The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 18 March 2015

Session 4

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
10th Meeting 2015, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

Clare Adamson (Central Scotland) (SNP)
*Cameron Buchanan (Lothian) (Con)
*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)
*Cara Hilton (Dunfermline) (Lab)
*Alex Rowley (Cowdenbeath) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Marco Biagi (Minister for Local Government and Community Empowerment)
Alison Johnstone (Lothian) (Green)
Ken Macintosh (Eastwood) (Lab)
Alison McInnes (North East Scotland) (LD)
Stewart Stevenson (Banffshire and Buchan Coast) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 18 March 2015

[The Convener opened the meeting at 09:30]

Community Empowerment (Scotland) Bill: Stage 2

The Convener (Kevin Stewart): Good morning, and welcome to the 10th meeting in 2015 of the Local Government and Regeneration Committee. If people wish to use tablets or mobile phones during the meeting, they should please switch them to flight mode, as they may affect the broadcasting system. Committee members may consult tablets during the meeting, because we provide meeting papers in digital format.

We have received apologies from Clare Adamson, and I welcome Stewart Stevenson as Clare's substitute this morning.

Agenda item 1 is the Community Empowerment (Scotland) Bill. It is day 3 of our stage 2 consideration of the bill. I welcome back Marco Biagi, the Minister for Local Government and Community Empowerment. I also welcome Alison Johnstone and Ken Macintosh. Later in the proceedings, we will also be joined by Alison McInnes.

Everyone should have a copy of the bill as introduced, the latest marshalled list of amendments and the list of groupings of amendments, which sets out the amendments in the order in which they will be debated. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in each group to speak to and move their 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 catching my attention in the usual way. If the minister has not already spoken on the group, I will invite him to contribute to the debate just before I move to the winding-up speech. The debate on each group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

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

If any member does not want to move their amendment when I call it, they should say, "Not moved." Please remember that any other MSP may move such an amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members or their official substitutes are allowed to vote at stage 2. Voting in any division is by a show of hands, and it is important that members keep their hands clearly raised until the clerk has recorded the vote.

The committee is required to indicate formally that it has considered and agreed each section of the bill, so I will put the question on each section at the appropriate point.

After section 62

The Convener: Amendment 1084, in the name of the minister, is in a group on its own.

The Minister for Local Government and Community Empowerment (Marco Biagi): Amendment 1084 responds to the committee's recommendation to review the legislation relating to Forestry Commission Scotland leasing land to communities for forestry purposes. The amendment is supported by a number of stakeholders, not least the Scottish Woodlot Association.

The existing legislation allows FCS to delegate its forest management functions on the basis of the requirements of the community right-to-buy provisions under part 2 of the Land Reform (Scotland) Act 2003. It requires a community body to be a company limited by guarantee and to define its community by postcode units. As the bill amends the requirements of the community right-to-buy scheme and introduces asset transfer requests for community bodies, it is right to amend the forestry legislation to align with those new schemes.

The amendment will allow any form of corporate body to take on a forestry lease, and the community that is represented by that body need not be defined by geographical boundaries. It also brings the requirements for a community body into line with the criteria for a community-controlled body, which can make an asset transfer request. I should make it clear that those criteria apply only to leases for forestry purposes, which are typically for 25 years or more. FCS also leases and sells land to community organisations for other purposes such as recreation and housing through

the national forest land scheme. In the future, all those transactions will come under the rules for asset transfer requests as set out in the bill, but relevant authorities will be free to set their own policies for leases depending on the length and type of agreement. It just happens that, for FCS, that policy has to be set out in legislation, and that is what the amendment seeks to do.

I move amendment 1084.

Amendment 1084 agreed to.

The Convener: Amendment 1231, in the name of Alison Johnstone, is grouped with amendments 1232 to 1248.

Alison Johnstone (Lothian) (Green): I thank the committee for its time today, and I thank the convener for agreeing that this important issue should be considered at stage 2. I know that you have a lot of amendments to cover, so I will keep this summary brief. I will explain the purpose and rationale first, and I will then quickly summarise the practical operation of the amendments in the group.

The problem that I am asking Parliament to fix is straightforward, and it should be obvious to everyone. Football has been dragged from the back pages of Scotland's newspapers to the front pages by a series of catastrophic failures, from those of small clubs such as Gretna to those of clubs at the very top, such as Hearts and Rangers. The current model of ownership has failed. We know from examples both in Scotland and elsewhere that fan ownership works, and that fans will obviously be the people with the long-term interests of their clubs closest to their hearts. However, it is hard for fans to assemble the money and an appropriate structure without a right to buy.

My proposals would not force fans to buy—in fact, there would still be substantial hurdles to doing so—but would mean that, if a well-organised fans trust had the support of the fans, it could secure first right of refusal if the club was being sold anyway or if, like so many clubs recently, it fell into administration. That is the base proposal, the key structural elements of which are covered in amendments 1231 to 1238 and 1240 to 1248.

Amendment 1239, on which members may wish to vote separately, would mean that the right to buy would apply at any time, giving fans trusts with clear backing from supporters the ability to make a bid for their club. This is how that would work. First, a trust would express an interest in the purchase of its club, and it would seek to be on the public register of fans trusts. Ministers can reject an application if it is not clear that the trust is predominantly composed of fans of the club, if the trust is not open to join at an affordable rate or if it is not clear that members of the trust are sufficiently supportive of a bid to buy the club. There is also a general public interest test.

If their expression of interest is accepted, fans are assured preferred bidder status for their club if it comes up for sale or goes into administration. Again, that must be approved both by a vote of the trust and by Scottish ministers.

If my second proposal—amendment 1239—is accepted, the trust would be able to buy the club, either for an agreed price or following an independent valuation, at any time. In cases where more than one trust applies to buy a particular club, only one may be permitted to proceed. In most cases, that should encourage fans to bring different bodies together to support a bid, as has happened through the Foundation of Hearts.

The base amendments also propose that trusts should be eligible to apply for funding from the Scottish Government to assist with a purchase. It is not specified in the amendments, but my expectation is that that assistance would be likely to come in the form of loans or underwriting, rather than direct grants, especially if fans of larger clubs apply successfully.

The last two provisions in the base amendments are to allow an appeal by an owner against the exercise of the right to buy, as required by the European convention on human rights, and an option to buy a smaller proportion of the shares in a club, particularly in cases where the trust cannot afford to buy the club outright.

Every party represented around this table is on record as supporting fans, and there will never be a better opportunity to put fans in the driving seat of Scottish football. I urge all members to support my amendments.

I move amendment 1231.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I do not seek to pick at the underlying principle of this group of amendments, but I seek information about the implementation of that principle.

I will start with something that central belt members might have overlooked: the status and issues relating to the clubs in the Scottish Highland Football League, of which I have three in my parliamentary constituency—in Buckie, Banff and Fraserburgh. As we know, Highland league clubs have successfully been a feeder for more senior leagues. Examples of that are Ross County, which was my father's club, and of course Caley Jags, which interestingly was formed from the merger of two of the three clubs in Inverness—Clachnacuddin refused to play. That immediately opens up one of the issues, which is that a purchase might relate not to a single club but to

the circumstances in which clubs are merging. The construction of the amendments that are before us would probably exclude action by supporters in those circumstances. The mover and supporter of the amendments might care to think about that, because I suspect that that is not their intention.

I will by no means cover all the detail, which is substantial, but I will perhaps cover just enough to show that further thinking is needed. There is perhaps a little misunderstanding of how share ownership and voting works—the two might not be as easily connected as is thought. The amendments talk about a majority of the voting shares, which is fine, but there may be circumstances in which previous owners retain a single share that does not have the characteristics of a vote that may cause something to happen, but which carries with it the right to veto a proposed action. When Governments have sold off companies, they have exercised that right, and it also happens in commercial environments. The construction of the amendments perhaps does not fully address that way in which things may happen.

The amendments talk about the purchase of the majority of a club. I understand what is intended, but the difficulty is that an individual purchase could well not be about buying a majority of a club, as it might be about adding to a significant shareholding to create a majority. I suspect that the mover and supporter of the amendments do not seek to exclude that, so they might need to look at the construction of the amendments in that regard.

Another issue is that there may be circumstances in which the transfer of ownership or part of the ownership of a club takes place without any value exchange. Again, the mover and supporter are unlikely to seek to exclude that. However, that is very tricky territory, so a wee bit more thinking requires to be done.

I have a more general question to which I genuinely do not know the answer. It is simply whether, in operating with the provisions of the Companies Act 2006, which is clearly a reserved matter, we are crossing the line into ultra vires issues. I am sure that advice will have been taken on that, but it would be helpful if the mover of the amendments could give us comfort that that issue has been considered. I would hate to see the initiative fall for that particular reason, above all.

Finally, I sound a note of caution about the use of the word “fans”. Fans come in all shapes and forms. We should not discount the idea that David Murray was a fan of Rangers—a fan with sufficient money that he could act alone in what he thought was the club’s interest. We need to be careful about how we talk about and define fans.

In principle, the amendments are a very good and eminently supportable effort, but further work is required on some of the detail. I do not pretend that I have exhausted all the issues that I might have found if I was a regular member of the committee—rather than someone who was parachuted in at comparatively late notice—and had spent a wee bit more time on the matter.

Cameron Buchanan (Lothian) (Con): I, too, am concerned about the technicalities of the bill, legal and otherwise. We discussed the issue at our group meeting, but I would have liked more time to consider the matter. I think that the principle is agreed, but there is a lack of detail. I share Stewart Stevenson’s disquiet about certain aspects of the amendments. It is difficult to understand the legal actions and technicalities. However, I am not of a mind to push that issue.

09:45

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I thank Alison Johnstone for the amendments, which I am broadly supportive of. When Alison sums up, I wonder whether she might give us a little bit more clarity on the problems that fans groups and trusts will face in mounting a bid, with regard to getting the necessary funding to do so and, at the end of that, putting in place any finance that might be required to make the process successful.

Alison Johnstone referred to possible funding eligibility at the beginning of the process by way of loans, underwriting and so on. In my experience, the stumbling block for fans groups when they try to assemble a credible bid can be around getting together sufficient funding to mount the process to begin with and to demonstrate to all parties concerned that they have sufficient funds to carry it through. I would welcome a wee bit more clarity on those aspects of Alison Johnstone’s amendments.

Alex Rowley (Cowdenbeath) (Lab): I support the amendments. I should say that I am a Kelty Hearts Junior Football Club supporter, but no matter what team people support, if they go regularly to games, they feel quite passionate about the issue. These past few years, there has been disbelief at the events that have taken place in some of the biggest football clubs, as well as some of the lower league football clubs—in clubs such as Dunfermline, for example. When Dunfermline was going through its difficulty, I met the fans regularly and I knew what they were going through as their club came very close to being put out of business.

We need to look at the principle behind the amendments, which is about empowering fans. If there are some technical issues—such as drafting

that needs to be tightened up—they could be addressed as the bill goes forward to stage 3. However, getting the amendments into the bill today would be the right thing to do. We can support the principle of the amendments. If there is work to be done, it can be done between now and stage 3. If the amendments are moved today, I will certainly support them.

Ken Macintosh (Eastwood) (Lab): I also want to speak in support of amendment 1231, in the name of Alison Johnstone, and in favour of all the amendments in the group. This is about extending the right to buy to football clubs and communities across Scotland. It is a proposal that all my colleagues in Scottish Labour are proud to support.

I believe that members in the committee and across the Parliament are united in support of the principles behind the Community Empowerment (Scotland) Bill but, in many ways, the proposals on community ownership are the most exciting part of the legislation. The right to buy that was introduced through the Land Reform (Scotland) Act 2003 has been a hugely important practical as well as symbolic change to how communities interact with the land that they occupy across Scotland. Its benefits have been felt not just in rural areas such as the Highlands and Islands but in urban areas such as Neilston in East Renfrewshire, where local people, through the development trust, now own a wind farm in their community and have exerted direct influence over the community that they live in and the shape of that community.

I believe that it is time that we took that experience and those principles to the next stage and I believe thatfl football club ownership is the ideal place to start. I believe that it would be difficult for anyone in this room—or, frankly, across Scotland—to stand up and argue that the current state of Scottish football, in terms of its accountability, its sustainability, or simply its success, is a model that should be continued.

Successive ownership models, including that of the sugar daddy or the foreign oligarch, have proved an unmitigated disaster and have ruined many once-proud local football clubs. Football fans and local communities have not only lost out but been made to feel powerless. They have even been taken advantage of and had their good will exploited. If we compare those models with fan ownership models such as Barcelona or as practised by virtually every club in Germany, we can see that there are some examples that we should be emulating.

No one is arguing that fan ownership is the only answer or even the best option in every case, but it deserves to at least be one of the options for the future of Scottish football clubs.

