



OFFICIAL REPORT
AITHISG OIFIGEIL

Net Zero, Energy and Transport Committee

Tuesday 30 November 2021

Session 6



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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
12th Meeting 2021, Session 6

CONVENER

*Dean Lockhart (Mid Scotland and Fife) (Con)

DEPUTY CONVENER

*Fiona Hyslop (Linlithgow) (SNP)

COMMITTEE MEMBERS

Natalie Don (Renfrewshire North and West) (SNP)

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Liam Kerr (North East Scotland) (Con)

*Monica Lennon (Central Scotland) (Lab)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Naeem Bhatti (Scottish Government)

Andrew Forsyth (Scottish Government)

Ailsa Heine (Scottish Government)

Michael Matheson (Cabinet Secretary for Net Zero, Energy and Transport)

Màiri McAllan (Minister for Environment and Land Reform)

Janet McVea (Scottish Government)

Lorna Slater (Minister for Green Skills, Circular Economy and Biodiversity)

Collette Stevenson (East Kilbride) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 2

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 30 November 2021

[The Convener opened the meeting at 10:01]

Decision on Taking Business in Private

The Convener (Dean Lockhart): Good morning and welcome to the 12th meeting of the Net Zero, Energy and Transport Committee. I remind everyone that social distancing measures are in place across Holyrood, so please follow the guidelines when entering and leaving the committee room. We have apologies from Natalie Don; Collette Stevenson is attending as a substitute.

Item 1 is consideration of whether to take in private agenda items 7 and 8, which are consideration of the evidence that has been heard on the draft fuel poverty strategy and on the proposed legislation on single-use plastics. Do members agree to take those items in private?

Members *indicated agreement.*

Fuel Poverty Strategy

10:02

The Convener: Our first substantive item is an evidence session on the draft fuel poverty strategy. I welcome Michael Matheson, Cabinet Secretary for Net Zero, Energy and Transport, and Naeem Bhatti, head of the Scottish Government's fuel poverty and housing standards unit. Good morning to both, and thank you very much for joining us, as that provides to the Parliament, through the committee, the opportunity to scrutinise and comment on the draft fuel poverty strategy before it is finalised.

Cabinet secretary, I believe that you want to make brief opening remarks.

The Cabinet Secretary for Net Zero, Energy and Transport (Michael Matheson): Good morning to the committee.

The fuel poverty strategy builds on the draft strategy that was published back in 2018. It identifies a comprehensive range of actions to address all four drivers of fuel poverty.

Our statutory fuel poverty targets to 2040 are ambitious and challenging. They will be even more challenging to achieve, as the pace of change that is demanded by our climate change targets is unprecedented—and the costs of supporting fuel-poor households to transition to net zero are significant, as we are committed to ensuring that no one is left behind. There are potential tensions between the drive to decarbonise heat and the reduction of fuel poverty.

Work to decarbonise homes and buildings over the next two decades will be led and co-ordinated by the new national public energy agency that we have committed to establishing by 2025. A virtual agency will be in place by September next year and will work in line with a set of guiding principles, as set out in our heat in buildings strategy, to support ambitions on fuel poverty and net zero. To help to inform, design and develop the new agency, I am pleased to announce that, today, we have launched an early call for evidence, to which I invite anyone who is interested in that agenda to respond in the coming weeks.

The recent sharp rise in energy prices and other pressures on household finances have highlighted the challenges that sudden changes in income and energy prices can pose. The Scottish Government has taken steps to support people through the winter months, through additional funding that is being made available to third sector organisations. We are already taking action within devolved competence but, over the longer term,

we need action from the United Kingdom Government, especially with regard to how energy markets and prices can support our fuel poverty and net zero ambitions.

We will work with the Scottish fuel poverty advisory panel, once its members have been appointed, and with a wide range of stakeholders, to shape and develop the strategy as we progress implementation. Formal consultation with the panel will take place later next year.

I hope that that is helpful, convener. I am happy to respond to any questions that the committee has.

The Convener: Thank you, cabinet secretary—that is very helpful indeed.

You mentioned the recent price increases in the energy market, which have generated a lot of headlines. Can you talk us through your perspective on how those price increases have impacted on fuel poverty levels in Scotland?

Michael Matheson: At this stage, it is difficult to assess exactly what impact they will have. The next set of fuel poverty figures is likely to be available in December next year—that data will pick up on the increase in prices, in particular the spike that we have seen in recent months.

The price of fuel is one of the four key drivers that create fuel poverty, so there is every likelihood that the rise will lead to an increase not only in the number of people who are experiencing fuel poverty but in the depth of extreme fuel poverty that some individuals will experience.

We continue to see rises in fuel prices overall. From my discussions with the chair and chief executive of the Office of Gas and Electricity Markets last week, there is no indication that the increase will start to abate in the near future. Individuals and households increasingly find themselves in difficulty because of the escalating costs that are associated with the spike in fuel prices, which is likely to continue through the winter months.

I expect that that will increase fuel poverty, which is why we have taken action to provide support during the winter months, as we did last year, to households that are experiencing particular difficulties. The additional £10 million that we are providing over the winter sits alongside the £25 million that we are already providing to try to meet some of the needs of those who are experiencing fuel poverty.

To recap, I expect that the fuel price rise will increase fuel poverty and the depth of extreme fuel poverty for some households.

The Convener: Thank you, cabinet secretary. I will hand over to my colleagues after asking my

second question. As you know, Scotland has some of the oldest housing stock in Europe. What policies is the Scottish Government pursuing to address the particular challenges that are faced by households in older housing stock, such as tenements?

Michael Matheson: You raise a good point. In some parts of the country, it is much more difficult for us to make the housing stock fuel efficient, given its age and design. That issue is particularly acute in some of our rural communities. You can see from some of the fuel poverty data that local authorities that cover predominantly rural areas have a greater degree of fuel poverty and extreme fuel poverty, largely as a result of the types of property in their areas.

However, there is also an issue in cities such as Edinburgh, in particular in older and tenement-type properties. The “Heat In Buildings Strategy: Achieving Net Zero Emissions in Scotland’s Buildings” document, which we published just a few weeks ago, sets out the approach that we are taking, not only to tackle the issue of carbon emissions from properties but to improve fuel efficiency and insulate properties much more effectively, to reduce their energy needs.

Our key approach is taken through the social housing programmes that we provide to support local authorities in their energy efficiency programmes and the replacement of heating systems. Since 2008, we have invested almost £1 billion in that work. Alongside that, there is on-going work to help to decarbonise properties in the years ahead; we have already committed £1.8 billion to that programme during this session of Parliament. The combination of seeking to decarbonise properties while making them much more fuel efficient is the principal way in which we are helping to support people to move out of fuel poverty.

Fiona Hyslop (Linlithgow) (SNP): Can you share with us the biggest risks in delivering the fuel poverty strategy?

Michael Matheson: There are a range of different risks associated with tackling fuel poverty. As we set out in the strategy, there are four key areas in our approach to tackling fuel poverty: fuel prices, energy efficiency, the way in which fuel is used, and household incomes. They are all interrelated. An example is the work that we are doing to improve energy efficiency in the social housing stock and the programmes that private home owners can use to improve their energy efficiency. Some of that work is making positive progress, because it can help to reduce people’s fuel needs and fuel use, which not only benefits them financially but has an environmental benefit. However, there are households that are experiencing fuel poverty or extreme fuel poverty

just now, and others that are perhaps on the edge of fuel poverty and will find that, because of the escalating energy costs, they are tipped into fuel poverty or into even deeper fuel poverty.

The challenge is that there is a range of moving parts. In some areas where we have powers to improve fuel efficiency and are trying to improve heating systems in homes and make them more efficient, that work can be quite readily undermined by a spike in energy prices or other actions that have an impact on household expenditure, such as inflation costs, which means that people do not have the same disposable income to meet on-going household needs.

