



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 3 April 2019

Session 5



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

11th Meeting 2019, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Alex Rowley (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)

Claudia Beamish (South Scotland) (Lab)

Alexander Burnett (Aberdeenshire West) (Con)

Liam McArthur (Orkney Islands) (LD)

Kevin Stewart (Minister for Local Government, Housing and Planning)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament
Local Government and
Communities Committee

Wednesday 3 April 2019

[The Convener opened the meeting at 09:00]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning and welcome to the 11th meeting of the Local Government and Communities Committee in 2019. I remind everyone to turn off their mobile phones.

Agenda item 1 is consideration of whether to take agenda item 5 in private. Do members agree to do so?

Members indicated agreement.

Fuel Poverty
(Target, Definition and Strategy)
(Scotland) Bill: Stage 2

09:00

The Convener: Our second agenda item is consideration of the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill at stage 2. Once again, I welcome Kevin Stewart, the Minister for Local Government, Housing and Planning, and his officials.

Some non-committee members have lodged amendments that will be considered today. I welcome Jackie Baillie to the committee; I expect other members to join us later.

The intention is to finish stage 2 today, if we can. If we are unable to do so, we will return to the bill after the Easter recess.

At the bill's introduction, the Presiding Officer determined that a financial resolution was not required for the bill. Under rule 9.12.6C, the Presiding Officer determined that the costs that would be associated with amendments 48 and 62 would, for each, exceed the current threshold to require a financial resolution for the bill. Amendment 62 has, consequently, been withdrawn. Amendment 48 may be debated at stage 2, but cannot be agreed to in the absence of a financial resolution.

The Presiding Officer has also ruled that amendments 93, 21, 81, 84, 82 and 85 are cost-bearing amendments. However, the potential cumulative cost of the amendments would not require a financial resolution. As such, amendments 93, 21, 81, 84, 82 and 85 and any amendments that would be consequential on those amendments will be debated—if the debate on them has not already taken place—and the questions will be put on the amendments as normal at stage 2.

Section 2—Meaning of fuel poverty

The Convener: Amendment 99, in the name of Jackie Baillie, is grouped with amendments 56, 61, 100 and 63.

Jackie Baillie (Dumbarton) (Lab): I am an honorary vice-president of Energy Action Scotland, with my colleagues Murdo Fraser and Gillian Martin.

All the amendments in the group are in my name. Sharp-eyed members will remember amendment 62, which the Presiding Officer determined would cost about £1 million. I used the week between committee meetings to lodge

amendments 99 and 100 in place of amendment 62.

Amendments 99, 56, 61, 100 and 63 all deal with costs to be deducted when determining remaining adjusted net income in considering whether someone is in fuel poverty. Amendments 99 and 100 deal with disability.

I sought advice from the Scottish Parliament information centre on a more proportionate way of dealing with the issue. SPICe took advice from Professor Hirsch, who is known to the Scottish Government and the committee. Professor Hirsch told us that the Social Metrics Commission has done work on a new measure of poverty that uses, as an indicator of additional cost, the level of extra cost benefits in relation to attendance allowance, disability allowance and personal independence payments. That requires very little research and is, in effect—in Professor Hirsch’s words—“cost free”. All that is needed is for it to be built into the Scottish Government’s analysis in counting fuel poverty. I hope that it will no longer be seen as an impediment.

As the bill stands, the second part of the definition of fuel poverty includes childcare costs as part of the calculation. That is welcome; it is right that it does so. However, it will be inconsistent and a missed opportunity if the costs to a household of caring for an adult are excluded. We know from the Government’s statistics that carers experience a poverty rate of 22 per cent, and we know that poverty is also experienced by people with a range of disabilities. Both have a read-across to fuel poverty. We know that care costs have a real impact on household income. Care costs, whatever generation—child or adult—they are for, should be accounted for in the bill.

It is a simple group of amendments that I hope the committee and the Scottish Government will accept. I commend the amendments to the committee and note that they are supported by a wide variety of organisations, including the Poverty Alliance Scotland, the Coalition of Carers in Scotland, the Health and Social Care Alliance Scotland, Common Weal, Energy Action Scotland and many more besides. I hope that the committee will support the amendments.

I move amendment 99.

The Minister for Local Government, Housing and Planning (Kevin Stewart): I will comment first on Jackie Baillie’s amendments 56, 61 and 63. At the committee’s meeting on 13 March, I was asked to respond to a list of proposed amendments to the bill that Energy Action Scotland had circulated to members. As I set out then, EAS neither sent us its proposed amendments nor sought meetings with me or my officials to discuss its views. Amendments 56, 61

and 63 are clearly based on the EAS proposal that the bill should be amended to deduct social care and childcare costs when calculating whether a household’s remaining adjusted net income is sufficient to maintain an acceptable standard of living.

I am unaware of any consultation having taken place on the proposals. None of the amendments forms any part of the recommendations that the committee made in its stage 1 report, and they offer no indication of what care costs would actually cover. As everyone knows, Scotland has free personal care and, as of this week, that policy applies to all adults who have been assessed as requiring such support, regardless of their income. That is a key reason why amendments 56, 61 and 63 are not required, so I urge the committee to vote against them.

I am pleased that Jackie Baillie has withdrawn her amendment 62—which was on a disability minimum income standard—because it would not have been possible to vote on it, and has lodged two new amendments. Amendments 99 and 100 represent a much better way of taking account of additional care costs, which provides another reason why amendments 56, 61 and 63 are not necessary. Ms Baillie’s amendments 99 and 100 would allow for deduction of relevant care and disability-related benefits when considering whether a household’s income is sufficient to maintain an acceptable standard of living, which I accept will result in a fairer comparison to the minimum income standard.

I am happy to accept amendments 99 and 100, but not the amendments that I spoke to earlier. The approach is in line with other evidence, such as that from the work of the Social Metrics Commission, which spent more than a year considering aspects of poverty measurement and concluded that deducting from available resources the value of the extra-cost disability benefits was

“the best available proxy for the extra inescapable costs of disability.”

The combination of that approach to disability benefits with our enhanced heating regime, and associated higher required fuel bills for households that are most affected by the adverse outcomes of living in a colder home, as well as our approach to free personal care in Scotland, will ensure that we are taking concrete action to tackle fuel poverty.

That said, we saw amendments 99 and 100 only at the end of last week, so the legal team needs to run further checks to ensure that they cover everything that is needed, such as all relevant disability benefits. However, I am assured that that process will result only in our needing to bring technical tidying amendments at stage 3, and will

not change the policy objective. I therefore urge the committee to vote against Jackie Baillie's amendments 56, 61 and 63 because they are unnecessary, particularly in the light of her new amendments 99 and 100, which we support.

Jackie Baillie: I intend to press all the amendments, although I am very grateful that the Government has accepted amendments 99 and 100. I want to make a couple of brief comments. In line with many other organisations, Energy Action Scotland engaged with the committee and made submissions to it. I raised some of the issues when the minister gave evidence at stage 1, when I helpfully came along, with the agreement of the convener. I therefore do not accept that the proposals have simply come at the last minute. It is likely that we will not have further primary legislation on the issue for a while, so this is a once-in-a-generation opportunity to get it right.

Therefore, I urge members to make sure that we put the provisions in the bill because I think that we all agree that—

I am sorry, convener—I see that a member of the committee wants to ask something.

Annabelle Ewing (Cowdenbeath) (SNP): You said that you expect that there will not be primary legislation on the matter for some time. Could you clarify that point?

Jackie Baillie: The last fuel poverty target was set in the Housing (Scotland) Act 2001, so there has been a considerable period until there has been new legislation setting a new target. There will, of course, be secondary legislation. One would expect that; indeed, the bill invites it. However, 2001 was the last time a target was set in primary legislation. The target in the bill is to 2040, as I understand it, so it will be some time before we see new legislation. I am sure that Annabelle Ewing would accept that.

