



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government, Housing and Planning Committee

Tuesday 12 September 2023

Session 6



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LOCAL GOVERNMENT, HOUSING AND PLANNING COMMITTEE
20th Meeting 2023, Session 6

CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

DEPUTY CONVENER

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

COMMITTEE MEMBERS

*Miles Briggs (Lothian) (Con)

*Pam Gosal (West Scotland) (Con)

Mark Griffin (Central Scotland) (Lab)

*Ivan McKee (Glasgow Provan) (SNP)

*Marie McNair (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Bookbinder (Glasgow and West of Scotland Forum of Housing Associations)

Peter Drummond (Royal Incorporation of Architects in Scotland)

Gareth Fenney (Scottish Government)

Antonia Georgieva (Scottish Government)

Patrick Harvie (Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights)

Claire Jones (Scottish Government)

Fionna Kell (Homes for Scotland)

Adam Krawczyk (Scottish Government)

Charlotte Lee (Heat Pump Association)

Duncan Sharp (Scottish and Northern Ireland Plumbing Employers Federation)

Yvette Sheppard (Scottish Government)

Alan Stark (Scottish Property Federation)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Local Government, Housing and Planning Committee

Tuesday 12 September 2023

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Ariane Burgess): Good morning, and welcome to the 20th meeting in 2023 of the Local Government, Housing and Planning Committee. I remind all members and witnesses to ensure that their devices are in silent mode and that all other notifications are turned off during the meeting.

Agenda item 1 is a decision on taking business in private. Do members agree to take items 5, 6 and 7 in private?

Members indicated agreement.

Subordinate Legislation

Building (Scotland) Amendment Regulations 2023 (SSI 2023/177)

09:00

The Convener: Agenda item 2 is evidence from two panels of witnesses on the Building (Scotland) Amendment Regulations 2023.

The first of the evidence sessions will be in round-table format, and for our first panel we are joined in the room by Fionna Kell, who is director of policy at Homes for Scotland; David Bookbinder, who is director of the Glasgow and West of Scotland Forum of Housing Associations; Peter Drummond, who is the chair of the, practice committee of the Royal Incorporation of Architects in Scotland; and Alan Stark, who is the chair of the sustainability and building design committee at the Scottish Property Federation. We are also joined online by Charlotte Lee, who is the chief executive of the Heat Pump Association; and Duncan Sharp, who is the director of the Scottish and Northern Ireland Plumbing Employers Federation, otherwise known as—I just want to say this—SNIFE. I welcome our witnesses to the meeting.

I want to begin our conversation by inviting everyone to introduce themselves very briefly. I will begin: I am the convener of the committee and I represent the Highlands and Islands region.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I am the MSP for Kilmarnock and Irvine Valley, and I am the deputy convener of the committee.

David Bookbinder (Glasgow and West of Scotland Forum of Housing Associations): I am from the Glasgow and West of Scotland Forum of Housing Associations.

Miles Briggs (Lothian) (Con): Good morning, everyone. I am a Conservative MSP for the Lothian region.

Fionna Kell (Homes for Scotland): Good morning. I am the director of policy at Homes for Scotland.

Marie McNair (Clydebank and Milngavie) (SNP): I am the MSP for the Clydebank and Milngavie constituency.

Alan Stark (Scottish Property Federation): Good morning. I am an architect, but I am also the chair of SPF's sustainability and building design committee.

Pam Gosal (West Scotland) (Con): Good morning. I am a Conservative MSP for the West Scotland region and a committee member.

Ariane, I have declarations to make. Should I do so later on?

The Convener: Just do it now.

Pam Gosal: Right. I just want to say that, although I have no residential letting interests to declare, I have a 50 per cent share in two commercial property lettings, one of which is in England and the other in Scotland. Both are let on long-term leases and I take no income from either.

The Convener: Thanks very much.

Peter Drummond (Royal Incorporation of Architects in Scotland): I am an architect and am representing RIAS this morning.

Ivan McKee (Glasgow Provan) (SNP): I am the Scottish National Party MSP for Glasgow Provan, and I, too, draw attention to my entry in the register of members' interests in respect of ownership of a rental property and a 50 per cent share in a business that rents residential properties.

Charlotte Lee (Heat Pump Association): Hi there. I am chief executive of the Heat Pump Association. It is a pleasure to join you today.

Duncan Sharp (Scottish and Northern Ireland Plumbing Employers Federation): I am a board member of SNIPEF.

The Convener: Thanks very much. It is good to have all of you here this morning for this conversation.

We will now turn to questions from members. Please indicate whether you would like to respond to any question that is asked, although I should say that we do tend to direct questions to someone initially. If you want to come in on the back of a question, please indicate as much.

As far as is possible in this setting, we are trying to have a free-flowing conversation rather than a question-and-answer session. Charlotte Lee and Duncan Sharp, as you are appearing virtually, you can indicate that you want to come in by typing R in the chat function. As, I think, witnesses already know, there is no need to turn your microphones on and off—that will be done for you.

I will begin the questions, and my first one is directed to Alan Stark. I am interested in hearing whether you agree with the principle of the Government's approach to regulating for a new-build heat standard and that a regulatory rather than voluntary approach is needed to ensure that the Scottish Government meets its net zero targets.

Alan Stark: Our members are very supportive of the process of moving away from fossil fuels. The problem is the timescale. The demand that is going to be made on electrical supply, in

particular, is so vast that the concern is that we will not be able to match the demand with supply.

I will give you a brief example of a case study from Winchburgh. The scale of the development was almost that of a small town; it was consented in the 20-teens, with the first phase completed in 2018. The new regulations are radically changing how that process will be approached. The development had brand-new gas and electricity supplies. The electricity supply was for about 8 megavolt amperes, but the rule change means that that now needs to be 35MVA, because of car charging being needed as well as housing, schools and all that goes with them.

Therefore, it is not a very small change but a vast change. The developers have been told that 15MVA is the maximum that is possible for the new power supply. In effect, until the matter is resolved nationwide, such developments will not be able to fully proceed. At some point, construction will have to stop—unless the infrastructure issue can be resolved.

That is the fundamental problem, although there are other issues with conversions. New-build housing is not such an issue. It can be dealt with and new houses can have electric heating, but older properties and conversions will be difficult because they are not airtight—not to mention the costs and the fuel poverty issue. Therefore, we are supportive of the approach for new-build housing but we are concerned about supply, which is the main issue that needs to be addressed.

The Convener: Are you aware of any work that is being done on or of discussions about the supply issue?

Alan Stark: There have been discussions with some of the Government's heat and energy team and with utilities suppliers, but as far as I am aware there is slow progress. Everyone is aware of the problem, but no one seems to have a short-term solution.

Fionna Kell: Everything that Alan Stark has said about that case study is replicated across the whole country. That is our fundamental concern. Although we fully recognise the need to address the climate crisis, we want to respectfully lay down the fact that there is still a housing crisis in Scotland. Current estimates suggest that we have a shortfall of about 114,000 homes in this country, and the proposals to introduce the new-build heat standard are likely to have a significant impact on the supply of new homes in the future.

On the timing of that, one of our concerns is about accelerating ahead of the rest of the UK. Although, in principle, we understand why the Scottish Government might want to do that, the reality is that many of the supply chains are United Kingdom wide and many suppliers will be gearing

up to deal with where the majority of their customers are, which is in the rest of the UK, not Scotland. As a result, we could end up with a two-tier system and a supply chain that is simply not in a position to address what is needed in Scotland at the scale and with the timing that are needed.

Peter Drummond: RIAS's view is that the policy has to be implemented as soon as is reasonably practicable. Although we hear what colleagues have said about national grid infrastructure issues, our view is that those are primarily in the central belt—at least where large housing developments are going on. For smaller-to-medium local schemes, in many cases—as I have said, in the central belt and on the east coast—there is sufficient infrastructure. We have different concerns about infrastructure in the remoter parts of the Highlands and in the islands that have single connections to the mainland and limited capacity.

Our concern is not necessarily about an infrastructure gap in large parts of the country but about a skills and training gap. When the Westminster Government moved towards condensing combination boilers in the 1990s and early 2000s, there was an 18 to 24-month lead-in period for us to upskill the industry in what was a relatively modest step forward. We are now talking about a very big step forward for many contractors and consultants. We say “as soon as is practicable” against that backdrop of getting in place sufficient training capacity in the sector to ensure that enough operatives are in place to deliver that policy, as is absolutely essential.

David Bookbinder: Our member housing associations are unlikely to question in any way the principle behind the change. Difficult decisions will be associated with marrying the continuing flow of work in the construction industry with meeting climate change targets.

There is nervousness. We are speculating, to a large degree. A few of our members have been able to start installing renewable heating systems before the deadline. Over their history, associations have always been proud of that sense of taking the lead and innovating—experimenting, even. To a degree, that is the case with this. However, in some early projects, there have been signs that the system, if you like, is not quite ready. That relates to, for example, anxiety about not so much the installation of renewables as their annual maintenance. There are already signs that it is much more difficult to get maintenance than to get somebody to come and install the equipment.

A particular worry for our members is the extent to which planning departments across Scotland will embrace some of the new technologies and challenges. I can say more about that later.

The general worry is that the slowing new-build programme in the social sector might slow things down further. That is not necessarily a reason not to do it. There are always difficult decisions, as I have said. However, there is a hesitation at the moment among a number of our members about whether they should carry on developing. This is another factor that will have them thinking very hard about whether to cross that line and develop, even if the grant funding is there.

The Convener: Thanks very much. I want to come back on a few things. Some of you have prompted my next question, which is about electrical grid capacity. Peter Drummond, you said that you have concerns, particularly about the remoter parts of the Highlands and Islands. Will you talk a little more about that?

Peter Drummond: RIAS is concerned that we are being quite central beltist on the issue. We all know that, in bad winters, parts of the west coast, the northern isles and the Western Isles, in storm conditions, can lose their power for up to three or four days at a time. I have a declaration: I might be from that neck of the woods. Those are very vulnerable communities. Until there is further resilience in the infrastructure, we are concerned about leaving people in electrically heated houses with no electricity with which to heat their houses; therefore, there is no other practicable option—absent increasing resilience in the grid—than to allow for some sort of secondary emergency back-up, either at a district level for larger schemes or in one-off schemes. We are concerned that the current wording of the amendment will leave the door open to the installation of 4kW and 6kW diesel and petrol generators, which would circumvent the purpose of the bill. We question whether further research has to be done on a more proportionate approach in those areas.

09:15

We also recommend that consideration be given to a backstop for such installations—tied to the anticipated grid infrastructure time—and that maxima be put in place for the emissions and pollutants from those back-up sources, so that we do not simply replace dirty gas heating systems with something that might be equally bad.

The Convener: That is helpful. Thank you.

Fionna Kell, I am curious. You talked about the shortfall in housing and about the concern that this might slow things down. However, on the other side, we would end up with a lot of housing that people would then have to retrofit in the future. Have you given thought to that?

Fionna Kell: Yes, I recognise that; however, overall, the number of new homes that are added to the housing stock in Scotland annually is

minimal. Around 73 per cent of the stock in Scotland was built before 1982. Worryingly, 19 per cent was built pre-1919, and a further 12 per cent was built between then and the second world war. That is a significant number of homes.

The changes in regulation that are already in place have significantly reduced carbon emissions in new homes. Between 1990 and 2015, the changes in building regulations resulted in a reduction of about 75 per cent in carbon emissions from our homes. Between 2015 and the new standards that have come in in 2023, there has been a further 32 per cent reduction. When it comes to the benefits that we are getting from further regulating on new build, we undoubtedly need to do it, but the emissions from our existing ageing stock are significantly more.

Our view is that, understandably, new build needs to be addressed, but a genuine priority must be to look at the retrofitting of our existing stock. That is where we will get the biggest impact if we are serious about addressing the emissions from our housing stock.

The Convener: Does that mean that all the companies that you represent in Homes for Scotland are busy setting up retrofitting arms?

Fionna Kell: No. Our members deal with new-build housing. They are not involved in retrofitting.