There are factors outwith the material aspect of the building that can have an impact. That is why some of the actions that we have taken will take us only so far. We still need collective action to create greater stability in the energy markets, so that we do not see big spikes in prices, which have a negative impact on households. We have asked the UK Government, through the Department for Business, Energy and Industrial Strategy and its ministers, to look at how the energy markets are operating, how the levy scheme is operating around different fuel types—there are heavy levies on electricity compared to gas—and how that could be used in a way that helps to keep down the increase in the number of people experiencing fuel poverty.

There is an interaction between devolved and reserved issues; there are also external factors that can have an impact on fuel poverty figures over a very short period. I expect that the spike in energy prices will cause such an impact in the months ahead.

Fiona Hyslop: Scotland has a challenge in respect of rural and semi-rural communities. Even in my constituency, which is in the dead centre of Scotland, between the M8 and the M9, there are people who use oil-based fuel. The combination of trying to get to net zero at the same time as managing the other risk factors could have an impact on many people in Scotland. How will the fuel poverty strategy and the changes that we are making help those people? It is not just about advice; people need practical help and there is a bit of a gap just now. Will the strategy address that gap? It is not clear where the money is or what the delivery mechanism for grants will be.

Michael Matheson: There is a combination of things. The work that we are doing around the heat in buildings strategy, not just in social housing but in private housing, will be a key part of supporting and delivering the objectives that we set out in our fuel poverty strategy. There are statutory targets within that.

I will pick up on a couple of the examples that you mentioned. We know that fuel poverty and extreme fuel poverty levels are higher in rural areas. We provide area-based programmes to local authorities to support them to implement energy efficiency measures in their areas. There is a weighting that helps to provide further resource and support to rural communities, given that they have a more extensive problem or a greater number of people experiencing fuel poverty. Some of our programmes have been amended to include greater recognition of rurality in the most recent funding arrangements.

We have also introduced a new funding arrangement with the Convention of Scottish Local Authorities, which helps to address the weighting issue for local authorities that have greater levels of fuel poverty, to ensure that more of the money is directed towards those areas.

10:15

You mentioned your constituents in West Lothian in central Scotland who use oil-based heating systems. On how we can help to drive down the costs of the transition to non-fossil fuel-based heating systems and increase the funding available to individuals who are looking to replace their current systems with low-carbon systems, I point out that, in another change that we have made to the programme, some funding has gone from a maximum of £9,000 to £14,000 to support the transition to low-carbon systems, particularly in rural areas.

We are trying to calibrate the funding formula for the money that goes to local authorities to reflect where the greatest pockets of fuel poverty are, and in our heat in buildings strategy we are looking at how we ensure that the loans and grants-based system is calibrated to provide greater funding to those who live in off-grid areas and might therefore need alternative systems that are costlier than the systems that are available to people who are on grid. Funding must flow in a way that recognises that greater need.

Fiona Hyslop: Thank you. I am happy to pass over to other colleagues, convener.

The Convener: I call Mark Ruskell.

Mark Ruskell (Mid Scotland and Fife) (Green): I want to go a bit deeper into the issue of rural communities. At the moment, there is a big cost differential between installing a low-carbon system and sticking with an oil-based system, but how can that differential be reduced over time?

Another issue that people have raised with me is the wider servicing infrastructure. If people are being asked to make the jump to a low-carbon system and the supply chain is not there, there will

be no cost reduction in that respect, but what if there is no maintenance and servicing infrastructure either? That will be a concern for people and a barrier to making that jump. I am interested to hear about the thinking about that in the heat in buildings strategy and how it will merge with the targets that have been set.

Michael Matheson: Mitigation of some of those challenges is a key part of the heat in buildings strategy. When new technology comes on to the market, and for those people who are early adopters of, say, low or zero-carbon technology, the costs often tend to be higher in those earlier stages. The general sense of the market is that, as demand grows, as capacity develops in the sector and as it becomes more common for people to deploy low-emission heating systems, costs will start to decline.

A challenge that we face in making the scale of change that we are looking for in the years ahead is that it potentially opens up the risk of pushing people into fuel poverty, given that it could be more expensive to adopt and use these systems. As a result, the proposed national public energy agency will play an important role in helping to co-ordinate and plan that work. We are, for example, looking at how action can be co-ordinated across local authorities to ensure that authorities and social housing providers are not all going off and trying to do this 32 different ways—or 200 different ways, if we are talking about housing associations. If the agency can help with that kind of co-ordination, that, too, can drive down costs. We are also looking at how we plan the introduction of some of the measures in a way that drives down costs, too.

Are we seeing a shift in the sector and some recognition of where things are going? I think that Mitsubishi's recent investment in air source heat pumps in its plant in Livingston in Fiona Hyslop's constituency clearly indicates that it sees this as a growing market, not just for Scotland and the UK but across Europe. Things are starting to move in that direction, but we need to take co-ordinated action to drive down costs, and one of the roles of the public energy agency will be to support that work.

Mark Ruskell: You announced the consultation on the establishment of the agency today, and you are talking about the set-up being next year rather than—

Michael Matheson: A virtual set-up, yes.

Mark Ruskell: In terms of work on that supply chain, how do you see the energy agency co-ordinating action? What will it do in practice? Will it rely more on local government delivery partners or voluntary sector agencies? I am looking for some clarity around what practical actions the agency

will take on the ground to tackle some of these issues and to roll out programmes.

Michael Matheson: I do not want to pre-empt the feedback from the consultation but, for example, the agency could help to co-ordinate the planning of works for the decarbonisation of social housing by looking at how we bring together housing associations and co-ordinate joint planning for the decarbonisation of their heating systems. Rather than a housing association that has a stock of 500 homes looking to do that work just for those 500, it might mean working with several other social housing providers, and driving down the cost by bringing the works together. The agency could provide support and advice about that work. Co-ordinating in that way would give housing associations bigger purchasing power and also help to mitigate some of the risk of doing the work on their own. That is a practical example of one of the things that the agency could help with.

The second area, as I have mentioned to the committee previously, is the development of heat as a service, and how that could lead to supporting the development of local heating providers within local communities. Social housing providers and local authorities might look at that model in relation to a district heating system. The agency could provide them with expertise and advice on how to co-ordinate some of that action, so that if, for example, Stirling Council and Falkirk Council are looking at such a model, they can join together and we can get some shared learning. In the consultation, we are asking for feedback on that specifically, and on how the agency could support the development of that area of work.

Mark Ruskell: My final question is about an issue that Fife Council raised with me yesterday. It is now very difficult to get energy companies to become the default provider for council tenants. SSE is not interested in being the default provider for Fife Council. Are you aware of that issue? We are seeing more and more energy companies going to the wall, so fewer energy companies can provide a competitive offering for council tenants. There seems to be a lack of appetite for taking on council tenants, which is worrying.

Michael Matheson: I am not aware of the specific issue in Fife, but if you want to provide me with more information on that, I would be happy to look into it.

The most recent energy provider to drop out of the market was Bulb, which has gone into special administration arrangements, which is different from what happened to the other something like 21 providers that have recently dropped out of the market. If an energy provider drops out of the market, Ofgem allocates that company's customers to another service provider through the operator of last resort arrangements. That scheme

continues to operate. Bulb customers are in a slightly different position because the Government is effectively taking them on as a special administrator, whereas someone who was with People's Energy, which was a Scottish-based company that withdrew from the market, would have been transferred to another energy provider on the basis of that company's rates.

Given the number of companies that have moved out of the market, the companies that are left to pick up the customers are finding having to absorb significant numbers of customers to be increasingly challenging. There is therefore a wider systemic issue within the sector that needs to be addressed, and it is an issue that I raised with Kwasi Kwarteng during a discussion that we had early on when this issue started to emerge. BEIS still needs to address it. I discussed it again with Ofgem last week. There are systemic problems within the energy market that need to be addressed, and that requires action at the UK level.