It is important to get the bill right and it is important to set out our intentions clearly. I will leave the committee with one thought, which is about care costs. Care costs are not just about free personal care; they involve free personal care, nursing care and hotel costs, and it is not the case that all those costs are met. We know from our constituents that care costs put a real burden on households; it is therefore important to ensure that that is clear and evident on the face of the bill. I hope that members think likewise.

Amendment 99 agreed to.

Amendment 56 moved—[Jackie Baillie].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Abstentions

Wightman, Andy (Lothian) (Green)

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

Amendment 56 disagreed to.

The Convener: Amendment 57, in the name of Jackie Baillie, is grouped with amendments 58 to 60, 64, 96 and 97.

Jackie Baillie: I am grateful for the opportunity to move amendment 57 and to speak to the other amendments in the group. This is another relatively simple set of amendments. Amendment 57 deals with physical and mental impairment; amendment 58 deals with people of pensionable age; and amendment 59 deals with children under the age of five. The amendments set out quite clearly the eligibility for enhanced heating on the face of the bill.

I am starting from the premise that we want to capture all those who are likely to experience higher levels of fuel poverty than others. If we are to achieve the target of eradicating fuel poverty, it is important to include people with disabilities, pensioners and young children. The question is, as ever, whether that should be in the bill.

Amendment 57 covers disability. To quote from Inclusion Scotland's submission to the committee,

"additional costs such as heating are higher because a much higher proportion of disabled people are unemployed and thus at home all day at a time when others reduce their heating. Although disabled people in employment face less additional costs they are still substantial and on average, across the UK, amount to £492 a month. It should be borne in mind though that the costs for a Scottish disabled person in work are likely to be higher again."

Some disabled people also need more heat so as not to exacerbate their condition. I invite members to gaze outside to see the weather conditions that we are having in April to understand why additional heating may well be required.

Amendment 58 focuses on pensioners. As I understand it from the stage 1 debate, the Scottish Government's position is to create a threshold of 75 years before allowing eligibility for enhanced heating. That misses the fact that older people experience a substantial drop in income at the point of retirement; many of them are on low and fixed incomes as a result of transferring to pensions. Also, people's need for additional

heating as they get older is well documented and amendment 58 is designed to reflect that practical reality.

I welcome the Scottish Government's commitment to align fuel poverty and child poverty, but amendment 59 is needed to reflect the fact that children under the age of five are at a higher risk of fuel poverty than those over five. The Child Poverty Action Group points us to the World Health Organization and the Scottish Government's independent academic panel, which note that families with young children are more vulnerable to the impacts of fuel poverty. They support the inclusion of all children, including those under five, in the eligibility criteria for enhanced heating.

The amendments are small, but they have the potential to make a huge difference. They are supported by a large number of charities, which in the interest of time I will not list.

09:15

Amendment 60 properly gives ministers the power to modify the groups that are eligible for enhanced heating, because it is a high-level list and it is up to ministers to ensure that the list is fit and appropriate in the future.

Amendments 64, 96 and 97 set out the need to consult the national health service and patient groups, as they have expertise in and experience of the full range of relevant illnesses and conditions. Citizens Advice Scotland told the committee that there was a need to develop a specific list of health and disability categories, as well as age bands, which would help to identify those who are vulnerable to the adverse health and wellbeing impacts of living in fuel poverty.

I hope that the committee and the minister will support this group of amendments.

I move amendment 57.

Kevin Stewart: It is essential that the eligibility criteria for the enhanced heating regime are fair and appropriate and identify those households with a genuine need for higher temperatures and longer hours of heating. I am concerned that Jackie Baillie's criteria are so wide that the enhanced heating regime could end up applying to more than 50 per cent of Scottish households, even though not all of them may need higher temperature heating for longer hours. That would devalue the enhanced heating regime. Therefore, I strongly urge the committee to vote against all the amendments in the group.

The bill provides for the eligibility criteria to be laid down in regulations following a consultation process. It is vital that we develop the criteria with stakeholders and, in particular, those with lived

experience of fuel poverty, which is why determining the types of households for which the enhanced heating regime is appropriate is better done in secondary legislation. Putting the eligibility criteria in the bill, as amendments 57 to 59 would do, would not enable us to work flexibly with stakeholders to do that.

I will provide further detail. Amendment 57 would provide for a one-size-fits-all view of disability, rather than recognising the diverse needs in that group of people.

Graham Simpson (Central Scotland) (Con): Would the affirmative procedure be used if the criteria were left to regulations?

Kevin Stewart: Indeed. The affirmative procedure would be used.

Not everyone with a physical or mental impairment requires additional heating for longer hours in the home.

Amendment 58 would apply the enhanced heating regime to all those of pensionable age. However, folks are living longer and healthier lives and working longer, too. Becoming a pensioner does not automatically imply vulnerability to the cold and a need for higher household temperatures for longer hours. The independent academic panel that reviewed our fuel poverty definition in 2017 agreed with that assessment, as did the committee in its stage 1 report.

Amendment 59 relates to households with a child under five needing higher temperatures for longer hours, but there is no medical evidence to convince us that that is the case. In fact, having higher temperatures for longer hours is inconsistent with established NHS guidance.

The regulation-making powers in section 2(4) provide us with the flexibility to review definitions and criteria if any evidence in the future deems that to be necessary.

As I confirmed to Mr Simpson, the resulting regulations will be subject to affirmative procedure and will therefore be fully scrutinised by the Parliament. That is another reason why the matter is better placed in secondary legislation.

Amendments 96 and 97 would amend section 11 by obliging the Scottish ministers, when making regulations that establish who is eligible for enhanced heating, to consult "relevant health bodies" and the patients of such bodies. As the bill stands, section 11(2) provides that

"the Scottish Ministers must consult such persons as they consider appropriate."

I have asked the fuel poverty advisory panel to examine that. Of course, we will also involve experts as part of the consultation process. A requirement to consult relevant health bodies and

their patients could cover almost any national health service patient, rather than just people with conditions that make them vulnerable to the cold and who need higher temperatures in their homes for longer hours.

Therefore, I do not support any of the amendments in the group. I ask the committee to vote against them.

Jackie Baillie: I think that we all agree that some groups of people need to heat their homes more and for longer and that there is an additional cost to doing so, which should be accurately captured if we are to tackle fuel poverty. I think that we also all agree that the groups that have been identified by a range of organisations are the right ones. The question is whether that should be stated in the bill. The politics of the issue are that, if we believe that something is important, we should put it in the bill. Why run the risk of letting people slip through the net?

Let me be perfectly candid. Whether regulations are subject to the affirmative, negative or super-affirmative procedure—which I will be happy to explain at length to the committee—is not something that gives comfort to a person who has to choose between heating and eating. I ask the committee to support all the amendments in the group and I press amendment 57.

The Convener: We all appreciate your offer of a lesson on the super-affirmative procedure.

Jackie Baillie: I will do it now if you wish.

The Convener: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 57 disagreed to.

Amendment 58 moved—[Jackie Baillie].

The Convener: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 58 disagreed to.

Amendment 59 moved—[Jackie Baillie].

The Convener: The question is, that amendment 59 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 59 disagreed to.

Amendment 60 moved—[Jackie Baillie].

The Convener: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 60 disagreed to.

The Convener: Amendment 20, in the name of the minister, is grouped with amendments 1, 21A, 21B, 22, 23 and 37.

Kevin Stewart: I am committed to tackling fuel poverty wherever it occurs and to ensuring that our remote and island areas are properly

represented in the new definition of fuel poverty. Amendments 20, 21 to 23 and 37 will establish a “remote rural area”, “remote small town” and “island area” minimum income standard uplift. The approach will improve the bill and responds to stakeholders’ views and the committee’s clear recommendation.

I am determined that we should use appropriate research to develop the approach to ensure that the new definition reflects the reality of the costs that are associated with living in remote and island communities.

The regulations for which the proposed approach provides will be subject to the affirmative procedure to allow a high level of scrutiny by the Parliament. The regulation-making power will be used to appoint someone to carry out the research and make a determination in line with the methodology that has been discussed with the committee, covering categories 4 and 6 in the Scottish Government urban rural classification. I will ensure that a key criterion for selecting the research organisation will be its level of experience and expertise in conducting this type of research. Identifying the organisation to undertake the necessary research will require a procurement process, so we cannot specify an organisation in primary legislation without overriding existing procurement law and practice.