I will not repeat the many safeguards and caveats already outlined by Alison Johnstone, but it is clear that, if we accept the amendments, football clubs in Scotland can operate in the fans' interests, in the community's interests and in the public interest. I noted the points that Stewart Stevenson, Cameron Buchanan and Willie Coffey made, and they were particularly hesitant about the current framing of the sections before us. I do not entirely accept the argument that they made, but what is more important about the sections before us is that we accept—

Stewart Stevenson: Will Mr Macintosh take an intervention?

Ken Macintosh: I will.

Stewart Stevenson: Would you be sympathetic to the idea that we should extend the provision to the Highland league?

Ken Macintosh: I am delighted that Stewart Stevenson wants to build on the amendments in this group before we have even accepted them, but I think that we should take it one step at a time. I accept the set of proposals for the major Scottish football clubs. I suggest to Cameron Buchanan, who is concerned about technicalities, that there may be minor concerns but the provision that is before us is lifted almost in its entirety from the 2003 act, so it is not new legislation; it is modelled exactly on existing legislation that has been proved to work and to be effective and which is practised currently in Scotland. Not only that, it is not a new approach. There are already many fans in Scotland who have bought out their football clubs, Dunfermline being just one example. However, the current state of legislation in Scotland makes it difficult for them to do so. It puts all sorts of obstacles in their way.

I do not think that we should continue down that route. If we have concerns and we do not adopt the proposals now at stage 2, it is unlikely that we will adopt them at stage 3. It is more important that we adopt the principles and accept the amendments at stage 2, and then work on the technicalities at stage 3. On that basis, I urge all members of the committee to support the amendments.

Marco Biagi: I thank the members who have lodged amendments. I have heard a lot that I can agree with. The Scottish Government is extremely supportive of supporter involvement and ownership, and that is something that we can endorse as an aim. We have already convened a working group under Stephen Morrow, bringing together supporters groups, the Scottish Football Association and the Scottish Professional Football League to construct a consensus way forward.

I can personally relate to the issue. It is not something that is widely known, but the team that I followed in my youth had financial issues, bad management and bankruptcy, and it plummeted four divisions and ended up having to reregister under a different name. Before you assume what club that was, let me tell you that it was the serie A club Fiorentina, which shows that such financial problems can happen in a wide range of contexts and countries and that it is an issue that many football leagues have to grapple with.

On reflection, and in consultation with colleagues, we are convinced that legislation could be helpful in ensuring that this aim is advanced. Therefore, it would be our intention at stage 3 to introduce amendments to allow much of this to be achieved mainly by regulations, but with an explicit reference in the bill to achieving the aim. That would allow us to consult and to co-produce the detail of the regulations with supporters groups, ensuring that we have a system that does not just express the principle and express sympathy but which could actually work.

There are a number of issues with the approach that is taken by the amendments both in detail and in principle. Stewart Stevenson has already brought some of his financial and company law expertise to bear on the detail, and I presume that he has been able to see the amendments only for the past few days. They are complex amendments, almost amounting to a new bill that, if it were to be introduced as a bill, would probably go either to the Health and Sport Committee or, because it concerns the right to buy, to the Rural Affairs, Climate Change and Environment Committee. In making such big changes to a bill, we need to afford due opportunities for parliamentary scrutiny by other subject committees, as well as the opportunity for widespread public consultation. The Scottish Government has not been able to consult directly on the amendments in the way that we would normally consult on proposals if we were going to legislate on anything.

John Wilson (Central Scotland) (Ind): Could the minister give me a clear steer on whether he is minded not to accept the amendments today, or whether he is minded to accept them on the basis that the Scottish Government, along with others, can lodge the amendments that it wishes at stage 3? Like other committee members, I am keen to get something in the bill now that we can move forward with and which, if need be, can be refined at stage 3, rather than voting down the amendments. We might be in a similar position at stage 3 and, perhaps, have less time because we will be able to consider amendments for just a couple of days prior to the stage 3 debate. Is the minister minded to support the amendments in the name of Alison Johnstone and supported by Ken Macintosh to allow the matter to move forward and allow us to work around the issues that have been identified in them?

Marco Biagi: Can I perhaps get to that? I was working towards it but, at this point, I want to highlight the issues with the detail. If the amendments were agreed to, the detail that has already been highlighted would be in primary legislation pending the stage 3 amendments that we would lodge.

Clubs are not land. A lot of their value is intangible and depends on the players who are with them as well as the complex structures of ownership, whereby a stadium might be owned by one holding company and something else might be owned by another. In Fiorentina's case, the stadium was owned by the municipality. That would be an interesting approach for the Local Government and Regeneration Committee to take, but I do not think that we would quite be at that point in Scotland.

John Wilson: As I understand it, the grounds that some clubs use are owned by the local authorities, so there is already local authority ownership of football grounds in Scotland. One of the difficulties that we and fans have had is in trying to determine what exactly a club is because, as you say, a club's ground is owned by one company, its name is owned by someone else and the players are employed by another organisation.

I hope that the amendments in this group will help to clarify exactly what entity a football club is in Scotland. At the moment, various different corporations claim to own different parts of clubs and the fans are unaware of what exactly constitutes the ownership of the club.

Marco Biagi: I apologise for my slightly irreverent aside about local authority ownership of stadia in Italy. The point that I was aiming at was made effectively by the deputy convener, who pointed out the complex ownership structures and the need to get valuation systems right if ownership is to operate in the way that is proposed.

If clubs are at the point of insolvency and then hold for six months pending a fan group coming together, that could make liquidation more likely because, in that period, there might be a flight of players or other bidders might be unable to come in. Therefore, an unintended consequence might be that we end up with more clubs going into liquidation than at present. That is the kind of unintended consequence that none of us wants to happen and we have to ensure that the amendments, or whatever legislation is put in place, will not lead to such consequences.

Non-league clubs and potentially competing claims, which are known from land reform, are

also issues. There is no test in the amendments for whether a community bid would be financially viable.

Those are all important details of the amendments. However, there is a principle involved. We want to ensure that fans have a greater opportunity to participate in the running and ownership of clubs. We are all on the same page for that, which is great. A better approach would be to include a specific reference to it in the bill and then to develop the detail thereafter through secondary legislation.

The question is whether we can get the matter right by stage 3. If the amendments are agreed to, we can certainly further amend the bill in that direction or move more towards a secondary legislation approach. If we agree to the amendments and then amend them at stage 3, a lot will be riding on getting everything right in the next six weeks, because it is very hard to amend primary legislation. Indeed, introducing primary legislation requires a process of consultation and development that, for the most part—except in emergencies—takes a lot longer than six weeks.

10:00

Using affirmative procedure to develop the details, with the bill setting out the aim, would allow for consultation with the wider footballing community and—appropriately—with Parliament. It would ensure that, rather than just endorsing the principle, we get right any legislation that is introduced and keep it more easily updated in light of developments and changing circumstances, and any experience that we gain during its implementation.

I hope that everyone can see the benefits of that approach. We will introduce amendments to that end at stage 3 because, as I said, we all agree with the aim of increasing supporter involvement and ownership, and we consider that legislation would be helpful in advancing that aim.

With that in mind, I ask members not to press their amendments but, in any case, the Government will proceed at stage 3 in the way that I described by lodging amendments for Parliament to consider.

Alison Johnstone: I would certainly be happy to work with the minister before stage 3, but I am afraid that those commitments do not yet cover the essentials of my proposal. I, too, am grateful for the work that Stephen Morrow and his group put in, but the group was expressly asked not to look at this issue, which I think was unfortunate.

It is important to note that, when we initially polled people, 95 per cent supported a right to buy at sale or administration and that, in our latest survey, 81 per cent of people supported the right to buy at any time, with a third of those who responded representing fans trusts.

It is important that this is in the bill. The minister has spoken about regulations, but we as a Parliament cannot amend those regulations. We can only agree or disagree to them.

I want to give members a flavour of some of the support that we have received for the proposals. Dave Scott from Nil by Mouth said that the charity

"would be supportive of proposals for greater fan control and ownership of their clubs and feel that this could be an exciting opportunity for the silent majority of fans to find their voice and use their increased position to bring about the real changes required to bring the Scottish game into the 21st century."

Stuart Duncan, a former director of Greenock Morton Football Club and Supporters Direct UK, said:

"I'm very excited at the prospect of fans being given the right to buy. Clubs provincial and otherwise are community assets as shown by my own club Greenock Morton who now have a vibrant and highly successful community trust, a fan led initiative, which is in their own words, 'the heartbeat of Inverclyde'. These community assets are best protected by people who have the club as the hub of the community at heart, fans."

A Kilmarnock fan said to us:

"Community ownership is one of the few sustainable and viable ways of running football clubs in Scotland."

It is fair to say that the bulk of responses from Rangers fans were supportive, but many were also libellous. [*Laughter*.] I will not read out any of those ones, but here is one that should be safe:

"I support Rangers so it would avoid a situation arising like the one that arose over the past few years. Rangers fans are the only people who will take proper care of Rangers football club."

A St Mirren fan said simply:

"Give us the tools to do the job."

I could read out quotes all day, but that would probably guarantee the rejection of my amendments by the committee.

Marco Biagi: Those are sentiments that I think we have all broadly expressed in the committee, and they certainly show a positive approach to supporter ownership that the Government would endorse. However, there is a distinction between those sentiments and what is in the amendments that are before us. In quoting sentiments that we all broadly agree with while speaking to your amendments, you are perhaps manufacturing a disagreement when in fact we agree on those principles and sentiments.

Alison Johnstone: If we agree in principle, and if we are as supportive as we all purport to be, we should support the amendments today and look at

the technicalities before stage 3. If the amendments are passed today, I will work with all parties here to achieve consensus on any refinements that may be required at stage 3 concerning the nature of the organisations that can bid, the role of the Scottish ministers and any other issues that are raised by fans or members. Agreeing to the amendments today could be the last chance for years to ensure a proper fan-led reform of the Scottish game. If the committee does not back fan ownership today, how many clubs will stumble from one crisis to another? How many will fold? How many enterprising groups of local people will continue to be shut out of a role? I urge all members to vote for my amendments today.

I press amendment 1231.

Amendment 1231 agreed to.

Amendments 1232 to 1248 moved—[Alison Johnstone]—and agreed to.

Section 65—Disposal and use of common good property: consultation

The Convener: Amendment 1085, in the name of the minister, is grouped with amendments 1086, 1249 and 1250.

Marco Biagi: I was happy to lodge amendments 1085 and 1086 in response to the committee's recommendations. As you know, the aim of the bill in relation to common good is to increase people's awareness of what property is common good and their involvement in decisions about it. When a local authority proposes to dispose of or change the use of any common good property, the bill requires it to consult people about that change. Specifically, it must notify and seek representations from community councils in the local authority area and any community bodies that are known to have an interest in the property.

Many local authorities have separate common good funds for different towns. We recognise that, especially for authorities that cover large geographical areas, it may be burdensome to consult all the community councils in the local authority area over one common good property. Under the Local Government etc (Scotland) Act 1994, in administering their common good property, local authorities are required to

"have regard to the interests of the inhabitants of the area to which the common good related".

That does not apply to the four city councils, however, as their common good funds cover the whole of their areas. The amendment therefore limits the consultation requirement to those community councils whose area covers all or part of the area to which the common good in question relates. As that implements one of the committee's recommendations, which arose from the experience of Highland Council, I hope that my amendments will be supported.

The effect of Cameron Buchanan's amendments would be to remove the requirement for local authorities to have regard to guidance on the management and use of property that forms part of the common good, although they would still be required to have regard to guidance on the specific duties imposed by the bill in relation to common good. I appreciate that Cameron Buchanan may want local authorities to have more freedom in their management of common good property, but the message that I am hearing—I know that the committee has heard it, too—is that people do not feel that common good property is always being managed properly even when no disposal or change of use is involved. I therefore think that we should retain the option of issuing guidance on any aspect of common good management, and I ask Mr Buchanan not to move his amendments.

I move amendment 1085.

Cameron Buchanan: I was going to say that amendment 1249 is a probing amendment. It is all very well that Scottish ministers can issue guidance on the management and use of a property that forms part of the common good, but I wanted to hear—I think that the minister has explained this—what form that guidance would take under the present Government. I would also like him to explain whether the guidance would be technical or policy based.

Marco Biagi: I am not sure that I understand the distinction that Mr Buchanan is making between policy-based guidance and technical guidance. Policy-based guidance can be quite technical. Can he please clarify what he means?

Cameron Buchanan: I really wanted the minister to explain what form the guidance would take. I am not going to move the amendments in my name; I just want to know what form the guidance would take.