Liam Kerr (North East Scotland) (Con): Good morning, cabinet secretary. Scotland has adopted a suite of definitions that is different from those that England, Wales and Northern Ireland use. Why is that the case, out of interest?

Michael Matheson: Which definitions do you mean?

Liam Kerr: I mean the definitions that relate to things such as fuel poverty. It is difficult to make a direct comparison between data, because different definitions exist. Why might that be the case?

Michael Matheson: The matter pre-dates my current role, because it was done through the Parliament. Naeem Bhatti can perhaps say a bit more about that. My understanding is that the different definition tries to provide a more accurate reflection of the situation in Scotland. Some of the baseline data that the UK Government uses does not reflect the specific challenge that we have in rural communities; therefore the definition that the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 adopted gives a more accurate picture of the depth and scale of fuel poverty in Scotland.

One of the reasons for the change in definition was that the threshold for the warm homes discount scheme that operates at a UK level is simply too high for some households in Scotland, which means that some of those households that are experiencing fuel poverty do not qualify for the scheme. Naeem Bhatti might be able to say a bit more about the history of that process, given the Parliament's scrutiny during the passage of the act.

Naeem Bhatti (Scottish Government): As the cabinet secretary has said, the Parliament agreed

that definition to take into account the unique circumstances of the country as a whole. Some of the definitions in England do not align to our needs, because Scotland has more rural areas and geographical spread, and faces challenges around supply and upgrades to different tenements and buildings.

The definition is based on Scotland's needs and does not align with the definitions for England or Wales because they have taken a different approach. Our approach considers fuel poverty after incomes and housing costs have been taken into account. As the cabinet secretary has highlighted, the warm homes discount and the energy company obligation—ECO—target a particular group of people for support, but the definition did not meet our requirements around that, which is the reason for the change, to which the Parliament agreed.

Liam Kerr: I understand. I thank you for the comprehensive reply.

The cabinet secretary said in his opening remarks that a tension exists between achieving a reduction in fuel poverty and other policy objectives, such as a transition to net zero. How do you foresee that tension being resolved? Which objective will take priority if you cannot resolve that tension?

Michael Matheson: We should not see the issue as an either/or situation. We have to see both objectives as going hand in hand. A practical tension is that many of the zero-emission energy systems that could be deployed in homes are electricity-based systems. The levies on energy that the UK Government applies now are greater for electricity than they are for gas. We need the levy system to reflect the transition away from carbon-based heating systems to low-carbon or zero-carbon systems, because the way in which the levy system is currently calibrated potentially drives up costs. However, that change cannot be done overnight, but must be done gradually, because the danger is that shifting all levies over to gas will push those folk who are still using gas into fuel poverty.

The big challenge around the transition, which the heat in buildings strategy addresses, is how to drive down the cost of the installation of zero-emission or low-carbon heating systems, while taking forward energy efficiency measures. Those objectives need to go hand in hand. A big part of the challenge is how to drive down the on-going usage costs, given that many air source heat pumps depend on electricity. At a UK level, we need the levy system to start to reflect the shift to zero-emission heating systems to ensure that it does not push more people into fuel poverty.

Liam Kerr: I will go ever so slightly local as my friend Mark Ruskell did earlier, because the point has now come up. You have talked a lot about investment in heating systems to decarbonise properties. In the draft report, the strategy and in your answer, you talked about electric-powered heat pumps. Given the catastrophe of the past few days, what are you going to do to convince people that electricity and electric-powered heating is the way to go, particularly in more rural areas, as my friends were discussing earlier? What contingency planning will be done so that, if everyone were to move to electric-powered heating and if we had the sort of catastrophe that we have had over the past few days, those in rural areas will not be left freezing in their houses?

10:30

Michael Matheson: Noting the very serious difficulty that we have had over the course of the past few days, which continues today for some households that are off grid, many of those people live in areas that are off the gas grid, so their only option is gas-based or oil-based heating systems. As you would expect, during the course of or after any major event such as this, we need to ensure that utilities companies such as Scottish and Southern Electricity Networks and Scottish Power Energy Networks are looking to see where there are further measures that they could put in place to minimise the loss of power and the way in which that is experienced.

We must, however, reflect on the fact that the level of faults and difficulties that have been experienced across the network is unprecedented. I have heard over the course of the past few days that there have been three times the number of faults that were experienced during the beast from the east. One company indicated that there were more than 500 faults in its system, and it was trying to repair them.

That relates to what more we can do by way of resilience; one of the other aspects is how we can potentially develop local heating systems and local energy systems. As I mentioned to Mark Ruskell, one of the options around using a district energy system is that it provides greater local resilience, because it is much more self-sufficient. That is more challenging in rural areas because of how the population is dispersed, but that system has potential.

The key thing is that, when faults are found, they are addressed as quickly as possible, we try to get folk back online and we provide them with support at what is a difficult time.

Jackie Dunbar (Aberdeen Donside) (SNP): How far can devolved policy measures address

fuel poverty in Scotland? How important is it to have wider reform in the UK's energy market?

Michael Matheson: It is fair to say that there is a shared interest at UK and Scottish Government levels in tackling fuel poverty. However, there are more extreme levels of it in Scotland because of the nature of our geography and housing type. It is important that the UK Government take actions to support us and to help us to achieve our fuel poverty targets, ensuring that the measures that it takes can assist us in achieving them. I might mention the way in which the levy system operates and how, while not changing it randomly, we can plan for that to be changed in a transitional way that helps to reduce fuel poverty.

There is no doubt in my mind that there needs to be a systemic shift in the energy markets. Over the past couple of months, the companies that have withdrawn largely represent a certain type of provider. There are two types of energy providers: those that are hedged, and those that are unhedged. Those that are hedged bought their gas and electricity ahead; some of them buy it 18 months ahead, some six months ahead and some three months ahead. Those that are unhedged are basically buying it on the market each day. We have witnessed how the majority of those that were unhedged—although not all of them—have dropped out of the market, because it is just not sustainable.

There is a systemic issue in how the industry is operating. Should we have been in a position where companies were unhedging our primary energy source in a way that has left millions of customers having to be transferred to other providers? There is a regulatory aspect that needs to be addressed.

The second thing that has been highlighted is the need to decarbonise our heating systems, so that we move away from the need for carbon-based heating, particularly gas-based heating. I know that that view is shared by the UK Government: it feels that we need to decarbonise more quickly in a way that reduces our dependency on fossil fuels.

I would like to think that there is a shared interest and, from my discussions with the UK Government, that seems to be the case. However, it is also important that policy actions are taken, not only to give greater certainty to the market but to address fuel poverty in a way that is compatible with our strategy and the UK Government's plans to tackle fuel poverty.

Monica Lennon (Central Scotland) (Lab): I have some questions about the proposed national public energy agency, although we have partly covered that subject. I was surprised that there is no mention of such an agency in the quite chunky

draft strategy. The cabinet secretary said that a consultation started today, but I cannot see it online yet.

For the benefit of the committee, will you tell us how the proposed agency fits in with the strategy and when it might begin? We thought that there would be a public energy company that would have a role in generation, but that did not happen, so we are a bit behind. Can we be confident that the new agency will come along quickly?

Michael Matheson: If I remember correctly, the agency is mentioned in our heat in buildings strategy because it sits better there than in the fuel poverty strategy, but two of the agency's clear and guiding key principles will be to support us to decarbonise domestic heating systems and to address fuel poverty. I mentioned some of the work that the agency can take forward in helping to co-ordinate and plan work around decarbonising folks' properties and how that can sit alongside work to tackle fuel poverty. That is part of why we are taking the consultation forward.

The feedback that we have had from across the sector is supportive of the role that an agency can play in helping to co-ordinate that action. As you will be aware, a range of organisations are already engaged in that work. It will be extremely valuable to have a national agency to draw that together and plan on a more strategic level, as well as to provide expertise and guidance.