I am clear that this uplift must always and explicitly include island communities, and reflect the unique challenges that they face in the higher cost of living. I am therefore happy to support Liam McArthur’s amendments, which will provide for a separate uplift for island communities.

Mr McArthur has been a strong advocate for his constituency and, during the scrutiny of the bill, he has engaged with me constructively, for which I thank him. I therefore urge members to vote for all the amendments in the group.

I move amendment 20.

The Convener: I welcome to the committee Claudia Beamish, Alexander Burnett and Liam McArthur. I ask Liam McArthur to speak to amendment 21A and other amendments in the group.

Liam McArthur (Orkney Islands) (LD): Thank you, convener. Before I speak to the amendments, I put on record my thanks to the committee for the work that it has done in getting to the point at which the bill better reflects the particular circumstances of fuel poverty in remote rural and island areas. I also reciprocate the minister’s thanks for his engagement on the issue over many months, dating back to the time when I was raising concerns in the context of the parliamentary scrutiny of the Islands (Scotland) Bill.

Few communities in Scotland are unaffected by fuel poverty, but all the evidence shows that remote rural and island communities are affected disproportionately. That was borne out by the work of the Government’s rural fuel poverty task force, ably chaired by Di Alexander, whose evidence to the committee clearly proved to be persuasive with members of the committee and, I am pleased to note, with the minister.

I welcome the minister’s amendments. They go a long way towards addressing the calls for a separate minimum income standard for remote rural and island areas, reflecting the additional costs that are borne by those who live in those communities. As I said at stage 1, the approach is universally supported by councils, housing associations, and fuel poverty groups across the Highlands and Islands and beyond.

However, further small but important changes are still needed if the bill is to be fully island proofed. My amendments 21A and 21B will achieve that by distinguishing between remote rural areas on the mainland and island communities. Concerns were expressed that making such a distinction would result in additional cost and complexity. We now know from Professor Hirsch, the Scottish Parliament information centre and the Government that that is not the case in either respect. Those assurances are very welcome and allow us to proceed with confidence that the changes will enable the targeting of resources at those who are most in need and that the specific circumstances of remote rural and island communities will be taken into account, and that that can be achieved without diverting resources away from the front line.

Again, I thank the minister and the committee for their support in getting to this stage. I particularly thank Di Alexander and the other experts in the field who have, over many months, made the case patiently, consistently and, I am pleased to say, successfully. I will move amendment 21A in due course.

Graham Simpson: I will support all the amendments in the group. They reflect very well the work that the committee did at stage 1. I thank the minister for listening to the concerns that were raised in the evidence that we took. I also thank Liam McArthur for lodging his useful amendments to island proof the MIS. This is an example of how a bill can be much improved through the work of this committee. We will end up helping people who live in remote rural areas and island communities.

Kevin Stewart: I thank the committee members for their efforts in this area. I also pay tribute to Di Alexander for his work over many a year. As many of you will know, Di can be rather vociferous at points, which I do not think is necessarily a bad thing.

Equally, I would like to pay tribute to a number of MSPs, including Liam McArthur, who have put their islands at the heart of this process. I know that Mr Gibson has been at the forefront in that regard, and Alasdair Allan has also been speaking to me on the issue.

09:30

Obviously, passing these amendments is important. The committee can be assured that my officials and I will continue to listen to the voices of island communities and remote communities as we move forward.

Amendment 20 agreed to.

Amendment 61 moved—[Jackie Baillie].

The Convener: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 61 disagreed to.

Amendment 21 moved—[Kevin Stewart].

Amendments 21A and 21B moved—[Liam McArthur]—and agreed to.

Amendment 21, as amended, agreed to.

Amendment 100 moved—[Jackie Baillie]—and agreed to.

Amendment 63 moved—[Jackie Baillie].

The Convener: The question is, that amendment 63 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 63 disagreed to.

Amendments 22 and 23 moved—[Kevin Stewart]—and agreed to.

Amendment 64 moved—[Jackie Baillie].

The Convener: The question is, that amendment 64 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

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

Amendment 64 disagreed to.

Section 2, as amended, agreed to.

After section 2

Amendments 24 and 25 moved—[Kevin Stewart]—and agreed to.

Section 3—Preparation of strategy

The Convener: Amendment 101, in the name of Jackie Baillie, is grouped with amendments 31, 102, 103, 32, 104, 36 and 87.

Jackie Baillie: I will be brief as I move my final amendment today. In a previous incarnation, amendment 101 was amendment 65. However, helpfully, during the week in which the committee did not meet, I had a brief discussion with the Government and chose to withdraw amendment 65 and to substitute amendment 101 for it.

The purpose of amendment 101 is straightforward. It would require the Scottish Government to prepare its fuel poverty strategy with the involvement of key groups: those with lived experience of fuel poverty, disabled people, older people and people in rural areas. I think that the committee would agree that those groups are key.

Consultation can be extremely passive. I know that that is not the Scottish Government's intention and that the Government rightly embraces co-production. However, I could find no legal definition of "co-production" that would be suitable for inclusion in the bill. My original wording was "co-operation", but according to the Government's

legal advisers, that implies a degree of compulsion. I have therefore settled on “involvement”, and I hope that the Scottish Government and the committee can agree that that is an appropriate word.

Amendment 101 is supported by a wide range of organisations including the Poverty Alliance Scotland, Citizens Advice Scotland, Common Weal, Inclusion Scotland and the Health and Social Care Alliance Scotland.

I move amendment 101.

Kevin Stewart: There are in the group several amendments that have been lodged by me and by three other colleagues. I hope that the convener will forgive me if I take some time to go over each set. I will discuss my amendments first, before moving on to others in the group.

The bill currently provides that, in preparing the strategy and our periodic report,

“Ministers must consult such persons as they consider appropriate”,

including those with lived experience of fuel poverty. Amendments 31 and 36 will extend that provision to include the local authority partners who help us to deliver support. Amendment 32 will commit us to laying before Parliament a report on the consultation process for the preparation of the strategy, which must state how consultees’ views have been taken into account. The amendment will also require ministers to make a parliamentary statement on the strategy. That will further strengthen the bill and the requirements on whom to consult, as well as ensuring that Parliament can hold the Government to account.

Alex Rowley’s amendment 87 stipulates four categories of folk that we would need to consult when preparing periodic reports. I fully expect that we would consult people in those categories anyway, so I have no problem with the consultation duty being extended to guarantee it. Therefore, I am happy to support Mr Rowley’s amendment.

In contrast, I have a difficulty with the way in which Jackie Baillie’s amendment 101 is framed. I have no objection to obliging ministers to consult the type of folk that Jackie Baillie wants them to involve when they are preparing the strategy, just as Mr Rowley’s amendment 87 will do for periodic reports. However, amendment 101 would place an obligation on ministers, under section 3, to prepare the strategy “with the involvement of” the folk who are listed in the amendment: under section 4, the bill already requires the strategy to be prepared in consultation with people, so amendment 101 would result in duplication.

In addition, my legal team tells me that it is better to use the word “consult” than to use the

word “involve” for what ministers are obliged to do. That is because, from a legal perspective, what the duty to “consult” individuals in the preparation of the strategy means is clearer than what is meant by the duty to “involve” them. Also, for legal reasons, it would be important to use wording that makes it clear how the people who are to be consulted would be selected. Otherwise, the validity of the strategy could be attacked for its not including everyone in the country who falls into one of those categories—which, of course, would be a lot of people.

I stress that I am sympathetic to what Jackie Baillie is trying to achieve; therefore, I suggest a solution. I am happy to lodge an amendment at stage 3 that will achieve Jackie Baillie’s objectives in a more considered way, and which will replicate the requirements for the periodic reporting on the fuel poverty strategy in Mr Rowley’s amendment 87. That would align the bill and ensure that we consult all the categories of people that Mr Rowley and Ms Baillie listed, through placing that provision within the relevant section.