The Convener: So, you are concerned about the retrofitting but you want somebody else to do that.

Fionna Kell: When it comes to the overall supply—the supply of heat pumps, for example—we can begin to accommodate that in new-build homes. What, though, is the availability for the entire housing stock? It is easier to do it in new build. We understand that, and we understand why the legislation will focus on new build to start with, because it is easier to build in at the source. However, to be honest, the real problem lies in what we, as a country, will do to address our existing housing stock.

The Convener: Yes, but what we are looking at here is a new-build heating strategy.

Fionna Kell: Absolutely.

The Convener: Charlotte Lee would like to come in.

Charlotte Lee: I will build on some of the comments that have been made about introducing this as soon as is reasonably practicable. That is very much where we sit, and it has been covered off at the end of what has been said.

The value of focusing on new build first is that it allows the supply chain to develop. That is needed across the whole country, including in Scotland. When it comes to a skills gap and a skills

shortage, what is so beneficial within the new build sector is the house builder's ability to tender out for projects—for example, for heat pumps—to build within the new-build sector the supply chain that can then go on to the retrofit market. I completely agree that retrofitting is a much more challenging prospect, but we need to facilitate the awareness, the familiarity and the acceptance of the technologies that new build helps along in the process.

When it comes to our position—my knowledge comes from our being a heat pump association—Scotland is ahead of the rest of the United Kingdom in homes per capita that have heat pumps. There is a very good loan-grant system for the retrofit space.

Although the microgeneration certification scheme in Scotland has nearly 200 certified businesses, it needs to grow. How do we encourage and incentivise that to grow? The building standards regulations that we are discussing are crucial to developing that sector. There are no supply capacity restraints for heat pumps throughout the UK at the moment.

As you will know, a big heat pump manufacturer is based in Livingston, so their manufacture is very local. The level of investment going into manufacturing in the UK and neighbouring countries across Europe gives confidence to the sector that the capacity of the supply chain is not a limiting issue. The main issue is the installers. To encourage growth and training, there needs to be an increase in demand, and the building standards would support that.

The Convener: Thank you for that detail and background. It is good to know that we are manufacturing air-source heat pumps in Scotland.

Ivan McKee: I want to broaden out the discussion and get a sense of the types of technologies that could be deployed. There is a huge focus on heat pumps, which are clearly going to do much of the work, but do you have any thoughts on other technologies, such as district heating, bioenergy and solar, that could have a role to play? What might that look like?

Peter Drummond: The way in which the thermal performance standards are currently worded in the Scottish building regulations means that heat pumps are likely to be the most efficient technology for the time being. I will come back to biomass in a second.

As members will be aware, the Scottish Government is progressing the Passivhaus-equivalent standards, which are likely to significantly lower the energy requirements of houses to about 15kW per square metre a year. At that point, there will be more legroom for solar panels and similar microsystems.

My advice is that we should treat this change and the forthcoming Passivhaus change as two sides of the same coin; they must work together if we are to deliver a good standard, in relation to both functional carbon use and embodied carbon use—we cannot fill the buildings with solid petrol or whatever.

Biomass is a more interesting question and might beg a regional response—although I appreciate that that might be more difficult to achieve through national legislation—in some parts of the country, particularly Grampian and some parts of the Highlands, where woodchip and similar biomass is readily available and has a low carbon footprint. It does not have a zero carbon footprint and it might have a slightly higher carbon footprint than we previously thought, but its carbon footprint is still low compared with that of alternative systems. How does one legislate for such a system in Grantown-on-Spey, Rothiemurchus or Aviemore, but not in Kilmarnock or Irvine, where we would have to bus in the woodchip from 50 to 80 miles away? That is a difficult call.

The RIAS position is that we might want to think of a backstop date for biomass systems, which would allow them to continue to operate for now. Many people in the Highlands and Islands—and Dumfries and Galloway, to a certain extent—have invested quite a bit of time and money in such systems, so an absolute cut-off might be problematic, given that it is a low-carbon solution.

However, to go back to your original question, for the time being, heat pumps are pretty much the main show in town. Most of the other solutions are three or four years away. Even for heat pumps, the game changer will be high-temperature heat pumps, the commercial systems for which we estimate are about five years away—my colleague at the Heat Pump Association will correct me if I am wrong.

Ivan McKee: Does anyone else want to comment on that?

Alan Stark: There has been a discussion about hydrogen, but there is a complication, which is that it seems to work as a percentage in the gas supply, but not at 100 per cent. However, it is not the most efficient technology. All those technologies need to be developed to see what will work for us and what can be made to work for us. However, as Peter Drummond said, in the short term, heat pumps are the only technology that is oven ready.

Fionna Kell: If, in the short term, the focus is on heat pumps, there might be an understandable nervousness about installing in homes for the longer term a technology that is still being trialled or is a prototype. We do not want to end up in a

situation in which we have installed heat pumps in the homes of our citizens and, in 10 or 15 years' time, we discover that heat pumps are not the way forward and, instead, hydrogen or whatever is the way forward and we have to start retrofitting that. There is a bit of concern about whether we are confident that we have an understanding of what the right technologies are and that the public have an understanding of how the technologies will work and change the way in which they live in their property. The timing of that must be consistent with the changes that are being introduced.

It is not that I am saying no; I am simply introducing a note of caution. The analogy that many people have used is that of VHS and Betamax, whereby people were investing in Betamax technology at the same time as VHS, but, after a few years, we discovered that Betamax was redundant. What happens if residents install a new heating system in their homes but, in a few years' time, we decide as a country that that particular system is redundant? A note of caution needs to be sounded on that.

Ivan McKee: “Redundant” is a fairly strong word in that context, I would have thought. Surely that technology is well trialled globally. The Heat Pump Association might want to comment on that.

The Convener: Would you like to come in, Charlotte?

Charlotte Lee: Sorry—it took a while to unmute me.

You have hit the nail on the head, in that heat pumps might be a relatively unfamiliar technology in the United Kingdom at the moment, but they are absolutely not untested or untried globally. If we look across to our European counterparts, we see that hundreds of thousands of heat pumps are installed every year and have been for the past 10 to 15 years, if not before then. On the question of heat pumps and their relative newness, I stress that, globally, they are not a new technology.

The issue that we have faced and are facing with heat pumps is the negative publicity around cost. When I have spoken to house builders recently on the cost implications of heat pumps for consumers, the feedback is that that is not an issue in the new-build sector. Invariably, the cost of a heat pump is incorporated into the house cost, which goes on to a mortgage, so there is no need for an additional up-front capital cost to be found. When someone buys a new-build home, they are not in the same situation as someone who, for example, replaces an existing heating system and finds that the costs are much more.

Another issue is the running cost: as new-build homes are much more energy efficient and heat pumps can be sized effectively—they are much smaller now—the running costs and the costs of

the heat pump itself are much more acceptable and much less than the costs of a retrofit. Earlier, we discussed the challenges around retrofitting in older properties.

To draw into question the usability, viability or efficiency of heat pumps at this stage is perhaps a bit questionable, given the amount of research that has been done in this country and abroad.

Fionna Kell: I fully understand that. The issue is whether the public understand. Do the public understand the new technologies and the way in which they will have to live in their homes? We accept everything that is there, and it is undoubtedly the case that new-build homes are much more energy efficient. However, we are simply raising a flag, because I am not convinced at the moment that the public as a whole are fully aware of the changes that will be required of them in relation to the way in which they live in their homes and the way in which their homes are heated.

Charlotte Lee: I do not disagree with what Fionna Kell is saying, but we cannot put the emphasis on anyone other than the house builders and us, as a nation, to get the message across to consumers. In the coming months and years, our association will be doing its bit to raise awareness of the changes. In addition, the house builders' handover packs will need to explain the functionality and the different ways of working of heat pumps. I appreciate that that might take a bit more time, but if we are to meet the net zero targets and follow the advice of the Climate Change Committee, that is what we are going to have to do. We therefore need to be aware of and accept the fact that consumers might need additional support and manage that as an industry.

09:30

Peter Drummond: We have to be cautious when we talk about whether systems might require retrofitting in the near future. As Charlotte Lee has said, air-source and ground-source heat pump technology has been used extensively in the UK and Scotland for a number of years, and we are now looking at ways in which we can improve those systems. Should we start using air-source heat pumps in tandem with water-based thermal stores, which would involve going back to the hot water cylinders that we all grew up with?

That is not to say that the previous systems will be in any way defunct. If you will excuse the bad analogy, it is a bit like buying a computer. I might be able to get a better computer in a week, but the one that I bought in Curry's today will still work perfectly adequately. I suggest that it is better to have something that is 98 per cent right and makes a really big improvement to our carbon

footprint now than it would be to hang on for another four or five years for something that might be 100 per cent right.

I will take a wee diversion on the subject of cost. I am afraid that I do not agree with Charlotte Lee that it is cost neutral. Although the current cost of an air-source heat pump in the central belt or on the east coast might be about 75 to 100 per cent more for the house, the services installation for the house that you are building as a whole will only be 10 to 15 per cent of the cost. We therefore face a potentially large increase, but for a small bit of the project.

At the moment, it will cost about £2,000 per square metre to build a new-build social house on the open market. That rises to around £3,000 per square metre for a high-quality private house. I should say that the difference is primarily to do with issues around economy of scale and the good use of space. If the cost of servicing the building is only £200 to £300 a square metre and you are talking about adding another £100 a square metre to that, it will not knock the delivery of that house out of the water. The issue of national grid infrastructure is separate from that because, as others have said, that can mean quite serious sums of money for large schemes.

Again, there are geographical exceptions to that. You could already easily pay double those figures for services installation in parts of the Highlands and Islands and the Borders. However, on the whole, I think that it is better for us to come up with a workable solution now. I take us back to capacity in the industry and training rather than whether we can get heat pumps or whether we might get a shinier heat pump in two years' time. We need to look at how we can put this in place as quickly as we sensibly can.

The Convener: We will move on in the interests of time—unless Ivan McKee has anything else to ask.

Ivan McKee: David Bookbinder talked about the separate issue of planning. He might want to elaborate on that. I am intrigued to find out where he was going with that.

David Bookbinder: As I said, we have only so much experience of associations voluntarily putting renewables into new builds before they have to, which, for the social sector, is 1 December this year, which is four months before that becomes a requirement through the building regulations. One example that we got from a member in the forum's west of Scotland area was about the association proposing that air-source heat pumps be placed on balconies in a particular flatted development, and the planning department saying that they would have to be on the roof. The association felt that that was not technically a

rational solution and that it would be much more costly.

That brings back a sense of what it was like when the world was starting to put in Sky—I have forgotten what the technology was called.

Members: Dishes.

David Bookbinder: Thank you—“dishes” is the term that I was looking for; it is too long ago for me to remember. Planning departments had something to say about that, but eventually it was just part of the modern world and they came round to it.

It seems to me that it takes planning departments half a generation to come round to anything new. That is a real worry, because the development process is not fast as it is, even for a single development, let alone a development such as Winchburgh, and we really do not need further delays in the process.

We have some initial ad hoc feedback from members that they may encounter serious delays as a result of arguing through things—aesthetic things, largely—with local planning departments. If that can be addressed, it will be all the better.

Ivan McKee: That is a good point.

The Convener: Thank you for flagging that up—it caught my attention, too. We have the national planning framework, and I sense that it is bringing in a refresh, so that is hopeful. What you describe is another reason why we need to take that approach, so that we actually start to move through and get those wrinkles out of the system. We could also look into that issue and help with it.

I will bring in Miles Briggs. Miles, we have touched on some of what you wanted to ask about, but you can come on in.

Miles Briggs: I want to ask a few questions about skills and the impact on developers. We have heard consistently about the pressures on the workforce that developers are experiencing. Is there a sufficient skilled workforce in Scotland to facilitate the introduction of the new-build heat standards?

I will bring in Duncan Sharp, as I want to start with the low-carbon skills grant that is available for heating and plumbing apprenticeships. Has that made a difference?

