

ENTERPRISE AND CULTURE COMMITTEE

Tuesday 3 October 2006

Session 2

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ENTERPRISE AND CULTURE COMMITTEE

23rd Meeting 2006, Session 2

CONVENER

*Alex Neil (Central Scotland) (SNP)

DEPUTY CONVENER

*Christine May (Central Fife) (Lab)

COMMITTEE MEMBERS

*Shiona Baird (North East Scotland) (Green)

*Richard Baker (North East Scotland) (Lab)

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

Murdo Fraser (Mid Scotland and Fife) (Con)

*Karen Gillon (Clydesdale) (Lab)

Michael Matheson (Central Scotland) (SNP)

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

COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)

Donald Gorrie (Central Scotland) (LD)

Fiona Hyslop (Lothians) (SNP)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

David McLetchie (Edinburgh Pentlands) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Jamie McGrigor (Highlands and Islands) (Con)

Allan Wilson (Deputy Minister for Enterprise and Lifelong Learning)

THE FOLLOWING GAVE EVIDENCE:

John Graham (Historic Scotland)

David Hunter (National Library of Scotland)

Laura Petrie (Historic Scotland)

Louise Sutherland (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Martyn Wade (National Library of Scotland)

CLERK TO THE COMMITTEE

Stephen Imrie

SENIOR ASSISTANT CLERK

Douglas Thornton

ASSISTANT CLERK

Nick Hawthorne

LOCATION

Committee Room 2

Scottish Parliament

Enterprise and Culture Committee

Tuesday 3 October 2006

[THE CONVENER *opened the meeting at 14:02*]

Budget Process 2007-08

The Convener (Alex Neil): As it is now nearly 3 minutes past 2, I welcome everybody to the Enterprise and Culture Committee's 23rd meeting of 2006. I have received three apologies: Michael Matheson and Murdo Fraser are unable to join us; Susan Deacon will be late. I ask everybody to switch off their mobile phones.

Item 1 is stage 2 of the budget process 2007-08. The committee is to consider its approach to the scrutiny of the Scottish Executive's budget for 2007-08. A paper on the matter has been circulated. I do not think that there is any need for a big discussion on it. If committee members have nothing to say, are they happy to agree the proposed actions in paragraphs 6 and 7?

Members indicated agreement.

The Convener: Item 2 is evidence taking on the budget process. We have two panels of witnesses, the first of which consists of representatives from Historic Scotland. I welcome to the committee—for the first time on the budget, I think—John Graham, who is the chief executive, and Laura Petrie, who is the director of finance. A submission from Historic Scotland has been circulated, but I give the witnesses the opportunity to make some introductory remarks before we ask questions.

John Graham (Historic Scotland): I apologise for the glitches in the first version of our figures, which caused us to circulate a revision. I hope that that has not inconvenienced the committee.

Like the other bodies in the Executive, we are at the moment operating within the overall budgets that the Executive set in the 2004 spending review. In the wake of those decisions, we put together a corporate plan for Historic Scotland that covers the three years covered by the spending review—it extends through to the spring of 2008. We continue to operate broadly within that corporate plan: as time has moved on, we have moved resources around to some extent, but the broad policies that are set out in the plan are still the ones that we are pursuing.

We have not yet set our detailed budget for next year—the process inside the agency for determining detailed allocations is just about to

start—but the main issue that we face in thinking about next year's budget is that our income last year was below the projections in the corporate plan, the income for this year seems likely to be below the projections in the corporate plan and we have to assume that our income next year will be lower than that envisaged in the corporate plan. We are likely to assume an income about £500,000 lower than that projected in the corporate plan.

The Convener: What is the projected income for last year, this year and next year?

Laura Petrie (Historic Scotland): The corporate plan figures are £22.35 million in 2005-06, £23.26 million in 2006-07 and £24.36 million in 2007-08.

The Convener: What are the actual figures?

Laura Petrie: In 2005-06, income was £21.606 million.

The Convener: What is your estimate for this year's outturn?

Laura Petrie: We are in the process of forecasting for this year because we have just had the end of the high season. We are looking at between £22.5 million and £23 million.

The Convener: What is the reason for income being lower than projected in all three years? I must say that the shortfall is fairly modest by the standards of some other agencies with which we have been dealing recently.

John Graham: We would love to know the full answer to that question, but one factor that was at work last year was the G8 summit. We are dependent on the income from Edinburgh Castle and Stirling Castle, which are our two leading properties. They were both mixed up in the G8 summit and we lost a significant number of visitors in July, which is one of the peak months. However, we were behind budget for the first quarter of 2005-06, so we were behind budget even before the G8 summit. We did rather better in the second half of the year.

We are devoting a fair amount of effort to trying to understand the situation, but it is not easy. Up to 2005-06, we had had a run of quite strong growth in income, partly on the back of raising prices at our monuments on the back of improvements to the facilities. We have seen some evidence that we are beginning to encounter a bit of price resistance at the leading properties, so we have been rather more cautious in increasing admission prices.

There is also a lot of competition and new attractions open. For example, Concorde opened at East Fortune last year and got a huge number of visitors. We have no means of knowing whether

those visitors would otherwise have come to one of our properties, but it is a crowded marketplace.

We have research going on at the moment to test out visitors' perceptions of the value for money they get at our properties. We are also considering visitors who arrive at the gate and turn away for whatever reason. We are comfortable about the quality of what we are offering. The feedback that we get from visitors and the mystery visit programme that we run to keep testing our quality continue to give strong results saying that people think that what we offer is high quality.

The Convener: Is there a problem with the marketing? You say that there might be some resistance to the prices, so have you considered the possibility of doing a Ryanair: dropping your prices dramatically, thereby getting far bigger throughput and much greater income?

John Graham: We have not considered that at the moment, but it is one of the ideas that we intend to consider in future. A big project is about to start that will completely change the admission and ticketing arrangements at Edinburgh Castle. It will make it easier for people to book online and take the unsightly portakabin off the esplanade and put a state of the art ticketing facility just inside the gatehouse. The project will allow us to vary the admission price—to offer cheaper admission after 4 o'clock or in the winter, for example.

Last winter, we ran an offer with City of Edinburgh Council: the council's CityCard contained a voucher that gave families free admission to the castle during the winter. It was modestly successful, although it could probably have been promoted more vigorously by us and by the council. We put our toe in the water—we want to develop that kind of thing.

The Convener: The other side of the accounts is the cost structure. Given your lower income, have you taken measures to reduce your costs accordingly? The Scottish Parliament information centre briefing states:

"The total management and administration costs of Historic Scotland are estimated to increase in 2007-08 by £565,000 or 8.0% on the year before."

Given the pressure from the Scottish Executive to increase efficiency, can you explain why you are boosting your management costs by 8 per cent?

John Graham: I will let Laura Petrie comment on the details of the figures first.

Laura Petrie: Some of this is about the presentation of the figures. In 2005-06, the figures are actual, so the costs are spread across all the objectives. For 2006-07 and in 2007-08, I hold pay costs centrally, which is the reason for the increase between 2005-06 and 2006-07 and

between 2006-07 and 2007-08. I am just starting pay negotiations, so I have not attempted to split the costs across the objectives because I do not know yet how they will fall. It is not a case of our increasing substantially our administration costs. At the moment, I am holding those costs centrally.

The Convener: So, if you were comparing apples with apples, instead of apples with oranges, what would be the percentage increase?

Laura Petrie: Very small. I cannot strip it out straight away, but I would say that the figures would be reasonably level across all three years.

The Convener: So the figure would be 0 to 1 per cent?

Laura Petrie: I would be guessing. Can I come back and advise you on that?

The Convener: Yes. I would appreciate that.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Are there opportunities for efficiency savings through co-ordinated working with other agencies? I am thinking of your relationship with the National Trust for Scotland and—John Graham will not be surprised to hear me say this—Historic Houses Association? Might closer co-operation lead to efficiency savings and benefits all round?

John Graham: We do a lot of work with the National Trust for Scotland and have started to work more closely with the Historic Houses Association, which represents most of the leading operators of private historical environment attractions in Scotland. We have set up a new group, called the historic properties group, that meets once a quarter. It comprises senior teams from the National Trust for Scotland, Historic Scotland and the HHA. So far, the focus of the discussions has been on sharing understanding, marketing information and expertise. We are interested in the scope for collaboration that will reduce costs.