I therefore ask the committee to support amendment 87 and to vote against amendment 101.

Graham Simpson will speak further to his amendments 102, 103 and 104. They would mean that, before ministers could complete the strategy or any revision of it, Parliament would get a reasonable period in which to scrutinise what was being proposed. That is in line with the procedure that was adopted for the islands plan. Mr Simpson’s amendment 8 was more onerous, so I am glad that we were able to discuss what he is trying to achieve and reach consensus. I hope that the committee will support the three amendments.

Graham Simpson: As the minister has said, I lodged amendment 8 and then withdrew it. It was lodged with the best intentions, and it was similar to one that was lodged during the passage of the Planning (Scotland) Bill. It was about parliamentary scrutiny of the draft strategy. It was pointed out to me that, despite the good intentions, if the amendment was agreed to as it was worded, it could take a full year for the draft strategy to get through, which was clearly not my intention. Being the practical man that I am, I withdrew amendment 8 and have come back with an alternative that is slightly less onerous but which would still allow Parliament to scrutinise the draft strategy, which I hope we all feel is very important. That explains amendments 102 to 104.

I will support Alex Rowley’s amendment 87. It is a measured amendment, which is what we would expect from Mr Rowley, of course. Sadly, I cannot support Jackie Baillie’s amendment 101. However, I see the intentions behind it and urge her, if it is

rejected, to come back at stage 3 with a slightly reworded amendment.

Alex Rowley (Mid Scotland and Fife) (Lab): It seems to me that the periodic report must reflect people's lived experiences of fuel poverty. In particular, it is important that the Government speaks to the most vulnerable groups, which are identified in amendment 87, because doing so will allow it to understand how they are being impacted on by the Government's strategy and what support is or is not reaching them. I welcome the fact that the minister has indicated that he will support the amendment.

The Convener: As no other member wishes to contribute, I call Jackie Baillie to wind up and to press or seek to withdraw amendment 101.

Jackie Baillie: I will not add to what I have already said. In recognition of the minister's position, I will seek to withdraw amendment 101 if he gives a commitment that he is happy to work with me, and I will bring back an amendment at stage 3, as Graham Simpson has suggested.

Kevin Stewart: I am more than happy to do that, convener.

Amendment 101, by agreement, withdrawn.

Amendment 26 moved—[Kevin Stewart].

The Convener: If amendment 26 is agreed to, I will be unable to call amendment 66, due to pre-emption.

Amendment 26 agreed to.

The Convener: Does Graham Simpson wish to move amendment 7?

Graham Simpson: I will not move amendment 7, because it relates to the 2032 target.

Amendment 7 not moved.

Amendment 6 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Wightman, Andy (Lothian) (Green)

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

Amendment 6 agreed to.

The Convener: Amendment 45, in the name of Pauline McNeill, is grouped with amendments 68, 46 to 48, 71, 72, 49, 73, 50, 51 and 98. I remind members that, under rule 9.12.6C, the Presiding Officer has determined that the costs associated with amendment 48 would be significant. Therefore, amendment 48 may be debated, but in the absence of a financial resolution the question on it cannot be put. Alex Rowley has agreed to move amendment 45 and to speak to the amendments in the group on behalf of Pauline McNeill.

Alex Rowley: I will speak to Pauline McNeill's amendments as well as to my amendment 68.

As part of the strategy, ministers must set out how they will identify households that are in fuel poverty. That is crucial. The new definition of fuel poverty is welcome, but it is highly complex and the Government must consider how it will translate into direct support for those who are living in fuel poverty.

Ministers setting out how they plan to identify households that are in fuel poverty is a crucial part of the process. It would be useful for the Parliament, the third sector and any other interested parties to understand how ministers will do that.

I move amendment 45.

09:45

Andy Wightman (Lothian) (Green): Amendment 46 is designed to establish the quantum of buildings that have low levels of energy efficiency and that require improvements by the target date. However, I will not move it, as it contains the wrong date and Alexander Burnett's amendment 47 expresses my intentions more accurately.

Alexander Burnett (Aberdeenshire West) (Con): I thank the committee for its work to date and refer members to my interests regarding construction and property management.

My amendments 47 and 48 are aimed at improving the route for residential buildings across Scotland to achieve an energy performance certificate C rating or better. To give some context, the Scottish Government currently has a target of 2040 for that, but on 10 May the Parliament gave cross-party support to a motion on improving that date by bringing it forward to 2030. The motion detailed that the Parliament believes that

“the target for all homes reaching EPC ‘C’ rating, where feasibly possible, should be no later than 2030, not 2040, given the urgency to reduce carbon emissions and to ensure that every home in Scotland is warm and properly insulated”.

Just last week, the Scottish Government launched the energy efficient Scotland consultation, which is on the further development of the programme and proposes that some properties will reach EPC band C by 2025. Therefore, it appears that enthusiasm for improving energy efficiency in homes is gathering momentum, which is to be welcomed. However, to achieve that requires not only physical improvements to buildings but preparatory steps—namely, identification of the work. My amendments 47 and 48 merely seek to put into legislation a requirement for the Government to carry out the preparatory work on the necessary steps to achieve the target that the Government first set out and which has been improved by the Parliament.

The first step is to have a strategy for how we identify the buildings, which is the aim of amendment 47. I am grateful for previous indications of support on that from the Scottish Government.

The second step is actual identification of the residential buildings and the work that is required, which is covered by amendment 48. I appreciate that, in the absence of a financial resolution, a question cannot be put on the amendment. However, amendment 48 would simply build on amendment 47 by requiring the Government not only to set out the approach to identifying relevant buildings but to actually identify them.

Annabelle Ewing: I note Alexander Burnett's point that the question on amendment 48 cannot be put because there is no financial resolution. Just for the record, given that the information is not available to people who are watching the proceedings, what is the financial implication of amendment 48?

Alexander Burnett: The Presiding Officer estimates that it would be £60 million, and information from the Government put the figure at between £58 million and £116 million. I will come to that in a second.

I will not seek to withdraw amendment 48, because I believe that it is important to debate that second step so that we get on the record the minister's comments on how he sees the targets being achieved, either through the bill or elsewhere. The Presiding Officer has estimated that the work would cost £60 million, but correspondence from the minister's office suggests that the cost would be anywhere between £58 million and £116 million. The correspondence also highlighted issues with the identification process. Both points, on cost and process, will need to be addressed, and the sooner the better.

In a slightly odd request, given that a question cannot be put on amendment 48, I was urged to withdraw it so that it would not be debated. On many levels, that seemed to be wrong, so I would appreciate the minister's explanation of that reluctance and why his support for amendment 47 is contingent on another amendment, on which a question cannot be put, being withdrawn.

The only way to achieve an EPC rating of band C or higher in all residential homes in which that is technically feasible is by spending money. Amendment 48 would have accelerated that process by putting a binding commitment on the Scottish Government to identify what work is needed. Should members express support for amendment 48, I hope that the minister will listen and amend the financial memorandum in time for the next stage, to permit a financial resolution that actually delivers for energy-efficient housing.

As a final explanatory point, I refer members to the fact that amendments 47 and 48 detail that the requirement to achieve an EPC rating of C or higher will be enforced only

“where it is technically feasible and cost effective”.

The reason for that is that we are aware that, in some rural areas and on the islands, an EPC rating of C or above might not be achievable in a cost-effective manner.

To effectively reduce fuel poverty, we must take action. The amendment will ensure that steps are taken to make progress towards our shared goal of reducing fuel poverty across Scotland. By identifying residential homes that are less energy efficient, we can take steps to reduce bills and carbon emissions and ensure that residents are living in warmer homes.

I understand that amendment 48 cannot be put to a vote, but I would be grateful if members would express their views and indicate whether they would have supported it.

Claudia Beamish (South Scotland) (Lab): Amendment 72 would require provision for the removal of low levels of energy efficiency—a driver of fuel poverty—in relation to housing in multiple occupation to be considered by ministers in preparation of the fuel poverty strategy. That would also aid in reduction of carbon emissions.