Marco Biagi: All guidance is developed in partnership with everyone involved. We know that strong views have been expressed on the management and maintenance of common good assets, and we think that this power will allow us to address some of the uncertainty that is out there and create something that will give local authorities and communities certainty about what they should expect from common good.

Amendment 1085 agreed to.

Amendment 1086 moved—[Marco Biagi]—and agreed to.

Section 65, as amended, agreed to.

Section 66—Disposal etc of common good property: guidance

Amendments 1249 and 1250 not moved.

Section 66 agreed to.

Section 67 agreed to.

Section 68—Meaning of "allotment"

The Convener: Amendment 1164, in the name of Ken Macintosh, is grouped with amendments 1165 to 1167, 1229, 1168, 1252 and 1230. I draw members' attention to the information in the groupings paper about pre-emptions and direct alternatives in the group.

Ken Macintosh: I will speak to a number of amendments about allotments on behalf of and with the support of the Scottish Allotments and Gardens Society, which is the key organisation representing plot holders and the allotment community. First, I thank the members of SAGS for taking the time and effort to brief MSPs, including ministers, on this important subject. I believe that the minister and I are among a number of members who enjoyed SAGS's hospitality at its international conference centre—I should point out to those who have not been there that that is a portakabin with a solar-power-panelled roof in Inverleith in Edinburgh.

It is fair to say that SAGS appreciates the Government's commitment to allotments and ministerial efforts to offer some statutory protection to allotment sites in the bill. However, it is also fair to say that the allotment community is hugely anxious that, whatever their good intentions, ministers run the risk of getting things fundamentally wrong with some sections in the bill.

I remind members that, at stage 1, SAGS felt that plot holders might be better off if part 7 were scrapped altogether. SAGS has moved on from that position, and it now believes that the bill will be a move in the right direction if the Parliament can address three outstanding issues: fair rent, waiting times and the size of a standard allotment plot, which is the first issue that we are dealing with this morning.

Section 68(d) defines an allotment as being

"of such size as may be prescribed."

However, the pressure on local authorities to meet the demand for allotments—I should add that that pressure will become a legal obligation for them under the bill—has resulted in many councils dividing and subdividing existing plots. The real fear that SAGS has expressed is that, unless the size of a plot is defined and protected in statute, local authorities will reduce plot sizes further in order to reduce their waiting lists. That is already happening in Glasgow, Edinburgh, Fife and elsewhere across Scotland.

My amendment 1168 would require the land that is offered to a potential plot holder to be approximately 250m^2, which is roughly half the size of this room or, for those of a sporting bent, roughly the size of a tennis court. SAGS argues that that amendment to define the size of a standard allotment plot is essential to protecting the unique identity and role of allotments, and it points out that it has been accepted for decades that the amount of land required to provide most of a family unit's needs is in the region of 250m^2. Such space can provide year-round activity for the retired and the unemployed and SAGS is worried that, unless the size of an allotment is so defined, plot holders might not have access to the area of land that is necessary for their needs.

I highlight to the minister and committee members that allotments are a fundamental part of the Scottish Government's food and drink policy to support and encourage people across Scotland to grow their own fruit and vegetables. A 250m^2 allotment would enable a family unit to grow most of the fruit and vegetables that it consumes, and a definition of size is necessary in primary legislation to stop local authorities subdividing plots to reduce their waiting lists and forcing people to accept smaller plots than they require.

The allotment community accepts that not everyone needs or wants 250m^2, but amendment 1168 would also ensure that smaller plots could be made available for those who want them. In any case, the choice will be theirs, not imposed on them. The amendment also allows for existing allotments that might be over 250m^2.

10:15

SAGS has indicated that, whatever her good intentions are, it does not support amendment 1229, in the name of Aileen McLeod, which contains the phrase

"no more than 250 square metres in area."

SAGS firmly believes that that will allow local authorities to offer plot sizes that suit them, the providers, rather than the plot holders. Even with regulations, it will be up to ministers and local authorities to determine what is offered under that process, instead of allowing people and local associations to determine the area that they wish to cultivate. I remind fellow MSPs that the bill's basic purpose is supposedly to empower communities and give people more control over their own lives and not have government at whatever level dictating what people want and need. The bill's basic tenet is subsidiarity.

I believe that the City of Edinburgh Council has a waiting list of seven to 10 years, but we also know that, once people are offered half a plot, that plot will be subdivided for ever. Accordingly, I urge members to support amendment 1168 in my name and the consequential amendments 1164 to 1167.

I move amendment 1164.

Marco Biagi: This group of amendments addresses the size of an allotment. The fact that we are faced with three options reflects the considerable debate that there has been on the issue.

Allotments have a long and proud history in this country. Although several factors distinguish them from other forms of growing, one of the most important is scale. In the past few months, we have worked closely with the Scottish Allotments and Gardens Society to understand and, wherever possible, meet its needs. We have been listening.

Although 250m^2 has been discussed as a reference size, I know that the society has recognised that not everyone will want an allotment of that size at all stages of their life. Some new allotment holders might want to start small and move up to a larger area later, and others might no longer feel able to manage such an area and would welcome a smaller piece of ground to grow on.

The amendments in the name of Aileen McLeod provide that flexibility. Amendment 1229 sets the maximum size of an allotment at 250m^2, which, as Ken Macintosh pointed out, is just smaller than a standard-sized tennis court, while amendment 1230 requires the Government to make further provision in secondary legislation in connection with the sizes of allotments. Our intention is for the maximum size to apply only prospectively; transitional provisions will ensure that existing allotments that are larger than 250m^2 are protected. In the definition of an allotment, such an approach gives a clear indication of the scale of allotment growing, as opposed to community growing spaces, which, in comparison, are predominantly on a much smaller scale. The approach therefore recognises the uniqueness of allotments.

As well as providing flexibility, we will provide security by introducing secondary legislation that will make further provisions on size. Through that process, we will have the necessary time to encourage and foster collaborative working relationships between the allotment-growing community and local authority allotment providers, which in some instances—although not all—are strained at the moment. That time will allow us to develop secondary legislation to provide the flexibility that everyone agrees is needed, and the intended outcome is secondary legislation that meets the needs of all interested parties.

Ken Macintosh's amendments seek the same outcome as Dr McLeod's amendment 1229—to establish a maximum size of an allotment while providing flexibility to have smaller allotments where they are wanted. However, there is a difficulty with the wording. Defining an allotment as being

"of a size of approximately 250 square metres"

is too imprecise in law for local authorities and tenants to know what it means. Consequently, it is unclear how subsection (3) in the amendment, which refers to meeting a request for an allotment of

"a size smaller than that set out in subsection (2)",

would operate.

The definition in subsection (3)—that an allotment should be of whatever size "as has been requested"—may appear attractive in principle, but it would be impractical on the ground, and it would be exceptionally onerous to implement from a local authority perspective. We can imagine an authority having to measure and deliver plots of different sizes to every individual to any level of specificity.

Amendment 1229, in the name of Dr McLeod, is more precise. Introducing secondary legislation will provide the necessary time to ensure that we get the provisions right to meet everyone's competing needs.

John Wilson: I wish to discuss the points that have been made about the 250m^2 size that SAGS has recommended for a standard-size plot. During our stage 1 consideration, we discussed the issue of plots being subdivided—either halved or quartered—to suit the needs of people coming into allotments, as Ken Macintosh indicated, or those heading out of and taking up retirement from allotment growing.

I am keen for any discussions about the sizes that are offered to be carried out in conjunction with local allotment growers societies. I do not want local authorities to offer people with the only chance that they may get of having an allotment a plot of, say, 50m^2 or 70m^2—anything below the recommended 250m^2.

I am trying to get clarification on that from the minister in his closing remarks. What would be the problem with an agreement to set the defined size that we can work with, while ensuring that any negotiations and any offers that are made about the size that is given at the first stage are in conjunction with the local allotment growers society, so that it controls the sizes that are allocated, rather than the local authority being the

arbiter of the sizes that are offered in the first instance to any new members who wish to take up allotment growing?

The Convener: The minister will not be making the closing remarks for the group, of course, because the lead amendment in the group is in Mr Macintosh's name. On you go, minister.

Marco Biagi: It was a rather long intervention, but let me be clear that the secondary legislation could deliver what has been described. Members have heard from what I have said about the value of the partnership that we want to build. We want to build bridges between groups where relationships have been strained in some cases.

Ultimately, we can require a lot of consultation, and a lot of consultation mechanisms are strongly provided for in the bill for issues such as rent, which we will come to, where we want to emphasise the importance of development in partnership with local growers. The secondary legislation provides an opportunity to ensure that that happens.

We have committed to a tripartite group, involving ministers and SAGS, which will take an overview of the situation on a more national, strategic level, to ensure that what happens at the local level represents the needs of everybody, with a food-growing strategy that emphasises collaborative working.

A lot of levers will be pulled to ensure local and national collaboration. If everybody is in trenches taking pot shots at one another, we will not get anything done but, if we can manage to find common ground, we can deliver a system that will be practically implementable and which will reflect the views of people who want allotments. We want more people to have allotments, and we are not ashamed to say that. We have to make that happen in a way that everybody on the ground locally can accept.

I will add something about Cameron Buchanan's amendment 1252. Leaving the size of allotments entirely for local authorities to determine goes against some of the debates that we have had, stakeholders' views and what the community is asking us to do and consider. I hope that Cameron Buchanan will at least consider not moving that amendment.

I urge members to support amendments 1229 and 1230, as they are the better of two broadly similar options for determining the size of allotments. They are better for implementation and provide a more practical way of achieving the objectives, which we share.

Cameron Buchanan: Amendment 1252 would give local authorities the power to determine allotment sizes in their areas. I acknowledge and share the intention for allotment holders to have an allotment of a reasonable size, but we must recognise the need for flexibility, which is what I am trying to achieve. To allow allotments to be given to as many people as possible and to minimise waiting lists, which is important, the bill should make it clear that local authorities have the freedom to adjust allotment sizes to fit demand and supply in all local circumstances. That is the point of amendment 1252.

Alex Rowley: I should perhaps declare an interest, in that I am a keen allotment grower and have an allotment in Kelty. I have often discussed with council officials the fact that they need to be more innovative in engaging people in allotment growing.

In Kelty, over the past few years, a number of young mums with kids have been given an allotment. My allotment is bigger than half the size of this room, and the problem is that people find it difficult to maintain and manage an allotment of that size.

From talking to some of the parents, I have found that they want to get the message across to their kids about how food is grown and produced. There are interesting projects. For example, there is a community allotment, and NHS Fife has allotments for one of its mental health projects. However, I do not think that Fife Council has been ambitious enough.

When the size issue came up at stage 1, I did not quite grasp that an unforeseen consequence could be that, to meet the requirements in the bill, councils would start to have smaller allotments. I was thinking more about the fact that councils need to be more innovative and have starter plots, such as quarter or half plots. To do that, it is important that we define roughly what a plot is. Having since looked at the issue further and talked to allotment holders and the Scottish Allotments and Gardens Society, I think that there is rightly a genuine concern that councils will meet the bill's requirements simply by reducing the size of plots, which would be devastating. I talked about starter plots because, as people get used to growing and managing an allotment and become more successful at it, they find that they want to grow more.

I hope that we can find a way to deal with the issue, and I think that the minister acknowledges that there is an issue. If possible, by working with the Government, we should find a way to have a maximum or ideal size, so that councils cannot simply reduce the size to meet the requirements in the bill.

f**Alison McInnes (North East Scotland) (LD):** I am grateful to the committee for the opportunity to speak on this group of amendments. I want to take

a moment to reflect on the work that the committee has done on the issue. I am impressed by members' efforts in seeking the views of allotment holders and other interested parties in taking evidence.

The many benefits of allotment gardening are now recognised. The active lifestyle, healthy eating and healthy ageing combined with community interaction mean that those with allotments reap all sorts of benefits. As many members have done, I have discussed the bill with the Scottish Allotments and Gardens Society, and I am sympathetic to its argument that we need specific provision for the size of allotments so that land is not unduly divvied up to meet demand, while retaining flexibility.

I therefore support Ken Macintosh's amendment 1168, which would mean that a plot is 250m^2 unless the person seeking to lease the land requests that it be smaller. As Ken Macintosh said, the society notes that it has long been held that that is the size of plot that is needed to ensure that a family of four could grow most of their own fruit and vegetables. I know that the society believes that that will help ensure an appropriate balance between the needs of the allotment community and the needs of the local authority.

10:30

Stewart Stevenson: I want to pose some specific questions to Ken Macintosh about the definition of "approximately 250 square metres". Does it include 25m^2, 100m^2, 200m^2, 300m^2, 500m^2? In other words, how far does the approximation extend? If—for the sake of illustration and not because I advocate this—the definition were "between 200m and 300m", that would be precise and it would be approximately 250m, but what the amendment actually says is "approximately 250 square metres". It would be helpful to try to understand at what point something ceases to be approximately 250m. Is it as low as 25m? Is it as high as 500m? Those numbers are entirely arbitrary.