Our relationship with the NTS goes further back and, so far, has been mainly about sharing opportunities to increase income, rather than to reduce costs. We have a joint ticketing arrangement with the NTS for Culloden and Fort George—two properties that are closely linked geographically and historically—and we are considering the possibility of making other such arrangements. We make joint training arrangements and share technical expertise, because the NTS has some technical expertise that we do not have and vice versa.

Let us be honest: all that is quite small scale. I do not see scope for drastic cost savings by collaborating with the NTS as long as we remain separate organisations with a completely separate basis and as long as we want to maintain our own

identity and do our own marketing. We both collaborate with VisitScotland on the wider marketing of Scotland overseas, but the National Trust for Scotland has a distinctive brand and set of properties that, by and large, do not overlap with ours. We are in the same position. The point is that trying to open up any real possibility of big savings would require significant organisational upheaval.

14:15

Christine May (Central Fife) (Lab): I seek more clarification on administration costs. You said that the percentage increase looks high only because the costs are held centrally, but regardless of whether they are held centrally or apportioned out, they remain the same.

John Graham: Laura Petrie's point is about the way in which the figures are presented. She effectively holds the provision for pay increases across the agency in the budget for this year and next. As the outturn of the past year affects pay increases across the agency, the numbers are out in the agency's various units. In the figures for this year and next, however, the costs are still held in the central provision in her budget, so one is not comparing like with like.

Christine May: But they are still administration costs, regardless of whether they are out in the units.

Laura Petrie: No. This is the pay for all agency staff, including craftsmen, stewards on the sites and so on. The figure is an artificial inflation of the central administration costs.

Christine May: I am sorry; I am a bit slow on the uptake.

You propose to increase funding for objective 2, which relates to the management of

"historic buildings, conservation areas, voluntary organisations to achieve the agency's aims",

by just over £1 million. What leverage will that generate? Am I wrong to assume that that will assist other organisations?

John Graham: No, you are right. Many projects that we support through that budget have numerous funders. For example, some of them we fund in partnership with the Heritage Lottery Fund while others we fund in partnership with councils. There is a lot of leverage in that budget. Indeed, I believe that there used to be a target with regard to leverage.

Laura Petrie: That is correct.

Christine May: What percentage of leverage do you look for?

Laura Petrie: In 2005-06, the leverage rate was 4.3.

Christine May: Do you have any plans to increase that figure? Indeed, is that possible?

Laura Petrie: We last measured the target in that way in 2005-06. Of course, with the establishment of city heritage trusts, the method of measurement will change, and we will have to see how that will develop over 2006-07. Because we have changed the grant scheme, the various leverage rates will change.

Christine May: I hope that the committee will forgive me, but I should have declared a relevant interest as a trustee of Fife Historic Buildings Trust. I am particularly interested in finding out what you hope to get out of that investment with regard to the preservation of the historic built environment. Moreover, does the Executive have any input into the overall aims and objectives in your corporate plan?

John Graham: The agency's aims and purposes are set out in the basic framework document, which is a kind of contract between me, the minister and the head of the Education Department. The document has been around in some form or other since the agency was established 15 years ago and, when it was revised in the autumn of 2004, we, the then minister and the head of the Education Department discussed precisely how the aims should be framed.

Christine May: So the establishment of those aims was the product of a dialogue between you and the Executive?

John Graham: Yes.

Christine May: You said earlier that, in some cases, income has not come up to expectations, despite all the work that you have done. You also mentioned a number of smaller initiatives. Have you put any resources into a programme of initiatives to boost income?

John Graham: We are strengthening our visitor service and business development team to strengthen its ability to do market research and plan business activity at our various sites. A fact that I did not mention when I was talking earlier about income is that sales in the shops have been consistently behind our targets. The spend per visitor in our shops is tending to drift down. There are many problems elsewhere in the retail sector, but we are in the midst of a big review of our retailing operation, with the aim of sharpening its performance. We are considering issues such as whether we carry too many lines in the shops, whether we have too many small shops and whether the overheads of some cover the income that we get.

Christine May: My final question is related somewhat to our next panel of witnesses. I note from the National Library of Scotland's budget that the NLS has increased sales in its shop, although that might be from a relatively low base. Many of Historic Scotland's properties have manuscript and library collections. What discussions, if any, are you having with, for example, the National Library of Scotland or the National Museums of Scotland to consider what relationship there is between Historic Scotland's activities and theirs?

John Graham: We do not have many properties with collections that are of interest to the National Library. We have more properties with collections that are of interest to the National Museums of Scotland. We have an important collaboration with the National Galleries of Scotland up at Duff House, which it runs as an outstation, while we look after the building. In day-to-day operational work, we have strong links, first, with the National Museums of Scotland, secondly, with the National Galleries of Scotland and, lastly, with the National Library of Scotland. We have a big relationship with the National Museums on the archaeological side on what happens to archaeological finds. That is probably our main, day-to-day business with the National Museums.

Shiona Baird (North East Scotland) (Green): I was interested to hear you say that you are finding a wee bit of customer resistance to the raising of prices. Generating income is extremely valuable and it increases efficiency. Is there a mechanism whereby you have volunteer community groups involved in supporting or helping to maintain some buildings? The National Trust for Scotland has such a mechanism, but I am not aware of one in Historic Scotland.

John Graham: We do not rely on volunteers to anything like the extent to which the National Trust does. That is essentially because most National Trust houses have collections and furniture in them, so staff are needed to keep an eye on the houses when they are open to the public. Most of our properties are open to the sky and do not have anything that anybody can steal, within reason, so we do not have the same operational need for a large number of staff. Many of our staffed sites have only one person there at any one time.

However, we do work with volunteers at a number of our properties. Dundonald Castle in Ayrshire is, in effect, managed for us by a group of local volunteers who run the admissions and the shop and guide people round the monument. We have a partnership at Callanish in the Western Isles, where the visitor centre is run by a local trust, although we look after the actual monument. We have that kind of relationship with a local group of volunteers at one or two other properties.

Shiona Baird: I was thinking more in terms of the craftsman side of things, where there is more of a physical, hands-on approach to looking after properties. I was interested to see the work that you have been doing with the skills sector in developing skills. That seems vital work to me, because we are losing those kinds of skills. I just wondered how that work is developing and how much emphasis you are putting on it.

John Graham: We are putting a lot of emphasis on it. Most of the opportunities we offer for people to get practical experience come through our grants programme. Offering practical experience is now one of the criteria in our grants programme, which is a competitive process.

One criterion is how the project for which the applicant wants money from Historic Scotland will help training and development of skills. Many of the projects that we have funded recently have included the aim of giving people the opportunity to work on a historic building and acquire skills. We also run our own small training school, in Elgin, for stonemasons. We set it up five or so years ago because we were having such difficulty recruiting for our needs, although it now supplies a wider need in the Highlands as well.

The Convener: I will probe a little more on income and expenditure. For some reason, we do not have your income figures. Perhaps you could send us those figures for the three-year period as well.

Laura Petrie: Yes.

The Convener: I have two questions about income. What is your income? What is the breakdown between income raised through grant in aid from the Executive and that raised through your charging policy?

It also strikes me that although there is an outturn or a projection of declining income for three years, you project a 6.3 per cent increase in spend next year. Are you living within your means?

John Graham: Can I pick you up on the last point? I did not say that income was going down; I said that it was falling short of the projections in the corporate plan. So far this year, it is up 6 per cent on last year, but it is below the possibly ambitious targets that we set for ourselves.

The Convener: So costs are rising by roughly the same percentage as income.

John Graham: That is not an easy question to answer. There are two important chunks of our budget that need to be mentioned. One is the grants budget. We cannot talk meaningfully about costs rising within that budget.

The Convener: Within what budget?

John Graham: Within the grants budget.

The other chunk is the projects that we undertake on our own estate. One reason why we have been able to live with the income shortfall during the past two years is that planning for our two big projects has taken longer than we thought. At the time of the corporate plan, we thought that we would have started the Edinburgh Castle project by now, but the project has grown as we have worked on it—we have convinced ourselves that it needs to be a bigger project, to do more than just provide a physical facility, and to address the ticketing operation.

The other project—the refurbishing and re-presentation of the palace block at Stirling Castle, which is a much bigger and more ambitious project—was held up for several months because asbestos left behind by the Army was discovered under the floor during preparatory work. The planning of that project has also taken longer than expected.

The Convener: What is the split between the money that you get from the Executive and the money that you raise yourselves?

John Graham: Our finance from the Executive in the current year comes to £44.4 million, while the projected income for this year is £23 million.

Laura Petrie: Basically, two thirds to one third are the rough and ready proportions that I would quote.