Amendment 72 has been framed in the most straightforward way possible, although it relates to a complex issue. There are many buildings in Scotland that fall into the category of housing in multiple occupation, and it can be very challenging to deal with low levels of energy efficiency in those circumstances. That is due, in part, to the difficulties that are experienced in relation to areas of common responsibility, such as stairwells and roofing.

The complexity of proceeding with energy efficiency actions can be due to several reasons, including failure to identify ownership of one of the homes, an occupant's lack of interest or people's refusal to get involved. Such challenges should not be allowed to become insurmountable for such a serious issue. As I am sure the committee will recognise, the issue can be particularly difficult for several categories of home dweller, including tenants living in the broad category of private rented accommodation and students living in rented accommodation. I am clear that landlords have a responsibility to ensure that the accommodation that they let reaches a liveable standard in relation to energy efficiency. Housing is a right under the Universal Declaration of Human Rights and, in Scotland, that surely means a right to a warm home.

I lodged amendments to address the issue at stage 2 of the Housing (Scotland) Act 2014—excuse me for stuttering, but 2014 seems a long time ago. At that time, I tried to create a duty to meet energy efficiency standards through the repairing standard in section 22 of the act. That was a much more detailed approach.

In 2014, the minister argued that the Scottish Government had put together a ministerial working group to look at energy efficiency standards in the whole of the private sector and said that the group was likely to report back on that work in the autumn of 2014. I was encouraged not to move my amendment at that time, given that the issue was to be explored by the ministerial working group. It is disappointing that, five years on, the issue has not been tackled—we now have an opportunity to do that.

Amendment 72 is a probing amendment at this stage. In view of the challenges that are faced by many people living in multiple occupancy buildings, I hope that the minister will consider having discussions with me and others who are interested in tackling such a serious fuel poverty issue.

Amendment 73 would ensure that, in preparing the fuel poverty strategy, ministers would have to consider how rural co-operatives and community bodies can be supported to identify sustainable energy solutions. Rural fuel poverty can present a very serious challenge to comfortable living. I am sure that the committee is aware that the 2017 statistics for the Scottish house condition survey show urban fuel poverty at 21 per cent and rural fuel poverty at a staggering 43 per cent. Sadly, I doubt that the next set of figures will have altered significantly.

Particular challenges are faced by owners and tenants who are living off-grid. People also face challenges that are created by their distance from the advice that would be available if they were not

so remote. The identification of available skilled companies in remote areas can also create difficulties in gaining valuable advice.

In essence, amendment 73 would bring targeted support for collective action to tackle the challenges. Solutions might include a group of houses and nearby workshops tackling energy efficiency issues, such as insulation, at the same time. That could bring down costs. In a village, town or city, there are often opportunities for area-based action. However, in rural areas that is often not possible for the reasons that I have just mentioned and because of issues of scale.

Several estates in my region of South Scotland have successfully introduced sustainable energy solutions, such as the biomass boilers in Douglas village, installed by Douglas & Angus Estates, and Dumfries house. However, they have the financial capacity to deal with the challenges in a way that is often not possible for community groups or those who might form a co-operative for action in a small hamlet or remote area. As I have said, the challenges are manifold and could be compounded by the cost issues, so support in that regard should also be considered.

My amendment 73 is a probing amendment to provoke further discussion on the challenges for remote rural fuel poverty and on possible actions to support change as part of the strategy. I hope that it will be possible to discuss those issues further with the minister and others who are interested in advance of stage 3.

Amendment 98, which is consequential on amendment 73, requires the Scottish ministers to define “rural areas”, “rural co-operatives” and “sustainable energy solutions” by negative procedure.

Graham Simpson: I would like to speak about Alexander Burnett's amendments 47 and 48. Because we have spoken about the issue often enough in this committee, I think that we would all agree that we need to improve the energy performance of homes across Scotland. That clearly relates to fuel poverty. Mr Burnett's amendment 47 should be supported in that regard, because it would merely get the Government to set out how it plans to identify buildings that have low levels of energy efficiency. That is the right thing to do, because, if we cannot do that, we will not be able to improve matters.

However, his amendment 48 goes a little bit further, because it would compel the Government to go ahead and identify those buildings. Clearly, that would involve a lot of work, hence the astronomic figures that are attached to the amendment, which are why it cannot be voted on. If we were allowed to vote on it, I would, of course, support it, because both things need to be done.

However, as things stand, I will support amendment 47.

Annabelle Ewing: Amendment 48 would cost something more than £60 million, and it is not clear where that money would come from. Perhaps Mr Burnett could propose how he wishes to fund the proposal. Setting the issue aside, I am also not sure that we have the power to require entry to private dwelling houses. Has Mr Burnett considered that?

The Convener: You cannot ask him questions at this point.

Annabelle Ewing: I am terribly sorry, convener. I will just leave the question open. I do not think that, as things stand, the Parliament has the power to require entry into private dwelling houses.

Kevin Stewart: There are a number of issues to discuss in relation to this grouping of amendments. I will deal first with amendments 46, 47 and 48, which concern the EPC ratings. Under amendment 48, in the name of Alexander Burnett, the fuel poverty strategy would be required to include information on the energy efficiency level of the estimated 967,000 private sector residential properties without an existing EPC. Annabelle Ewing is quite right to highlight some of the difficulties that there would be in doing the improvement work. At a cost of between £60 and £121 per home, the proposal would cost between £58 million and £116 million, which is why it is not being voted on today. It would be far beyond the objective of the bill to require the Scottish Government to meet that additional expense, and, in my opinion, such funds would always be better spent on front-line delivery.

10:00

EPCs are already required for new homes, homes with new building warrant applications and homes that have been sold or rented to a new tenant since 2009. Over time, there will be a constant increase in that information. It has always been my intention that the fuel poverty strategy would address energy inefficiency as a driver of fuel poverty. Ultimately, we are working towards the elimination of energy inefficiency as a driver of fuel poverty.

As Mr Wightman intends to seek to withdraw amendment 46, I will not go into detail about that particular amendment.

I am content to support Alexander Burnett's amendment 47, which would require the fuel poverty strategy to set out our approach to identifying properties that require improvement to achieve EPC band C rating by 2030. It may be necessary, at stage 3, to be clear that the

approach should target fuel-poor households, but I am committed to doing all that we can to establish a clear way forward.

In relation to Claudia Beamish's amendments 73 and 98, section 3 already allows for the preparation of a fuel poverty strategy and outlines what should be included in it, and the strategy will be designed for the whole of Scotland, including rural areas. Requiring a definition of the term "sustainable energy solutions" in the context of an amendment that focuses on rural areas is unhelpful. Defining the term in a rural-only context may result in a separate understanding of the term at national level. In other words, it could lead to variation in what might be deemed a sustainable energy solution in an urban or rural area.

In addition, section 3(3) of the bill allows the Scottish ministers to include any other information that they consider to be appropriate in the fuel poverty strategy. Therefore, should we need to include specific support in rural areas or to define which groups the support will target, we can do that. For those reasons, I urge the committee to vote against amendments 73 and 98.

I support Pauline McNeill's amendment 71 but not her amendment 49 or Claudia Beamish's amendment 72. Amendment 71 would allow us to highlight how we address all four drivers of fuel poverty within the strategy, and it is broad and flexible enough to cover all sectors, including private tenancies and HMOs, so separate amendments are not needed.

For those reasons, I ask the committee to vote against amendments 49 and 72 and to support amendment 71. I am also happy to support Pauline McNeill's amendments 45, 50 and 51, to ensure that the strategy and periodic reports set out clear costings. I also support Alex Rowley's amendment 68, which will ensure that the strategy explains how we intend to identify households in fuel poverty.

Alex Rowley: A big success story of the past decade or so has been the improvements in energy efficiency in public sector housing. That is because tight regulations were put in place, requiring councils to improve energy efficiency, so the housing stock in housing associations and councils has a much higher energy efficiency rating. They still have work to do, but they have already done a tremendous amount of work. If the minister is serious about eliminating poor energy efficiency as a driver of fuel poverty in the long term, real work has to be done in that area. I hope that we will see that coming through, in terms of both the strategy and the financial memorandum. I press amendment 45.