Duncan Sharp: We have seen some of the colleges offering training courses with the grant money, and we are upskilling our members, but we do not have a definite route map for apprentices on renewables. We have route maps for plumbing, electrical and heating apprenticeships, but we do not have a renewables route map for apprentices. It would be good to have that, and to fast track some of the skills to

get those guys up and running, ready for heat pumps. We still do not have that clear on the education side.

Miles Briggs: I will bring in Fiona Kell on developers.

Fiona Kell: A report by the Construction Industry Training Board—I think it was published last year; I am happy to find it and circulate it to committee members—estimated that an additional 22,500 full-time equivalent jobs would be required in Scotland by 2028. It broke those jobs down into hydrogen, fabric first, heat pumps, heat networks and onsite energy. There are significant constraints across all those areas. That is not to say that what we are discussing will not happen, but the pace at which it happens may not quite keep up with the pace at which the regulations are changing.

Miles Briggs: Does anyone else want to come in?

The Convener: I think that Duncan Sharp might want to come back in.

Duncan Sharp: There is a number on the table there, but we do not see that as being sufficient to take up what is required to meet the targets for heat pump installations.

Peter Drummond: Like Fiona Kell, I have a CITB report, from 2023, in front of me. At present, there are very significant shortfalls in the number of plumbing and heat and ventilation operatives in Aberdeen, Aberdeenshire, Glasgow, the west and the south-east of Scotland. I would suggest that the south-west is hanging on by its fingertips—it is currently in the black, as it were, but not by a margin. The numbers in the Highlands and Islands, even allowing for the area’s population, are low.

If we are already the better part of 1,750 operatives short for our existing plumbing and heating, ventilation and air conditioning commitments, we face a very significant shortfall as we start to gear up under the new regulatory regime.

I am no expert on education—I assume that you will take evidence on that in due course—but my understanding is that the issue is not just about apprentices. What we need to focus on is how we take the existing workforce, which—not to put too fine a point on it—will be made redundant when we stop fitting gas boilers, and upskill those people to start dealing with the new systems. We might be talking about the difference between having a three or four-year course for someone who is just starting out and a six-month to one-year course for someone who is already skilled.

Recently, there was a very good presentation given to the building standards division by Built

Environment—Smarter Transformation, or BE—ST, which was formerly the Construction Scotland Innovation Centre, that talked about 1,000 extra trainees coming through the system in the next four years. My concern—this assumes that I did not mishear what was said—is that 1,000 might not touch the sides. What we have to do is start investing seriously in those routes, ways, and paths and, indeed, in grant support for those who have to upskill or train. This process is going to cost contractors an awful lot of time and money and, if we do not put in place a suitable support network for them, the people who will end up carrying that cost will be the consumer and the housing associations.

The Convener: Charlotte Lee wanted to come in.

Charlotte Lee: The skills gap with regard to the number of qualified and competent installers is a tricky issue to manage, largely because it is very difficult to track. In Scotland, the microgeneration certification scheme operates as a certification body that verifies, approves and certifies businesses as being competent to install heat pumps. It is largely used as the standard for access to grant funding; it is not legally required, but it is held in high regard as ensuring compliant installations.

In Scotland, there are 183 MCS-certified heat pump businesses, but the problem with certified businesses is that you do not know how many qualified individuals work in them. I had a little look on the MCS data dashboard, which you can play around with and which shows the number of heat pumps that have been installed, and I note that just over 8,500 heat pumps have been installed up to capacity, which is 45kW, so we are looking largely at domestic situations. The 2022 Energy Saving Trust report assumes that, in Scotland, just over 15,500 individuals will be needed by 2030 to install the number of heat pumps required to meet demand, and that includes not just new build but the retrofit aspect.

There is no doubt that there will need to be massive growth in the sector. As well as new entrants, we as an association are very keen to look at the existing heating engineer workforce and, as has been identified, see what training will be required to bring those individuals along and ensure that they have appropriate skills and competencies to install heat pumps. For example, we estimate that Gas Safe registered engineers could, within six days, be trained to meet the minimum technical competency requirements for an individual to install heat pumps. We are therefore talking days, not months. I appreciate that that does not mean that they will be able to run off and install these things straight away, but a lot of the manufacturers themselves have made

commitments through their installers schemes to support the first three, five or 10 heat pump installations by an individual or new company. After all, it is in their interests to ensure that the heat pump is installed correctly, given that, invariably, their names will be on the box and they will be called if there is a problem.

There is definitely an appreciation of the need to upskill and reskill, as well as bring new entrants into this space, but thousands of heat pumps are being installed in Scotland at the moment. With the right signals and the right support in place, more people will be encouraged to get trained and to take the leap into this new—or newer—space.

The Convener: Do you believe that these regulations send the signals that you just mentioned?

Charlotte Lee: Absolutely. The Climate Change Committee's overall report talks about new build being a low-regret solution. It kick-starts the market, helps to pump prime things and gives the confidence to grow the installer network in order to meet the demand on the sector. We hope that England will follow suit soon; indeed, we await the technical consultation on the future homes standard and hope that people are looking up your way in that respect.

Miles Briggs: I want to move on to the impact on small and medium-sized enterprises. The Scottish Government cannot actually tell us how many SMEs are currently operating in the area. Some of the schemes that have been introduced are welcome. For example, the mobile heat pump training centre, which the Government has introduced, is a welcome step forward in providing training opportunities. However, for most small businesses, losing one individual for training can completely upset their programme of works.

09:45

How can the Scottish Government ensure that SMEs are provided with the support that they will need to transition? Charlotte, I do not know whether you have done any work on that and what that looks like, but I will bring you back in and then anyone else who wants to contribute can come in.

Charlotte Lee: I am sorry, but I am not completely familiar with the support that is in place for installers up in Scotland, but I believe that, through the Energy Saving Trust, funding is available to support installation businesses to become MCS certified, which is a cost that is above and beyond what they would typically be used to. I believe that there are funding streams out there and, here in England, there are training grants. Scotland is normally ahead of the curve in that space, but that is what we would be encouraging.

The mobile training centre that you mentioned, which was funded and supported by Government, is fantastic and will allow access to remote rural areas, which should reduce the time taken to travel to training. We completely appreciate that the lost earnings aspect of training is actually the biggest barrier, especially because a lot of heating engineers are one-man-band SME limited companies.

The population is ageing so, as well as bringing in new people, we need to consider how we encourage people who could see out their career doing what they are doing with the fossil fuel boilers to make that change—and it is a change. Funding and support as well as increasing demand—getting customers to request heat pumps—will help to move the process along.

Duncan Sharp: It is the small business owner who has to invest in the training. He has to learn how to specify, design, install and train on heat pumps, in order to train the customers and his own staff. New technologies are a challenge for us. We want to accept the challenge, but the backing or support for that needs to come from the Government to help us with the training.

Fionna Kell: It is fair to say that a significant number of the larger home builders—in fact, all of them—are already investing heavily in developing prototypes for their net zero homes. There is one prototype in England, which is known as the Zed house. I am not sure whether you are aware of that, but it has involved a number of home builders, led by one of the majors, coming together and testing a property across a range of scenarios in a controlled environment.

Home builders are out there trialling a lot of new stuff. One of our members gave us the example that, over the past couple of years, it has completed 60 developments in Scotland, involving about 1,500 homes, using air-source heat pumps. These technologies are being delivered.

There is a particular point about SMEs. They already face a lot of challenges, particularly if they are developing in rural areas, where we know that there are already issues over viability. We have touched on some of the capacity issues or the constraints that such businesses may face. The planning system is of particular interest for SMEs. When there are further burdens or delays in planning, SMEs are quite often hit hardest. They have a smaller pipeline of projects and they have staff who need to move fairly quickly from the completion of one project on to the next site. Therefore, delays in any part of that system have a worse impact on SMEs. With all of this, we think that SMEs are particularly vulnerable.

Miles Briggs: In September 2019, the Government stated its intention to regulate new

build in the way that is set out in the regulations. However, the pandemic had an impact and led to a delay in the regulations being laid.

Has the construction sector in general had enough time to plan for the regulations? I refer not just to the workforce challenges but to how the regulations will completely change how you sell and hand over a home.

Fionna Kell: It is well on its way towards that. Given all of the issues that we have touched on, I am not quite sure that we are fully there as a system, but we are certainly a long way towards it. The issues around supply, grid capacity and public awareness will all have some impact on the matter, so I do not think that we are quite there on the cumulative impact, but we are well on the way to change.

Research that was carried out in 2021 for national housing day involved surveying people across Scotland and across all tenures. Interestingly, it indicated that 82 per cent thought that the Scottish Government should pay the home owner and landlord costs for the work that would be required to meet the new standards, and 34 per cent thought that the Government should meet all of the costs. As a country, we still need to put a large amount of effort into public awareness of what will be required of people.

Miles Briggs: Thanks. Does anyone else want to comment on that point?

Peter Drummond: I will be a little bit awkward, I am afraid. The private sector looks for easy, tried and tested solutions. It is understandably risk averse. Gas and similar technologies are well tried and tested, very easy and fit in well with a high-turnover, low profit-margin scenario such as we find in the sector. The simple truth is that, notwithstanding Covid, the gentle hints that the Scottish Government has been providing since 2019 have failed to provide the necessary movement in the private sector.

The RIAS's view is that now is the time for something rather more than gentle hints. However, we cannot have a situation that is all brickbats and no bouquets. Small and medium-sized firms will suffer. Because of that, we will suffer either by having to pay additional costs for the delivery of buildings or just not getting contractors because they will all focus on easier repair sectors. That is why a sensible level of Government assistance through grants and tax breaks for reskilling is essential for implementing the regulations and for the increased construction skills that will be required under the proposed passive house regime.

The Convener: Would tax breaks sit with the Scottish Government or the United Kingdom Government?

Peter Drummond: Alas, I suspect that they will sit largely with the UK Government. There are tax breaks for training, but VAT remains the big killer.

The Convener: Thanks very much. Alan Stark wants to come in.

Alan Stark: Yes. Sorry, but I want to move on to a slightly different topic.

The Convener: That is fine.

Alan Stark: The regulations that we are discussing are all about housing, but they imply that non-domestic properties will be covered. We need to be careful because that is a completely different animal. We are still waiting for feedback from our members on the impact that the change will have and how we can make it work, because the non-domestic sector has much more complicated legal arrangements with owners and tenants.

A huge majority of the non-domestic sector is very small SMEs, which will just not be able to afford to retrofit. Also, retrofitting does not always work in a tenanted property, such as a retail centre or a retail park. When somebody comes to build a brand-new, shiny shopping centre, they can make the standards work, but going back into one and trying to retrofit it will be a complete nightmare.

When we are talking about rules and regulations, we need to be a wee bit careful about lumping non-domestic properties in with domestic ones. They are a completely different animal and should probably be treated as such.

The Convener: Thanks very much for that. We are focusing on homes. You used the word “imply”—perhaps we will get some clarity from the Government on that.

Pam Gosal: Miles Briggs asked about SMEs. I will touch on the cost of upskilling, which Peter Drummond mentioned.

The economic cost of upskilling one trader may be between £1,200 and £2,500. We have spoken about the fact that, with the timeframe and the costs associated with upskilling, if no grants or other help are available, the regulations will significantly impact smaller businesses, which are really suffering after the pandemic.

I have put some context on what the figure might be. If someone can tell me that a grant will be available, as Charlotte Lee mentioned, that is fine but, otherwise, what would that cost mean for smaller businesses?

Fionna Kell: I cannot answer that at the moment. However, this week, we began a piece of work that will scope out exactly how many small and medium-sized homebuilders there are in Scotland and their contribution to the Scottish economy and will seek to understand their key

issues and concerns. We just started that research and will begin survey work in a few weeks so that we can address those questions directly with SMEs. I will be happy to report back to the committee towards the end of this year.

Pam Gosal: Are you working with the Federation of Small Businesses and other such organisations? It can sometimes be hard to reach out to every individual small business.