As I mentioned in an answer to Monica Lennon when I last appeared before the committee, we have shifted our approach by moving to a public energy agency—we set this out in our manifesto and it was in our programme for government this year—as a reflection of the big shift that we have to make in decarbonising a million homes and 50,000 non-domestic premises between now and 2030. That is a colossal undertaking. Guided by the principles of decarbonisation and tackling fuel poverty, we need to plan and manage that as effectively as possible, and that will be a key role for the agency.

Monica Lennon: I am grateful for that clarification, cabinet secretary. With regard to joining things together, which is a phrase that you used earlier, I was surprised that there is no reference to the national public energy agency in this strategy document, but what you have said is helpful.

I appreciate that the Government's point of view is that, because the situation has changed, to have a public energy company is no longer the right approach. However, in the spirit of the co-operation agreement, could that be looked at again and could the Parliament have a role in that? Given the challenges that we face, we need to be ambitious and look at how we can get big

system change. Will the Government keep an open mind on that?

Michael Matheson: When I last appeared before the committee, I said that I was open to looking at how we could develop a model of heat as a service. We have signed a memorandum of understanding with the Danish Government, which has more experience than we have in doing that in the public sector, to look at how we can develop such a model in a more in-depth way and deliver some of a public energy company's intended outcomes in a way that is more consistent with delivering on our net zero ambitions.

The ground has shifted somewhat, and the idea of heat as a service has real potential. For example, district heating does not have to be provided by a big company; it can be provided through local co-operative arrangements. I am very open to that model and I think that it would be more productive in creating the change that we are looking for.

Collette Stevenson (East Kilbride) (SNP): I have some questions about the statutory targets for 2040 and how they apply at the national and local authority levels. There are interim targets for 2030 and 2035, but they seem to apply only at the national level. Do you expect local authorities to face difficulties? If so, what plans are in place to see whether work is being done by certain local authorities, particularly those in rural areas, to meet those targets? What challenges might they face?

Michael Matheson: You raise an important point. The statutory target for 2040 is a national target, and we have interim national targets for 2030 and 2035. We have not applied those at the local level in the same way, because of the significant differences between local authorities. For example, according to the most recent Scottish house condition survey estimate, which is for 2017 to 2019, about 33 per cent of Highland Council's population experience fuel poverty, which is significantly higher than the national figure of 24.6 per cent. Different approaches will be necessary for different local authorities, and we need to make sure that we calibrate our programmes, funding support and assistance with recognition of the local authority areas that have greater experience of fuel poverty. That will be progressed by taking forward planning at a local level.

At present, local authorities plan that through their housing stock strategy plans, but we are working to develop local heat and energy efficiency strategies. We are working with COSLA and local authorities on how to develop those at a local level, place them on a statutory footing and provide local authorities with the necessary resources and support to implement them. We are

taking that work forward at the moment, and I expect local authorities to have those plans in place by 2023 or thereabouts. We are looking at how we can make sure that they have the plans and strategies in place to deliver on the requirements to meet our fuel poverty targets.

Collette Stevenson: In light of the report that we received—it is a fantastic and comprehensive report and I thank you for it—how are cold weather payments aligned with the fuel poverty strategy? Do they work in tandem or do the payments form part of the strategy? I will be slightly parochial here: there tends to be a lot of colder weather in East Kilbride because we are higher up. How will cold weather payments be applied? I wonder about the weather stations that are used. Has that issue been considered as part of the fuel poverty strategy?

Michael Matheson: I acknowledge that East Kilbride can have its own micro weather system at times—

Collette Stevenson: It can.

Michael Matheson: It gets different weather from the rest of Lanarkshire and greater Glasgow.

A couple of schemes are in operation—the warm home discount scheme and the ECO scheme—that link into the pension credit scheme for automatic payments. Those who do not have the right gateway benefits are required to apply at particular points. At present, there is an agreement with the UK Government about potentially changing those schemes, including by increasing the threshold to £140. We would like to merge those two separate schemes into a single scheme, and we are engaging with the UK Government on that.

10:45

I have taken the matter up with Lord Callanan, who is the UK minister who deals with the issue, to see whether we can simplify the approach and shift the threshold, and potentially whether we can increase the number of people who receive money automatically. That would help to make the process quicker and it would mean that individuals would not have to apply and so would not lose out because they are not aware of the scheme. There would be greater certainty around people getting the money.

That requires agreement from the UK Government and the Secretary of State for Business, Energy and Industrial Strategy. We have engaged with the UK Government on whether we can simplify the system in Scotland in a way that would help to provide a greater range of automatic payments compared with the number in the current system, in which it is largely just

those who receive pension credit who are paid automatically.

The Convener: I will ask our final question, cabinet secretary. You have mentioned a few times the heat in buildings strategy, which is intertwined with the fuel poverty strategy. The Scottish Government has set out an estimated cost of £33 billion for all the retrofitting and ancillary work that will be necessary for the housing and building stock in Scotland. That funding will come from a combination of public and private sector funding. When will the Scottish Government have a better idea of how that sum will be divided between public sector funding and funding from the private sector?

Michael Matheson: The costs of the heat in buildings strategy will be met by public sector, private sector and individual funding. I cannot give a specific date on which we will have X amount banked from the private sector to deliver the strategy. However, we are in discussions with private sector organisations on their scope to help to deliver some of it. During the 26th United Nations climate change conference of the parties—COP26—I met a number of companies that are interested in supporting the roll-out of district heating systems and local energy systems. There is some experience in Scandinavia on those things, which is why we have signed a memorandum of understanding with the Danish Government on district heating and heat in homes.

In the past week, I have had discussions with companies that are interested in supporting Scotland-based businesses that have models that could be scaled up and rolled out. You might be aware of the Star Renewable Energy facility on the Clyde. That family-owned business, which is based in Eastwood in Glasgow, has the potential to be scaled up and developed. There is potential for investment in those areas, in which we could be moving more towards the model of heat as a service.

I cannot give you a date by which we will have the £33 billion banked. There will be on-going work to engage with the private sector to look for areas in which it can provide support for the transition, alongside public sector investment. Public sector investment can act as a catalyst to generate greater investment, and it can help to drive down the costs and so support people who are looking to invest in their properties. We are trying to ensure that our investment is focused particularly on social housing so that we support the sector to scale up and develop and we drive down the costs, which can have a wider economic benefit as more people look to install new technologies in their properties or as commercial operators start to move into the market.

The Convener: That brings us to the end of this session. I thank both our witnesses for joining us.

I will suspend the meeting to allow for a change of panels.

10:48

Meeting suspended.

10:52

On resuming—

Subordinate Legislation

Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021 (SSI 2021/410)

The Convener: Welcome back, everyone. The next item is evidence on the Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021. The instrument is subject to the negative procedure but, given that it raises issues of public interest, we are having a short evidence session with the Scottish Government before we dispose of it formally, which we will do at a meeting in December.

I welcome Lorna Slater, the Minister for Green Skills, Circular Economy and Biodiversity, and her officials Andrew Forsyth, Ailsa Heine and Janet McVea, who join us remotely. Thank you for making yourselves available to the committee this morning.

Minister, I understand that you want to make some short opening remarks; I hand over to you.

The Minister for Green Skills, Circular Economy and Biodiversity) (Lorna Slater): Thank you, convener, and good morning, everyone.

Every year, hundreds of millions of pieces of single-use plastic are wasted in this country. They litter our coasts, pollute our oceans and contribute to the climate emergency. That is why the Scottish Government has laid legislation before the Scottish Parliament that bans some of the most problematic single-use plastic products and helps us to move to a more circular economy, starting from June 2022.

The items that are included in the regulations are: single-use plastic cutlery such as forks, knives, spoons and chopsticks; plates, straws, beverage stirrers and balloon sticks; food containers that are made of expanded polystyrene; and cups and other beverage containers that are made of expanded polystyrene.