The Convener: Do you think that you could increase the proportion of revenue that you raise and save the taxpayer a wee bit of money?

John Graham: Clearly that is one of our objectives, and we have a conversation each year with the minister about what income targets should be set in the forthcoming year. We will have that discussion with the minister and the process of setting targets for next year.

The Convener: Has the one third changed at all in the past few years? Has it gone up or down?

John Graham: Compared with a decade ago, we are covering more of our costs from our income. Over the past two or three years, the level has, I believe, remained flat. Is that right, Laura?

Laura Petrie: Yes, that is correct.

The Convener: Do you think that you might need to be a bit sharper and more commercial and aggressive in your marketing? Are you a sleepy organisation?

14:30

John Graham: I do not think that Historic Scotland is a sleepy organisation. We are finding it quite tough in the marketplace, but we are not

alone in that. One measure that we use to benchmark our performance is the performance of a basket of around 30 historic attractions in Scotland. That basket includes 10 of our attractions, 10 of the National Trust for Scotland's attractions and 10 attractions that are run by private operators. Last year, our market share was the same as it had been the year before. It might have been a slightly disappointing year for us, but we were not alone in that.

We are constantly looking for new ways to generate income. For example, we have a much more active events programme for our properties now than we used to have because laying on an event at a property is the most successful way we have yet found of getting local people to visit it. Around two thirds of visitors to our estate are from overseas. Most Scots will have been to properties in their local area once—they may have visited a property on a school visit 25 years ago—and something interesting must be found to get them to go back more often. In recent years, the events programme has grown quite a lot to meet that objective.

Mr Stone: My memory has been jogged. I should remind the committee of my entry in the register of interests: I am a trustee of the Tain Guildry Trust and the Tain Museum Trust.

Christine May: Mr Graham, I want to explore your thoughts on the recent review of the historic environment, which has just been published. What implications might that review have for Historic Scotland's budget? What potential exists for expanding your activities or carrying out your activities in different ways? I know that you are aware of comments that have been made about Historic Scotland. Will you say something about them? It has been said that Historic Scotland can be a barrier to the sensible development of historic buildings.

John Graham: That is a broad question. The Historic Environment Advisory Council for Scotland recently offered four reports to the minister, which we are studying on the minister's behalf with a view to offering advice on the way forward. At this juncture, I cannot say a great deal about what our advice is likely to be, but I will say that HEACS has made the point that the job of looking after the historic environment is not exclusively the job of Historic Scotland. Many bodies have a part to play in looking after it. Local authorities are extremely important in that context, and the HEACS report raises a number of questions about the organisation and resourcing of local authorities as well as the organisation and resourcing of Historic Scotland.

You asked how our activities might develop. It is clear that we could tackle certain opportunities with a larger budget, but we have found ourselves

reasonably fully occupied with looking after our current range of properties. As I have explained, we are wrestling with the problem of raising income. We hope that we will improve our income figures in the future, but we ultimately depend on the number of overseas visitors who come here. In that respect, we are no different from English Heritage.

Christine May: I should mention that I have been promoting amendments to the Planning etc (Scotland) Bill to do with the protecting the historic environment and the duty of care for archaeological sites in particular. I have taken an interest in such matters.

Could some of Historic Scotland's assets be freed up if local authorities did more? If assets were freed up, what might Historic Scotland do that it cannot do at the moment?

John Graham: We work closely with local authorities on the consent side of protecting the historic environment. Our experience shows that the process will go more smoothly if the council and the developer involve us early in their plans and we are given opportunities to set the context within which a project is taking place or explain what is important about a building that is at the centre of an application. We will not always agree with the developer, but there will be shared understanding of the significance of what is there.

Many of the most difficult cases in which we become involved are cases in which we see the proposal only after all the work has been done and the design is finished. Understandably, by that stage the promoter is raring to go. Our objection comes as a bit of shock and causes a great deal of unhappiness.

The Convener: Do we still need an agency called Historic Scotland? Could not properties such as Edinburgh Castle and Stirling Castle be looked after just as well by the National Trust for Scotland? Could not your grant-giving powers be delegated to local authorities? Do we need a separate agency, with all the overheads that that entails?

John Graham: We do not look after only Edinburgh Castle; we look after 345 properties across Scotland and run them as an entity. We would make a surplus on some of them as individual business units, but we would make a loss on the vast majority of them. We would certainly make a loss on the properties where we do not charge for entry. Would the National Trust for Scotland take on the whole network, which as a business loses between £12 million and £14 million a year? What kind of endowment would the organisation seek from the Executive before agreeing to do that? That is the core question.

The Convener: I think that we can guess your answer to the question.

Finally, I take it that you had no role in lodging objections to flying the saltire above Bute House.

John Graham: No.

The Convener: Thank you for your evidence.

Christine May: I am not sure that the last question was relevant to the budget.

The Convener: Bute House is an historic building. Does it not fall under Historic Scotland's remit?

I welcome to the committee Jamie McGrigor, who is here as the member in charge of the Scottish Register of Tartans Bill.

Mr Jamie McGrigor (Highlands and Islands) (Con): I have been informed that the issue is unlikely to be discussed before 4 o'clock.

The Convener: That is correct.

Mr McGrigor: I will withdraw until nearer the time, if that is acceptable.

The Convener: No problem, although you are welcome to stay—you could learn a lot. However, if you give us a contact number, we will let you know when we are due to discuss the bill. The clerks will let you know when we are within 10 minutes of the item.

Mr McGrigor: That would be great.

The Convener: We will now take evidence from the National Library of Scotland. I welcome Martyn Wade, the national librarian, and David Hunter, the strategic policy manager at the National Library. Papers have been distributed to committee members. We will move to questions after the witnesses have made some introductory remarks.

Martyn Wade (National Library of Scotland): I still have the remnants of a cold, so I am a bit croaky. Unfortunately, our director of corporate services is on leave and our finance manager has recently been unwell, so I apologise in advance for the lack of specific financial expertise on the panel.

I thank the committee for giving us an opportunity to talk about the National Library's activities and work. We are planning an open event for MSPs in the near future, and I hope that you will be able to join us for that. We have just completed a briefing for MSPs on our corporate plan for this year. It is hot off the press today and we will send it to all MSPs to help to inform members about the work of the National Library.

Over the past three years, since the publication in 2003 of our new strategy "Breaking through the walls", we have gone through a major strategic

change that has emphasised what the library is trying to do. For many years, it focused on its collections and on visitors to the reading room. For that reason, it had a low profile compared with the other national collections.

The strategic change was intended to emphasise that we were not just about the excellence of our collections but needed to focus on widening access to ensure that everybody in Scotland could access our collections. We also needed to develop a range of activities to enable people who were unable to visit the library to use the collections and to improve greatly the range of services that were available at the library. That change has had a significant impact on the way in which we have used the budget over the past three years and on the development of new resources in the library, focusing on education; interpretive services; the development of a digital National Library of Scotland for external access; marketing; the development of fundraising; and a range of activities that have enabled people to use the library.

We have provided some figures for you. The figures from the corporate plan, which give a departmental breakdown, are based on the corporate plan of April 2006. We took the opportunity to reconfigure those figures into the strategic priorities, as requested by the committee. Those are the figures from August. However, things have moved on since then, which is why there is a difference in the totals.

Last year and this year have perhaps been exceptional years because of the purchase of the John Murray archive. That involved a major grant of £17.7 million from the heritage lottery fund, much of which has gone through our books, as well as significant contributions from the Executive. We excluded those sums because they would have distorted the figures. Likewise, we have not included in the figures in front of you the notional capital charges that feature in our accounts: because they are notional, they do not feature in the budget figures.

Christine May: I remind the committee of my entry in the register of members' interests as chair of the Scottish Library and Information Council, of which the National Library of Scotland is a member. Martyn Wade sits on the council with me and on the management committee.

I am pleased to welcome the National Library of Scotland, which I think is appearing before MSPs for the first time. I am not sure that many MSPs appreciate what is held in the national collection, what the National Library has historically done with it and what it now proposes to do with it. That is what I would like to explore, in terms of what the National Library is doing with the budget and how it has reconfigured that to meet the new

objectives. The figures that we have for the spending for 2006-07 and 2007-08 do not look much different, although the way in which expenditure was profiled changed before then. Perhaps Martyn Wade would like to tell us a bit about what the National Library is doing differently.

Martyn Wade: Absolutely. I should have said that the 2007 figures are, essentially, unchanged because we have not yet started our budgetary process for that period. That planning process is just about to start; therefore, in essence, those are continuing figures.