Ken Macintosh: I thank all members for their contributions to this set of amendments. I will deal with the points in reverse order and therefore start with Stewart Stevenson's point. The word "approximately" is well used in legislation. It is used repeatedly in legislation and there is no difficulty for local authorities—or, for that matter, a court of law, if it came to it—in interpreting that word. I suggest that the term "approximately 250 square metres" is used, because the previous measures included measurements such as poles and other such long-gone units of measurement. The size of 250m^2 is one that has been agreed on not just by me and SAGS but by the Government. The Government accepts that 250m^2 is the standard size that we are trying to define. I suggest that Stewart Stevenson's worries about how far the word "approximately" stretches are ill founded in this case.

The Convener: The minister is trying to intervene. Are you going to take his intervention?

Ken Macintosh: Sorry, yes of course. I did not hear him.

Marco Biagi: I am too softly spoken for my own good sometimes. I was wondering which legislation you looked at as the model for this and whether there is an interaction with "smaller than", which seems to be an issue here. It is not just a case of where "approximately" kicks in—at 220m or 230m—because there is a subsequent reference to "smaller than" approximately 250m^2, which, if you will pardon my saying so, is a bit of a recipe for confusion. We would not want something as simple as the size of allotments to end up in court over the interpretation of the primary legislation.

Ken Macintosh: I was going to come on to that point next. One of the reasons why I have not brought several examples of the use of the word "approximately" is that there are so many that it was not worth my quoting or listing them. It is a well-used and well-founded term—it is used by the Scottish Government in fact. I do not accept that this will be a contentious issue. I do not believe that there will be a difficulty in either local authorities or allotment holders defining what is meant by "approximately 250 square metres."

The minister said that the use of the term "a size smaller than" is not defined. I would suggest that it is very clear what "a size smaller than" means. I contrast his questioning of the definition of "a size smaller than" with his support for the amendment moved by Aileen McLeod that says up to 250m^2 . What is the difference between up to 250m^2 and "a size smaller than" 250m^2?

Marco Biagi: It is a difference between up to 250 and smaller than "approximately 250". Where does something cease being smaller than approximately 250 and start being approximately 250? Is it 220? Is it 230? Is it 210? That is the doubt that is thrown up by the amendment, the aim of which I have great sympathy with.

The Convener: Minister?

Ken Macintosh: Minister? Thank you for that vote of confidence—if only it were the case.

The Convener: Sorry—Mr Macintosh. I beg your pardon.

Ken Macintosh: The minister's point is fairly spurious. If you accept up to 250m^2, you can accept smaller than 250m^2.

Alex Rowley: I do not know whether I was picking it up correctly, but I understood that the Government was accepting the principle that there is a standard size of allotment. If we all accept the principle of that, can something be worked out with the Government?

Ken Macintosh: Indeed. That is a very helpful comment. In fact, I want to pick up on Mr Rowley's earlier comment as well. I believe that there is clearly good will and the minister has clearly been listening. He talked about listening to SAGS and others and working with them and I know that he has gone out of his way to meet them to try to address their concerns. I think that Alex Rowley captured the spirit of this discussion and of the minister's intention. I think that we can proceed from stage 2 to stage 3 and continue to collaborate and make sure that we agree on the definitions.

The point is that there is very little contention about the standard size of allotment. We are all agreed that it should be 250m^2. The issue comes back to two questions—one raised by Cameron Buchanan and the other by John Wilson—about flexibility and control. The amendments before us all offer flexibility but as regards flexibility and control, it is about who exercises the discretion. In one case, it is exercised entirely by the local authority. In the case of my amendments, it is exercised by the individuals. It is about empowering individuals and empowering communities.

John Wilson: The difficulty that I have with giving individuals that flexibility is that when individuals are offered an allotment by a local authority, they may take the size that the local authority gives because they may see that as the only option that they have.

My earlier suggestion to the minister was that the decision to offer smaller-sized allotments should be taken in conjunction with SAGS in that area so that there is no undermining of its authority that would diminish what we are trying to achieve in relation to the approximate 250m^2 allotment size. There is a danger that people might believe that they will only be offered 50m^2 or 100m^2 by the local authority without the consultation with SAGS that should exist; it should be assisting in the management of that allotment area.

Ken Macintosh: Mr Wilson makes a very good point. It is similar to the point that Mr Rowley made earlier, which is that there is undoubtedly a process of collaboration—in fact, the one that the minister alluded to—between local authorities, SAGS and plot holders. By innovative thinking about bringing in starter plots and so on and by making sure that the options are clearly spelled out to those who are applying for a plot, we can reach exactly the right solution.

What is crucial, and what is captured in my amendment and not in the other amendments, is that we put in place the protection that existing allotment holders believe they need. If you go to the Inverleith allotment, for example, and have a look round, you can see quite a few allotment plots that are the standard size, but you can also see rows and rows of sheds back to back, which is the result of subdivided plots, where people are being forced into ever smaller areas of land. It is not necessarily their choice and, in many cases, they would like to upsize, but they do not have that opportunity.

We are putting in the bill a particular legal obligation on councils to do something about waiting lists. Councils will be acutely aware of their legal responsibilities and will act on those to cut waiting lists. However, with that pressure to cut waiting lists, councils might take the easy option—if I may put it that way—and, rather than find the land that might be needed, take the existing allotments and cut them in half and cut them in half again. That is exactly what is happening at the moment and that is what allotment holders fear.

That is the fear that we have to address and I believe that the way to address it is by putting in some protection on the face of the bill—in the primary legislation—while working with the minister and SAGS as we approach stage 3 to further define and further refine how we approach this measure.

I urge members, in the spirit of the discussion of the measure, to support the amendments in my name. I press amendment 1164.

The Convener: The question is, that amendment 1164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1164 agreed to.

Amendment 1165 moved—[Ken Macintosh].

The Convener: The question is, that amendment 1165 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1165 agreed to.

Amendment 1166 moved—[Ken Macintosh].

The Convener: The question is, that amendment 1166 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1166 agreed to.

Amendment 1167 moved—[Ken Macintosh].

The Convener: The question is, that amendment 1167 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1167 agreed to.

The Convener: Amendment 1251, in the name of Cameron Buchanan, is grouped with amendments 1256, 1176, 1216, 1269 and 1217. I draw members' attention to the fact that amendment 1256 pre-empts amendment 1176.

Cameron Buchanan: Amendment 1251 concerns making a profit out of an allotment.

I find it very difficult to know how one could define profit when selling produce. There are a number of provisions in the bill that seek to prohibit any profit being made from an allotment's produce. It is totally unclear to me why allotment users should be prevented from making a profit.

How does one define profit? Is it when they grow it, or when they buy the seeds? Is it not just the selling price? It is very difficult to define profit.

I think that it would be an issue if large retailers were taking up allotments to supply their stores, but that is not what this is about; they are not taking them up.

We are talking about members of the public who wish to enjoy the use of an allotment space to cultivate vegetables, fruits, herbs or flowers. If they happen to have excess produce and wish to sell it, who are we to forbid it? We heard the example of one person who is a member of SAGS: once a month everyone in their allotments got together to sell their produce openly on a particular day. It was not like a farmers market; it was in the allotments.

I think that, realistically, allotment users can take pride in selling the produce that they have worked hard to cultivate. Any profits gained from such sales are not intended for companies' balance sheets, but are rather a small reward for the labours that allotment users have put in.

Furthermore, other areas of the bill seek to avoid waste of crops and to allow for compensation where it is due. To simultaneously prohibit any sale of an allotment's produce seems to be contradictory.

For the avoidance of doubt, my amendments in this regard intend to make it clear that allotment holders may sell their produce for a profit if they wish. Small sales for relatively small amounts of money are not a cog in a corporate supply chain but a chance for waste to be avoided and for compensation for hard work to be obtained where it is deserved.

I move amendment 1251.

10:45

Marco Biagi: The amendments from Cameron Buchanan would result in surplus produce on allotments being able to be sold for profit. In addition, they would remove the ability of local authorities to include provisions about the sale of surplus produce in regulations about allotments. That would prevent local authorities from taking

account of local factors in determining how surplus produce on the allotments in their area may be sold.

The amendments could have the unintended consequence of bringing allotment holders within the scope of the Agricultural Holdings (Scotland) Act 1991, as such production could fall within the definition of "agricultural land", which includes land that is being used

"for the purposes of a trade or business."

That would mean that allotments could fall under an entirely different statutory regime that is not tailored specifically to them.

Additionally, the Scottish Allotments and Gardens Society has argued very strongly that the purpose of an allotment is to provide self-sufficiency and good food rather than being a means to provide additional income. SAGS considers that any proceeds from sale should only go back to the allotment association to be reinvested in that community of allotment holders.

Amendments 1176, 1216 and 1217, in the name of Dr McLeod, loosen the provisions relating to the sale of surplus produce. The amendments remove the need for Scottish ministers to prescribe what produce may be sold and will allow produce of any type to be sold subject to any regulations that are made by a local authority. The amendments do not affect the definition of an allotment, which will still need to be used otherwise than with a view to making a profit.

Alex Rowley: I am trying to get one point straight in my mind. I know that, during the growing season, some allotments have a table with people selling produce, not only for the allotment committee but to cover the cost of seeds and heating for bringing the plants on. Would that be able to continue?

Marco Biagi: The bill is specifically intended to allow the sale of surplus produce on a not-for-profit basis. That was a request from stakeholders, and we are trying to ensure that that remains the case. If allotments become essentially small agricultural businesses, that would completely change their nature and the type of legislation that they would fall under.

Cameron Buchanan: How does the minister define profit? That is what I am trying to get at. It is an odd word to use in relation to home-grown produce that is being sold.

Marco Biagi: Again, we have to fall back on the fairly well-understood meaning of the word "profit" in legislation. There is a clear understanding of what constitutes profit under commercial trading and what is a surplus in a not-for-profit organisation. We recognise those as two relatively distinct terms with regard to organisations that work on a not-for-profit basis. The bill would allow the not-for-profit sale—the kind of thing that we are talking about—in which any proceeds are reinvested in the community of allotment holders, which we all want to see, but it would prevent the commercialisation of allotments.

To go back to where I was, we want to ensure that the ethos of allotments is about community, family and small-scale production for a social purpose or for immediate use, rather than opening up the potential consequence, which we do not want, of allotments falling under the 1991 act. The agricultural holdings legislation has its own requirements about leases, rent review and compensation, and it provides for inheritance, the right to buy and dispute resolutions in the Scottish Land Court. That is a completely separate area, and we want to keep allotments under allotments legislation.

Cameron Buchanan: I do not need to say any more on the subject. I press amendment 1251.

The Convener: The question is, that amendment 1251 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (Ind)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 1251 disagreed to.

The Convener: Amendment 1229, in the name of Aileen McLeod, was debated with amendment 1164. I remind members that amendments 1229 and 1168 are direct alternatives, which means that although both can be agreed to, the text that would be inserted by amendment 1168 will replace that which would be inserted by amendment 1229. In addition to that, if either amendment is agreed to, amendment 1252 cannot be called.

Amendment 1229 moved—[Marco Biagi].

The Convener: The question is, that amendment 1229 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

The Convener: The result of the division is: For 3, Against 4, Abstentions 0.

Amendment 1229 disagreed to.

Amendment 1168 moved—[Ken Macintosh].

The Convener: The question is, that amendment 1168 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1168 agreed to.

Section 68, as amended, agreed to.

Section 69 agreed to.

After section 69

Amendment 1230 moved—[Marco Biagi]—and agreed to.

Section 70—Request to lease allotment

The Convener: Amendment 1169, in the name of Aileen McLeod, is grouped with amendments 1170, 1193 and 1194.

Marco Biagi: The bill currently allows for

"a disabled person who has a physical impairment"

to include information about their needs on the ground of disability when making a request for an allotment, and requires the local authority to include in its annual allotment report information about

"the number of allotments ... that are accessible"

and which have been adjusted during the year to be

"accessible by a disabled person who has a physical impairment".

In recognition that the provisions should acknowledge a broader definition of disability, amendments 1169, 1193 and 1194 seek to remove the reference to "a physical impairment" and ensure that the provision makes broader reference to "a disabled person".

Section 70(3) already allows a disabled person who is making a request to lease an allotment to include information about their needs relating to access to an allotment or allotment site, and about possible adjustments to an allotment that might be needed on the ground of disability. Amendment 1170 seeks to extend that provision to ensure that when a disabled person makes a request for an allotment, the request may also include information about possible adjustments to the allotment site that would be needed by that person on the ground of disability. That will enable local authorities to ensure that opportunities for growing food on allotments are open to all, including people who have disabilities, and that authorities are assisted in that by being made aware of any adjustments that might be needed.