The regulations will be the first in the UK to ban such a wide range of single-use plastic items, and they go further than the single-use plastic bans that are currently in force in the rest of the UK. The products account for 86 per cent of all single-use plastic items on European beaches and about half of all plastic marine litter. I was doing some reading last night and came across data from the Marine Conservation Society's 2020 great British beach clean, which found that plastic and

polystyrene pieces are the most common items of litter on beaches, by a large margin.

I recognise that the ban is at risk from the UK Internal Market Act 2020, which, in effect, exempts any items that are produced in or imported via another part of the UK. Officials continue to work with the other Administrations across the UK to try to find a way to ensure that the ban is not undermined.

Extensive consultations were undertaken with stakeholders during the development phase of the regulations, including with industry, non-governmental organisations, equalities groups, users of the products and—of course—the general public. Findings from those consultations were taken into account in the final drafting of the regulations and will also help inform on-going work in that policy area.

Action has been taken to limit the impact on Scottish businesses. The regulations will come into force in June 2022, giving businesses time to take action to prepare for the new measures. A guidance document has also been published on the Scottish Government's website.

Feedback on the impact on the wider public has also been taken into account. Crucially, the legislation includes exemptions for single-use plastic straws to make sure that those who need them for independent living or medical purposes can still access them. That means that they can be supplied in particular settings and circumstances, as before, and can still be sold under certain conditions in a pharmacy. Enforcement work will be undertaken by local authority enforcement officers, who will be authorised by local authorities to exercise powers in the regulations in order to determine whether an offence has been committed.

In addition to the incredibly important environmental policy aims of the legislation, the Scottish Government continues to be committed to matching or exceeding the standards of the European Union single-use plastics directive. The products covered by the regulations therefore help to align Scottish legislation with article 5 of the EU directive. The measures cover all products in article 5 except oxo-degradable plastic products. Oxo-degradables is an area of significant complexity and rapid change and it is important that we make a decision based on the most up-to-date information. The policy intention remains to ban oxo-degradable products via further regulations next year. We are currently collecting that evidence in advance of taking action and will provide an update in due course.

Further work is on-going to match or exceed the standards in the other articles of the EU directive through measures that the committee will already

be aware of, such as the deposit return scheme and extended producer responsibility.

The single-use plastics regulations are another important step forward in our efforts to tackle Scotland's throwaway culture by reducing our reliance on single-use plastics and encouraging more reusable and sustainable alternatives. They are one part of a wide array of policy measures that will help to move Scotland towards a more circular economy. As already noted, further action will follow through key initiatives such as the deposit return scheme.

I hope that I will be able to answer any questions.

The Convener: Thank you, minister—that was very helpful.

The definitions used in the negative instrument are very technical in relation to the items covered in the ban. Given that, what specific guidance has been given to small businesses that might be affected by the regulations, particularly given that their breach can result in a criminal offence?

Lorna Slater: Extensive consultation with Scottish businesses was undertaken in the preparation of the regulations, including feedback on the draft regulations, which were made public earlier this year. As I said, the regulations come into force on 1 June 2022, giving Scottish businesses six months to prepare. That followed on from feedback that less than six months would not be enough time for businesses to prepare for significant regulatory changes, given that they are already dealing with the twin headaches of Brexit and Covid-19. For example, some businesses buy stock six months in advance, and so would run the risk of having a lot of stock that they would have to dispose of. However, businesses generally supported the proposals.

The vast majority of the products are imported into the UK and are not produced in Scotland. The move to the circular economy will create many exciting opportunities for innovative Scottish businesses to take advantage of.

I will have to ask officials to help me out on the specific question about penalties.

The Convener: That is fine. We can come back to penalties later, as some of my colleagues have questions on penalties, too.

I will ask a follow-up question on the consultation process, which a number of individuals and organisations fed into. What did the consultation with the business organisations that you or officials met look like? How many business organisations did you meet in order to discuss the impact of the regulations?

Lorna Slater: I have more information on that here. Two public consultations were conducted as part of a wide range of stakeholder engagement. The first consultation sought views on the items to be covered by the regulations and how restrictions might be implemented. That consultation received positive feedback from individuals and organisations on the plans. The second public consultation was on the draft regulations themselves. Responses to it were used to fine tune the regulations, and as indicators for which subjects should be included in the online guidance document.

11:00

Extensive stakeholder engagement was undertaken, including with industry in advance of the first public consultation and through open dialogue throughout the process. Internal Scottish Government colleagues had discussions with experts on health, equalities, pharmacy, EU alignment and the constitution. Users of single-use plastic products were consulted through a straws advisory group, which was facilitated by Inclusion Scotland and focused on equalities issues. Zero Waste Scotland provided policy and analytical support throughout the process. We spoke to the other UK Administrations, to NGOs through the consultation process and through direct engagement, and to the general public.

Liam Kerr: The financial assessment says that there will be a minimal impact from the regulations. What will be the impact in terms of both numbers of businesses and value? What mitigations are being considered for businesses—as producers and users—that will be impacted?

Lorna Slater: I will need to ask my officials to help me on the specific numbers. There are many benefits to Scotland of having less litter on our beaches. Our tax money is used to collect litter on beaches, so the overall positive effect on the economy will be very strong. I turn to my officials to give details on the businesses that will be affected.

Andrew Forsyth (Scottish Government): As the minister has communicated clearly, a very small percentage of Scottish businesses manufacture the items involved. As the minister also noted, we will be banning not only the supply of the items but the manufacture of them, which reflects our global ambition.

The directive was published in 2019, and businesses have adapted and moved with the market alongside it. During the consultation process, there was general support. There was also UK-wide directions and policy ambitions to match Scotland in the area.

Liam Kerr: With respect, I am not sure that that answers my question on the value and the numbers, but I will move on to a related question. What will be the impact on the Scottish supply chain in terms of both numbers and value?

Lorna Slater: I do not have the numbers for the Scottish supply chain in front of me. Again, my officials might be able to help with that.

Andrew Forsyth: A full business impact assessment was conducted and consulted on during the process. The assessment outlines all the key figures and has been published alongside the regulations. We can provide the committee with a copy of it, to answer the member's question.

Liam Kerr: I would be very grateful if you would do that.

My final question comes at the issue from a slightly different angle. Part 3 of the regulations, which I have in front of me, potentially fixes corporate liability on directors, managers and even “members”—I presume that that means members of a club or something. Is that usual? What representations have you had from legal or business bodies on that provision?

Lorna Slater: That is a very technical question, so I will need to go to my officials again.

Ailsa Heine (Scottish Government): I can answer that question. In such regulations, it is not unusual to make provisions on offences for corporate bodies. These regulations are similar to regulations that have already been made to ban cotton buds and microbeads; they have similar provisions.

Liam Kerr: I am very grateful for that answer. I also asked about the representations that you have had. I wonder whether the answer to that, along with the answer to my previous question, might be provided to the committee after the meeting, if that would not be any trouble.

Ailsa Heine: Which kind of organisations did you ask about?

Liam Kerr: I asked about legal and/or business organisations that might have made representations on part 3.

Ailsa Heine: We can check. Off the top of my head, I do not know what representations we had on that.

Liam Kerr: I would be very grateful. Thank you.

Monica Lennon: Good morning to the minister and officials. I was pleased to hear you say, minister, that you were doing some reading last night about the result of the great British beach clean and the Marine Conservation Society's involvement in organising that. From that reading, you will know that the second most common item

to be found, when it comes to the pollution of our beaches and coastline, is wet wipes that contain plastics. Will you give us an update on whether a ban on wet wipes might be the next step? The Plastic (Wet Wipes) Bill was introduced under the 10-minute rule at Westminster, and the Marine Conservation Society has said that

“Banning single-use plastic wet wipes is such an easy step to take in order to help achieve a circular economy”.

I would like your thoughts on that.

Lorna Slater: You are absolutely correct. Thank you very much for highlighting the very serious problem of wet wipes that contain plastic, which do not biodegrade and end up on our beaches. Scottish beaches are more seriously affected than those anywhere else in the UK. I have the numbers in front of me: there are something like five times more wet wipes on Scottish beaches than anywhere else. We absolutely need to take action on that.