Over the past couple of years, there has been a major shift in balance from the backroom and facilities management areas, and we have reconfigured our management resources to give a new balance, as I suggested earlier. Previously, as you would expect, we put great emphasis on our collections, which are obtained in three ways. First, they can be obtained through the privilege of legal deposit, which is absolutely crucial to a national library. That enables us to claim a copy of every item that is published in the United Kingdom and Ireland free of charge, although there is a cost to us in cataloguing them and adding them to our stock. Secondly, we receive a purchase grant of £1.3 million from the Executive, which ensures that we can be a world-class research library. We collect publications not just from the United Kingdom, but from English-speaking countries around the world as well as from major European countries where other languages are spoken. Thirdly, we can obtain collections through donation deposit, whereby people donate items to us. We also acquire historical material for our heritage collections of manuscripts and rare books, as well as contemporary publications. We aim to develop a comprehensive world-class collection for researchers, whatever the level of their research.

14:45

Our reading room is relatively small—it can take only about 200 people and at times it is full. Our previous focus was solely on providing access to the reading room, although we had a small touring exhibition programme. In essence, the library was a physical building that people had to come to.

The new strategy is entitled "Breaking through the walls". Technology—the internet in particular—allows us, if not to break through completely, certainly to render the walls permeable. Where possible, we want people to be able to use our collections digitally. We are currently developing a digital National Library of Scotland, which will include a whole range of material from our collections that we can digitise within copyright constraints. We have a long-term expansion programme for that, using our resources and grant funding from joint applications with other

organisations. We also can also be contacted via e-mail for inquiries.

We want people to use as many of our resources as possible wherever they are, rather than just in the library. However, we acknowledge that some people are not comfortable with that, so we are also developing partnerships with libraries across Scotland—with public libraries in particular. In effect, we will be adding our collections to the collections of every public library in Scotland. We have pilots with Moray Council and Aberdeen City Council, whereby people can use terminals in the libraries to access our collections. The staff are trained in the nature of the collections and also feed into planning the development of the collections. There is therefore a good exchange of skills and expertise with the libraries. For people going into those libraries, the link into our building will be as short as possible. Together with the Scottish Library and Information Council, we hope to establish a network whereby a core of resources will be available through every public library in Scotland. That will be a stepping stone into the collections of the National Library.

A related and significant change is the extension of legal deposit to digital publications. That will be a huge challenge. We have the right, and the responsibility, to collect those publications on behalf of the people of Scotland. I am talking about journals, documents and books that are published electronically, but perhaps most importantly I am talking about websites. As I say, that is a huge challenge, and is where the focus of the digital National Library is being placed. For copyright reasons, some of those items will be available only within the National Library, but we are seeking voluntary agreements with publishers so that publications will be available in libraries in other locations.

Constraints on our collections mean that some items are available only to people who visit Edinburgh, but through digital means we aim to ensure that everyone in Scotland can access as much of the collections as possible—either directly from their home or place of work, or from their local library with the support of trained staff.

Christine May: The budget has not increased a great deal, so I presume that you have reconfigured it.

Martyn Wade: Yes.

Christine May: Did you want to tell the committee a bit about whether that just means training staff to do things differently, or whether it also means changing the funding of various departments?

Martyn Wade: We have been successful in gaining increased funding from the Executive. We are grateful for that because it has been helpful in

facilitating changes and in enabling other activities.

There have been two main changes. First, we have developed the capacity of our staff to do different things and to do more. Curators who were used only to working with manuscripts are now also used to converting them digitally. We have changed the balance of skills in the National Library. We have changed the management structure quite radically, to provide professional expertise in the areas that we did not previously work in.

Secondly, we are considering raising much more significant funding ourselves. We have a major fundraising campaign specifically to complete the purchase of the John Murray archive, but a large proportion of our fundraising is for educational and access activities. At the same time, we are raising smaller amounts that will facilitate those activities. We have changed the use of the budget. We have additional funding and we are considering maximising our income from elsewhere.

Mr Stone: You mentioned maximising income. In your submission, I noticed comments on the role of curators. In my home area of the Highlands, looking after old and valuable books, which can involve rebinding, dealing with marled paper and getting rid of foxing, is a problem. Is there an opportunity to market such services to private collections? Even in Edinburgh, it is difficult to get a nice old valuable book rebound and sorted. It strikes me that that could provide a big income stream.

Martyn Wade: Our priority in the past, which will be reflected in the proposed culture bill, was to be a centre of advice and expertise. In many cases, the National Library has the greatest capacity and skills in those areas. Our focus has been on providing advice and support for publicly available libraries to ensure that their collections are preserved and conserved as far as possible. For example, twice a year, we bring together the librarians who are responsible for rare book collections throughout Scotland to share expertise. That work has occupied the staff fully. It is unclear how far we should move into providing services that are available commercially. There is good provision of modern, historic and rare book binding among commercial binders. Our focus is therefore on providing advice and expertise.

Until now, we have worked mainly in the public sector but, where writings are in private hands, it is important that they are preserved because, generally, such collections are available to scholars and researchers on request when needed. Our focus is on ensuring that items are preserved for the future in Scotland, rather than on establishing a commercial process. In many areas, a strong commercial sector is already in place.

Mr Stone: It is laudable that you are co-ordinating with local authorities. However, my second question, which is a bit like the convener's devil's-advocate question to the previous panel, is one that is always in the public mind. What do you do that could not be done by a big library service, such as those of the City of Edinburgh Council or Glasgow City Council? I accept that a smaller library service could not do that work.

Martyn Wade: To be realistic, the National Library and other libraries have a great deal in common. However, the unique aspect of the National Library is its national dimension. We collect on behalf of the nation, rather than focus on the needs of individuals in specific communities. Our work should complement, rather than compete with, that of public libraries, and we work increasingly closely with public libraries to ensure that that is the case. We are clear that entitlement, as applied in public libraries, is delivered locally. In our collections, we have single copies that we have acquired by legal deposit or purchase. We frequently have the role of ensuring that those are preserved and conserved. As we often have the last remaining copy, we provide a backstop and ensure that items are available to people in Scotland.

Local authorities sometimes feel unable to look after certain items. In the past few years, there has been a decline in specialist skills in local authority libraries, particularly in relation to historic collections. That has placed a greater role and responsibility on the National Library of Scotland. Our collections are kept almost entirely to the appropriate British standards to support their preservation and conservation, so we are increasingly providing a home for items that people feel unable to keep locally. In such cases, we can often provide a digital alternative for use in the local area.

Our work complements the work of local libraries, which is geared towards meeting the immediate needs of local citizens. The National Library of Scotland provides the complementary national dimension and meets needs that go beyond the role of public libraries—and, indeed, a lot of higher education libraries—by providing a national level of provision of largely unique material.

Our collections go back to the origin of the Faculty of Advocates in 1689. Those items were new when we acquired them, but they are now historic and rare. Our principal role in relation to the items that we collect and keep now is to make sure that they are preserved so that they are available in 300 years' time. That work complements the work of local authorities, which is much more about immediate demand and use.

Shiona Baird: I am particularly interested in the information in your corporate plan on energy costs and the huge impact that they are already having on the National Library of Scotland, given that you have to maintain the correct atmosphere to preserve documents. It is clear that energy costs are already a serious challenge for you. You have done quite a lot of work to improve energy efficiency, but will you comment on your strategy and say a bit more about what you are doing? Could you appeal to your energy provider—whichever company that is—and ask it to be philanthropic in its approach to your energy costs, bearing in mind that you are preserving the nation's historical documents?

Martyn Wade: As you would expect, our work on energy efficiency includes a range of small activities as well as major activities. We engage strongly with our staff in all sorts of sustainability activities. We have a group of staff from all levels in the organisation who are keen on that area. We formalised their enthusiasm, brought them together and empowered them to make suggestions at all levels about, for example, recycling and waste minimisation as well as energy use.

As you suggest, the bulk of our energy consumption is used in the storage of our major collections at George IV Bridge and Causewayside. The staff in our estates division are some of the most experienced staff in the world in fire protection and energy consumption. We have just completed some major capital work at the Causewayside building, which was easy to do because it is a newer building. We replaced what is now obsolete mechanical engineering equipment, which resulted in a 20 to 25 per cent improvement in energy efficiency. Subject to capital, we will apply such activity to other parts of the estate.

We have a mixture of two approaches. We consider major capital investment when that will produce major savings through more effective energy controls, but we also engage with staff on smaller activities so that we make incremental changes as well as larger ones.