The amendments will ensure that the allotments provisions support the equality agenda, so I hope that the committee will support them.

I move amendment 1169.

Stewart Stevenson: I hope that in his concluding remarks the minister will confirm that the disablements in question include those that are temporary or intermittent. After all, I am sure that we would wish to extend those rights to people in that category.

Marco Biagi: The reference to "a disabled person" in the amendments will cover anyone who is disabled, temporarily or otherwise, but I am happy to check that.

Amendment 1169 agreed to.

Amendment 1170 moved—[Marco Biagi]—and agreed to.

The Convener: Amendment 1253, in the name of Cameron Buchanan, is in a group on its own.

Cameron Buchanan: As members can see, amendment 1253 is quite a simple amendment that seeks to speed up the process for members of the public who apply to lease an allotment. As many submissions point out, it can take a long time for people to move up the allotment waiting list; the last thing that they need is unnecessary delay in getting the process started. As a result, I propose that the time within which the local authority must confirm receipt of a request to lease an allotment be reduced from a lengthy 28 days to a more reasonable 14 days.

I move amendment 1253.

Marco Biagi: As Cameron Buchanan has made clear, amendment 1253 seeks to reduce the time for confirming receipt of a request to lease an allotment from 28 to 14 days, and I am happy to support it.

Amendment 1253 agreed to.

Section 70, as amended, agreed to.

Section 71 agreed to.

10:56

Meeting suspended.

11:05

On resuming—

Section 72—Duty to provide allotments

The Convener: Amendment 1254, in the name of Cameron Buchanan, is grouped with amendments 1171, 1255 and 1192.

Cameron Buchanan: Amendment 1254 is another probing amendment. I am all for the principle that waiting lists should be kept as small as possible so that the time that it takes for people to be given an allotment is minimised. That follows on from my amendment 1253. However, I am concerned that the target of maintaining on the waiting list a number that is

"no more than one half the total number of allotments owned and leased by the authority"

will have unwanted consequences that distort incentives. Can the minister assure me that the target will not create an incentive for local authorities to refuse requests to join the waiting list?

I move amendment 1254.

Ken Macintosh: I will speak to my amendment 1171 and in favour of Alex Rowley's amendment 1255.

Section 72 places on local authorities a legal duty to provide allotments and to take action to deal with waiting lists. It does so by requiring councils to ensure that the number of people who are waiting for plots is no greater than

"half the number of allotments owned and leased by the authority".

My amendment 1171 would put in place an additional caveat or stipulation that no one should wait more than five years.

Amendment 1255, in the name of my colleague Alex Rowley, would ensure that plots are created near the communities that need them—particularly otherwise socioeconomically deprived communities.

The Scottish Allotments and Gardens Society estimates that average plot turnover for most allotments is about 5 per cent a year. Even with the 50 per cent trigger point in the bill, that could easily mean waiting 10 or more years for a plot. Several witnesses have testified that the current waiting time in Edinburgh, for example, is between seven and 10 years.

My amendment 1171 would create an additional trigger point, or time limit, of five years. SAGS believes that that is a reasonable request that would not place an undue burden on local authorities. I believe that it originally wanted the amendment to stipulate a period of three years, but it was willing to compromise on five years. Under the bill, when the trigger point is reached, local authorities are required only to take reasonable steps to make additional provision. There are no absolute deadlines by which additional provision must be in place.

I am sure that members are aware of the many benefits that allotments provide to the community. People need plots for healthy food, to help to recover from physical or mental illness, as a family activity with their children or when facing unemployment or retirement. Allotments offer opportunities for all those who wish to enjoy the benefits of gardening and working in the outdoors.

This is also an issue of social justice. People in areas of multiple deprivation often do not have access to gardens, and they should not have to wait for 10 years for an allotment. It is also important that, in meeting their needs, the geographic area that we consider is the local community rather than the entire local authority area. That is the focus of Alex Rowley's amendment 1255, which I also urge members to support.

I understand that some local authorities are concerned about the availability of land and the cost of developing allotments, but those fears can be addressed. Very little land is required to fulfil current demand, even in the major cities. To continue the sport analogy that was used earlier, an area the size of a football pitch would satisfy the current demand from a settlement of 10,000 people, and Edinburgh's entire waiting list of more than 2,500 people could be accommodated on an area of land that is less than that which is required for a golf course.

If land is provided and local authorities work in partnership with allotment associations, the funding that is required to create allotments can be generated from a variety of sources and need not put a strain on local authority finances. I ask members to agree to amendments 1171 and 1255.

Alex Rowley: Amendment 1255 is supported by the Scottish Allotments and Gardens Society. The bill currently sets the trigger point above which local authorities are required to take reasonable steps to provide additional allotments.

Amendment 1255 seeks to set a limit on the geographical area to which the trigger point would apply. It proposes that the allocation of allotments should be organised around communities rather than entire local authority areas. I feel that the inclusion in the bill of a trigger point will be ineffective if those who have registered an interest in gaining access to an allotment are told that they can get an allotment only in a location that is unsuitable by virtue of its being too far from their community. For example, if someone in Ballingry in my constituency was told that they could have an allotment along in Methil, that would involve two bus rides and it would take them an hour or so to get there and back. Such an arrangement would not be practical, even though the allocated allotment would be within the local authority area. Therefore, a provision such as the one that is proposed in amendment 1255 is needed.

Under a health and wellbeing and food-growing strategy, people should be able to access an allotment in their community without having to drive to it or to rely on a bus or some other form of public transport to get there. I do not feel that amendment 1255 would place an undue burden on local authorities, and I think that it would help to solidify the trigger-point principle that is contained in the bill.

In relation to Ken Macintosh's amendment 1171, five years seems like a long time to wait, but I know that in some communities, particularly in the cities, some people have to wait even longer. I support the proposed provision.

I commend the Government for dealing with allotments in the bill, and I hope that it will spur local authorities to recognise the importance of the food-growing strategies. I also hope that, in time, the idea of having to wait for five years for an allotment will seem quite alien, but for now such a provision is necessary.

Marco Biagi: The amendments in the group take different approaches to waiting lists and the provision of allotments.

I am aware that members of the Scottish Allotments and Gardens Society have experienced great variability in the performance of local authorities in meeting their current duty to provide allotments. In developing the bill, the Government looked at various ways of framing a revised duty—by timescale, by demand or by population. A key point is that the bill will, for the first time, require local authorities to maintain a waiting list so that demand for allotments is absolutely clear, and we have linked the duty to take reasonable steps to provide allotments to the number of people on the waiting list. Making a link with a clear demand for allotments seems to us to be the most appropriate way to frame the duty.

I recognise that the turnover of allotments can be slow; SAGS has sought an additional timescale-based measure. However, local authorities have expressed the view that linking the duty to a specific timescale would create a substantial practical burden, which is why we have not added a timescale to the duty and why I cannot support Ken Macintosh's amendment 1171.

What we propose in amendment 1192, in the name of my colleague Dr McLeod, is that a local authority must include in its annual allotments report the number of persons who have been on its waiting list for a continuous period of more than five years. We believe that that would lead to substantial pressure to ensure that the number is kept down. Amendment 1192 will be supplemented by supporting guidance on the bill that will detail expectations about waiting times, and it will ensure that people in the community and elsewhere are all able to monitor a local authority's performance.

Based on the information that is available to us, we believe that that provision, in tandem with a strengthened duty to take reasonable steps to provide allotments, has the potential to deliver almost 1,000 additional allotments, once the bill is enacted. I believe that our proposal strikes an appropriate balance between the desire to shorten the time that people have to wait for an allotment and the abilities of local authorities.

I note that it is ironic that, at the Convention of Scottish Local Authorities convention that Ken Macintosh and I attended on Friday, he made some comments about the Scottish Government wishing to dictate to local authorities from on high and to engage in centralised decision making. I believe that our proposed measures in this area strike the right balance between practicality and local autonomy.

11:15

In addition, Dr McLeod has made a commitment to establish a tripartite group that will meet annually. It will include the Scottish ministers, local authorities and the Scottish Allotments and Gardens Society. That group will assess the progress that has been made on implementation of part 7 of the bill and will, we hope, help to foster the more trusting, positive and constructive working relationship that I referred to earlier.

Furthermore, the Government will use the duty in the bill to develop a food-growing strategy as a

way to progress a constructive partnership between all parties, including local authorities, SAGS and community growers. We expect that one of the key areas of discussion will be—I do not think that anybody would deny that it will be—the road map for how local authorities will deliver, take reasonable steps and meet the requirement to carry forward the provisions in the bill.

One of the risks that was raised with us was that, if local authorities are under pressure to provide more allotments, allotments might be provided in locations that are distant from the people who want them. Alex Rowley's amendment 1255 would make it explicit that allotments should be provided where they are wanted. That seems to be a matter of common sense, so I am happy to support the amendment.

Cameron Buchanan's amendment 1254 would move the bill in completely the opposite direction from what the Government and Ken Macintosh, in particular, are trying to achieve, by lengthening a potential waiting list before the local authority was required to take steps to provide more allotments. I do not know whether Cameron Buchanan supports that flexibility and longer waiting lists, which would be at odds with Ken Macintosh's amendments, but to clarify the point that he raised, no grounds are set out in the bill for refusing a request to go on a waiting list for an allotment. Therefore, there is no question of perverse incentives being created.

As Cameron Buchanan has got that clarification from me, I ask him to seek to withdraw amendment 1254, and I ask Ken Macintosh—perhaps more in hope than expectation—not to move amendment 1171. I urge members to support amendment 1255, in the name of Alex Rowley, and amendment 1192, in the name of Dr McLeod.

Alison McInnes: I register my support for amendment 1171, in the name of Ken Macintosh, and amendment 1255, in the name of Alex Rowley. On the face of it, although the amendments might be perceived to be somewhat onerous, the committee recognised in its report that

"Much of urban Scotland has parcels of land which are, or could be, made available for cultivation but which are currently sitting idle and not being used".

Nourish Scotland told the committee:

"Less ground is being used for allotments in Scotland than there is derelict land in Edinburgh."—[*Official Report, Local Government and Regeneration Committee*, 5 November 2014; c 26.]

Tackling waiting lists is vital to sustaining a new generation of allotment gardeners. Low turnover is, of course, an indication of success in this case, and Alex Rowley is right to stress the need for provision for folks in their local community.

Amendments 1171 and 1255 could foster the process of land reform and encourage local authorities to perceive vacant land as a resource that should be utilised whenever possible.

Cameron Buchanan: It was certainly not my intention to lengthen the waiting lists; it was more to prescribe that they would not stay the same. In view of the minister's assurance, I seek to withdraw amendment 1254.

Amendment 1254, by agreement, withdrawn.

The Convener: Does Mr Macintosh wish to move or not move amendment 1171?

Ken Macintosh: Can you clarify, convener, whether I get a chance to sum up?

The Convener: No—you must move or not move the amendment.

Amendment 1171 moved—[Ken Macintosh].

The Convener: The question is, that amendment 1171 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Wilson, John (Central Scotland) (Ind)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 0.

Amendment 1171 agreed to.

Amendment 1255 moved—[Alex Rowley]—and agreed to.

Section 72, as amended, agreed to.

After section 72

The Convener: Amendment 1172, in the name of Aileen McLeod, is in a group on its own.

Marco Biagi: Amendment 1172 will require local authorities to provide reasonable access for tenants of allotments and allotment sites to allotments and allotment sites. That could be via paths or roads, for instance.

Where a local authority leases an allotment to a tenant, the amendment will require the reasonable access to be to that allotment and the site on which it is situated. Where an allotment site is leased—say, to an allotment association—the

reasonable access would be to that site and allotments situated on it. That is a restatement of section 15 of the Allotments (Scotland) Act 1922 as amended and, therefore, will not result in an additional burden on local authorities.

The amendment implements in part one of the five-point propositions put forward by the Scottish Allotments and Gardens Society, which sought basic infrastructure including, among other things, paths.

I move amendment 1172.

Amendment 1172 agreed to.

Section 73—Allotment site regulations

The Convener: Amendment 1173, in the name of Aileen McLeod, is grouped with amendment 1174.

Marco Biagi: Amendment 1173 will require local authorities to make regulations that include a method of determining a fair rent.

Following extensive discussion with SAGS, amendment 1173 builds on an initial requirement on local authorities to make regulations about allotment sites in their areas, including provisions relating to rent, and to develop the regulations through extensive consultation. The amendment will require a local authority, in setting its rent levels, to take account of

"services provided by, or on behalf of, the local authority to tenants of allotments ... the costs of providing those services ... and circumstances that affect, or may affect, the ability of a person to pay the rent".