Fionna Kell: We have appointed a research team to undertake a review of all of the existing data sources so that we can identify SME homebuilders, which is easier said than done. We are on that piece of work at the moment.

The Convener: Thank you for doing that piece of work.

Willie Coffey: Alan Stark spoke about the impact on non-domestic properties. The proposal reaches into that territory and your submission clearly says that there may be great difficulties in dealing with building conversions. When does a building become a new building? What is the process? Please elaborate for the committee on your concerns about that and how that relates specifically to the conversion of existing buildings.

Alan Stark: Are you asking about non-domestic buildings?

Willie Coffey: Yes.

Alan Stark: Non-domestic buildings are complicated. Those properties generally have an owner, or landlord, and a series of tenants. It is hard to generalise, because there are so many types—from big shopping centres to one-off small shops and offices. We have asked our members to give some key examples of how the proposal will impact on them and how they are going to deal with it, to see whether we can suggest a way to avoid unintended consequences of insisting that the regulations be applied across every sector.

It is difficult to say exactly what the problem is, because it is quite complicated and varied, but it is a problem. We can all understand how housing works, but we need a lot more research on the non-domestic side to ensure that we are not causing a problem.

Willie Coffey: Are you asking for a cut-off?

Alan Stark: I think that non-domestic properties should not be incorporated in the regulations until we have done a wee bit more research.

Willie Coffey: Does anyone else have a view?

Peter Drummond: I have two points to make.

First, the current technical handbooks allow local authorities significant discretion in determining what may or may not be a conversion

and, thereafter, the extent to which the regulations would apply. That means that some authorities are very reasonable and practical while some take a very hard-nosed view. We need more consistent and clearer guidance at the national level saying what applies and when. We are not talking about retrofit today, but I know that the building standards division is revising “Guide for Practitioners 6: Conversion of Traditional Buildings”.

The other thing to say about conversion of non-domestic properties is that non-domestic buildings have—since I started studying, which is longer ago than I care to admit—consistently benefited from having lower insulation standards in regulations than domestic buildings have. The difference is anything up to 25 per cent. There is only one class of buildings in this country that can still have single glazing put in: retail buildings. I am terribly sorry, but I think that we must level the building regulations playing field. If we are trying to reduce our carbon footprint, we cannot have a situation in which one very substantial sector seems to get away with insulating and heating buildings to a lower standard than the rest of us.

10:00

Willie Coffey: It is interesting to hear that. Does that apply to office premises as well? Mine is always freezing. [*Laughter.*]

Peter Drummond: Yes, it does. Having recently had to pay for insulation of my offices, I am not unsympathetic to your position.

Willie Coffey: Thanks very much, Peter.

Alan Stark might want to respond on that. Can you pick out a couple of examples of non-domestic building types that would pose the greater challenges that you suggest?

Alan Stark: As Peter Drummond said, a lot of older buildings are not well insulated, which is partly because of the way that they are broken up and who is responsible for which part. A lot of older retail-type buildings and offices are not of a good enough standard to allow retrofitting. If we start trying to fit heat pumps and so on in them, it will never work.

I am all for buildings being upgraded and I totally agree that there is no reason why non-domestic buildings should be allowed to be less efficient. That is fine when we are going forward with new builds, but I and our members are very concerned about retrofit work being required to make older buildings compliant with non-fossil heating systems, but without the ability to upgrade insulation and so on as well. Such a requirement will just not be viable.

It is something that needs to be done, but it will take a lot longer to do because of the consequences of it and partly because of the historical situation. A lot of those buildings are not very well insulated at all.

Willie Coffey: Charlotte Lee, do you have a view on the conversion issue and whether it is a problem, as we fear it is? Do you have any experience of being able to solve that?

Charlotte Lee: In terms of retrofitting for energy efficiency, heat pumps are a low-carbon heating system. It is not a straightforward situation, which is because pretty much all houses are of different types. To undertake an assessment to determine what is needed is costly and time consuming.

The challenge that we have with retrofitting is that nobody wants to be without heat for any substantial length of time. Often heating systems are replaced with distress purchases if the boiler is broken, and it is perhaps not easy to replace an existing system with a heat pump without wider consideration of what is needed in the property.

Water storage, which we were talking about earlier, might not be in a property, and pipe work and insulation might need to be carried out, where that is cost effective.

The issues that have been raised around the non-domestic space are very valid. There needs to be a lead-in time in which to consider what is appropriate and what realistically can be done. We have to be realistic.

The retrofit challenge is one that we face across the whole United Kingdom. When gradual changes are being made as a house is being converted, for example, or when works are being done in a property, are sensible times to consider replacing the heating system.

Willie Coffey: Thank you. Back to you, convener.

The Convener: We move on to questions from Marie McNair.

Marie McNair: Most of my questions were covered in the previous discussion, but I will ask one of Fiona Kell. Will you share with us any concerns that you have about possible impacts that the proposals will have on fuel poverty?

Fiona Kell: We have not done any research on fuel poverty; David Bookbinder and his members might have. It is more likely to be evident in properties in which there are tenants.

However, we do have a concern. Overall, as we said, there is an increased capital cost of purchasing a more energy-efficient property. The expectation is that the purchaser will benefit from energy efficiency over the longer term, as a result of the property's having lower running costs.

However, the price differential between gas and electricity still very much favours gas. Until that is reversed, we are likely to see higher operational costs for homes that are heated by electricity.

Our other issue is that it is often difficult for people to understand that although there is an up-front capital cost, they will make savings over 20-odd years. If you are purchasing a home, you might not think about the longer-term operational benefits over the up-front capital cost. That takes us back to public education and public awareness of how we live in and operate our homes. David Bookbinder may have more to say on fuel poverty.

David Bookbinder: In a way, my association focuses on fuel poverty much more than it does on the future retrofit agenda, because the worry is that in order to make existing property, including pre-1919 tenements, energy efficient, rent might have to go up by £10 a week or more. That is not where we want to go; we do not even want to think about that in the current context of the cost of living crisis. To be fair, however, in the proposals that the committee is considering on new builds, we would be putting poorer people in social housing and in what ought to be very low-cost homes. The new-build system means that, as a condition of grants, the rent cannot go above a certain limit. The new-build agenda is the easy part of the fuel poverty issue. The retrofit agenda is the nightmare, but that is for another day.

Charlotte Lee: I concur with David Bookbinder, and I acknowledge Fiona Kell's point about the cost of electricity versus gas and the impact that that has on the running cost of heat pumps. Although we keep going back to heat pumps, they are not the only technology that could be used to support the building standards although, as we have said, they will be a big one.

With up to 300 per cent efficiency, one unit of electricity will produce three units of heat, but when the unit of electricity costs four times the price of one unit of gas, which is the case currently, we face concerns about the running costs of heat pumps compared with existing heating systems. However, we have had very clear signals from various parties about a decline in the price of electricity in the near future, as we move towards a zero-carbon grid and zero-carbon electricity generation.

You are very lucky up in Scotland with the electricity production that you have available. Changes are happening; that does not mean that we have the answers here and now, but investment and consideration are absolutely being put into ensuring that the lowest-carbon heat is the lowest-cost heat.

To bring this back to what David Bookbinder said about fuel poverty and the new-build

standards, the homes that will be built under the standards will be highly efficient, and the running costs should be very low. The retrofit agenda is very different, as we know, but in relation to the running costs in new builds, it should support people who struggle to pay their bills.

Peter Drummond: At the moment, a new domestic building in Scotland burns energy at about 30kW to 40kW per square metre per year. That is the normal standard for a new house. Good builders tend towards the bottom of that scale. I mentioned that we have to consider that in tandem with the proposed Passivhaus-equivalent standard. The boffin committees for that will soon meet and determine what levels we are talking about: if I was a betting man, looking at the papers, I would say that that amount will halve—down to around 15kW.

You are right—we have an additional electricity cost, but at the same time, we have probably more than halved the amount of energy that we are using. We will, in many ways, be robbing Peter to pay Paul. Building standards services will do an impact assessment, as they always do. I do not want to prejudge that, but we might find out that—capital costs aside—the effect of the new standards is largely neutral.

Pam Gosal: I will touch on what Fiona Kell said about the significant impact on the supply of homes.

We have a housing emergency and the Scottish Government is failing to meet its target of building 50,000 affordable homes. It is also estimated that only 500 heat installers operate in Scotland. That compares with 8,700 registered engineers who are qualified to work on boilers. Are you concerned about—you touched on this—the impact of the regulations on new builds, especially affordable homes?

Fiona Kell: We are concerned. I cannot quantify that—I cannot say that that will result in a reduction of X per cent in new builds. However, as we have heard today, although any barrier or delay might be small in its own right, the cumulative effect will be to reduce the number of homes that are being built—certainly, in the short term.

I will let David Bookbinder speak about the social housing supply—in particular, the affordable housing supply. However, it is clear that when businesses are making decisions about their capital expenditure and are legally obliged to ensure that tenants' properties are retrofitted to meet the standards, they will naturally have less capital to spend on building new houses. Some of the capital will go on meeting those standards for their existing tenants.

Undoubtedly, the regulations will impact on delivery of housing of all tenures, especially affordable housing. Were there to be a significant change to Government grant allocations, with further funding being provided for retrofitting, that would allow for other expenditure on new build, which might address some of that impact. However, as things stand, we already see a slowing down in the number of developments that have been started in the past year, and we can see that trend continuing.

David Bookbinder: It is certainly the case that forum member housing associations that are still developing are nervous. As Fionna Kell has alluded to, fewer associations are actively involved in development as we speak. However, it is simply speculation to say whether the developers with whom they contract have capacity.

It is worth repeating the extra worry relating to the number of heating engineers. Technically speaking, gas is a more costly business in terms of annual maintenance, and there is legislation around that. Safety ought to be easier with electrical heating, and annual maintenance might not be required. However, one imagines that there will be issues in relation to the new heat pumps. Certainly the experience of many developers in the Highlands and Islands who have been installing heat pumps for a long time is that maintenance is a big issue. We are speculating as to how much further slowing down in the programme might come from that, but we have to start somewhere.

In case I do not get the chance later, I want to mention the other question. I am sorry—this is not directly related to the question. I hope that the whole industry has got its head around ventilation. Have we got that right? Will we get that right? Ultimately, the only judges of that will be the people who live in those wonderfully energy efficient homes. However, there is some nervousness in the housing association sector about ensuring that enough attention is paid to ventilation.

Peter Drummond: I note for members and for David Bookbinder that ventilation in new dwellings is part of a special working group for the Passivhaus standard.

Alan Stark: On the slowing down of numbers, as I mentioned earlier infrastructure is fundamental. You can make as many heat pumps as you like, but if you cannot plug them in, the policy will not work. Our concern is about the need to get the infrastructure up and running—power supply is needed—because we have electric vehicles as well as the houses to cater for.

The Convener: We have heard that the situation is nuanced across the country, so we need to take account of that, too.

Miles Briggs: My question is on a completely separate point regarding the cost implications for consumers—in particular, the estimate of an additional £30,000 on the cost of a new-build home with a heat pump. The Scottish Government has taken away much of what was in the help-to-buy schemes. Is there a need to develop something completely new in that respect to support people—potentially to cover that part of the additional cost of housing for people who are getting on to the property ladder?

10:15

Fionna Kell: We would certainly be keen to work with lenders on the idea of green mortgages. If a new-build house has significant operational savings—that is, on its operational costs—how can we reflect that in the mortgages that we are offering and in affordability calculations and stress-test calculations? There is definitely something in that.

In referring back to the previous survey on the matter, I am not saying that this is correct, but the fact that the public are expecting the Government to fund all this worries me, as a citizen. We are not fully aware that the measures will have a major cost for individual citizens, whether or not that is an up-front capital cost. There might be operational savings, but there will be fundamental costs that citizens will have to absorb; we cannot get away from that.

The Convener: I think that that is right: this requires a change of mindset. It is not just a matter of thinking about the cost of the house; it is about understanding the costs over the time for which the person is living there. I am certainly aware of people who live in houses with air-source heat pumps who are absolutely delighted and who have a very nice temperature in their homes. Indeed, I like to go and visit them.