Your suggestion about appealing to energy producers is interesting. We take our energy from the Scottish Executive's contract as part of the buy-in to shared services and efficiency, so we believe that we already acquire energy at the lowest possible cost, but I will raise the matter with my colleagues in the other national collections because energy costs affect them as well. All the national collections require specific environmental controls. We can perhaps approach the energy providers about that. I am not confident about the outcome, but if we do not ask we will not find out. I will have a word with my colleagues in the other

national collections and we will consider how we can make a joint approach.

15:00

The Convener: I would like to clarify the gap of £6.7 million for 2006-07 and £5.3 million for 2007-08 between the figures from the National Library of Scotland and those presented in the Executive's draft budget. Does the gap represent the capital budget?

Martyn Wade: It is the capital plus the notional.

The Convener: Fine. Jamie Stone wants the last word.

Mr Stone: I crave the indulgence of both Martyn Wade and the committee, but I wish to ask a tiny last question. Let us say that you are building up your collection over the years and you happen to buy a J K Rowling first edition. Five years later, it is worth a great deal of money. Playing the market is the wrong expression, but if you sold that edition and bought a later one, you would realise that money. Do you think about that? Do you work your collection that way, or is it there for ever?

Martyn Wade: With such books, we do not buy them but acquire them under legal deposit—we claim a copy free of charge—and we do not sell them for a number of reasons.

The printable legal deposit, which was recently reconfirmed under the Legal Deposit Libraries Act 2003, is an understanding between the legal deposit libraries, of which there are six in the UK and Ireland—five of them are in the UK—and publishers, whereby the publishers are happy with the process on the basis that the items they provide are preserved for scholars. For those who are interested in publishing as a research area, I point out that changes are made to different editions and different publications.

The basis of legal deposit is that we claim books for preservation and for scholars. However, we also have a relationship with authors, who are very supportive of our role. For example, J K Rowling voluntarily donates copies of her books in all languages. Our work in this area is about preserving the integrity of the collection and maintaining good relations with publishers and authors. That will become particularly crucial with electronic legal deposit, about which publishers are extremely cautious. Once an electronic document is released, it can go anywhere and publishers lose the rightful commercial benefit that they can gain from that digital publication.

On the other hand, if we can maximise, on a voluntary basis, the access that we can provide, we can get a real benefit for the people of Scotland, for example by getting voluntary agreements with Scottish publishers that their

books may be available digitally in libraries a certain period after they are out of publication but while copyright still exists. We want to ensure that we maintain those good relations so that we can build on them to expand access in future and not rock the boat. There is the integrity of the collections but there is also the relationship with the publishers and authors, which we want to maintain.

The Convener: You need to remember to donate your memoirs, Jamie.

Christine May: Don't encourage him.

Martyn Wade: We receive manuscript collections from a number of MSPs and other politicians—indeed, we also receive the archives of political parties. We are keen to maintain those because, in future, they will be the history of Scotland.

Mr Stone: You will be hearing from Solidarity quite soon.

Christine May: It is fair to say that the National Library of Scotland has probably come further in a shorter time than many others, which has not been easy. I recall that there were some fairly well-publicised difficulties when staffing changes were made.

Martyn Wade: It has been a challenging three years for the library, but they have been crucial because, with the impact of technology, the internet and digital publications, unless we capture this window of opportunity and get it right, we will lose it for the future. For the library, it is entirely unacceptable that, for example, we collect printed but not digital collections, which are the publications of the future.

If we were inventing a national library in the 21st century of course it would deal with the digital issues as well as the print issues and of course education and access would be at the heart of its work. Over the past three years the National Library has been trying to develop that process, but it also recognises that it is a long-term process on which we must continue to build over the next few years to ensure that we have the national library that Scotland needs.

The Convener: Okay. That was helpful. Thank you both very much. I am sorry that we did not need to bring in David Hunter.

David Hunter (National Library of Scotland): That is all right.

The Convener: I am sure that you do not mind.

Subordinate Legislation

15:05

The Convener: Item 3 is subordinate legislation. We have three Scottish statutory instruments to deal with today. To assist us, we have two representatives from the Scottish Executive: Louise Sutherland and Kirsten Simonnet-Lefevre—I hope that my pronunciation was reasonably accurate.

Designation of Institutions of Higher Education (Scotland) Amendment Order 2006 (SSI 2006/398)

The Convener: Do you want to say anything on the amendment order before we consider it?

Louise Sutherland (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I have nothing to add to the Executive note, but I could give a short introduction to the order if that would be helpful.

The amendment order was made during the summer and was required to reinstate higher education designated status to the Robert Gordon University until the transfer and closure order comes into effect. A transitional provision was, unfortunately, omitted from the original order continuing the designation as a higher education institution for the university until its closure and the transfer of its assets and employees to the new university.

The Convener: Thank you. The Subordinate Legislation Committee considered the order on 5 September and raised no points on it. Does any member have any questions or points to make?

Members: No.

The Convener: Okay. Do members agree to note the order, given that it is a negative instrument?

Members indicated agreement.

Academic Awards and Distinctions (The Robert Gordon University) (Scotland) Order of Council 2006 (SSI 2006/452)

The Convener: The second instrument is also a negative instrument.

Louise Sutherland: The order of council enables the newly constituted Robert Gordon University to grant degrees and other academic awards.

The Convener: The Subordinate Legislation Committee considered the order on 19 September and did not raise any points on it. Does any member have any points or questions?

Members: No.

The Convener: Do members agree to note the order in council?

Members indicated agreement.

Robert Gordon University (Transfer and Closure) (Scotland) Order 2006 (SSI 2006/461)

The Convener: We come to the final order.

Louise Sutherland: The order closes the university as currently constituted and transfers its assets and employees to the new university with its modernised constitution.

The Convener: The Subordinate Legislation Committee considered the order on 19 September and raised points with the Scottish Executive. However, the Executive was not in a position to reply to the Subordinate Legislation Committee in time for its meeting on 26 September. Therefore, the Subordinate Legislation Committee asked that the Enterprise and Culture Committee consider the Executive's response directly, details of which have been circulated as part of the paper to members.

I will ask Christine May, as she is a member of the Subordinate Legislation Committee—

Christine May: Jamie Stone is a member of the Subordinate Legislation Committee.

The Convener: Do you want to add anything, Jamie?

Mr Stone: As far as I am concerned, the order is pretty satisfactory. I counsel caution in that I am a member of the Subordinate Legislation Committee and we are asking the Enterprise and Culture Committee for its opinion, so I almost have to withdraw from the discussion.

The Convener: Do members agree to note the order?

Members indicated agreement.

The Convener: We asked the minister, Allan Wilson, to come at about 3.15 for stage 2 of the Bankruptcy and Diligence etc (Scotland) Bill. We will suspend the meeting for six minutes.

15:09

Meeting suspended.

15:14

On resuming—

Bankruptcy and Diligence etc (Scotland) Bill: Stage 2

The Convener: As we have a lot to get through, let us suspend the suspension and get on with business. This is day 6 of stage 2 consideration of the Bankruptcy and Diligence etc (Scotland) Bill. I welcome the minister and his team once again.

Section 134 agreed to.

After section 134

The Convener: Amendment 317, in the name of the minister, is grouped with amendments 372, 373, 439, 441 and 442.

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): The amendments in this group relate to the Scottish Executive's debt advice and information package. If agreed, the amendments will extend the use of the debt advice and information package to inhibition in execution and diligence against earnings and improve the way in which the package is used.

The bill already extends the use of the package to land attachment, residual attachment and money attachment. It also changes the Debt Arrangement and Attachment (Scotland) Act 2002 so that the way in which the package is used for attachment is consistent with the changes brought in by the bill.

The bill provides for the package to be given to all debtors including companies and partnerships. It says that the creditor must provide the package on or before service of a charge for payment. However, the package is aimed at individuals and is of little use to companies and the like. A further issue is that a charge to pay lasts for two years and authorises any number of diligences in that period. The debtor therefore needs the information at a time when it is useful, which means that, where possible, the package should be provided no earlier than 12 weeks before enforcement.

Amendment 317 extends the use of the package to inhibition in execution where the decree is for payment of money, or for payment of money if the obligation is not met—for example, a decree for delivery of furniture within six months, failing which the debtor must pay £2,000. For inhibition, the package is served at the same time as the inhibition is effected and not up to 12 weeks earlier, in order to keep an element of surprise for the creditor. Inhibition is a freeze diligence and the creditor will not be able to force the sale of inhibited property other than by land attachment,

so the debtor still has a chance to seek advice after an inhibition has been executed.