Amendment 45 agreed to.

Amendment 27 moved—[Kevin Stewart].

The Convener: I point out that, if amendment 27 is agreed to, I cannot call amendment 67, due to pre-emption.

Amendment 27 agreed to.

Amendment 68 moved—[Alex Rowley]—and agreed to.

Amendment 46 not moved.

Amendment 47 moved—[Alexander Burnett] and agreed to.

The Convener: The question on amendment 48 cannot be put in the absence of a financial resolution.

Amendment 29 moved—[Kevin Stewart].

The Convener: I point out that, if amendment 29 is agreed to, I cannot call amendment 69, due to pre-emption.

Amendment 29 agreed to.

The Convener: The question is, that section 69 be agreed to. Are we all agreed? *[Interruption.]* Sorry—that is a mistake, so keep quiet. That is why you should never sit beside the teacher. By the way, the mistake was not mine, I am delighted to say. I call amendment 30, in the name of the minister, which has already been debated with amendment 17.

Amendment 30 moved—[Kevin Stewart].

The Convener: I point out that, if amendment 30 is agreed to, amendment 70 cannot be called, due to pre-emption.

Amendment 30 agreed to.

Amendment 71 moved—[Alex Rowley]—and agreed to.

Amendments 72, 49 and 73 not moved.

Amendment 73 not moved.

The Convener: Amendment 74, in the name of Alex Rowley, is grouped with amendments 75, 76 and 83.

Alex Rowley: Amendment 74 aims to ensure that the Scottish ministers keep the strategy under review and, every five years, either publish a new strategy or state why they will not do so. It seems unacceptable that the Government would have to publish only one strategy in such a long period, particularly when interim targets and periodic reports might suggest that the strategy be reviewed, amended or updated. Amendment 74 would not require the Scottish ministers to publish a new strategy if they believe that one is not needed, but the option must be considered, which is the important point. In considering whether to, and then deciding not to publish a new strategy,

ministers would have to publish an explanation for why they will not revise the strategy.

I move amendment 74.

Andy Wightman: I support amendment 74. When it was lodged, I was rather surprised to discover that we had not made any recommendation on the matter in our stage 1 report. That was a bit of an oversight, given that the fuel poverty target is for 2040. I am glad that Alex Rowley's eagle eyes spotted that and that he has dealt with it. The amendment is appropriate, given that the argument for having the 2040 target date is that things will change. If things change, the strategy might also need to change.

Kevin Stewart: Development of the fuel poverty strategy is vital: it will help to deliver change in communities across Scotland, and improve people's lives. The strategy should work for people wherever they live, and it should help to bring people out of fuel poverty by tackling all four drivers of fuel poverty: income, energy prices, energy efficiency and energy use.

I therefore support amendments 74, 75, 76 and 83, which are in Alex Rowley's name. They provide a sensible way of ensuring that the fuel poverty strategy can be revised so that it remains effective, particularly in the event of the target date being altered—as Alex Rowley's amendment 54, which we considered last week, envisaged. If the fuel poverty advisory panel comes to think that the target could be reached sooner, the ability to revise the strategy to take account of that will be key.

The provisions in Mr Rowley's amendments might need to be slightly revised at stage 3, to ensure that they work as everyone wants them to work, but I anticipate only technical amendments. We will keep to the principle of what Alex Rowley proposes, particularly in light of his arguments last week.

Amendment 74 agreed to.

Section 3, as amended, agreed to.

Section 4—Consultation on strategy

Amendment 75 moved—[Alex Rowley]—and agreed to.

Amendment 31 moved—[Kevin Stewart]—and agreed to.

Amendment 102 moved—[Graham Simpson]—and agreed to.

Section 4, as amended, agreed to.

Section 5—Publication and laying of strategy

Amendment 103 moved—[Graham Simpson]—and agreed to.

Amendment 76 moved—[Alex Rowley]—and agreed to.

Amendment 32 moved—[Kevin Stewart]—and agreed to.

Amendment 104 moved—[Graham Simpson]—and agreed to.

Section 5, as amended, agreed to.

Section 6—Preparation of periodic reports

The Convener: If amendment 33 is agreed to, I cannot call amendment 77.

Amendment 33 moved—[Kevin Stewart]—and agreed to.

Amendment 10 not moved.

Amendment 9 moved—[Graham Simpson].

The Convener: The question is, that amendment 9 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Wightman, Andy (Lothian) (Green)

Abstentions

Rowley, Alex (Mid Scotland and Fife) (Lab)

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

Amendment 9 agreed to.

Amendment 50 moved—[Alex Rowley]—and agreed to.

The Convener: If amendment 34 is agreed to, I cannot call amendment 78.

Amendment 34 moved—[Kevin Stewart]—and agreed to.

Amendment 12 not moved.

Amendment 11 moved—[Graham Simpson].

The Convener: The question is, that amendment 11 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Wightman, Andy (Lothian) (Green)

Abstentions

Rowley, Alex (Mid Scotland and Fife) (Lab)

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

Amendment 11 agreed to.

10:15

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

Amendment 35 moved—[Kevin Stewart].

The Convener: If amendment 35 is agreed to, I cannot call amendment 79.

Amendment 35 agreed to.

Amendment 14 not moved.

Amendment 13 moved—[Graham Simpson].

The Convener: The question is, that amendment 13 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)

Against

Wightman, Andy (Lothian) (Green)

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

Amendment 13 agreed to.

Amendment 80 not moved.

The Convener: I will suspend the meeting for a short comfort break.

10:16

Meeting suspended.

10:21

On resuming—

The Convener: Amendment 81, in the name of Annabelle Ewing, is grouped with amendments 82, 84 and 85. Amendments 81 and 82 and amendments 84 and 85 are direct alternatives. For the record, direct alternatives are two or more amendments that seek to replace the same text in a bill with alternative approaches. In the case of this group, there are two such alternatives. For example, for amendments 81 and 82 a vote will be taken on each amendment in the order in which it appears in the marshalled list. If both amendment 81 and amendment 82 were to be agreed to, the second amendment, which is amendment 82, would succeed the former, and the first amendment, which is amendment 81, would cease to have effect.

Annabelle Ewing: Amendments 81 and 84 deal with the frequency of reporting, which the committee looked at during our stage 1 consideration. It is important to state at the outset that although, as set out in the report, the committee felt that on the balance of the evidence that had been received at that stage, a three-year reporting period would be reasonable, we have since received a letter dated 13 February from the Convention of Scottish Local Authorities. In the letter, COSLA states:

“We further note that the committee recommends increasing the frequency of statutory reporting from a five year to a three-year basis. This will place additional requirements on Local Government, which if not fully funded, has the potential to take resources away from front line delivery. In the context of restrained budgets, a balance needs to be struck between reporting and delivery. There needs to be clarity over the time/cost outlay of reporting requirements before any move to increase their frequency.”

My amendments are motivated by COSLA’s concerns. Members will be aware that, when discussing the bill, I have stated repeatedly that my desire is to see money go to the front line and not be subsumed in other matters to the extent that it is not necessary. Therefore, the reporting frequency of four years that I have proposed in my amendments strikes the balance that COSLA, in particular, is looking for. It is necessary to have a reporting mechanism, but I do not want to cost local authorities any more money than is absolutely necessary. I would rather ensure that the money that would be saved by not having a reporting period that is more frequent than every four years could be spent on front-line activities. Those reasons inspired my amendments.

I remind the committee that, aside from the reporting requirement that we are discussing, national statistics on fuel poverty targets will continue to be published year on year by Scotland’s chief statistician, so progress can be tracked. Of course, we also wish to see fuller

reporting, and my contention is that, in light of COSLA’s concerns, it would be appropriate to have a reporting period of four rather than three years.

I move amendment 81.

Alex Rowley: I will speak to amendments 82 and 85, which I will move in due course. We need to be able to scrutinise progress, but the question is what would be reasonable in that regard. Many stakeholders have called for an annual report. In trying to find a compromise, I believe that a three-year reporting period would give sufficient time for robust evidence gathering and reporting on independent scrutiny. I do not accept COSLA’s argument about the differences in cost between three-year and four-year reporting periods.