Wet wipes are the largest single component of material that is found in sewage system blockages, as well. Obviously, that costs a lot of money. The vast majority of wet wipes contain plastic.

In the public consultation on the single-use plastic regulations, wet wipes containing plastics were included in a list of potential additional items to be banned in the future, and 94 per cent of the respondents were in favour—when we consulted on the regulations that we are looking at today, we asked about wet wipes, and 94 per cent of people agreed that they should be banned. The Scottish Government is encouraging the UK Government and other Administrations to work with us to bring forward a ban on wet wipes that contain plastic, which we consider unnecessary and environmentally harmful.

We do not consider that the other possible approaches to tackling wet wipes, such as labelling, a design standard or an EPR scheme, will address the growing problem in a timely manner—hence why we are trying to encourage the other UK Administrations to work with us on a ban. We know, through the experience of banning harmful products, such as plastic-stemmed cotton buds in 2019, that that is an effective solution to the problem.

Monica Lennon: Is it the case, then, that the Scottish Government cannot, at present, add wet wipes to the list? Secondly, how often will the list of restricted items be reviewed?

Lorna Slater: The regulations relate to article 5 of the EU directive, which has many other articles in it that cover things such as wet wipes, extended producer responsibility and other items. Article 5 is

just the first piece of that to come forward. The other articles will come forward in their own time.

Because it is the Scottish Government's intention to align with that directive, even though we are no longer members of the EU, the idea is that we would continue to introduce regulations on those articles on the original timescales. However, given that wet wipes are such an urgent issue, we are looking at what we can do sooner—ideally, that would be a ban throughout the UK nations. We are actively looking at that.

Jackie Dunbar: Minister, you touched on protecting our environment, as a devolved matter. The regulations that we are considering would go a long way in achieving that. However, you also said that that could be undermined by the United Kingdom Internal Market Act 2020. With that in mind, will you set out how the UK Government is engaging with you on the issue? What would the implications be if the exemption was not made?

Lorna Slater: In line with the programme for government commitments, the regulations were laid before the Scottish Parliament earlier this month, and they will come into force in June, as we have discussed, to ban the manufacture and supply of these problematic plastic products. Alignment with the other UK Administrations on the policy measures of the regulations was not possible due to uncertainty over the final content of the UK and Welsh Governments' legislation and their inability to legislate as soon as the Scottish Government could do so—basically, we got ahead of them.

To address the first part of the question, I note that that is precisely the scenario that the Scottish Government and environmental organisations warned would arise with the United Kingdom Internal Market Act 2020. We can have democratically accountable Scottish ministers implementing policy and being accountable to the Scottish Parliament or we can have the UK Internal Market Act, but we cannot have both.

Although we still fundamentally oppose the act, officials have been engaging on the preferred option of securing an exclusion in this policy area through a common frameworks process. Agreement has now been reached on the process by which agreements can be reached on the common framework areas that can be excluded, and UK ministers will shortly make a parliamentary statement to that effect. This is an early test of UK ministers' commitment to acting in a way that respects the framework process. It will not make the 2020 act any more compatible with devolution, but it will allow a degree of protection for policy areas that are covered by common frameworks.

If no exemption is allowed to the impact of the 2020 act, it will still be possible for any products

that are produced in or imported by another part of the UK to be sold in Scotland, and hundreds of millions of pieces of plastic will still end up on our beaches. Without an exemption, the act will undermine our ban on these environmentally damaging plastic products. We will continue to work with the other UK Administrations to agree an approach to managing the implications of the act for the ban. Indeed, I will attend an interministerial meeting on the topic next week, with the intention of explaining the Scottish Government's position and seeking answers from my counterparts.

We look to the UK Government to honour its commitments, which it made during the passage of the 2020 act, to protect frameworks and exclude this policy area from the scope of the act. I will also write to the UK Government to ask it to take the necessary steps to protect our ban's integrity.

Collette Stevenson: With regard to public procurement, what impact assessment, if any, has been done to determine the implications of the legislation being rolled out? There are a variety of frameworks in place, even at the local authority level. How will you be able to align things in that respect? You talked about bringing in a ban within six months, but what work has been done on that? Could there be a legal challenge from companies that are part of the tender frameworks?

Lorna Slater: I will talk about the impact assessments that have been carried out. I might then need to hand over to officials to respond in more detail to your question on the legal aspects.

A business and regulatory impact assessment, a strategic environmental assessment, an equality impact assessment, a fairer Scotland duty impact assessment and an island communities screening assessment have all been completed. The work that was done as part of the impact assessment process found that restricting the availability of plastic straws might impact on some people with protected characteristics more than others through a loss of independence and a loss of functions in relation to eating and drinking that other straws do not provide, and targeted exemptions from the ban on single-use plastic straws have been included. That was a key finding of the impact assessments.

Significant findings of the business impact assessment include the fact that the vast majority of the products that are covered are not manufactured in Scotland, but alternative materials are readily available. I know that my chippy uses cardboard straws. It is not that alternatives are hard to get or are expensive.

As for the economy-wide impact of introducing the restrictions, there is a cost compared with business as usual. Under net present value, item

costs are generally increasing as there are higher costs associated with some of the alternatives.

I turn to officials to answer the questions on the legal impact and specifically on public procurement, because they are not covered in my notes.

Andrew Forsyth: As has been noted, the directive was published in 2019, and since then the Scottish Government has made clear its intention to introduce these regulations. The Government and our partners at Zero Waste Scotland have clearly communicated our intention to bring in these regulations to support those in the public sector in making procurement decisions, and we are encouraging them to take early action ahead of the regulations being laid and coming into force next year. We continue to work with Zero Waste Scotland on messaging and supporting businesses in the transition to new procurement arrangements.

11:15

Mark Ruskell: Fishing gear, alongside wet wipes, has been identified as a particular problem. The MCS survey shows that it often washes up on our beaches, and it is a difficult problem to deal with. What are we doing about fishing gear?

My other question is about the resources and waste common framework. You said that you are entering meetings with the other Administrations, and I presume that alignment on DRS will be included in the conversations, along with extended producer responsibility. Do we have a sensible basis on which to move forward on circular economy decisions across the UK? Is that framework operational?

Lorna Slater: You are correct to say that the framework process to allow exemptions from the United Kingdom Internal Market Act 2020 will be critical to our ability to tackle litter and implement the circular economy. Progress is being made on that framework, and I will give you an update on how that is going.

There are challenges here, as I am sure you understand. Protecting the Scottish environment is a matter of devolved competence. The EU directive that is the basis of the regulations came into force in 2019, as my official pointed out. At that time, all the nations of the UK were still in the EU and the 2020 act had not been created. The act, which has the potential to undermine Scotland's ability to protect our environment from damaging pollution, represents an assault on devolution the like of which we have not experienced since the current Scottish Parliament was established. Scottish ministers remain fundamentally opposed to the imposition of the

act. However, we are working on the frameworks process.

Our officials have worked closely with officials from the other UK Governments to design the frameworks, where they are necessary, in line with the principles for common frameworks that we agreed in October 2017. They include the agreement that, as part of the process for establishing common frameworks, the devolved institutions' competences will not normally be adjusted without their consent. The frameworks are supposed to maintain, as a minimum, equivalent flexibility for tailoring the policies to the specific needs of each territory to that which was afforded by the EU rules.

In short, the answer to your question is that the frameworks are under development, but they have not yet been committed to. There is always the worry that the UK Government might not keep its promise to implement the frameworks as we agreed in 2017, so I will ask it next week to continue to work on the frameworks and to allow the exemptions that apply to the important area of single-use plastics and specifically the extended producer responsibility scheme. With regard to that, we and the Welsh Government have much stronger ambitions than the UK Government does for both the timeline and what is involved in the scheme.