Amendments 272, 373, 441 and 442 provide that, for money attachment and other attachment, the package is to be provided to individuals no earlier than 12 weeks before those diligences are used. If those amendments are agreed to, I will lodge further amendments at stage 3 to make the same changes for land attachment and residual attachment.

Amendment 439 extends the use of the package to earnings arrestment, current maintenance arrestment and conjoined arrestment orders. The package is to be given to the debtor no earlier than 12 weeks before the diligence is used or, in the case of a conjoined arrestment order, an application for an order is made to the court.

I move amendment 317.

Amendment 317 agreed to.

Sections 135 to 143 agreed to.

Section 144—Inhibition terminated by payment of full amount owing

The Convener: Amendment 318, in the name of the minister, is grouped with amendments 350 to 353, 355, 374, 376 to 404, 407, 409 to 418, 420, 424 to 426, and 428 to 437.

Allan Wilson: The amendments in this group continue the process of change in the name of the new court enforcement and citation officer profession from "messenger of court" to "judicial officer" in parts 5 to 8 of the bill.

I move amendment 318.

Amendment 318 agreed to.

Section 144, as amended, agreed to.

Sections 145 to 153 agreed to.

Section 154—Keeper's duty to enter inhibition on title sheet

The Convener: Amendment 319, in the name of the minister, is grouped with amendment 320.

Allan Wilson: If land in the land register that is subject to an inhibition is sold or burdened, then the keeper will not guarantee a good title in the usual way. The keeper was good enough to comment on the changes to inhibition in the bill as introduced to make sure that they are fit for purpose. The amendments respond to his comments and, if agreed, will make the reform of inhibition more effective.

The bill provides for new subsection (1A) of section 6 of the Land Registration (Scotland) Act 1979. It clarifies that an inhibition need only be

noted in the title sheet of land when a transfer is adverse to that interest.

Interests—for example, a new security—can be created as well as transferred. It should be made clear that the keeper need only note an inhibition when an interest is created adverse to the inhibition. Amendment 319 makes the necessary change.

An inhibition that is discharged no longer enables the creditor to strike down any deed in relation to the debtor's land. Similarly, if an inhibition is restricted to one piece of land owned by a debtor, other land that the debtor owns is not affected.

The current practice of the keeper, when he is aware of the discharge or restriction of an inhibition, is not to enter details of the change on a title sheet but simply to remove the inhibition as needed from the title sheets of all land owned by the debtor. The keeper does not need to be asked to amend the title sheet. His general duty to maintain title sheets under the 1979 act will ensure that title sheets are changed and there is therefore no need for the express new right for people to apply for changes to be made. It follows that new subsection (1B) of section 6 of the 1979 act, as inserted by section 154 of the bill, is not needed. Amendment 320 removes it.

I move amendment 319.

Amendment 319 agreed to.

Amendment 320 moved—[Allan Wilson]—and agreed to.

Section 154, as amended, agreed to.

Section 155 agreed to.

Section 156—Diligence on the dependence

The Convener: Amendment 321, in the name of the minister, is grouped with amendments 322 to 331 and 339 to 349.

Allan Wilson: The amendments in this group are all intended to clarify exactly how the provisions in relation to granting warrants for diligence on the dependence and interim attachment work together.

New sections 15D, 15E and 15F of the Debtors (Scotland) Act 1987, as introduced by section 156 of the bill, set out a new procedure for applications to the court for a warrant for diligence on the dependence. New, section 15D provides for an application to the court, new section 15E provides for the grant of a warrant without a hearing, and new section 15F provides for the grant of a warrant after a hearing. Amendments 321 to 330 insert cross-references into those sections to make it clear that they need to be read together.

Amendment 331 provides for the creditor rather than the court to intimate the grant or refusal of a warrant for diligence on the dependence to the debtor and any other person appearing to the court to have an interest.

New sections 9C, 9D and 9E of the Debt Arrangement and Attachment (Scotland) Act 2002, as introduced by section 160 of the bill, set out the same procedure for applications to the court for a warrant for interim attachment as is provided for diligence on the dependence. Amendments 339 to 348 therefore insert new cross-references into those three sections to make it clear that they, too, need to be read together. Amendment 349 provides for the creditor rather than the court to intimate the grant or refusal of a warrant for interim attachment to the debtor and any other person appearing to the court to have an interest.

I move amendment 321.

Amendment 321 agreed to.

Amendments 322 to 331 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 332, in the name of the minister, is grouped with amendments 333 to 338 and 362 to 368.

Allan Wilson: Part 6 of the bill reforms inhibition on the dependence and arrestment on the dependence, which are the existing diligences that creditors can use to get a security during a court action for payment of any money that is found due at the end of an action.

Part 7 introduces interim attachment, which is a new diligence on the dependence. It allows the creditor to secure a claim in a pending court action over moveable goods that are owned and held by the debtor.

The amendments in this group will improve the way in which the courts deal with applications for recall or restriction of warrants for diligence on the dependence; recall or restriction of an inhibition, arrestment or attachment that has followed from such a warrant; and removal or variation of any condition that the court has imposed on the debtor when refusing to grant, or recalling or restricting, such a warrant.

Amendment 332 will provide for the form of an application for the recall or restriction of a warrant for inhibition or arrestment on the dependence, or any inhibition or arrestment that is in effect, to be set out in court rules. It will also provide that the debtor must intimate the application to the creditor and any person with an interest, and that the court shall not make an order without giving all persons with an interest a chance to be heard.

Amendments 333 and 334 will provide that the court shall recall any incompetent inhibition or arrestment on the dependence.

Amendment 335 will clarify that, when an application is made for recall or restriction, the court must have regard to whether it is reasonable for a warrant for inhibition or arrestment on the dependence, or an inhibition or arrestment executed in pursuance of such a warrant, to remain in place.

Amendments 362 to 367 will make more or less identical changes to part 7, on interim attachment.

Amendments 336 and 368 will make provision in relation to diligences on the dependence and interim attachment. If the court makes an order recalling or restricting a warrant or a diligence under a warrant, the debtor shall intimate that order to the creditor and any other person with an interest.

I move amendment 332.

Amendment 332 agreed to.

Amendments 333 to 338 moved—[Allan Wilson]—and agreed to.

Section 156, as amended, agreed to.

Sections 157 to 159 agreed to.

Section 160—Interim attachment

Amendments 339 to 353 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 354, in the name of the minister, is in a group on its own.

Allan Wilson: Amendment 354 will give the court a new power to manage goods that are attached during an action as security for any payment that is found due by the court. Court actions can last for months, and goods that are subject to an interim attachment cannot be moved by the debtor. However, it might sometimes be sensible to move attached goods. For example, goods might be at risk of damage if the place where they were attached is no longer safe because of storm damage. Anyone with an interest should be able to ask the court to make an order for security of the attached goods. Such an order could allow the debtor to move the goods from a damaged building to one in good repair. The court should of course not make such an order without giving everyone with an interest a chance to have their say.

Amendment 354 will therefore enable the court, on the application of the debtor, the creditor or the judicial officer, to order the safekeeping of any attached article. The person who makes the application will have to intimate it to the other two interested parties, who will be given a chance to be heard before a decision is made.

I move amendment 354.

Amendment 354 agreed to.

Amendment 355 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 356, in the name of the minister, is grouped with amendments 357 to 361.

Allan Wilson: Amendments 356 to 361 will clarify the circumstances in which and for how long an interim attachment is able to continue after the court disposes of the action in which the interim attachment was executed. That is necessary, because, as I said, interim attachment is a freeze diligence only, which provides a security over corporeal moveable property in the hands of the debtor, pending the outcome of a creditor's court action.

A creditor who has executed an interim attachment and to whom the court finds payment is due at the end of the action can use an attachment of the property to enforce the debt. The expenses of the interim attachment can be enforced only by attachment. The interim attachment should therefore continue to have effect after the end of the action in some circumstances, to retain the creditor's security over the goods and to give the creditor a chance to attach them.

The bill provides only for the attachment to stay in force when the court grants decree for payment of all or part of the sum sued for. However, there are two further situations in which a creditor might want to attach the goods that are subject to an interim attachment. One is when the decree is for a remedy as an alternative to payment of money. For example, a creditor could seek a court decree for delivery of goods, with an alternative remedy of payment of money if the goods are not delivered. In that situation, the creditor would wish to attach the goods subject to the interim attachment, where the debtor fails to deliver them.