There needs to be a real commitment to ensuring that we are delivering on and tackling fuel poverty. With a review period of three years, if things are not working or happening as they should be, we can take the necessary action.

Graham Simpson: There is a balance between four-year and three-year reporting periods. There is no right answer—we just have to take a view on the issue. The committee considered the matter, and we concluded that the period should be three years.

We heard evidence from councils. Glasgow City Council backed the three-year period. There were other views; the Existing Homes Alliance, for example, supported a one-year period. The committee considered that that would be too onerous.

At the end of the day, if someone does not agree with a five-year reporting period, they have to come up with something else. On this occasion, I will back the committee’s recommendation—it was fully thought through, and we knew the position of councils at the time—and stick to three years. I will support Alex Rowley’s amendments, but not Annabelle Ewing’s amendments.

Kevin Stewart: The amendments in the group deal with formal statutory reporting against the fuel poverty targets. It is right that those reports are careful, thorough and wide-ranging pieces of work, and that, in their preparation, the views of those with direct personal experience in fuel poverty are sought. However, doing that well will require an investment of time and resources from everyone, and I ask the committee to consider carefully the consequences of requiring more frequent reporting.

The financial memorandum to the bill states that the cost of preparing a periodic report is about £90,000 to £100,000. That covers only the direct costs of administrative support, not the time and effort that would be required from delivery

partners, stakeholder groups and those with lived experience. I ask members to bear that in mind when they decide on the options in front of the committee.

In its letter to the committee of 13 February, COSLA expressed concern that

“increasing the frequency of statutory reporting from a five year to a three-year basis ... will place additional requirements on Local Government, which ... has the potential to take resources away from front line delivery.”

I, too, have that concern. Likewise, I share COSLA’s concern that,

“In the context of restrained budgets, a balance needs to be struck between reporting and delivery.”

I want to create an industry that is based on developing and installing cost-effective and low-carbon improvements to people’s homes. I am concerned that overly frequent or overly bureaucratic reporting would create an industry that was based on measuring and commenting on fuel poverty, not on eliminating it. I am mindful that the majority view among stakeholders is that reporting should be done more frequently. Changing the reporting period from every five years, as is proposed in the bill, to every four years, as Annabelle Ewing proposes, would provide a good balance between responsiveness and burden.

I ask members to support amendments 81 and 84, instead of amendments 82 and 85, which would create a further burden.

10:30

Annabelle Ewing: I hear what members have said, but, following our stage 1 report, we should listen to what COSLA has said about a three-year reporting period being more onerous. It is axiomatic that reporting more frequently will cost more money; that goes without saying. Like the minister, I would prefer any spare money to go to front-line local services.

Graham Simpson: Is that not an argument for sticking with a five-year reporting period?

Annabelle Ewing: We heard a number of varying views on what the frequency of reporting should be, and it is incumbent on the committee to respond to those views. Bearing in mind that money will need to be spent on reporting, I feel that the less money that is taken away from the front line the better, while still responding to the issues that were raised in evidence at stage 1. That suggests that a four-year period might be more appropriate than a three-year period.

I press amendment 81.

The Convener: The question is, that amendment 81 be agreed to. Are we agreed?

Members: No

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 81 disagreed to.

Amendment 82 moved—[Alex Rowley].

The Convener: The question is, that amendment 82 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 82 agreed to.

Amendment 83 moved—[Alex Rowley]—and agreed to.

Amendment 84 moved—[Annabelle Ewing].

The Convener: The question is, that amendment 84 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)

Against

Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

The Convener: The result of the division is: For 2, Against 5, Abstentions 0.

Amendment 84 disagreed to.

Amendment 85 moved—[Alex Rowley].

The Convener: The question is, that amendment 85 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gibson, Kenneth (Cunninghame North) (SNP)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Simpson, Graham (Central Scotland) (Con)
Stewart, Alexander (Mid Scotland and Fife) (Con)
Wightman, Andy (Lothian) (Green)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Amendment 85 agreed to.

Amendment 86 not moved.

Section 6, as amended, agreed to.

Section 7—Consultation on periodic reports

Amendment 36 moved—[Kevin Stewart]—and agreed to.

Amendment 87 moved—[Alex Rowley]—and agreed to.

Section 7, as amended, agreed to.

Section 8 agreed to.

Section 9—Report on the 2040 target

The Convener: Amendment 89, in the name of Alex Rowley, is grouped with amendment 88. I advise members that amendments 89 and 88 are direct alternatives.

Alex Rowley: I will seek to withdraw amendment 89, but I intend to press amendment 88, which would require a report on the fuel poverty target to be presented within a year of the target elapsing rather than within two years.

As drafted, the bill gives ministers two years to report on the target after it has passed. I believe that there will be substantial parliamentary and public interest in whether the target was met and why, and that there will be a strong impetus to continue the good work that has been done or to take steps so that the target can be met. It seems reasonable that a year provides sufficient time to gather and present evidence so that further steps on energy and fuel poverty can be developed. The date would be brought forward a year, but that is perfectly reasonable and doable.

I move amendment 89.

Kevin Stewart: I understand why Alex Rowley is keen for the report on the 2040 target to be published as soon as possible after the end of

2040, but the date that he proposes is simply not feasible.

The target is to do with the position in 2040, and that means all of 2040. Analysts will therefore be gathering data on the target right up until the end of that year. If Parliament has to get the report by 31 March 2041, we would not be able to give the full picture of whether the target had been met and the percentage of households that are still in fuel poverty, and the report would have to be very different from all the previous ones because of the truncation of time.

The results on fuel poverty rates come from the Scottish house condition survey. Those statistics are usually published in the year following the survey, so if we are to use those key national statistics, as we will for all other progress reports, the earliest that we will know the 2040 fuel poverty rate will be in December 2041.

The survey reporting timetable cannot be condensed to report by 31 March 2041, as that would not provide sufficient time to complete all the necessary work. Data will be collected from households across Scotland throughout the entirety of 2040, but the work will not stop there. Once the basic data is collected, modelling needs to be undertaken to estimate the consumption and required fuel bills of the households. Weightings need to be derived to ensure that the results are representative of the Scottish household population, and quality assurance must be undertaken. Only then can the data begin to be analysed.

It is crucial that the statistics from the survey remain robust and continue to meet national statistics standards for quality and integrity. If the date is brought forward by a year to the end of March 2041, that would leave only three months for the entire report to be compiled, which would mean that it could not contain 2040 fuel poverty rates.

I think that we all want Parliament to get a thorough and comprehensive report that includes all the available details and headline statistics that relate to the target year and are fully compliant with the national statistics code of practice. If the report has to be turned round within a three-month timeframe, Parliament will not receive that.

I understand why folks might want an earlier reporting date, but that is simply not feasible. Therefore, I ask the committee not to agree to Alex Rowley's amendment.

Alex Rowley: Given what the minister has said, it is clear that I need to go back and look at the matter. I will have a discussion with the minister, if necessary, and return to the matter at stage 3. Therefore, I will not move amendment 88.

Kevin Stewart: I am happy to provide Mr Rowley with the information that he requires and to have further discussions on the matter.

Amendment 89, by agreement, withdrawn.

Amendments 88 and 90 not moved.

Amendment 91 moved—[Alex Rowley].

The Convener: The question is, that amendment 91 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Rowley, Alex (Mid Scotland and Fife) (Lab)

Against

Dornan, James (Glasgow Cathcart) (SNP)

Ewing, Annabelle (Cowdenbeath) (SNP)

Gibson, Kenneth (Cunninghame North) (SNP)

Simpson, Graham (Central Scotland) (Con)

Stewart, Alexander (Mid Scotland and Fife) (Con)

Wightman, Andy (Lothian) (Green)

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

Amendment 91 disagreed to.

Amendment 92 not moved.

Section 9 agreed to.

After section 9

Amendment 93 moved—[Alex Rowley].

The Convener: Amendment 93A, in the name of Graham Simpson, is grouped with amendment 93B.