Charlotte Lee: I think that green mortgages will become more prolific. Banks including Barclays, NatWest, Virgin Money and Nationwide are already offering either cashback or high-value loans for more energy-efficient properties. We are already seeing that coming into the market. We are awaiting the outcome of a consultation on whether the Government will regulate on a proportion of the mortgages that are offered by banks, should homes have a certain energy efficiency rating. That will encourage innovation in the sector, with better rates or higher loans per value because of the reduced running costs that have been identified.

A RICS survey that I was looking at yesterday showed that the value of higher energy-efficiency homes is greater. Although such homes may be more expensive to buy up front, they hold their value and are deemed to be more valuable in the future. We need to be aware of that balance within the equation.

The Convener: When you are talking about the loans and cashback from the Government, which Government do you mean?

Charlotte Lee: I am sorry, Ariane—I will go away and check. I do not know whether that applies to the UK or to England only.

However, it is interesting that consideration is being given to Government interacting in this space through setting targets and limits on mortgage providers, with a focus on driving greater investment in more energy-efficient properties. I will find a link and send it to Euan Donald.

The Convener: Thank you. We sometimes have a challenge figuring out which Government people are talking about.

Charlotte Lee: Sorry.

Peter Drummond: I will take a step back, Miles—and apologise for this. I note that £30,000 would buy someone a Rolls-Royce standard ground-source heat pump. The cost of an air-source heat pump in a new house over existing bill costs is very significantly less than that. Anyone installing such equipment as part of a new property already gets a 20 per cent bonus from the Chancellor of the Exchequer, because they do not pay a penny of VAT on it. The people who will be caught out are those doing retrofit, who will get hammered for 20 per cent, plus the extra cost of installing the pump in an existing building. Ultimately, that would be a matter for the RICS to discuss, not the architects, but our experience is that the additional capital cost on new-build social housing is relatively modest and is not of the order that was suggested earlier.

I cannot help but think that we heard the same arguments when sustainable drainage systems—SUDS—were introduced, and we are hearing the same arguments about Passivhaus. There is a question about what all those initiatives might mean cumulatively. Do they take us to a much bigger increase when we aggregate them all? I do not think that any study has been done on that yet.

The final thing that I will say on the matter, you will be pleased to hear, is that the market will dictate the cost and if we do not have the operatives who are trained up to do the work—if we do not have plenty of contractors to do it—we will all suffer. If we are going to invest in training, that means a double dip. If we train people for new

build, that will also train them for retrofit, which brings a benefit across the entire sector for everybody, and nobody is winning, when compared with anyone else, if you will excuse the phrase.

I respectfully suggest to the committee that that is where we should focus whatever investment we can make, and not on more tax breaks for new-build housing, which already does far better than those of us who work in retrofit.

The Convener: Thanks for that. We will have to end there. We have gone over time, although I had thought for a moment that we would finish sooner.

This has been such a great conversation, and I really appreciate your coming in or being online to help us to understand your perspectives.

I suspend the meeting to allow for a change of witnesses and to reorganise the room.

10:21

Meeting suspended.

10:26

On resuming—

The Convener: Welcome back. We are joined by Patrick Harvie, who is the Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights, and by his officials Gareth Fenney, who is the head of heat networks and investment; Antonia Georgieva, who is the heat in buildings team leader—new-build heat standard, enforcement, traditional buildings; Claire Jones, who is the head of onshore electricity policy; and Norman Macleod, who is the senior principal legal officer. I welcome you all and invite the minister to make a short opening statement before I open the discussion to questions from members.

The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights (Patrick Harvie): Thank you very much, convener, and good morning, colleagues. I am pleased to be here to present the Building (Scotland) Amendment Regulations 2023, which is also known as the new-build heat standard. It is an important step because it is the first time since all parties in Parliament passed the net zero legislation that we have considered regulation to explicitly reduce emissions at scale from heating systems in our buildings. I remind colleagues that the sector represents about 23 per cent of our total emissions.

To meet our legally binding climate targets, we need to decarbonise all existing homes—that is, more than 2 million homes—by 2045. So as not to compound that challenge further, it is vital that the

new buildings and homes that we build do not add greenhouse gas emissions to the atmosphere. It is clear that the continued use of high-carbon-emitting heating systems in homes and buildings is simply not consistent with the targets that are set out in the Climate Change (Scotland) Act 2009, for which all parties in Parliament voted.

I have often said that that challenge would still be significant but much easier if we had begun to take the steps that we should have taken 20 or 30 years ago. Although we cannot wind time back, we can ensure that what we build today is future-proofed for the decades to come. We have an opportunity to take significant and impactful steps to move away from delivering what some developers are already calling “yesterday’s homes”. Instead, we will ensure that homes and buildings are future-proofed with climate-friendly heating systems that will be compliant with the upcoming heat in buildings standard, which will give peace of mind to the people for whom those new properties will become homes and businesses.

I understand that a change away from a practice that has been the norm for a long time might make some home buyers and building owners nervous, particularly around what it means for their fuel bills when the UK Government continues to stall on rebalancing energy costs. However, the cost of living crisis and the recent surge in energy prices make tackling those challenges not just harder but also more urgent.

We are not, by any means, the only Government or country that is taking bold action to reduce the emissions from our new buildings. Neighbours in Europe have already implemented similar measures or have plans to do so. Many of them are moving ahead at scale and pace. If passed, the regulations will come into force a year earlier than the UK Government’s equivalent future homes standard. The committee might already be aware that our statutory adviser, the Climate Change Committee, has called for the UK Government to align with the Scottish Government’s timescales for implementing its future homes standard by bringing it forward to 2024.

10:30

We propose to implement the new-build heat standard using existing powers through fully devolved building regulations. That would mean that compliance with the standard would be achieved using a mechanism that developers across Scotland are already familiar with. I want to reassure the committee that we are not introducing a blanket ban on direct emissions systems in new buildings from 1 April 2024. The proposed amendments to the building regulations

will apply only to new buildings constructed under a building warrant that is applied for on or after 1 April 2024. So, because of the nature of building warrants in Scotland, we expect that some new developments will continue to install direct-emissions heating systems, such as gas boilers, until—at the very latest—April 2027. That supports the transition for the construction and house building sectors.

The introduction of the regulations will accelerate the shift toward greener homes across the country, as well as helping to grow the capacity of Scotland’s zero-emissions heating supply chain. I want to take the opportunity to highlight how many organisations have already embraced the shift away from direct-emissions heating. Many industry forerunners are already delivering homes that are served by zero-direct-emissions heating systems across Scotland.

The Scottish Government’s affordable housing supply programme continues to support affordable housing providers who wish to install zero-emissions heating systems, and many providers are already installing such systems in rural and urban settings across Scotland. That includes the West of Scotland Housing Association’s new development in Dundashill, in Glasgow, which I had the pleasure of visiting this summer. That project will see 90 new highly energy efficient homes built with zero-direct-emissions sources to meet the space and water heating needs of tenants. That is part of a wider master plan to regenerate the local area. It is just one of many examples of the excellent work that is being undertaken around Scotland.

There are also examples of private developers already building to the highest standards of energy efficiency and zero-emissions heating. Forward-thinking organisations such as Cala Homes have set their own targets for designing new developments that are gas-free from January 2024—months in advance of the regulations coming into force.

However, we recognise the challenges that the shift away from direct-emissions heating may bring, and it is critical to ensure that Scottish consumers and businesses are not left behind. That is why, together with our external working group, we have carried out extensive engagement through the development of these regulations, through two full public consultations as well as through both formal and informal industry engagement. Our working group has brought together key trade industry bodies, including those representing the construction and house-building industries, as well as both of Scotland’s distribution network operators and a wide variety of other interests. All of that has ensured that, from the outset, industry has had a voice in shaping the

regulations to ensure that they are practical and fit for purpose. The group has acted as a critical friend throughout the process.

The group is co-chaired by Professor Lynne Sullivan. Committee members may be familiar with the Sullivan report, which, as far back as 2007, set out a number of recommendations for new buildings in Scotland, including the proposal to achieve net zero carbon new buildings in terms of space and water, heating and lighting and ventilation by 2017. The regulations are an important step in our net zero journey. They should not cause anyone any surprise or alarm. They are looking to achieve what was recommended by industry representatives on the Sullivan expert group more than 15 years ago.

The responses to both of our public consultations were overwhelmingly in favour of our intention to regulate for zero-emissions heating systems in new buildings. That is a very positive endorsement and demonstrates broad support for the proposals.

We have also listened to feedback that has been raised throughout the consultation periods, including as part of the public workshops that were held while both consultations were live. That is why we have introduced a probation for the continued use of direct-emissions heating in the system in the event of an emergency. That will help to increase resilience, particularly across remote and rural properties, ensuring that they are better protected against grid or other heating system failures, should they ever happen.

By legislating now, we are sending a strong signal to industry that the Scottish Government is serious in moving to a more sustainable net zero future and providing confidence for business to invest in zero-emissions alternatives. The committee will be aware that the Building (Scotland) Amendment Regulations 2022 set higher targets for the energy performance of new buildings. The regulations that I am presenting today seek to build on those, and they are the next key step in achieving the transition to net zero.

Although it is crucial that we reduce the demand for heating in new homes, we cannot insulate our way to net zero. We also need to break away from what has been business as usual by shifting away from fossil fuel heating systems that create emissions towards zero-direct-emissions alternatives.

During the development of the regulations, we have acknowledged industry concerns about the capacity of Scotland's electricity grid and supply chain capabilities. Although the regulations are technology neutral, it is likely that we will experience a significant increase in the use of electrified heating systems such as heat pumps.

We continue to work with industry and Scotland's electricity networks to identify and address the issues that can frustrate or prevent the connection of low-carbon technologies. The Office of Gas and Electricity Markets charging and access review decision and the RIIO-ED2 outcome have provided welcome support for developments that seek to electrify.

Scotland is well placed to grasp the opportunities that the regulations will bring. For example, Livingston, which is less than 20 miles from here, is today home to one of Europe's largest heat pump manufacturing facilities. There is also an opportunity to deliver maximum benefits for Scotland's people, workers and communities and our economy, particularly through the creation of new high-quality jobs for the future. Many of the core skill sets that are needed to support the transition already exist in the traditional heat and building improvement sectors. That gives us a strong foundation on which to build and grow our supply chains.

The introduction of the regulations will provide needed certainty to industry to invest and will help to build confidence and stimulate Scotland's zero-direct-emissions heating market. It is of vital importance that we take these meaningful and immediate steps to address the climate emergency, and I hope that it is clear to the committee that these steps are, indeed, necessary if we are to meet our net zero goals.

I am very clear in my conviction that we can and must act now to secure the legislation and change definitively the way in which we heat our buildings, from the combustion of fuels to clean sources from electricity and heat networks. There may potentially be a limited role for hydrogen as well.

This is a moment to make the commitment to the generations to come that we are the ones who finally did the right thing and put an end to fossil fuel heating.

I thank the committee for the scrutiny that it is bringing to the instrument, and I look forward to any questions that members have.

The Convener: Thank you very much for that opening statement and for very clearly setting the context within which the regulations will sit. I will open with a couple of questions and then bring in other members.

My first question is about skills and the supply chain. We had a very fruitful conversation in the previous round-table discussion, and those issues were brought up. Currently, only 10 per cent of new builds are built with zero-direct-emissions heating. Do you have a sense that the infrastructure, skills and supply chain are in place to ensure that builders can meet the regulations in

time without any adverse effect on the supply of new buildings?

Patrick Harvie: We are confident that the skills base in Scotland and the supply chain are already growing and that, in terms of the Scottish Government's commitment to take forward regulations—in this instance, on new build and, in the longer term, on the wider heating standard for Scotland's existing housing stock—the regulations are necessary to give confidence to the industry that it is worth its while investing in those skills and in the wider supply chain capacity.