It is important that each nation in the UK is able to move on the issues at the pace that works for it. Last week, I spoke to Lord Deben of the UK Climate Change Committee, and he was supportive of that approach. He likes the idea that each nation that steps ahead of the others—as Scotland is doing in relation to the issue that we are discussing—will challenge the others to align with it, which will mean that we have a continual improvement approach whereby we reduce waste and prevent litter.

Mark Ruskell: I think that it was Rhodri Morgan who said that devolution is a great laboratory, and there is definitely an opportunity to innovate. Will you comment on the fishing gear issue?

Lorna Slater: That is not covered in the regulations that we are talking about today, but fishing gear, along with wet wipes, represents a significant marine litter issue. It is also a safety issue—we see pictures all the time that show animals being affected by it.

I am not aware of which regulations cover that issue. My officials might have that information, or I am more than happy to come back and discuss it with you.

Mark Ruskell: That would be good, because it is an important issue.

Lorna Slater: Do my officials have any information on fishing gear?

Janet McVea (Scottish Government): I agree that we can come back with further information on that.

Convener, may I add a couple of comments in relation to earlier questions?

The Convener: Yes.

Janet McVea: I confirm that provisional frameworks have been established to ensure that we have interim arrangements in place following the end of the transition period. The arrangements that have been operationalised at official level have provided us with a good platform to engage with counterparts across the UK to discuss the impacts of the 2020 act.

I did not get a chance to contribute to the discussion on impacts across the supply chain, but we will be happy to provide further information on that. Andrew Forsyth addressed the issue of the full business regulatory impact assessment, and I clarify that the impacts across the supply chain could be identified at three potential levels—the point of producing plastics and manufacturing items, the point of distributing items, and the point of supplying items to end users. The full impact assessment includes a Scottish firms impact test, and we engaged with a number of organisations to inform that. Full details are set out in the BRIA.

As the minister noted, in our consultations to date, businesses have expressed support for the proposals. On the headlines from the BRIA, the expectation is that Scottish polymer producers are likely to experience minimal impact. Manufacturers of some of the items that are affected could experience some impact, although it would be minimal, but there are also opportunities, particularly as some manufacturers develop alternative—[*Inaudible.*]

The Convener: We appear to have a technical problem with the connection. Liam Kerr has a supplementary question.

Liam Kerr: The technical problem is unfortunate as I was interested in what Janet McVea was saying. I hope that we will re-establish the connection shortly.

Minister, I understand that the intention is to publish guidance to help those who are affected by the regulations. What is the current status of that guidance? What is the timeline for its introduction?

Lorna Slater: My understanding is that the guidance is ready now and has been published on the website. My officials can give me the specific date if I am wrong.

Andrew Forsyth: The minister is correct. The guidance has been published in draft form online, and we continue to engage to ensure that it is robust. The final version will be published on 1 June, when the regulations come into force.

The Convener: Minister, you said that the regulations are part of a wider policy approach for a circular economy and that, as part of that, the deposit return scheme will supplement the regulations. To help the committee with its work planning, can you tell us when we can expect to see the legislation to introduce the deposit return scheme?

Lorna Slater: I am afraid that I do not have a timeline for that just now. An announcement on that will be made to Parliament imminently. I will do it as soon as I possibly can. We are all aware of the urgency of getting the scheme implemented. I am working very hard on that, but I am afraid that I do not have a timeline today.

The Convener: I completely understand that you do not have a specific timeline, but do you think that it will be this side of the summer recess—around June next year—or are we looking at a longer wait?

Lorna Slater: I will make an announcement to Parliament on that. I intend to update Parliament before the Christmas recess. I hope that that will be possible.

The Convener: As we have no further questions, that brings us to the end of this evidence session. I thank the minister and her colleagues online for joining us today.

We will have a short suspension.

11:23

Meeting suspended.

11:28

On resuming—

Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2021

The Convener: Welcome back, everyone. Item 4 is consideration of the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2021. I welcome Màiri McAllan, Minister for Environment and Land Reform, and her officials Fiona Taylor, Anna Leslie and Kirsty Slee, who join us remotely. Thank you all for joining us this morning.

The instrument has been laid under the affirmative procedure, which means that the Parliament must approve it before it comes into force. At the next agenda item, after this evidence session, the committee will be invited to consider a motion to approve the instrument.

I invite the minister to make a short opening statement.

The Minister for Environment and Land Reform (Màiri McAllan): Thank you, convener, and good morning, committee. I am pleased to be with you this morning to help to bring the new register of persons holding a controlled interest in land a step closer to its go-live date, which is 1 April 2022.

As members know, the register will represent a huge step forward in delivering transparency by making clear the identity of the people who make decisions about land in Scotland. The register was a commitment in the Land Reform (Scotland) Act 2016, and the principal regulations that implement it—the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021—were approved unanimously by the Parliament in February, after consideration in no fewer than eight committee meetings. I take this opportunity to thank your predecessor committee, the Environment, Climate Change and Land Reform Committee, for its commitment to and scrutiny of the regulations.

As a quick reminder of what the register will do, I note that it will complement information that is already available in the land register and the sasines register about the owner of land with information about associates—that is, those who have an influence on the owner and are taking decisions about how the land is used. It will create greater transparency in Scotland than there is in any other part of the United Kingdom and take us to the forefront of Europe in that regard. From my days as a commercial property lawyer, I know just how useful that will be.

The policy has been unanimously agreed. The Scottish statutory instrument that is before the committee addresses a very technical flaw, which has arisen due to the complex interaction between trust law on the one hand and conveyancing law and Registers of Scotland on the other. It concerns the situation in which trustees resign or die. In as simple terms as it is possible to use—and I hope that this is clear—the flaw means that, when a trustee who is named on the trust documentation and registered in the land register or the sasines register as the owner either dies or resigns, there will be no registrable recorded person for the purposes of the new register. That is largely because, for the purposes of the regulations, the recorded person flows from the land register, and the responsibility to identify the associates flows from the recorded person. Those who know trust law will understand that the problem is that a person automatically ceases to be an owner or a trustee on their death or resignation, but that does not correlate with the land register, which requires a conveyance.

It is very difficult to describe the complexity of it. However, the SSI is necessary to give effect to the original policy intent, because tackling the opaqueness of trust law was one of the original intents of the register.

The register has been subject to significant policy development and parliamentary scrutiny, but this small flaw was identified in the workshops that were run with Registers of Scotland to facilitate the information technology build of the register. We have shared the proposed SSI with a multitude of stakeholders, including the Law Society of Scotland, the Scottish Property Federation, the Scottish Land Commission, Community Land Scotland and Scottish Land & Estates, none of which raised any concerns.

It is a small tweak, but it is necessary in order to give effect to a very ambitious piece of land law. I should be very grateful if the committee would propose its approval.

The Convener: Thank you, minister. We move to questions from members in relation to the instrument.

Mark Ruskell: I remember those eight sessions fondly, and I do not remember this issue coming up. It is interesting that it was identified through the extensive IT build as an issue of due diligence. It seems to be a logical loophole to close.

What is the timescale for the roll-out of the register, and where are we with building in seamlessness of use for the public and users of the multiple registers, such that they can come to a portal and find out—in a way that makes sense to ordinary people, who do not have the benefit of experience of conveyancing and trust law—who

owns a piece of land and who is influencing the ownership and management of that land?

Màiri McAllan: I am not sure that I would call that a benefit.

You are absolutely right. Part of the reason why we are bringing the SSI now, and are keen to have this resolved now, is to allow that seamlessness. If we can overcome the issue that has been identified, we will still be on track for the opening of the register in April next year. We could have considered sorting this loophole after the fact, but it is about the deliberate intent to make a smooth transition to the creation of the register. That is why we are bringing it now.

Mark Ruskell: So we are still on track for the original date of April.

Màiri McAllan: Yes.

The Convener: As there are no more questions, we move to item 5, which is formal consideration of motion S6M-02176, which calls for the committee to recommend approval of the draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2021. I invite the minister to move the motion.