Therefore, amendment 1173 will further ensure that people who are on low incomes will not be dissuaded from participating in growing food on allotments on the basis of a lack of affordability.

Amendment 1174, which was lodged by Ken Macintosh, would introduce requirements on regulations about rent that have some similarity to the provisions of amendment 1173, lodged by Aileen McLeod. I would say only that great minds sometimes think alike. However, the amendment in the name of Dr McLeod goes one step further than Mr Macintosh's proposal and, in effect, defines affordability as

"circumstances that affect, or may affect, the ability of a person to pay the rent payable under the lease of an allotment".

I recognise Mr Macintosh's desire to have a statement published by an authority about how affordability has been considered, as provided for in proposed subsection (3B) that amendment 1174 would insert into section 73. Local authorities are, of course, already required to consult before making allotment regulations and such a statement could be included in the consultation document. However, if members are concerned that a statement about affordability should be made more explicit, I am happy to consider that with a view to my colleague Dr McLeod lodging an amendment at stage 3.

I urge members to support amendment 1173, in Dr McLeod's name, which seeks to achieve broadly the same thing as Ken Macintosh seeks to achieve but does it with more precision and stronger safeguards.

I ask Ken Macintosh, having made his point and, perhaps, expressed his agreement—a great sense of consensus is breaking out on the committee—not to move his amendment 1174.

I move amendment 1173.

Ken Macintosh: Allotment and plot holders have long benefited from the protection of a fair rent clause and I suspect—or, at least, I hope—that it was simply an oversight that no such provision appeared in the bill. Without such a provision, there would be nothing to prevent a local authority from increasing rents to generate additional funds, or simply to use rent as a tool to price people off their allotments, thereby enabling it to reduce its waiting list.

Although they are worded differently, the only essential difference between the two amendments in the group is the addition of the reporting provision in amendment 1174, which would ensure transparency in the rent-setting process.

I thank the minister for his comments and his acceptance of the fair rent principle. Fair rent is a social justice issue. A fair rent that takes into account ability to pay will enable people in deprived areas who wish to do so to contribute to their own food supply. It will help community groups to afford to cultivate a plot. In addition, local allotment associations will be able to work with local authorities to determine the level of services required and therefore the rent for the site. Such devolved management incorporates the basic principles of community empowerment and partnership working.

As the minister also alluded to, allotments can contribute to Government policy on food, social justice, health and wellbeing, reducing carbon emissions and enhancing the natural environment. I think that we are all agreed that rents should be set to enable those who are on a low income to participate and not be excluded. I urge members to support either of the amendments in the group. I believe that the only difference is that one has a reporting provision, but both capture the essence of fair rent.

Marco Biagi: To provide a slight insight, the concern about the existing fair rent provision is that it is not precisely defined and there is no understanding out there or in legislation about

what fair rent is or how it can be tested. That emphasises the importance of having fairly precise legislation on the issue. The amendment in the name of Aileen McLeod uses the phrase "fair rent", which makes the intention clear and will allow the level of acceptance from the community that we really need in allotments legislation.

I hope that members will support amendment 1173, given the commitment to include a reporting clause at stage 3.

Amendment 1173 agreed to.

Amendment 1174 not moved.

The Convener: Amendment 1175, in the name of Aileen McLeod, is grouped with amendments 1177, 1190, 1191 and 1218.

Marco Biagi: This is a group of minor amendments relating to allotment site regulations, annual reports and the removal of items from an allotment by the tenant.

Amendment 1175 simply tidies the drafting and removes repetition. Amendment 1177 relates to section 73(5), which provides that local authority regulations

"may make different provision for different areas or different types of"

allotment sites. The amendment removes the words "types of" so that different regulations can be made for any allotment site.

Amendments 1190 and 1191 are about the annual report that local authorities will be required to prepare and publish under section 79. Under section 79(2)(c), local authorities will have to set out the proportion of land on each site that is used for allotments—as opposed to communal areas in the site—that is not leased from the authority. The amendments will split the paragraph to ensure that information about the proportion of allotments that are unlet is reported for sites on which a local authority leases allotments directly and for sites that a local authority leases to one person, such as an allotment association, that then subleases the allotments.

Section 88 sets out the items that a tenant may remove from an allotment before the end of the lease, which include

"any buildings (or other structures) erected by or on behalf of the tenant".

Amendment 1218 will expand the section to include

"any buildings (or other structures) acquired by the tenant".

I ask the committee to support the amendments in the group.

I move amendment 1175.

Amendment 1175 agreed to.

The Convener: Amendment 1256, in the name of Cameron Buchanan, was debated with amendment 1251. I remind members that, if amendment 1256 is agreed to, I cannot call amendment 1176.

Amendment 1256 moved—[Cameron Buchanan].

The Convener: The question is, that amendment 1256 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (Ind)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 1256 disagreed to.

Amendments 1176 and 1177 moved—[Marco Biagi]—and agreed to.

Section 73, as amended, agreed to.

Section 74 agreed to.

Section 75—Disposal etc of allotments and allotment sites owned by local authority

The Convener: Amendment 1178, in the name of Aileen McLeod, is grouped with amendments 1179, 1181, 1182, 1184, 1185, 1187 and 1188.

11:30

Marco Biagi: The amendments in this group relate to circumstances in which a local authority proposes to dispose of, or change the use of, an allotment site that it owns, or proposes to renounce the lease or change the use of an allotment site that it leases. The majority of the amendments clarify that the provisions apply whether the local authority's proposals relate to the whole or part of the allotment site.

The current provisions require a local authority in such circumstances to offer a tenant of an allotment an alternative allotment in the local authority area, unless ministers were to be satisfied that that is unnecessary or not reasonably practicable. Amendments 1182 and 1188 broaden the duty to include that a tenant may be offered an allotment on the same allotment site, as well as an alternative site, so that if only part of a site is disposed of, the tenant

may be offered an alternative allotment on the same site.

I ask the committee to support the amendments.

I move amendment 1178.

Amendment 1178 agreed to.

Amendment 1179 moved—[Marco Biagi]—and agreed to.

The Convener: Amendment 1180, in the name of Aileen McLeod, is grouped with amendments 1183, 1257, 1186, 1189, 1258 and 1266 to 1268. I draw members' attention to the information about pre-emption in the list of groupings.

Marco Biagi: The allotment community has made it clear that allotment sites should be protected whether they are on land that is owned by a local authority or land that is leased by a local authority. That position has been supported through public consultation. We have been listening and have included provisions in the bill that build on the existing protection against change of use of allotments without ministerial consent, which is provided in section 73 of the Local Government (Scotland) Act 1973.

The provisions in the bill as set out at sections 75 and 76 provide protection for allotments against disposal, change of use and, where the land is leased by a local authority for allotments, renunciation of the lease without the Scottish ministers' consent. In addition, section 84 provides protection against the resumption of possession of the whole or part of an allotment or an allotment site that is let by a local authority without the Scottish ministers' consent. In each case, the Scottish ministers' consent may be granted only where each tenant is to be offered an alternative allotment, unless that is unnecessary or not reasonably practicable.

Amendments 1180 and 1186, in the name of Aileen McLeod, will in addition require Scottish ministers to consult the local authority and any other person appearing to have an interest before making any such decision about providing consent. That will allow all parties to have their say on the proposals.

Amendments 1183 and 1189 clarify the consequences of an authority transferring ownership or renouncing a lease of an allotment site without ministerial content. They provide that such a transfer or renunciation will have no effect without ministerial consent.

Cameron Buchanan's amendments in this group would remove the requirement for local authorities to obtain the Scottish ministers' consent before disposing of, changing the use of, renouncing the lease of or resuming possession of an allotment site. Removing that requirement for ministerial consent would be contrary to everything that allotment holders have told us they want in terms of protecting allotment sites from closure, and I urge the committee to reject those amendments.

I ask the committee to support amendments 1180, 1183, 1186 and 1189.

I move amendment 1180.

Cameron Buchanan: Amendment 1257 seeks to enable a local authority to dispose of, or change the use of, an owned allotment site independently without needing the consent of the Scottish ministers. I think that that would be a productive change for two reasons. First, removing the need for ministerial consent would prevent allotment sites from being stuck in a deadlock between opposing local and national Administrations. Secondly, it is likely that local authorities would be less willing to open up new allotment sites if they were, from then onwards, unable to decide what to do with the land themselves. If local authorities were able to decide for themselves what to do with the allotment sites, which is what my amendments would achieve, more sites might be opened up for use. With control staying in their hands, local authorities would be more likely to be willing to use the land as allotment sites in the first place.

Stewart Stevenson: I have some technical questions. It would be helpful if the minister could confirm that the definition of land includes water, as it does elsewhere in legislation—be that standing water, river water, ditch water, tidal water or water in any other form. Also, will the amendments and the bill in general prevent the acquisition of allotment land and its removal from the allotment site for purposes of wayleave or by the Ministry of Defence or other United Kingdom bodies that have rights to acquire land?

The Convener: Mr Stevenson is keeping you on your toes, minister, as usual.

Marco Biagi: Yes. Believe it or not, the standard legal definition of land includes water. Section 75, which is the subject of our concern here, is on "allotment sites", which are defined in section 69 as

"land consisting wholly or partly of allotments".

I will consult the lawyers later to check, but I assume that if there was a stream running through an area that was comprised

"wholly or partly of allotments",

that would be included as part of the overall allotment site, which would be the bit that was being operationalised under the bill.

Stewart Stevenson: Just to make it clear, my concern is primarily that the paths of rivers can vary and nature can modify what is on an

allotment site. That is the particular context that I have in mind, although there could be others.

Marco Biagi: I undertake to go away and reflect on that issue. There is an allotment site next to a body of water in my constituency. Were that site to flood, I am not sure what the effects would be in legislation, but I am happy to think about that.

Amendment 1180 agreed to.

Amendments 1181 to 1183 moved—[Marco Biagi]—and agreed to.

Amendment 1257 not moved.

Section 75, as amended, agreed to.

Section 76—Disposal etc of allotments and allotment sites leased by local authority

Amendments 1184 to 1189 moved—[Marco Biagi]—and agreed to.

Amendment 1258 not moved.

Section 76, as amended, agreed to.

Section 77—Duty to prepare food-growing strategy

The Convener: Amendment 1259, in the name of Cameron Buchanan, is grouped with amendments 1260, 1262 and 1263.

Cameron Buchanan: Amendment 1259 would replace the word "must" with "may", to avoid making the provision too prescriptive. That is really all that I have to say.

I move amendment 1259.

Marco Biagi: Amendment 1259, as was stated, would replace the duty on each local authority to prepare a food-growing strategy, instead making the power optional. Amendments 1260, 1262 and 1263 would remove the duties on local authorities to publish a food-growing strategy and review it at least every five years.

I have heard from allotment holders that they have experienced variable performance by local authorities in delivering on the current duty to provide allotments, and that in some cases they have found it difficult to engage with their authority on the issue. The duty to prepare and review a food-growing strategy is a key way of bringing together the allotment community with local authorities and community growers as a means of developing and progressing positive partnerships and relationships between all those parties. In a public consultation in November 2013, there was strong agreement from respondents that local authorities should have a duty to produce a food-growing strategy and review it every five years.

If it were made an option for each local authority to prepare a food-growing strategy, local authorities would not be required to describe how they intend to increase provision of allotments to meet their duty to take reasonable steps to meet demand.

I add that, in the light of our previous discussions about the power to advance wellbeing, there is nothing to prevent a local authority right now from using its discretion to create and implement a food-growing strategy. Therefore, if Cameron Buchanan's amendments were agreed to, it would make no difference whether the duty was in the bill at all. It is important that the duty remains and that we make local authorities accountable in relation to it.

I ask Mr Buchanan to withdraw amendment 1259 and not to move the other amendments in the group.

Cameron Buchanan: Amendment 1259 would remove the obligation on local authorities to prepare a food-growing strategy. It would be very burdensome for local authorities to have that obligation, and fulfilling it would detract from their other duties. The amendment would make it a possibility rather than a necessity.

I lodged the amendments in the group to remove the obligation on local authorities to prepare and publish a food-growing strategy, on the basis that it would be burdensome. A better use of local authorities' time and resources would be to focus on providing allotments and minimising waiting lists, rather than their having to compile documents to comply with a centrally imposed duty.

I am sure that most people would agree that local authorities should be judged on their ability to provide and maintain allotments rather than on their ability to compile a document. Should a certain council wish to spend its resources on publishing a food-growing strategy, that should be a decision for that council to make, hence the idea of making the requirement a "may" rather than a "must".

I press amendment 1259.