Graham Simpson: I will be very brief, convener. These tidying-up amendments relate to amendment 93 in the name of Alex Rowley, on the Scottish fuel poverty advisory board. Amendment 93 contains the phrases

“progress toward meeting the 2032 target”

and

“the likelihood of meeting the 2032 target”.

Given that that target does not exist any more, my amendments seek to tidy up amendment 93 by replacing the phrase “2032 target” with “fuel poverty targets”, which better reflects what we have already agreed to.

I move amendment 93A.

Kevin Stewart: In our discussions last week on amendment 93 in the name of Alex Rowley, I said that, although I supported putting the advisory panel on a statutory footing, the wording would need to be refined, as the amendment was based on the 2032 target date, and we would be taking a closer look at costs while keeping a cap. I am

therefore pleased that Mr Simpson has lodged amendments 93A and 93B to correct the references, and I am happy to support them.

Amendment 93A agreed to.

Amendment 93B moved—[Graham Simpson]—and agreed to.

Amendment 93, as amended, agreed to.

Section 10 agreed to.

Section 11—Regulation-making powers

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

Amendments 37 and 38 moved—[Kevin Stewart]—and agreed to.

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

Amendments 96 to 98 not moved.

The Convener: Amendment 39, in the name of the minister, is grouped with amendment 1.

Kevin Stewart: Both amendments in this group have the shared motivation of seeking to ensure that the bill’s provisions are implemented as soon as possible. Unfortunately, amendment 1, in the name of Mr Wightman, would have significant unintended consequences that would hinder implementation and might leave us in an unworkable situation.

If, as Mr Wightman’s amendment would require, all the provisions were to come into force the day after royal assent, we would not have an operable definition of “fuel poverty” under section 2, because neither the enhanced heating regime nor the remote and island areas uplift to the minimum income standard would be in place. Both the setting of enhanced heating eligibility and the remote rural and islands MIS require the Parliament to agree affirmative regulations. It is not in the Government’s gift to expedite parliamentary approval of those, as the timetable for that is not one that we can control.

10:45

Mr Wightman’s amendment would also bring sections 3 and 5 of the bill into force, legally requiring the Government to publish the fuel poverty strategy within a year of the bill becoming law and forcing us to prepare the strategy without knowing the full detail of the definition of fuel poverty. In addition, section 4 requires consultation with appropriate people, including those who are living or have lived in fuel poverty. That would also be problematic as we would not be clear about whom it would be appropriate for us to consult with.

The result would be gridlock and the production of a strategy that would not match up properly with the definition of fuel poverty and which would risk failing to focus on the people who need it most.

I am determined to implement the provisions of the bill as soon as possible—I want to crack on, convener. However, considering the proposals in the bill and the amendments that have been made to it in committee, we cannot follow the rigid timetable that Mr Wightman is suggesting.

I want to ensure that the new fuel poverty definition can become operable as soon as possible. My amendment will facilitate the earliest possible completion of work on the enhanced heating regime and will allow us to undertake further consultation on it, in tandem with the bill's progress through Parliament. That will allow for faster commencement and implementation of the whole bill. I have no wish for things to be held up any longer than is necessary for the legislative process. I want to get the definition and the strategy in place and to get on with the job of helping folk out of fuel poverty.

Mr Wightman's amendment would cause significant difficulties, whereas my own will contribute to swifter, more effective implementation of the bill. Therefore, I ask that members support my amendment and vote against amendment 1.

I move amendment 39.

Andy Wightman: I lodged amendment 1 in order to bring a debate on the question of commencement to the committee. Section 13 of the bill, which is entitled "Commencement", says that only it and section 14—the short title—shall

"come into force on the day after Royal Assent."

My view is that bills that are enacted by the Parliament should come into force as soon as possible, otherwise, the operability of the legislation that the Parliament passes is left in the gift of ministers.

Mr Stewart correctly drew attention to sections 2, 3, 4 and 5, which cannot come into force the day after royal assent, but he has been silent on sections 6, 7, 8, 9, 10, 11 and 12. I appreciate that amendments have been made to the bill today, and that further amendments will no doubt be brought at stage 3, which may have some consequences for commencement. However, in the absence of any argument as to why sections 6 onwards cannot be brought into force, I invite the minister, in winding up, to let me know whether he has any problems with commencing sections 6 onwards and for his view on a stage 3 amendment that would bring the remainder of the bill into force on the day after royal assent.

Kevin Stewart: Mr Wightman wants me to make commitments on parts of the bill that we have dealt with only today. I need to go back and reflect on the exact implications for the bill as a whole of what has happened in committee today.

I will take an intervention from Mr Wightman.

Andy Wightman: I appreciate what the minister has just said, and I agree. I suppose that I was seeking reassurance that, having reflected properly on its content, the minister will be content for any section of the bill that can come into force on the day after royal assent to do so.

Kevin Stewart: I will reflect, but I assure the committee that, as I said in response to its report, the Scottish Government has no intention of causing any unnecessary delay to the commencement of the bill's provisions. Once the bill becomes an act, my intention would be to implement its substantive provisions as soon as is reasonably practicable. However, as I have said, the timetable for that is not fully within the Government's control as it is reliant on the Parliament agreeing affirmative regulations.

I reiterate that my amendment 39 will allow us to press ahead swiftly with consultation on the enhanced heating regime, which will enable the new definition to become operable sooner. It would be perverse if all the previous consultation work on the issue had to be discarded simply because of the point in time at which it concluded. Therefore, I ask the committee to support my amendment 39 and to reject Mr Wightman's amendment 1. I reassure you all that, as I said in my response to the committee, the Scottish Government has no intention of causing any unnecessary delay to the commencement of the bill's provisions.

Amendment 39 agreed to.

Section 11, as amended, agreed to.

Section 12—Consequential modifications

Amendment 40 moved—[Kevin Stewart]—and agreed to.

Section 12, as amended, agreed to.

After section 12

Amendment 41 moved—[Kevin Stewart]—and agreed to.

Section 13—Commencement

Amendment 42 moved—[Kevin Stewart]—and agreed to.

Amendment 1 not moved.

Section 13, as amended, agreed to.

Section 14—Short title

Amendment 43 moved—[Kevin Stewart]—and agreed to.

Section 14, as amended, agreed to.

Long Title

Amendment 44 moved—[Kevin Stewart]—and agreed to.

Amendment 2 not moved.

Long title, as amended, agreed to.

The Convener: That ends stage 2 consideration of the bill. Congratulations.

Thanks very much, minister.

Kevin Stewart: Thank you, convener, and thanks to the committee for its co-operation.

The Convener: We will have a short break to allow the witnesses to leave.

10:53

Meeting suspended.

10:57

On resuming—

European Union (Withdrawal) Act 2018

Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/80)

The Convener: The third item on our agenda is consideration of a request from the Scottish Government, which wishes to consent to the United Kingdom Government legislating using the powers under the European Union (Withdrawal) Act 2018 in relation to the Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019.

The committee is invited to consider whether the instrument has been laid under the appropriate procedure—it has been laid under the negative procedure. At its meeting on 26 March, the Delegated Powers and Law Reform Committee considered the instrument and agreed that it was appropriate for the instrument to be considered under the negative procedure.

As members have no comments, is the committee content for the instrument to be considered under the negative procedure?

Members *indicated agreement.*

Subordinate Legislation

Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/80)

10:59

The Convener: Agenda item 4 is consideration of the policy merits of the instrument. As the instrument is laid under the negative procedure, its provisions will come into force unless the Parliament votes for a motion to annul it. No motion to annul has been lodged.

As the policy note explains, the intention of the instrument is not to make policy changes; instead, it will make technical amendments to EU-derived town and country planning and electricity works legislation to address deficiencies arising as a result of EU exit. Do members have any comments?

Annabelle Ewing: May I seek clarification that the instrument deals with a no-deal scenario?

The Convener: Yes.

I invite the committee to agree that it does not wish to make any recommendations in relation to the instrument. Are we agreed?

Members *indicated agreement.*

10:59

Meeting continued in private until 11:31.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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