The one thing that we could do to guarantee that we would not see the growth in capacity that we need would be to decide not to take these steps or to delay or defer them until that capacity had grown to where it needs to be.

This is a long-term trend, and the commitment to decarbonising buildings right through to 2045 means that we will need continued growth in the sector over the long term.

Of course, this particular measure is not new to anyone. The first of the two consultations finished about two and a bit years ago, and there were indications of the direction of travel for a long time before that. I mentioned the Sullivan report, for example. The measure does not come as a surprise to the industry. Although it will apply to all buildings that get their building warrants from April next year, the phasing in means that there will be time for the industry to adjust. Developments that are being taken forward with existing building warrants that go through the process before April next year will continue to have that time to adjust. However, the number of developers that are already adopting the measure demonstrates an appetite to embrace the change, and I very much welcome that.

The Convener: In our previous evidence session, we heard from Duncan Sharp, who is the director of the Scottish and Northern Ireland Plumbing Employers Federation, that there is no route map for apprenticeships in renewables. Does the Government need to take a lead on that?

Patrick Harvie: We are working very actively with industry to explore every option to increase capacity. For example, a recent development is the mobile heat pump training unit, which will enable those skills to be shared in places where there is not necessarily a college location or another place to site them and the mobile training unit will be of benefit.

I have visited both commercial and college sector training facilities that are gearing up and skilling up. The time that it takes to convert an existing gas engineer so that they have the skills to install heat pumps is relatively short. The conversion course takes a matter of weeks, rather

than our having to train people up from scratch. The capacity is not non-existent at the moment. There is simply a need to transition the skill set from previous technologies—from what I call 20th century heating solutions—into those that will be dominant in the 21st century.

I do not know whether Gareth Fenney wants to say any more about the skills side.

Gareth Fenney (Scottish Government): I am happy to comment on that. We are working closely with Skills Development Scotland around the apprenticeship programme and there is a heat pumps module within that. We also provide funding, which is delivered via the Energy Saving Trust, to support apprentices through that programme. That helps to cover the costs of taking on that module.

The Convener: Okay. I have another couple of questions that came out of the previous conversation. David Bookbinder raised some concerns around planning departments that involved planning permission being held up because of a lack of understanding. He described a situation where a housing association wanted to put air-source heat pumps on balconies but the planning department said, "You need to put them on the roof," which would have a much greater cost. Are there things that we need to iron out in that regard?

Patrick Harvie: It is possible that that is an example of developers simply getting used to these technologies for the first time. I think that, as they become more familiar, basic design issues will become more familiar to developers, whether they are in the social housing sector or elsewhere.

I am not aware of having seen developments where heat pumps have been placed on balconies. I do not know whether any colleagues are able to comment on that. I have seen a number of developments where heat pumps have been retrofitted on the roofs of tower blocks, and new-build properties are now much more likely to have spaces for heat pumps, water storage and so on and to accommodate them within the design of the building from the outset. Those things are becoming pretty familiar and routine exercises for developers.

The Convener: Thanks. Pam Gosal has a supplementary question.

10:45

Pam Gosal: This is my other question, convener. Minister, you have just spoken about planning permission. Obviously, local authorities are under a lot of pressure. What impact do you anticipate that this workload will bring to bear on councils? Has an impact assessment been done

on that workload? If councils are unable to keep up with the applications, what impact will that have on the implementation of the policy and, more broadly, on house building?

Patrick Harvie: I do not expect the new-build heat standard to impact on the number of planning applications. That concern might be slightly misplaced.

Clearly, developers need to be at the point of making applications that they know will command confidence and comply with the building standards. Many are already doing that. As I have said, many forward-thinking housing developers are already making that a default expectation in their new developments. Antonia Georgieva will come in on some of the planning issues and NPF4.

Antonia Georgieva (Scottish Government): On the question about planning, as some of the previous witnesses mentioned, national planning framework 4 is bedding in, so it will be a case of developers working together with local authorities, mostly on design. In addition, since the standard is technology neutral, there will be other solutions, such as heat networks. The national planning framework very much takes account of that and of working together, for example, with local heat and energy efficiency strategies, to see where the needs are and to help with the design.

Pam Gosal asked about the volume of work that the building standards will involve. When we develop such regulations, we work with building standards and the local authority officers who fulfil those duties to discuss any impacts. In addition, because charging is associated with building warrants, we anticipate that that will cover any additional workload.

Pam Gosal: Thank you. I was going to ask about building warrants. Do you anticipate the council having any other involvement with those regulations? We have spoken about planning and building warrants. Will councils be expected to do more of anything else, or to do it differently?

Antonia Georgieva: Thank you for that question. Because the regulations fit within the existing framework of how building standards operate, we do not think there will be any further processes in addition to what are currently in place. In addition, big-volume developments are often pre-certified so, again, there is no additional process on the local authority building side.

Patrick Harvie: To move slightly beyond the new-build heat standard, local authorities are expected to play a larger role in the energy system more generally. The Heat Networks (Scotland) Act 2021, which was passed at the tail end of the most recent parliamentary session and which is now being implemented, places a requirement on local

authorities to develop their local heat and energy efficiency strategies. That tool will be important in identifying, for example, places in which heat networks will be the most likely solution for zero-emissions heating, and the nature of building stock when it comes to the requirement for investment in energy efficiency.

Local authorities and social housing providers could have a linchpin role in becoming the lead organisations in new heat networks. There is a huge opportunity for local authorities to undertake that work. Some were already well advanced in that before the legal requirement was placed on them, but all are now in the final stages of completing their local heat and energy efficiency strategy, which gives them a real opportunity to learn lessons from countries such as Denmark, which advise us closely on a lot of this, where local authorities have had and still have a leading role not just in energy reduction but in decarbonisation, which gives them huge opportunities

Pam Gosal: On what you said about local authorities, as a former trading standards officer I had to go through getting certain skill sets and diplomas. Will not what you described involve changing the skill sets of our planners and other people in the council? Have you also taken that into account?

Patrick Harvie: Yes. We have engaged with local authorities throughout the process, and they have had the opportunity to participate in both consultations.

I come back to the point that the new-build heat standard is just one element of a longer-term programme to decarbonise our buildings. All of that will mean changes to skill sets and capacity, whether in local authorities, developers or the wider supply chain, and doing that right through 2045 will mean that there will continue to be a need to invest not just in those skills but in new skills.

That is consistent with the fact that local authorities as well as the wider industry and stakeholders already need to continue to invest in bringing people on board over time, skilling them up, seeing through their careers and developing their skills and abilities. The long-term approach that we are taking to heat decarbonisation in general is entirely consistent with their ability to adapt.

The Convener: Thank you very much. We move on to questions from Ivan McKee.

Ivan McKee: Thanks very much, convener, and good morning, minister. I want to focus on grid capacity, which, from a generating capacity perspective, is a huge issue as far as the roll-out in Scotland is concerned, but from a heat in

buildings perspective, it is also quite a significant potential barrier to deployment. What work is being done to understand what the numbers and timescales look like? What needs to happen to ensure that there is sufficient grid capacity for this roll-out? Moreover, will different technologies have different impacts on the grid, and is that thinking being factored into the mix of technologies that might be deployed to decarbonise properties?

Patrick Harvie: First, that particular measure has to be seen in the context of the wider changes. Some of your witnesses in the earlier session talked about decarbonising and moving to electric sources and whether all that is happening at the same time as the installation of electric vehicle charging points and other changes that are going to be necessary if we are to reach our carbon emission targets. The way in which we produce, store and consume energy is changing, and inevitably that will have an impact on the grid.

The fact is that the decisions on such investment are made by Ofgem, which will look at the number of heat pumps, EV charging points and so on that will be required. As well as the direct numbers that it provides, however, it has also set out what is called an uncertainty mechanism, which allows developers to say, “We need more capacity here” and allows distribution network operators to be part of that process.

We believe that there will be enough capacity for the changes that we are bringing in. We also know that, in certain areas, retrofitting might be more problematic than new build—indeed, some witnesses acknowledged as much in the previous session—but we are already bringing together a wide range of organisations, including the DNOs in Scotland, in a working group that shares those perspectives. It will not only work out how we resolve some of the issues that exist within Scottish Government powers but set out how we can make the case for any changes that might be required at UK level. Claire Jones might be able to say more about some of the more technical aspects, but there is no getting away from the fact that reaching our net zero targets is not just about how we build things but about the redesign of our energy system more generally.

The other thing that I would connect to the work that we are doing here is demand reduction. The most effective way in which we can reduce the extra load on the grid is to build really energy-efficient homes and buildings in the first place. If we are going to electrify heat, everything that we do to reduce heat demand will also reduce electrical draw.

Claire Jones (Scottish Government): You are absolutely right, minister. I would just add that we have been working really closely with the electricity distribution network companies—in this

case, SSE and SP Energy Networks—on their plans for what is called RII0-ED2, which is the price control framework that started in April. Last year, when the companies were developing their business plans to put to Ofgem and to say, “This is how much money we think we’ll need, and this is what we’re going to spend it on”, we worked closely with them on those plans, looking at the projected numbers for heat pumps and EV chargers, to make the case about what they would need to achieve to stay aligned with Scottish Government ambitions.

There are other things in play at the moment, such as the global supply chain for the kit—substations, wires and so on—which is very tight. Of course, everybody is doing something similar, so electricity demand is increasing, because people are putting in EV chargers and heat pumps. Globally, it is a very tight race.

We have worked closely with the network companies on those business plans to ensure that they take account of Scottish Government ambitions. We also have a principles agreement with Ofgem, through which it takes into account the Scottish Government’s ambitions when it sets the regulation for the network companies.

Ivan McKee: So Ofgem recognises that Scotland is moving at a faster pace and that it needs to recognise that.

Claire Jones: Yes.

Ivan McKee: Thank you.

Willie Coffey: I was going to ask about skills and workforce issues, but the minister covered those in his earlier remarks, so I will return to the question that I asked the previous panel about whether the new standard applies to building conversions. I see that Mr Stark is still sitting with us at the back of the room. It is not clear to me whether the standard applies to conversions, or when it might apply. When a building such as an office or even residential accommodation is being converted, will the new standard apply?

The minister mentioned warrants. In 2024, will everything that requires a warrant be treated as a new building, and will everything before that basically be on the retrofit agenda?

Patrick Harvie: I ask Antonia Georgieva to come in on this point.

Antonia Georgieva: Conversions with a building warrant will be included after 1 April next year, but that will apply only to a very narrow definition of conversion. Building standards apply when someone is creating a new building, but we wanted to ensure that we intervene when it makes sense to do so, although we have included the “reasonably practicable” caveat in the regulations. We are currently writing the technical guidance to

accompany the regulations, and in that we plan to define very narrowly what we mean by conversions that fall within the scope of that guidance.

If someone is doing a major conversion and already plans to do work to the plant room where the heating system is, we see that as an opportunity to take the step and implement a zero-direct-emissions heating source. However, we do not want to do that when the disruption or the cost might be too great. We want to take a measured approach, which is why we have chosen to define the approach in the technical handbooks, because that provides a bit of flexibility if further evidence emerges or if we want to change the scope at any point. The measure will not apply to all conversions; it will apply to a narrow scope of conversion works.

Willie Coffey: I hope that that helps to clarify the situation for Mr Stark and the Scottish Property Federation, who raised that issue previously.

The minister said that climate-friendly heating systems are still more expensive than fossil-fuel-based heating systems, which is mainly due to the energy price imbalance that we are aware of. How do we solve that problem? I know that gas engineers are running around out there just now putting in gas central heating systems, but they are not, by and large, putting in air-source pump systems. What is the step change that we need to take if we embrace the new technology to make the dynamic change that we are looking for?

Patrick Harvie: There are several things to say on that. Most fundamentally, whatever energy system or heating system you install in a home, it has to be done to a high standard, or you will not get good operating efficiency from it. Secondly, the energy performance of the home needs to be really high to reduce demand. On the visits around the country that I have been doing, I have met constituents and other folk who live in new or retrofitted homes that have had investment in really high levels of energy efficiency, and they barely use their heating systems at all. They are the ones who are happiest about energy bills at the moment, because of the energy that they are not using.