The Convener: The question is, that amendment 1259 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (Ind)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 1259 disagreed to.

Amendment 1260 not moved.

The Convener: Amendment 1261, in the name of Alex Rowley, is grouped with amendment 1265.

Alex Rowley: People can use an allotment plot to grow healthy food, to help to recover from physical or mental illness, as a family activity with their children, when facing unemployment or retirement or simply because they enjoy growing food and giving it away. Allotments offer an opportunity for all those who wish to enjoy the benefits of gardening and working in the outdoors.

Amendment 1261 will ensure that, as part of a local authority's duty to prepare a food-growing strategy and identify land that it considers may be used for allotment sites and/or community cultivation, it will be required to describe whether and how that will increase provision in areas that are affected by socioeconomic disadvantage. In many senses, that links to the local community plans, because there are many healthy eating strategies and healthy eating or cooking projects that already exist as part of local authorities' health and wellbeing approach. The amendment would simply mean that local authorities would identify particular areas of disadvantage. Communities in which there are high levels of disadvantage should have access to growing sites, so it is important that local authorities identify that as part of their food-growing strategy.

11:45

Amendment 1265 will ensure that local authorities pay particular regard to communities in which there is a high level of socioeconomic disadvantage when they are looking to promote allotments and provide training to tenants or potential tenants. The amendment will ensure that those communities that might benefit the most from allotments but often contain the hardest-to-reach citizens know about allotments and have the skills and training to be able to access them.

I move amendment 1261.

Marco Biagi: Mr Rowley is right to point out the connection between the amendments that the Government lodged on community planning and these ones. I welcome the fact that they will develop the theme of ensuring that the provisions explicitly address socioeconomic disadvantage and inequalities.

We know that, when people have the opportunity to grow their own food, it can help to tackle food poverty and issues with physical and mental health and social isolation. The amendments will ensure that local authorities think about the areas that experience socioeconomic disadvantage when they are looking at the provision of allotments and other land for community growing.

Growing your own food benefits everyone and amendment 1265 will encourage local authorities to promote allotments and provide related training to disadvantaged communities to ensure that they see it as something that is for them.

The lawyers tell me that they might need to look at the wording at stage 3. I see Mr Rowley nodding; he knows and those sorts of caveats will be quite familiar to him by now. I urge the committee to support a helpful set of amendments.

Alex Rowley: Yes. We seem to be in agreement, minister. Making this part of the community planning approach is right. We will see what happens at stage 3. I will press the amendment.

Amendment 1261 agreed to.

Amendment 1262 not moved.

Section 77, as amended, agreed to.

Section 78—Duty to review food-growing strategy

Amendment 1263 not moved.

Section 78 agreed to.

Section 79—Annual allotments report

Amendments 1190 to 1194 moved—[Marco Biagi]—and agreed to.

Section 79, as amended, agreed to.

Section 80 agreed to.

Section 81—Delegation of management of allotment sites

The Convener: Amendment 1195, in the name of Aileen McLeod, is grouped with amendments 1196, 1197 and 1264.

Marco Biagi: Section 81 allows a person representing the interests of allotment tenants, such as an allotment association, to request that a local authority delegates management functions of an allotment site to them. All the amendments in the group are minor adjustments to that section.

Amendment 1195 clarifies the allotment sites to which the section applies. Amendment 1197 is a consequential amendment to remove duplication. Amendment 1196 makes clear that the person applying for delegation of the management of a site should represent all or a majority of the tenants.

I turn to the amendments in the name of Cameron Buchanan. A further provision of section 81 enables a local authority to agree to or refuse the request. If the local authority refuses the request, it must provide reasons for its decision. Amendment 1264, which was lodged by Mr Buchanan, would require that the reasons for refusing the request be "valid". It is not necessary to include the word "valid". Local authorities are already under a common-law duty to act reasonably and make rational decisions or face the risk of judicial review. Both the taking of decisions about delegation of management and the duty to give reasons must be exercised reasonably, and the offering of invalid reasons would be quite a strong example of not acting reasonably. In addition, it is unclear who is to determine what constitutes a "valid" reason for refusing a request. The inclusion of "valid" in that context is unnecessary and it also creates a lack of clarity. I therefore ask Cameron Buchanan not to move amendment 1264.

I ask the committee to support amendments 1195 to 1197, in the name of Aileen McLeod. I move amendment 1195.

Cameron Buchanan: My reason for lodging amendment 1264, which is a probing amendment, was that I wanted to see whether a local authority would send an applicant a decision notice setting out the reasons for refusal. I just wanted some clarification on that.

Marco Biagi: As I said, if the local authority were to offer invalid reasons, or reasons that were not worthy of respect or were unreasonable, there would be consequences. I therefore consider the word "valid" to be unnecessary.

Amendment 1195 agreed to.

Amendments 1196 and 1197 moved—[Marco Biagi]—and agreed to.

Amendment 1264 not moved.

Section 81, as amended, agreed to.

Section 82—Promotion and use of allotments: expenditure

Amendment 1265 moved—[Alex Rowley]—and agreed to.

Section 82, as amended, agreed to.

After section 82

The Convener: Amendment 1198, in the name of Aileen McLeod, is in a group on its own.

Marco Biagi: Amendment 1198 introduces a new provision in the bill. The amendment allows tenants of an allotment site or their representative to request the use of local authority premises free of charge. The premises may be used solely for holding meetings to discuss allotment site-related business. The amendment is a restatement of section 15 of the Allotments (Scotland) Act 1892 with some amendments.

This amendment in the name of Dr McLeod has been lodged because, although initial views suggested that allotment holders, like other community organisations, should pay for the use of a local authority space, allotment holders have no means of raising revenue for the hire of such spaces.

I move amendment 1198.

John Wilson: I seek clarification of what is proposed by the amendment. In many local authorities, the premises that would normally be used by allotment holders have been transferred either to the control of arm's-length external organisations or to some other control outwith the local authority. In the local authority area that I live in, most of the schools have been transferred either to a culture ALEO or to a leisure ALEO, which will charge most organisations for their use, and they are not—the local authority would argue—controlled directly by the local authority while they are being operated by those ALEOs. Would the definition of local authority premises include such premises? I seek clarification from the minister about any costs that may be incurred for the use of those premises where they are practical and close to the allotment sites.

The Convener: It took us a fair while to get to my old friend the Allotments (Scotland) Act 1892.

Marco Biagi: In response to John Wilson's question, I will have to examine the situation. However, as I have stated in previous meetings about the inclusion of ALEOs, I would want something that was recognisably and demonstrably a community building that the local authority controlled—however it did that—to be included in the bill. We will check the definition and, if it needs to be expanded, we will do that.

Amendment 1198 agreed to.

Section 83—Termination of lease of allotment or allotment site

The Convener: Amendment 1199, in the name of Aileen McLeod, is grouped with amendments 1200 to 1205. I draw members' attention to the information shown on the list of groupings about pre-emptions in the group.

Marco Biagi: This group of amendments is to clarify the provisions in sections 83 and 84.

Section 83(1) sets out the circumstances in which a local authority may terminate the lease of an allotment or an allotment site. Amendments 1199, 1200 and 1201 clarify that those

circumstances override any provision in the lease to the contrary about termination of the lease and that they are the only circumstances in which a lease can be terminated.

Section 84(2) sets out the circumstances in which a local authority may resume possession of the whole or part of an allotment or allotment site and requires that the Scottish ministers give consent to resumption. Amendments 1202 and 1203 clarify that those circumstances override any provision in the lease to the contrary about resumption and that they are the only circumstances in which possession may be resumed. Amendments 1204 and 1205 have the effect of providing that it is the giving of notice of resumption to which the Scottish ministers must consent rather than the resumption itself.

I ask the committee to agree to these clarifying amendments, and I move amendment 1199.

Amendment 1199 agreed to.

Amendments 1200 and 1201 moved—[Marco Biagi]—and agreed to.

Amendment 1266 not moved.

Section 83, as amended, agreed to.

Section 84—Resumption of allotment or allotment site by local authority

Amendments 1202 and 1203 moved—[Marco Biagi]—and agreed to.

Amendment 1204 moved—[Marco Biagi].

12:00

The Convener: The question is, that amendment 1204 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (Ind)

Against

Buchanan, Cameron (Lothian) (Con)

The Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 1204 agreed to.

Amendment 1205 moved—[Marco Biagi]—and agreed to.

Amendment 1268 moved—[Cameron Buchanan].

The Convener: The question is, that amendment 1268 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Buchanan, Cameron (Lothian) (Con)

Against

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Rowley, Alex (Cowdenbeath) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Wilson, John (Central Scotland) (Ind)

The Convener: The result of the division is: For 1, Against 6, Abstentions 0.

Amendment 1268 disagreed to.

Section 84, as amended, agreed to.

Section 85—Notice of termination: sublease

The Convener: Amendment 1206, in the name of Aileen McLeod, is grouped with amendments 1207 to 1214.

Marco Biagi: This group of amendments is to clarify the provisions of sections 85 and 86.

Section 85 deals with the arrangements for notice of termination where a local authority leases an allotment site from another person and receives notice of termination of that lease. Amendment 1206 clarifies that section 85 applies where the local authority leases an allotment site and has granted a sublease either to an allotment association for the whole site or to an individual for an allotment. Amendments 1207 and 1208 clarify that the notice received by the local authority may relate to the termination of either the whole or part of its lease. Amendments 1209 and 1210 set out that the affected subtenants should be notified of the date of termination and that their subleases are terminated on that date.

Section 86 deals with arrangements for notice of termination where the local authority leases a site to a tenant, such as an allotment association, who represents the interests of subtenants.

Amendments 1211 to 1213 clarify the circumstances in which section 86 applies and that the notice may relate to either the whole or part of an allotment site.

Amendment 1214 sets out that, in these circumstances, the tenant must notify each subtenant of the date that the whole or part of the lease is terminated and that their sublease is terminated on that date.

I ask the committee to agree to these clarifying amendments. I move amendment 1206.

Amendment 1206 agreed to.

Amendments 1207 to 1210 moved—[Marco Biagi]—and agreed to.

Section 85, as amended, agreed to.

Section 86—Notice of termination: sublease by allotment association

Amendments 1211 to 1214 moved—[Marco Biagi]—and agreed to.

Section 86, as amended, agreed to.

Before section 87

The Convener: Amendment 1215, in the name of Aileen McLeod, is in a group on its own.

Marco Biagi: Convener, I will reacquaint you with your old friend, the Allotments (Scotland) Act 1892. Amendment 1215 restates, with some amendments, section 7(3) of the 1892 act, which prohibits the subletting of allotments by a tenant. The amendment expands that provision to include the prohibition of assignation of an allotment without the local authority's consent. In addition, the amendment identifies the consequence of such transactions being that they are of no effect.

Given that the provisions in part 7 of the bill will provide greater transparency of the actions that a local authority is taking to meet demand for allotments in its area and that an authority will be required to report annually on its allotment provision, it is essential that a local authority is able to identify who is responsible for growing food on and the upkeep of an allotment in its area. Amendment 1215 will ensure that local authorities are able to identify the tenant of an allotment.

I move amendment 1215.

Amendment 1215 agreed to.

Section 87—Sale of surplus produce

Amendment 1216 moved—[Marco Biagi]—and agreed to.

Amendment 1269 not moved.

Amendment 1217 moved—[Margo Biagi]—and agreed to.

Section 87, as amended, agreed to.

Section 88—Removal of items from allotment by tenant

Amendment 1218 moved—[Marco Biagi]—and agreed to.

Section 88, as amended, agreed to.

Section 89—Compensation for disturbance

The Convener: Amendment 1219, in the name of Aileen McLeod, is grouped with amendments 1220, 1221, 1270 and 1222.

Marco Biagi: The amendments in Dr McLeod's name in this group are minor and technical.

Section 91 provides that if a local authority resumes possession of an allotment, or part of an allotment, the local authority is required to compensate the tenant for loss of any crop by the tenant as a result of the resumption. The period of notice required for resumption, under section 84, is "at least three months".

Amendments 1219 and 1220 adjust the provisions to provide that it is the local authority that gives notice, or which has received notice of termination of its own lease of the site, that is liable to pay compensation to the tenant. That will ensure that it is the local authority with which the tenant has the lease that is responsible for paying compensation, even if the local authority has granted a lease outwith its own area.

Amendments 1221 and 1222 make minor corrections.

I ask the committee to support the amendments in Aileen McLeod's name.

Amendment 1270, which was lodged by Cameron Buchanan, would provide that a local authority would not be liable to pay a tenant compensation for loss of a crop

"where the tenant had a reasonable opportunity to remove the crop prior to the resumption".

I argue that the three-month notice period specified in the bill is a "reasonable opportunity", if the crop is harvested or ready for harvest at the right time.