Motion moved,

That the Net Zero, Energy and Transport Committee recommends that the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2021 [draft] be approved.—[*Màiri McAllan*]

Motion agreed to.

The Convener: Excellent. The committee will report on the outcome of the instrument in due course. I invite members to delegate authority to me as convener to approve a draft of the report for publication.

Members indicated agreement.

The Convener: Minister, that brings our session with you to an end. I thank you and your officials for appearing before the committee this morning.

Màiri McAllan: Thank you.

11:35

Meeting suspended.

11:57

On resuming—

Public Petitions

Improve the Reliability of Island Ferry Services (PE1872)

The Convener: Our next item is consideration of two public petitions. The first petition is PE1872, on improving the reliability of island ferry services. The petition was lodged by Liz McNicol in May 2021 and calls on the Scottish Parliament to urge the Scottish Government to urgently ensure that all islanders have access to reliable ferry services. I thank the petitioner for lodging the petition.

I invite members to note paper 6, which provides some background information and reminds us of our options in relation to petitions. With respect to the challenges experienced with ferry services across Scotland recently, we should note that Audit Scotland is undertaking a substantial inquiry into ferry services. That report is due to be published in March 2022.

The first step that the committee can consider in relation to the petition is to write to the Scottish Government to ask what steps are being taken to address the challenges being experienced by island communities and others in relation to ferry services. Do members agree to take that approach?

Members indicated agreement.

The Convener: Are there any particular issues that members would like us to address in the letter to the Scottish Government?

Collette Stevenson: Notwithstanding the Audit Scotland report, it is incumbent on the committee to ensure that some of the other challenges are addressed. That might involve writing to CalMac Ferries on access to its ferry services, given that they are a lifeline for the communities in our islands. We can ask what is being done about camper vans, emergency access to get to hospital on the mainland and access for white vans, given that ferries underpin island economies.

The Convener: I completely agree with that. We are looking at writing to the Scottish Government and to CalMac and then, depending on the responses, we can have an evidence session.

Fiona Hyslop: Yes. The petition dates from May, but as we know, islanders are experiencing on-going and serious issues. We can look at the Audit Scotland report, which is a review of the arrangements and learning in relation to the procurement and management of projects. However, we should also ask the minister whether

steps are being taken, in advance of the Audit Scotland report's publication, to improve the current lifeline ferry services.

12:00

We need to consider that in advance of the spring and summer seasons. The petitioner was writing in reference to some of the impacts on tourism. We have to ask the minister to look at both the lifeline issues that Collette Stevenson mentioned and the implications for tourism.

We should put similar issues to CalMac. It is good to see that this week CalMac is offering half-price tickets for schools that are taking part in activities on the mainland. That has been a long-standing issue. There might be other practical steps being taken. We need to ensure that those are put on the record and understood.

The minister might want to come back to us in advance of the Audit Scotland report if there is anything that can be announced in relation to the lifeline services, as well as looking forward to the tourism season.

The Convener: I completely agree with those points.

Monica Lennon: I agree with the points that my colleagues have made. We should write to both the Government and CalMac. I agree with the deputy convener that the issues raised by the petitioner dating back to May are fairly urgent and that we cannot wait for the Audit Scotland report, which will probably look at a narrower set of issues. It is right that the committee takes further action.

I thank the petitioner for bringing the matter to the Parliament's attention.

Liam Kerr: I have nothing to add to the important comments that have already been made.

Mark Ruskell: I agree with all the comments so far. An important part of access is the cost, particularly for those who are vulnerable and cannot afford regular travel. I know that many young people in the islands use a ferry service in the way that people on the mainland might use a bus service. It would be useful to know what consideration the Scottish Government has given to that. The roll-out of concessionary travel for under-22s on the buses is starting in January, but it would be interesting to know whether the Government has done any analysis of the cost of extending that to ferries. I know that the transport minister announced several weeks ago that the fair fares review will look in detail at the structure of ferry prices and how that will impact on people who are struggling.

The Convener: That is a very good point. We seem to be agreed on our approach. We will write what will probably be quite a lengthy letter to the Scottish Government, setting out those concerns, and we will send a similar letter to CalMac. It will be an on-going line of inquiry for the committee. We do not want to duplicate the work of Audit Scotland, but as Monica Lennon said, it is important to take up the concerns raised in the petition and get a response from the Scottish Government and CalMac.

Translocate Protected Beavers to Reduce Licensed Killing (PE1815)

The Convener: We now turn to PE1815 on translocating protected beavers to reduce licensed killing. The petition was lodged by Steve Micklewright on behalf of Trees for Life in August 2020. It calls on the Scottish Parliament to urge the Scottish Government to initiate a programme to translocate protected beavers to suitable habitats, to minimise the need to kill animals that are adversely impacting arable farmland.

I again refer members to paper 6, which sets out some relevant information, including a highly relevant court case in which the petitioners were involved, which concluded recently. It also highlights a recently announced new policy on the translocation of beavers.

I point out, by way of background, that NatureScot was in touch with the clerks yesterday afternoon to comment that, in relation to paragraph 7 of the clerk's paper, it takes a slightly different interpretation of the court judgment and would prefer the first sentence of paragraph 7 to read:

"The judgement ruled that NatureScot erred in law by not setting out the reasons why it was issuing the management licences."

I state that simply to put on record NatureScot's views on the court case.

Members should also note some developments that have happened since the petition was submitted. The Scottish Government has recently announced that it will begin to identify new sites for the translocation of beavers and that there will be a consultation with local communities that might be affected, to identify and mitigate possible areas of conflict. In addition, NatureScot is in the process of drafting guidance to show future consultees how it will handle conservation translocation applications, how their views can be presented, and what can be expected from a competent and fair consultation exercise.

With that, I invite thoughts from committee members on how we might respond to the petition and what we should be highlighting to the Scottish Government and NatureScot.

Mark Ruskell: First of all, we should congratulate the petitioners on managing to change Government policy. Translocations are now happening, which is great; indeed, I think that one happened yesterday in the Stirling area.

To be fair, I think that some follow-up work is needed on the back of this. Although it would probably be useful to write to the Scottish Government, I think that we should certainly write to NatureScot to ask for more detail on its view of the change in the beaver management framework, particularly with regard to existing licences for lethal control, the funding of translocations and how the process itself can be streamlined. I know that some of that will come through forthcoming guidance, but I would still be reluctant to close the petition. You could look at this and think that pretty much everything that the petitioners have asked for is now happening, but there are some issues for the future with regard to guidance and the management framework that will need to be followed up, to ensure that we get substantial change.

The Convener: I agree, and I think that your point about the financial implications of translocations is important. The question is whether the budget in place is adequate, because I imagine that some additional budgetary requirements will be imposed as a result of this new policy area.

Monica Lennon: I am not sure whether Ciaran Jenkins of Channel 4 News is aware of the discussion that we are having, but members might want to look at a very lovely Twitter thread that includes a video of the first family of beavers in Scotland to be moved to their new home.

I agree with Mark Ruskell that this is good news, but, like him, I have some questions about how this will be operationalised and the resource and funding requirements. Perhaps we should ask NatureScot and the Scottish Government for a response to the recent court ruling, given that some matters might be open to different interpretation, and from a landowner's perspective, there might be questions about compensation for putting adaptation measures in place.

I note that 115 beavers—or around a tenth of the population—were shot and killed in Scotland last year. Despite the change in policy, there is still scope for licensing lethal control, and we need to get a better sense of what that will look like.

The Convener: I agree. I suggest that we also inform the Rural Affairs, Islands and Natural Environment Committee in writing of what we are doing in this area, to ensure that, given the overlap in the committees' remits, we can co-ordinate our work with whatever work the other committee is undertaking. Are we agreed?

Members *indicated agreement.*

The Convener: Now that we have agreed a significant course of action for following up the petition, I look forward to working with committee members on it.

That ends the public part of the meeting.

12:09

Meeting continued in private until 12:30.

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