Members should note that the bill will be reprinted, as amended, and will be available from tomorrow morning. Parliament has not yet determined when stage 3 will take place, but members can now lodge stage 3 amendments at any time with the legislation team. Members will, in due course, be informed of the deadline for the lodging of amendments once it has been determined. I thank the minister and his officials for their attendance this morning.

Meeting closed at 12:02.

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e-format first available
ISBN 978-1-4061-8798-4

Revised e-format available
ISBN 978-1-4061-8807-3

Printed in Scotland by APS Group Scotland