However, amendment 1270 fails to take account of the seasonal cycle of food production on allotments. Some crops may have just been put in the ground at the time of the notice being served and so may not be ready for harvest once the notice period is up. Also, fruit trees are normally planted in late autumn or early winter, if there is no ground frost, and would not yield a crop until the summer, so a period of notice given at a point during the planting season and even into early spring would mean that a tenant who had made the investment in a tree would suffer a loss of crop.

Section 91 requires Scottish ministers to make regulations about compensation for loss of crops following resumption and to consult before making those regulations. The regulations must make provision for the procedure for compensating for loss of crops and for an assessment of the amount

of compensation for which the authority is liable. That provides safeguards both for the local authority and for tenants. The regulations will be an important piece of legislation to get right.

I ask Cameron Buchanan not to move amendment 1270.

I move amendment 1219.

Cameron Buchanan: In view of the minister's comments, I do not wish to speak to amendment 1270.

Amendment 1219 agreed to.

Amendment 1220 moved—[Marco Biagi]—and agreed to.

Section 89, as amended, agreed to.

Section 90—Compensation for deterioration of allotment

Amendment 1221 moved—[Marco Biagi]—and agreed to.

Section 90, as amended, agreed to.

Section 91—Compensation for loss of crops

Amendment 1270 not moved.

Section 91 agreed to.

Section 92—Set-off of compensation etc

Amendment 1222 moved—[Marco Biagi]—and agreed to.

Section 92, as amended, agreed to.

Section 93 agreed to.

After section 93

The Convener: Amendment 1223, in the name of the minister, is grouped with amendment 1224.

Marco Biagi: I am delighted to speak to amendments 1223 and 1224.

Amendment 1223 provides a new regulation-making power that will enable ministers to require Scottish public authorities—including the Scottish Government—to promote and facilitate the participation of members of the public in the authority's decisions and activities, including the allocation of its resources. We believe that that will support participatory budgeting in particular.

We know that involving people and communities in decision making helps to build community capacity and also helps the public sector to identify local needs and target budgets more effectively. We also know that decisions that are taken closer to people and through the participation of those who are affected are better decisions. It is clear that, when people know that they have a genuine say in an issue that matters, they will get involved. Our job is to make it clear that their voice matters. A key concern for the committee, and a big concern for me, is how we can give people and communities more opportunity to have their say in the decisions that matter to them in order to make real the objective of community empowerment.

The intention is that the new power will ensure that participatory activity takes place and that the associated guidance will drive the quality and depth of that participatory activity over time. I wanted any legislative solution to have the flexibility to build up, change and develop over time. Given the different functions, budgets and structures of public authorities, I knew that having a single approach would not work.

Amendment 1223 will ensure not only that, through the regulations, promotion and facilitation of participation by Scotland's public bodies will take place, but that we will be able to refine the regulations so that the participation is relevant for the activities of each public body in its distinct role. In addition, through the regulations, ministers will be able to require public bodies to prepare and publish a report describing the steps that they have taken to promote and facilitate participation.

Amendment 1223 also provides that public bodies will have to have regard to any guidance on the matter that is issued by the Scottish ministers.

We have committed to refreshing and renewing the national standards for community engagement, and they will be prominent in the process. However, we will also need to develop guidance on other aspects, including participatory budgeting—about which I have spoken on many occasions and for which I am a terrific enthusiast—and how public bodies can ensure that the decisions that they take on budgets and grants can be developed to encompass meaningful participation.

All of that will be a challenge for public bodies, but local government and other public authorities increasingly use a range of community engagement activities to seek views on their activities, plans and service delivery.

There has been tremendous interest in the Scottish Government's offer of training and support for participatory budgeting exercises, with more than half of Scotland's councils taking up the offer. In the next year, the money to be allocated through participatory budgeting methods—if everything goes through—potentially runs into the millions. The range and degree of participation from people and communities can vary considerably. The new power will lead to greater consistency and will improve the quality of that

participation over time. It will not happen from day 1, but it will happen. The Parliament will continue to have a role to play as we move forward with this agenda.

Amendment 1224 provides that any regulations laid under the new section to be inserted by amendment 1223 will be subject to the affirmative procedure.

I look forward to developing and implementing participatory budgeting, which will be a major strand of the community empowerment agenda. I hope that the committee will be keen to work with us.

I move amendment 1223.

12:15

Alex Rowley: I am happy to support amendment 1223. Participatory budgets need to have a meaning that people can identify with.

I hope that, in the coming weeks as we move towards stage 3, we can have a discussion about some of the amendments on locality planning, which complement the idea of participatory budgeting. Children's services and education take up 50-odd per cent of a local authority's budget; if we include health and social care, the figure can increase to 70-odd per cent. If there was a formula in place such that 1 per cent of a local authority's budget was down at the community level, more people would take part in participatory budgeting because they would be able to identify their priorities and the budget to finance those priorities.

I know that there are some good examples of participatory budgeting. However, a concern for me is that, sometimes, it is a bit like the wee green token that you get as you leave Asda, which you have to stick into one of three pots. Participatory budgeting has to be about a lot more than that. If amendment 1223 can work alongside amendments that we have already agreed to, we could enhance participation. People would be able not only to set their local priorities but to finance some of them. I welcome the amendment.

The Convener: Bravo, minister. I think that a lot of folk out there will applaud amendment 1223. The committee will continue to scrutinise the provision as the bill process continues.

Marco Biagi: I will briefly reflect on a point that Mr Rowley made. I am aware of the supermarket exit form of deciding charitable donations, in which it is noticeable that certain causes do better than others. However, that is not a participative process. It does not bring people together to have the discussion and put cases forward, and it is quite a shallow form of engagement. In public decision making, we want to get past shallow forms of engagement and achieve much deeper forms of participation.

Mr Rowley is right to say that a great deal of a budget can be taken up by statutory requirements. However, we do not want a participatory budgeting process in which a community comes together and decides that it no longer wants to spend any money on having a school. Clearly, some things are obligations. It is in the area of discretionary spend—the priority given to maintenance or expansion, for example—where participatory budgeting offers real opportunities to ensure that budgets target local needs.

John Wilson: Does the minister agree that, when it comes to participatory budgeting, communities need to know about the larger resources? He used the example of a school, and it might be helpful if communities, in their discussions with local authorities and other agencies, were made aware of the bigger-spend items, how they impact on those communities and where the participatory element of budgets could be better utilised to complement those services. The alternative is to ignore totally the fact that many people in communities do not realise where the bulk of the resources spent by local government and other agencies goes in supporting and delivering services for communities.

Marco Biagi: I agree. People need to realise how the spend that they decide on relates to everything else. Ultimately, we hope that the result will be everyone pulling in the same direction.

Amendment 1223 offers a tremendous opportunity to re-empower people and to give our spirit of democratic renewal some real teeth, so that people are able not just to go along and be consulted on something, but to participate directly in decision making. That is a completely different level of involvement.

I am glad that the committee is so enthusiastic, and I press amendment 1223.

Amendment 1223 agreed to.

Section 94—Schemes for reduction and remission of non-domestic rates

The Convener: Amendment 1271, in the name of Cameron Buchanan, is in a group on its own.

Cameron Buchanan: I agree that the rating authority should have regard to the interests of persons liable to pay council tax set by the authority before reducing or remitting non-domestic rates. As it stands, however, section 94 suggests that any loss of income due to non-domestic rate cuts would have to be offset from other income raised by the authority.

My amendment seeks to clarify that, before reducing or remitting non-domestic rates, a rating authority should have regard to its own expenditure, income and financial sustainability. In other words, rating authorities could accommodate any change in income due to non-domestic rate cuts by reviewing either their expenditure or their income.

I move amendment 1271.

Marco Biagi: Amendment 1271 would add to the test in the bill, which requires a council to have regard to the interests of persons liable to pay council tax, as well as to the council's wider statutory financial obligations.

The amendment would make explicit that councils have to have regard to their income and expenditure when exercising the local rates relief power. I think that councils would do so as a matter of course, given the framework and statutory obligations that they operate under, but I am content to support the amendment to reinforce the point in law.

Cameron Buchanan: I thank the minister for agreeing to my point.

Amendment 1271 agreed to.

Section 94, as amended, agreed to.

Section 95 agreed to.

Section 96—Subordinate legislation

The Convener: Amendment 1087, in the name of the minister, is in a group on its own.

Marco Biagi: The Delegated Powers and Law Reform Committee recommended that, where there are powers for ministers to amend the lists of bodies that are subject to the provisions of the bill, those powers should be subject to affirmative, rather than negative, procedure. I agree that changes to the bodies included could make a significant change to the scope of the bill's powers, so I am happy to make that change to the procedure.

Amendment 1087 provides that changes to the list of public service authorities, in relation to participation requests, and changes to the list of relevant authorities, in relation to asset transfer requests, will be subject to affirmative procedure. It also provides for affirmative procedure where the Scottish ministers specify a relevant authority as subject to local authority review of its decisions in the first instance, rather than ministerial appeal. Members will remember that that power was discussed last week, as a measure to assist the inclusion of ALEOs in asset transfer.

I move amendment 1087 and ask members to support it.

Stewart Stevenson: I am happy to support the amendment, but I invite the minister to take away for further consideration and discussion with colleagues the thought that, as a matter of good practice, when Governments amend lists by secondary legislation, they should consider publishing the entire amended list in the update. There have been occasions where lists have been amended more than 20 times and it is then all but impossible to work out what the list looks like, as there is no central list of the lists to which reference can be made.

I do not ask the minister for a commitment at this stage, but I ask that he considers the matter.

Marco Biagi: I will take that away for consideration. If I am still the minister when the first amendment to the list is made, I will be sure to put the suggestion into practice.

Amendment 1087 agreed to.

The Convener: Amendment 1038 was debated with amendment 1015, on day 1 of stage 2, on 4 March 2015.

Amendment 1038 moved—[Marco Biagi]—and agreed to.

The Convener: That is our biggest ever skipping back to a discussion on an amendment.

Amendment 1224 moved—[Marco Biagi]—and agreed to.

Amendment 1071 moved—[Alex Rowley]—and agreed to.

Section 96, as amended, agreed to.

Sections 97 and 98 agreed to.

Schedule 4—Minor and consequential amendments

The Convener: Amendment 1225, in the name of Aileen McLeod, is grouped with amendments 1226 to 1228.

Marco Biagi: So that other antiquated acts do not feel lonely—and bearing in mind the convener's love of the 1892 act—I note that amendment 1225 seeks to deal with the Small Landholders (Scotland) Act 1911, the Compensation (Defence) Act 1939, the Agriculture (Scotland) Act 1948 and the Opencast Coal Act 1958, all of which contain various references to allotments. As the committee might imagine, we have to update quite a few references in previous legislation as a result of the bill. Amendment 1225 seeks to insert into schedule 4, which sets out minor and consequential amendments to other legislation, additional consequential amendments that have been identified since the bill was introduced, while amendments 1226, 1227 and 1228 insert into schedule 5, which sets out

existing legislation to be repealed as a consequence of the bill's provisions, additional repeals to existing legislation that again have been identified since the bill was introduced.

I move amendment 1225.

Amendment 1225 agreed to.

Amendments 1039 to 1041 moved—[Marco Biagi]—and agreed to.

The Convener: Before I put the question on schedule 4, I remind members that we are agreeing to the schedule as amended by the Rural Affairs, Climate Change and Environment Committee as well as by this committee today. The Rural Affairs, Climate Change and Environment Committee agreed to amendments 38 to 41, 88, 46, 47 and 57.

Schedule 4, as amended, agreed to.

Schedule 5—Repeals

Amendments 1226 to 1228 and 1042 moved—[Marco Biagi]—and agreed to.

The Convener: Before I put the question on schedule 5, I remind members that we are agreeing to the schedule as amended by the Rural Affairs, Climate Change and Environment Committee as well as by this committee today. In this case, the Rural Affairs, Climate Change and Environment Committee agreed to amendment 42.

Schedule 5, as amended, agreed to.

Sections 99 and 100 agreed to.

The Convener: Although this committee does not have any amendments to the long title to consider, I remind members that the Rural Affairs, Climate Change and Environment Committee agreed to one amendment to the long title, which was amendment 43. As a result, we are agreeing to the long title as amended by that amendment.

Long title, as amended, agreed to.

The Convener: That ends stage 2 consideration of the bill. The version of the bill as amended at stage 2 will be available from tomorrow morning. I should also say that stage 3 amendments may also be lodged from tomorrow, although we do not yet know when stage 3 will take place.

I thank everyone for their participation. We now move into private session, and I appeal to folks who are leaving to do so quickly.

12:29

Meeting continued in private until 12:35.

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