We need good-quality installation and design. It will be important for developers to get that right as they shift away from installing gas and towards installing heat pumps. They need to ensure that they have the right kit with the right spec for the right size of home, that they are installing it properly and that they are doing that to a high standard. We need to reduce the energy consumption and the energy needs of the home through high levels of energy efficiency. Those are some of the things that we can do that are within our control right now.

11:00

One of the most fundamental things that is not within our control right now is the rebalancing of electricity and gas prices—an issue that has come up time and again. I know that the committee discussed it this morning, and the Scottish Government has raised it year after year. We have had a long-standing acknowledgement from the UK Government that it needs to do that, and several other countries have already done it. At the moment, the price that we pay for electricity is artificially linked to fossil fuel prices. That is problematic for consumers in Scotland and the price that they pay for energy; it is problematic for the transition away from fossil fuel consumption for heating that we need to see here and in the rest of the UK; and it is problematic for some energy companies and financial services companies. You were talking about green mortgages at the end of your discussion with the previous panel of witnesses, and those companies need to know that heat pumps will be a viable investment from their point of view. Running costs are every bit as critical to that as installation costs.

The rebalancing of energy prices is also important in Scotland's context from a political point of view. We need people to recognise that the transition will be fair and just. Scotland is generating large amounts of cheap and clean renewable electricity—at least, it is cheap to generate—and we should be passing a good proportion of that economic benefit to bill payers. It requires the UK Government to finally get around to what it has committed to doing but has not yet delivered: the rebalancing of gas and electricity prices. That will be critical for running costs. However, even before that has happened, if you build homes to a high level of energy efficiency and you install a zero-emissions heating system such as a heat pump, the price will be comparable, and it can be lower in some circumstances. It is much easier with new build than with retrofit to achieve a really high level of performance.

Fundamentally, we need the UK Government to make good on its commitment to rebalance gas and electricity prices. We hope that it will be willing to listen to the Scottish Government's point of view on how that should be done, which should be in a way that ensures that it supports the transition to zero-direct-emissions heating.

Willie Coffey: Bearing in mind that important message, is the transition that you hope for possible without the rebalancing of energy costs between fossil fuel and non-fossil fuel?

Patrick Harvie: The transition that is required is necessary to achieve Scotland's climate emission targets, and those targets are necessary if we are to make a contribution to—let us face it—human

survival. We are living in an existential planetary emergency and our commitment to achieving carbon emission reductions is not a whim of policy. It is an existential issue that relates to our ability to have a future in this world, and that needs to happen regardless of good or bad decisions being made by the UK Government. However, we should not let up on building the pressure on it. We are by no means alone in that; others in the UK, including industry, are building pressure on the UK Government to deliver on that. In theory, it remains committed to doing so, but we still have not seen the timing or the detail of how and when it will be done.

Willie Coffey: Thank you for that important message.

The Convener: I want to pick up on a few questions. In the earlier evidence session, we heard quite a lot about the impact that the proposals might have on small and medium-sized enterprises. Is that the case? Is any particular support needed?

Patrick Harvie: Yes, we are working to support SMEs. For example, an issue that might be faced by some smaller developers is that, with their smaller building programmes, they will have a little bit less flexibility with regard to the gap—the time period—between April 2024 and the building warrants coming to an end. A larger developer might be able to manage their building programme in a slightly more flexible way during that period, while a smaller developer might have fewer options. I know that Antonia Georgieva has been working on that, so perhaps she would like to come in.

Antonia Georgieva: Yes, absolutely. For smaller businesses, the answer will depend on the type of SME that is involved.

As part of our business and regulatory impact assessment we carried out a Scottish firms impact test during which we interviewed representatives of various businesses, a number of which were SMEs. The encouraging message that came out of that was that SMEs have the agility and ability to respond more flexibly, perhaps because, as the minister mentioned, they are not tied into the longer planning timelines that larger developers are.

The Convener: Thanks very much for that—it is heartening to hear about the agility aspect.

On a different topic, bioenergy technologies will apparently not be permitted under the new-build heat standard. I am interested in hearing the minister's response to consultees who argued that that would disproportionately impact rural communities and that there should be some kind of exemption for them.

Patrick Harvie: As I mentioned in my opening remarks, we have decided to allow the use of direct-emissions heating in emergencies. That kind of emergency back-up might involve the option to use bioenergy, whether in solid or liquid form. Fundamentally, though, bioenergy systems produce direct emissions, which is the position that we need to move away from.

Alternative options are available for new builds. For example, when looking at the regulations on the existing housing stock, we need to take account of what is technically feasible and what the exemptions and allowances might be. That is a matter for future consideration.

The Climate Change Committee has acknowledged that bioenergy might have a limited role to play, but that it needs to be used where it has the potential to maximise emissions reduction and where there is no alternative zero-emissions technology. We think that that is far less likely in relation to new builds, where there are other options for installation instead of bioenergy systems being put in as a primary heating source from the outset.

In line with the Climate Change Committee's recommendation that bioenergy systems be used where no alternative is available, we do not believe that installing such systems as primary heating systems for new builds is appropriate.

Antonia Georgieva wants to come in again.

Antonia Georgieva: I just want to clarify that, in addition to what the minister has said on emergency back-up systems, we have zero-rated heat networks as well as technology. There might be a role for bioenergy in that respect. Moreover, because the standard focuses only on heating and cooling, industrial processes are not a part of it, so there will be a role for bioenergy there.

The Convener: Minister, you mentioned that there were other options. Could you give us an indication of what they would be?

Patrick Harvie: Principally, we would be talking about heat pumps and connection to heat networks. There are other electrical systems, too; for example, some people might choose to use smart electric storage.

The regulations are technology neutral. We expect that heat pumps will play a substantial role in complying with the new-build heat standard as well as wider retrofit for the rest of the housing stock.

I would take some convincing that, for a new build, the only way to move away from fossil fuels would be to install, from the outset, a bioenergy system that itself produced direct carbon emissions. There would be other options for complying with the new-build heat standard.

Installing a bioenergy system would not be consistent with the Climate Change Committee's recommendation.

The Convener: In our earlier evidence session we heard from Peter Drummond, who said that the regulations represent two sides of the same coin with regard to the Passivhaus standard. Will you say a little more about that? Earlier you mentioned how that fits into the much bigger picture of what you are trying to do.

Patrick Harvie: Yes. As I said earlier, last year's updates to the regulations made improvements with regard to energy; this set is about the heating systems that will be installed. We are also working, in line with the commitment in the Bute house agreement, on developing a Passivhaus-equivalent standard for Scotland. That is supported by Labour colleagues such as Alex Rowley, who has done work in that area.

As I have said, some of the people to whom I have spoken who are the happiest with their energy bills are those living in Passivhaus-standard or near-Passivhaus-standard homes, because it is the energy that they are not using that is the most beneficial to them. If we can achieve something equivalent to that in Scotland, which I believe that we can—although I should say that a lot of homes will still need some kind of system; they will certainly need a heating system for hot water—people will still have something that reduces the draw on energy and therefore reduces their bills very substantially.

Again, the legislation is about a direction of travel and a transition with regard to heat that has many different aspects. The new-build heat standard is one aspect, and it will complement and be complemented by the work that we intend to take forward on a Passivhaus-equivalent standard for Scotland.

The Convener: Thanks for clarifying that. I will now bring in Marie McNair.

Marie McNair: Good morning. Are you concerned about the impact of the proposals on the levels of fuel poverty? If so, what can be done to mitigate any potential adverse effects? I asked the previous panel of witnesses a similar question, but I want to get your views on it, too.

Patrick Harvie: That question is closely connected to Willie Coffey's points about running costs. We want everyone to live in a home that is not only of a high standard and warm but which is affordable to keep warm. That has posed the most extraordinary challenges, given the energy prices over the last period, and nobody will underestimate the impact on people's quality of life, health and economic wellbeing. However, if we take an approach to new-build housing that achieves what we are seeking to achieve with

regard to the existing energy standards; the future development of a Passivhaus standard, which I talked about in response to the convener's earlier question; and zero-emissions heating—all of those elements together—I believe that we can produce homes that are more affordable to live in than those that we have built in the past.

Those homes will also be less vulnerable to the economic shocks that will come with future energy crises. Let us not kid ourselves that the energy crisis that the world has been living through over the past few years is the last one. Fossil fuels are price volatile, as they have always been, and keeping people connected to a dependence on fossil fuels means keeping them vulnerable to that volatility.

As I said in response to Willie Coffey, fuel poverty issues are not going to be addressed by this Government alone; they will also have to be addressed by decoupling the prices of gas and electricity. That is a necessary part of the journey. It will happen—I just wish that the UK Government would pick up the pace on delivering that and work with us on designing how it will be delivered.

As for fuel poverty, the only solutions are absolutely those that move us away from price-volatile fossil fuels and which give people highly energy-efficient homes to live in. That will be easier with new-build housing, and the new-build heat standard will help achieve that for the new homes that we are building. Many social housing providers, as well as commercial housing providers, are already doing that to a very high standard, and they are innovating with great ambition and creativity.

I think that one of your witnesses said that the retrofit agenda will be a "nightmare". I hope that it will not be, because I am working on that, too. It is a huge challenge, but it is a bigger challenge on the retrofit side than it will be on the new-build side.

Marie McNair: Recently, one of my local housing associations raised with me concerns about the additional cost of installing air-source heat pumps, which could hold back new developments. Indeed, the Scottish Federation of Housing Associations made a similar point. Do you share that concern? Has any consideration been given to building in additional budget support?

Patrick Harvie: I am aware of some discussion earlier this morning about various estimates. Our view is that the impact on new-build developments will be in the region of £8,400. The calculation compared current heat pump prices with the installation of a gas boiler, and I would point out that the figure is about 3 per cent of the average purchase price of a new-build residential property.

I would also emphasise that it is based on current prices. Having visited, engaged and worked with energy companies and heat pump developers in Scotland and the UK over the past year or two, I am convinced that they are innovating and investing in research and development and that they are determined to bring—and are confident about bringing—not just more affordable but more efficient heat pumps on to the market. We will see continued innovation in that area that will reduce the cost of installation. There will probably be other ways of reducing that cost, too, as we get better at installing for energy performance and with higher fabric efficiency. As I have said, the current cost estimate is around 3 per cent of the average purchase price of a new build, and my view is that that will come down as innovation continues in that area.

11:15

I would just contrast that with the alternative. Allowing the construction of homes with conventional fossil-fuel heating systems to continue might save the developer—say, a social housing provider—a few thousand pounds on the price of a home, but it will also leave them with a higher bill to pay in the long run because those fossil-fuel systems will have to come out. Building more retrofit jobs waiting to happen will increase costs. We absolutely need investors, whether institutional investors that work with housing associations or those that sit behind the commercial housing developers, to be willing to see investment in net zero as a really good place to put their money into. We need them to be confident—and a great many are—that net zero is the way forward and a better bet in investment terms than building more retrofit jobs waiting to happen.

I think that Antonia Georgieva wants to come in as well.

Marie McNair: Can I just come back in?

Patrick Harvie: Yes, of course.

Marie McNair: On the point about affordability of developments, will you consider additional budget support? I would be grateful if you could do so—though obviously not this morning.

Patrick Harvie: We work very closely with a great many housing providers, including in the social housing sector, and we continually keep under review the amount of support that we are able to provide to them.

I think that Antonia wants to add something.

Antonia Georgieva: On funding, we provided £20 million last year and £15 million this financial year through our affordable housing supply programme to support the roll-out of zero-direct-

emissions heating. We are supporting projects in some council areas—the Highland Council, for example, has already been rolling out those projects—and have dedicated that funding to building that capacity and helping the transition.

Patrick Harvie: Other parallel funding streams are available. For example, Scotland's heat network fund and heat network support unit allow those social housing providers that want to be involved in the development of heat networks to bring their projects to the point of being ready for—and accessing—investment from the Scottish Government, which is another way in which they will be able to help existing as well as new properties meet the standards that are coming in.