15:30

The other situation is when the court orders the debtor to pay the expenses of executing the interim attachment, which it can do even if the creditor loses on the merits of the action. The Scottish Law Commission recommended that the court should have that power, because an interim attachment will be granted only where the creditor persuades the court that there is a good reason for doing that. Amendments 357 and 358 therefore ensure that the interim attachment can stay in effect for up to six months on all occasions when it is fair to give a creditor the chance to attach goods that are subject to an interim attachment.

Amendments 356 and 359 are minor technical amendments. Amendment 360 is a minor amendment consequential on amendment 357. Amendment 361 clarifies the procedure that is to be used when a creditor asks the court to extend the six-month life of an interim attachment after final disposal of the action. It includes a new duty on the creditor to intimate the application for extension to interested parties and for the application form to be prescribed in court rules.

I move amendment 356.

Amendment 356 agreed to.

Amendments 357 to 368 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 369, in the name of the minister, is grouped with amendments 370 and 371.

Allan Wilson: The bill provides that the expenses of executing an interim attachment shall, if due to be paid by the debtor, be recovered only by an attachment in execution. This is one of a number of similar debtor protections in the bill. It is intended to draw a line under the cost of any one interim attachment, when it is completed by an attachment in execution. The aim is to discourage creditors from using “fishing” diligences in the hope of catching something, safe in the knowledge that the debtor will have to pay the costs regardless of whether any money is recovered.

The bill provides for a new section 9P of the Debt Arrangement and Attachment (Scotland) Act 2002. In the bill as introduced, subsection (1) of new section 9P of the 2002 act states that the expenses of an interim attachment are recoverable only by attachment in execution of a decree granted by virtue of the request for a court order in respect of which a warrant for interim action was granted. Subsection (1) is intended to cover two possible situations. Amendments 369 and 370 therefore provide that subsection (1) applies both to payment decrees and to other decrees, such as an order for delivery of goods, that are due to the creditor.

Amendment 371 is a minor consequential amendment that changes new section 9P(1)(b) of the 2002 act so that it, too, can be read as covering more than one type of decree.

I move amendment 369.

Amendment 369 agreed to.

Amendments 370 and 371 moved—[Allan Wilson]—and agreed to.

Section 160, as amended, agreed to.

Section 161—Money attachment

Amendments 372 and 373 moved—[Allan Wilson]—and agreed to.

Section 161, as amended, agreed to.

Section 162 agreed to.

Section 163—When money attachment not competent

Amendment 374 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 375, in the name of the minister, is grouped with amendments 408 and 419.

Allan Wilson: It would not be right to give judicial officers an unrestricted right to keep going back to the same place to attach money for the same debt. Section 163 is therefore intended to prevent creditors from attaching more than once at the same place for the same debt unless there is a good reason for doing so.

The bill allows further attachments at the same place for the same debt if new money has been taken to that place—by that, I mean money that is taken there after the first money attachment. It also allows a further attachment of any money, including new money, when the court orders a money attachment to cease because the attachment is unduly harsh to a third party who owns the money in common with the debtor. However, the bill should take due account of other situations in which the court orders that a money attachment should cease and that attached money should be released to someone else who is its owner. In such circumstances, it would be fair to let judicial officers go back to the same place to attach further money that belongs to the debtor whether or not it is new money. In particular, judicial officers should be able to go back if the court orders the release of money when it is satisfied under sections 170 and 173 that it belongs to someone other than the debtor. Amendments 375, 408 and 419 will, if agreed to, have that effect.

I move amendment 375.

Amendment 375 agreed to.

Section 163, as amended, agreed to.

Section 164—Removal of money attached

Amendments 376 to 383 moved—[Allan Wilson]—and agreed to.

Section 164, as amended, agreed to.

Section 165—Presumption of ownership

Amendments 384 to 388 moved—[Allan Wilson]—and agreed to.

Section 165, as amended, agreed to.

Section 166—Schedule of money attachment

Amendments 389 to 392 moved—[Allan Wilson]—and agreed to.

Section 166, as amended, agreed to.

Section 167—Valuation of banking instruments

Amendments 393 and 394 moved—[Allan Wilson]—and agreed to.

Section 167, as amended, agreed to.

Section 168—Order for realisation of money likely to deteriorate in value

Amendments 395 to 397 moved—[Allan Wilson]—and agreed to.

Section 168, as amended, agreed to.

Section 169—Report of money attachment

Amendments 398 to 403 moved—[Allan Wilson]—and agreed to.

Section 169, as amended, agreed to.

Section 170—Creditor's application for payment order

Amendment 404 moved—[Allan Wilson]—and agreed to.

The Convener: Amendment 405, in the name of the minister, is grouped with amendments 406, 421 to 423 and 427.

Allan Wilson: Section 174 provides that a sheriff must make an order that a money attachment ceases to have effect if the creditor does not apply for a payment order. Section 175 provides that a money attachment ceases to have effect if the debtor either pays the sum recoverable under the attachment or offers payment and the creditor unreasonably refuses the offer.

If they are agreed to, the amendments in the group will improve the way in which the bill provides for an attachment to cease to have effect in the circumstances that are covered by sections 174 and 175.

Amendment 422, which is the substantive amendment in the group, seeks to do two things. First, it seeks to provide that a money attachment automatically ceases to have effect if the creditor does not apply for a payment order. That will relieve the court of an unnecessary and unusual duty to make an order that an attachment ceases to have effect when no application for an order has been made. Secondly, it seeks to move the content of what is now section 175 into an expanded section 174 in order to put into one place provisions that have a common theme. In

addition, the amendment makes it clear that, when an attachment is terminated as the result of a payment or an offer of a payment, the officer must return the attached money to the debtor.

Amendment 423 seeks to omit section 175, which is no longer needed. Amendments 405, 406 and 427 are minor consequential amendments that are needed as a result of the omission of section 175.

I move amendment 405.

Amendment 405 agreed to.

Amendments 406 to 408 moved—[Allan Wilson]—and agreed to.

Section 170, as amended, agreed to.

Section 171—Effect of payment order

Amendments 409 to 413 moved—[Allan Wilson]—and agreed to.

Section 171, as amended, agreed to.

Section 172—Release of money where attachment unduly harsh

Amendments 414 to 417 moved—[Allan Wilson]—and agreed to.

Section 172, as amended, agreed to.

Section 173—Invalidity and cessation of money attachment

Amendments 418 to 420 moved—[Allan Wilson]—and agreed to.

Section 173, as amended, agreed to.

Section 174—Effect of creditor's failure to apply for payment order

Amendments 421 and 422 moved—[Allan Wilson]—and agreed to.

Section 174, as amended, agreed to.

Section 175—Money attachment terminated by payment, etc

Amendment 423 moved—[Allan Wilson]—and agreed to.

Section 176—Redemption of banking instrument

Amendment 424 moved—[Allan Wilson]—and agreed to.

Section 176, as amended, agreed to.

Section 177—Final statement of money attachment

Amendments 425 to 433 moved—[Allan Wilson]—and agreed to.

Section 177, as amended, agreed to.

Section 178 agreed to.

Section 179—Money in common ownership

Amendments 434 to 436 moved—[Allan Wilson]—and agreed to.

Section 179, as amended, agreed to.

Sections 180 to 184 agreed to.

Schedule 3

EXPENSES OF MONEY ATTACHMENT

Amendment 437 moved—[Allan Wilson]—and agreed to.

Schedule 3, as amended, agreed to.

Section 185 agreed to.

Section 186—Interpretation

Amendment 219 moved—[Allan Wilson]—and agreed to.

Section 186, as amended, agreed to.

Section 187 agreed to.

After section 187

The Convener: Amendment 438, in the name of the minister, is in a group on its own.

15:45

Allan Wilson: The Debtors (Scotland) Act 1987 created the current regime of diligence of earnings arrestment. It provides tables that set out exactly how much can be deducted from daily, weekly or monthly earnings of various amounts. The tables are intended to strike a fair balance between creditors and debtors. They are updated as needed, which happened most recently on 5 April 2006. The tables are fair to debtors by ensuring that those who are subject to an arrestment are left with some money to live on and are fair to creditors by ensuring that people with high earnings must pay a larger share of what they earn to their creditors than people with low earnings would pay.

The 1987 act takes no specific account of holiday pay. For most people, that does not matter because they are paid as normal during holidays. However, it matters for people who are not paid as normal during holidays but are instead paid extra, together with their normal pay, before or after their break. In such a case, the employer has to add the

holiday pay to the normal pay, which puts the debtor into a higher earnings bracket for the purposes of the arrestment. As a result, the debtor is treated for that payday as if he or she regularly earns the increased amount. For example, a debtor who is paid weekly might be paid in advance for two weeks' holiday, with the result that he or she receives a one-off payment of three weeks' pay followed by two weeks of no pay. The 1987 act ignores the fact that three weeks' pay is being paid at one time. In this example, the employer would therefore have to treat all three weeks' pay as if it were the regular payment

The effect of all that is that the debtor who receives holiday pay in advance has to pay the creditor a larger share of what he or she has earned than would a debtor who is on the same earnings and who is paid regularly during his or her holiday. That is not fair, so amendment 438 provides that holiday pay that is paid on the same day as normal pay must be treated as a separate payment or payments made for the pay period or periods during which the debtor is on holiday and not as if it were an increase added to the normal pay.

I move amendment 438 and urge members to support it to defend the holiday pay of the people concerned.

The Convener: A very sensible measure.

Karen Gillon (Clydesdale) (Lab): I welcome the amendment, which will protect some of the most vulnerable members of society, who are paid weekly. Holiday pay enables them to take a family holiday perhaps once a year; I welcome the proposed change, which will allow them to continue to do that.

The Convener: I think that we all welcome the proposed change. The amendment is very sensible. You do not need to wind up, do you, minister?

Allan Wilson: No. I agree with Karen Gillon.

Amendment 438 agreed to.

Amendment 439 moved—[Allan Wilson]—and agreed to.

Sections 188 to 191 agreed to.

The Convener: That concludes consideration of amendments for today. I thank the minister and his officials.

Allan Wilson: All those amendments just to change the name of the job.

Christine May: Next time, do it before we have to amend the bill.

The Convener: The next time that you introduce a bankruptcy bill, you will have learned a lesson.

Scottish Register of Tartans Bill

15:52

The Convener: Agenda item 5 is the Scottish Register of Tartans Bill. A paper has been circulated that outlines our proposed approach to consideration of the bill. This afternoon, the Parliamentary Bureau is reviewing the allocation of all bills to all committees, so the proposed bill may be reallocated to another committee. However, for the purposes of the agenda item, we will work on the assumption that we will continue to be the lead committee.

I welcome Jamie McGrigor, who is the member in charge of the bill. Do you want to say anything at this stage?

Mr McGrigor: Thank you, convener. I was under the impression that I was here purely as a spectator and that, on this occasion, I would not be asked to speak about the merits of the proposal. Is that correct?

The Convener: Yes. This is not about the proposed bill, but about how we will handle the passage of the bill.

Mr McGrigor: The proposed bill is the culmination of about four years' work. It does not appear to have attracted any obvious antagonism. It is a small, modest piece of draft legislation that would, I hope, have considerable effect on safeguarding the future of tartan both for the industry and for tourism. I recommend it highly. I do not have anything else to say at the moment.

The Convener: A paper has been circulated that outlines our timetable for progress, how we hope to consider the bill and the various sessions—

Mr McGrigor: I am sorry, convener—do you wish me to say more about what the bill is about?

The Convener: No. You would do that at the first meeting at which we considered the proposed bill. Today we are considering a paper to ensure that we get in all the oral consultation and that the bill goes through the due process that it deserves. We have outlined an approach. If we find at a later stage that we need to invite more people to give evidence, we reserve the right to do so. Is the committee happy with the general approach that is outlined in the paper?

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I am concerned by the amount of time that is to be devoted to the proposed bill. I have a few first-principles questions about whether legislation is required in this area. At this stage, I would rather not commit to the amount of time that is proposed for

consideration of the bill, as that presupposes that we will want to examine the proposal in that amount of detail.

Can we be given further clarification of our obligations in that respect? It strikes me that there are two separate but related issues: the bill's merits and demerits, and the use of the Parliament's time and legislative powers. I have a particular concern about the latter issue, but it strikes me that the evidence sessions will be about the former issue.

Christine May: I have a similar point. It seems to me that the bill is about something that one considers to be either a good thing or not a good thing. I would be interested to know the suggested groups' views on the bill's merits and about any concerns that they had, but I question whether we would need to do that in oral evidence sessions. I would like us to reserve the decision on whether we call people in for formal evidence sessions until we have ascertained whether there is anything for them to come in about.

Karen Gillon: I do not think that we have any choice but to consider the bill in detail, given that Jamie McGrigor has obtained the right to introduce it. If the bill is assigned to us, we must consider it at stage 1. However, I think that we should consider written evidence first, before we decide to embark on inviting a range of witnesses to give oral evidence. The committee is pushed for time as it is. In the first instance, we should seek written evidence from people to ascertain whether there is anything that would merit their coming in. For example, they might raise specific issues or concerns that we could then address through the oral evidence process.

The Convener: That seems a sensible proposal to me. Members are shaking their heads in agreement.

Mr Stone: Nodding their heads.

The Convener: Yes, nodding—sorry. It has been a long day. I go to bed at night now saying "Is that agreed?" [*Laughter.*]

Karen Gillon: What if Isobel says no?

The Convener: We had better strike that from the record, Karen. Thank God the public gallery is not full.

I suggest that we ask each of the suggested bodies for written evidence. Once we have received that, we can review whether we need to have any or all of them in to give oral evidence. We reserve the right to do that, but once we have seen their written evidence, we can decide, in the light of our priorities and the time that is available to us, whether we need additional, oral evidence from any or all of them. Would that be agreeable?

Members indicated agreement.

The Convener: That is subject, of course, to the Parliamentary Bureau maintaining its position that we will be the lead committee for the bill. If the bill is referred to us, we are duty bound, as Karen Gillon said, to give it due consideration and to report back to the Parliament on it. We must observe the spirit as well as the letter of the standing orders in that respect.

Mr McGrigor: That suggestion is perfectly fair and I take it on board, but what would be the timescale for obtaining written evidence?

The Convener: I will seek guidance from the clerks on that. [*Interruption.*] I am informed that we are not in a position to give a deadline just now. However, given the stage that the bill is at in the parliamentary process, we would invite written evidence as soon as is practicable. We will keep you informed, Mr McGrigor, as we make progress on the bill and we will consult you to ensure that you are happy with what the committee is doing. We are always keen to ensure that we involve members who are in charge of bills.

Mr McGrigor: My concern is purely the time available between now and the end of the session.

The Convener: We will not have any undue delay—let us put it that way. We will write to the suggested organisations this week and ask them to provide written evidence. We must give them a reasonable time in which to do that. As part of its stage 1 consideration, the committee is required to assure Parliament that we gave adequate time for consultation as part of our pre-legislative scrutiny. We will give the organisations time to respond. Normally, that period would be around a month. We would then need some time to consider the written evidence and to decide who, if anybody, we wanted to call to give oral evidence. Given that we are going into recess for two weeks, I think that that is reasonable.

Following the Parliamentary Bureau's meeting today, a deadline may well be set for us for stage 1. As well as considering and reviewing the allocation of bills to committees, I believe that the bureau is reviewing the timetabling and deadlines for bills. The bureau might well set a deadline that we will have to adhere to anyway.

16:00

Susan Deacon: By definition, the organisations that we are contacting will mainly be those that are interested in the proposal in some shape or form. Most of them will be minded to support it in some way. We should be cognisant of the fact that we are not reaching out more widely to those who, while not feeling sufficiently motivated about or aware of the proposed measures to write in and oppose them, might not feel that it should be a legislative priority. We ought to be aware of that. I

am conscious of what the member in charge of the bill said about the proposals having been around for a while and being broadly supported, but I think that we have to ca' canny in that respect and in how we interpret what is put forward by those who have engaged with the process thus far or who might do so from here on in.

The Convener: Normally, a general notice goes out as well as specific invitations for written evidence. One would hope that, if people have concerns about the bill, either in principle or in practice, they would draw those concerns to the attention of the committee, initially in writing. When we come to consider oral evidence, we will need to take a balanced approach with regard to whom we invite to give that evidence.

Mr McGrigor: The consultation on the original proposal, which was not a consultation on the proposed bill as such, is in the public domain. I imagine that it will show a lot of the pros and cons.

The Convener: Absolutely. The committee would want to be sure that it goes through the appropriate processes, with a "Speak now, or forever hold your tongue" approach, so that we can hear from anyone with concerns, either in principle or in practice. They are entitled to have their views heard as well as those who are in favour of the bill.

Mr McGrigor: Absolutely.

The Convener: Is everybody happy with that?

Members indicated agreement.

The Convener: I thank everybody for that, and I wish you all a happy recess.

Meeting closed at 16:02.

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