Marie McNair: Thank you. I will take that information back.

Miles Briggs: Good morning, minister, and good morning to your officials. I return to the impact that the proposals will have on rural and island communities. What work has been undertaken to consider that point? Does the Scottish Government accept that the cost of implementing energy efficiency measures will be higher to developers and home owners in rural Scotland?

Patrick Harvie: Rural developers and housing providers do face additional costs, which is why many of the funding streams that we offer have uplift for remote, rural and island communities. For example, we announced—I think, 10 days or two weeks ago—an additional uplift to the social housing net zero heat fund of 11 per cent for rural areas and 22 per cent for remote areas.

Some of those issues will need be addressed. Island communities in particular are sharply aware of some of the additional challenges that they face, whether around skills and capacity or around trust, as folk in some island communities have been stung by sharp practice, with developers with a bad intention coming in from the mainland and doing work to a poor standard, never to be seen again.

We know that we need to address particular issues there, but real innovation and creativity are being brought to bear, which I know from when I was up in Shetland recently. The Hjaltland Housing Association is doing interesting work in addressing net zero challenges in a way that is consistent with the aspiration for high-quality social housing in the more general sense, not just in a narrow energy sense.

There are issues in relation to remote, rural and, in particular, island communities. Those have been assessed in part through the island impact assessment. We are working on a great many of those challenges and we can turn some of those challenges into positives because of the level of

creativity that is being brought to bear in many of those communities.

Miles Briggs: This is perhaps for another day, but we should look in more detail at the rural uplift for landlords and how that will help.

We face two challenges in this country: climate change and the housing crisis. We heard earlier that Homes for Scotland estimates that there is a shortfall of around 114,000 houses and that the Scottish Government has a target of building 10 per cent of those in rural and island communities. The Government does not know how many SMEs currently operate in the sector, so how will that be tracked to ensure that they do not withdraw from it? The challenges that SMEs currently face are obvious, and we have discussed them previously. What work is being undertaken on supply chains, workforce and the potential impact of not bringing forward developments, which are often small-scale individual units?

Patrick Harvie: I will ask Antonia Georgieva to build on the comments that she made on SME support.

Antonia Georgieva: I start with the first point that the member raised, on housing delivery. We have affordable housing supply targets. It is probably worth mentioning the statistic that, in March, all-sector house-building completion was at its highest annual rate since 2008, which is an increase of 9 per cent. We track against a target of building 110,000 homes by 2032.

In relation to how we work with SMEs and others in the house-building sector, Fionna Kell mentioned the research that Homes for Scotland is doing with members to establish some of that landscape. As part of developing the regulations, we have a working group on which sit a range of stakeholders of all sizes from the house-building sector and the Federation of Master Builders. Through that working group, we have engaged with those stakeholders to help build confidence and communicate to members what is coming down the pipeline.

Miles Briggs: That is helpful. Finally, on workforce, last year I attended the opening of Edinburgh College's renewables and energy efficiency training centre. It was interesting to see that a number of young people had come to Edinburgh—I am sure that other larger colleges are also in that space—from rural communities to do the courses and that their intentions were to stay and work here. I welcome the fact that the mobile heat pump training centre has been brought forward to showcase that work, but is there a specific strategy for rural and island communities? Young people who want to start a career in that area will end up training in larger centres and then being offered work in urban

areas, so we will not necessarily return those people to their communities to do that work in the future. Where is the Government on that?

Patrick Harvie: I had a meeting with Graeme Dey the other week and we talked about the connections between the Scottish Government's approach to what we are trying to achieve in energy terms, the impact on skills and the potential role that the college sector can play. There are a great many colleges around the country, and one of the first that I visited in this role was in Dumfries, in the south of Scotland. It was investing in additional capacity because it knew that that demand was coming and that those skills would be needed. I challenge the idea that it is only happening in the central belt or in big cities—it is happening around the country.

Inevitably, a great many of these decisions about the capacity for training and skills around the country will be determined by the industry's demand for such skills. That is why, as I said earlier, the Government's approach to regulating—which is to create demand in the first place—is absolutely central to giving industry the confidence to invest. If it knows what skills will be required and what demand will be generated, it will ensure that those skills are invested in and supplied and that we have that wider supply chain capacity. The one thing that we could do to imperil investment in skills or the wider supply chain is to say, "Actually, we're going to take a step back and delay or water down the regulations." The regulations are a necessary part of setting the conditions for the investment that we need.

Miles Briggs: Thank you for that, but I suppose that my point was really about the workforce in rural communities. For example, is the Government looking at an uplift in the low-carbon heat skills grant for rural apprenticeships and specifically for small to medium-sized enterprises, which will potentially have to let individuals go and do training and will therefore need to get extra cover or to find out how that will work for them and their business? What work is going on in that respect, given that the once-for-Scotland approach does not necessarily seem to be working for SMEs and for rural Scotland? What about the additional costs of transport for students going to rural colleges or, indeed, places such as Edinburgh where capacity seems to be building quickly?

Patrick Harvie: Tangentially, in answer to your point about transport, that is one of the reasons why we were keen to develop the free bus travel for young people policy. I have spoken to young people who did not take up college courses, because their bus costs would have been £10, £20 or £30 a week, which was just not viable. I am therefore very pleased to hear support for the Government in that area.

Antonia, do you want to respond to some of the other questions?

Antonia Georgieva: We do not have an uplift for any of this training in rural and island areas. I do not know whether Gareth Fenney has anything further to add.

Gareth Fenney: It is under consideration, and we can certainly take the point away. I do not want to put words in the minister's mouth, but Mr Briggs raises an important point about support being needed in that respect. We need to continue to review the issue and think about how we can improve our offer.

Patrick Harvie: I am sure that I can expect a parliamentary question on that issue.

Miles Briggs: Absolutely.

The Convener: We have reached the end of our questions. I thank everyone for their evidence today.

There is no requirement on the committee to make any recommendations on negative instruments. If members have no comments, does the committee agree that we do not wish to make any recommendations on this particular instrument?

Members indicated agreement.

The Convener: I suspend the meeting to allow a changeover of officials.

11:28

Meeting suspended.

11:32

On resuming—

Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023 [Draft]

The Convener: Before we turn to the next item, I give apologies for my colleague Mark Griffin. He had a problem getting in and although we thought that he might arrive at committee, it seems that he is further delayed. I therefore extend those apologies.

Agenda item 3 is to take evidence on the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023.

We are joined again by Patrick Harvie, Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights. Mr Harvie is joined for this item by Scottish Government officials Adam Krawczyk, head of housing, homelessness and regeneration analysis; Poppy Prior, solicitor; and Yvette

Sheppard, head of the housing services and rented sector reform unit.

I invite the minister to make a short opening statement.

Patrick Harvie: It is nice to be back with the committee again. I am pleased to be here to present the Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023.

As colleagues know, the 2022 emergency act came into force on 28 October last year and, since then, has provided additional protection for tenants in what remain challenging economic times. The act originally ran to 31 March 2023 and has been extended once, until the end of this current month.

In June, I published a statement of reasons for the second proposed extension of the emergency act. As part of that report, and in line with the requirements of the act, I set out the intention for the measures in the act to be extended for a further, and final, six months to 31 March 2024.

The report provides updated data and economic analysis that shows that the challenging economic position has not yet fundamentally changed and that many households in the private rented sector in particular continue to struggle. For example, according to recent YouGov polling for the Scottish Government, in August 2023, levels of concern in relation to paying rent were twice as high in the private rented sector, at 27 per cent, compared to those in relation to paying rent or mortgages across all tenures as a whole, at 12 per cent. That has not improved since the polling in March 2023.

It was recently announced that the energy price cap will reduce, but it is reducing from a very high level, and the positive impact on fuel poverty rates is offset by the UK Government's decision to withdraw the energy bills support scheme, under which £400 was paid to all households last winter.

Meanwhile, the freezing of local housing allowance rates by the UK Government for the third consecutive year is yet another reason why those in lower-income households in the private rented sector who access local housing allowance will find it more difficult to afford rental properties.

The picture has changed somewhat since a year ago, but circumstances remain very difficult for many tenants, and many households that are on low and modest incomes continue to feel the strain of cost of living pressures. For those reasons, the regulations seek to extend the application of part 1 of the Cost of Living (Tenant Protection) (Scotland) Act 2022 in its current form—including the rent cap measures for the private rented sector, the eviction moratorium provisions across all rented sectors that the act

covers, and other important protections—until 31 March 2024 at the latest.

In reaching that position, I have reflected on the views that stakeholders and partners have expressed and I have sought to find the right balance, under the statutory duty, to ensure that the provisions do not remain in place for longer than is necessary in connection with the cost crisis. I also recognise the on-going impacts that the cost crisis is having on some private landlords. The private sector rent cap is set at 3 per cent, but there is a safeguard for landlords, who can alternatively opt to apply to rent service Scotland for a rent increase of up to 6 per cent if their defined, prescribed property costs have increased within a specified period. I know that some landlords are using that safeguard—1,031 of them had submitted such an application to rent service Scotland as of 1 September.

I turn to our proposed continuation of the eviction moratorium provisions. Tenants in the private and social rented sectors, and those who live in student accommodation, will continue to benefit from the additional time to find alternative accommodation that the six-month pause in the enforcement of eviction action provides. In addition, they are protected from private landlords seeking to end a tenancy in order to raise rents above the cap, and the provisions reduce unlawful evictions by increasing the level of damages that are payable.

As with the rent cap, the eviction moratorium provisions include a number of safeguards for landlords. Those recognise that there are circumstances when enforcement of an eviction order or decree should proceed to protect communities—for example, in instances of serious antisocial behaviour—and to strike an appropriate balance between the protection of tenants and the rights of landlords.

In summary, the latest evidence shows that the cost crisis is still very much with us. It is crucial that we continue the remaining protections in the 2022 act beyond 30 September. If the committee agrees to recommend approval, it will remain the case that, for this final period, I will continue to keep the measures under review, to consider their on-going necessity and proportionality and to advise the Parliament through regular reporting—the next report is due to be laid no later than 14 October.

I thank the committee for its continued interest in the issue and for its scrutiny of the regulations. I am happy to answer any questions that members have.

The Convener: Thank you for your statement. It is good to hear that you will continue to monitor

the situation and look into the proportionality of the measures.

We have heard concern that the provisions are leading to landlords leaving the sector. I am interested in hearing whether there is evidence of that. Are you concerned about that?

Patrick Harvie: We continue to keep a close eye on the issue. We are aware of anecdotal evidence that landlords have been talking about it. Some cite the temporary cost of living measures in the 2022 act as one factor; I have heard from a number of landlords for whom changes in UK tax policy have been a bigger motivation in their decisions about whether to consider leaving the sector.

On the actual evidence, though, the number of properties registered for private rent in Scotland under the registration scheme has not changed significantly. We are conscious that there is likely to be a bit of a time lag in the collection of the data, but at the moment the figures do not show a significant reduction in the number of properties available.

The Convener: Thank you.

Willie Coffey: Good morning again, Patrick. Interestingly, the Association of Local Authority Chief Housing Officers recommends that you withdraw rather than extend the measures, saying that it is not having the impact that was intended and so on. What is your view of that, and why would you disregard it and proceed with the proposal today?

Patrick Harvie: It is worth separating out the rent cap provisions from the eviction moratorium provisions. With the social housing sector—local authority and housing association housing—we reached a different approach on the rent cap. We agreed that approach, taking account of the sector's concerns and its different nature, such as the way in which rental income is reinvested for public purposes, whether that is for services for tenants, retrofit to improve energy performance or investment in new build. We recognised a range of differences in the way that the private and the social rented sectors operate, and we found that the best solution was to work with the social rented sector to agree a voluntary limit on average rent rises across Scotland.

We removed social housing from the fixed absolute rent cap and agreed the voluntary approach. For an average size of property, that amounted to a close monetary equivalence between the increased rent cap after it raised from zero and the voluntary agreement that was reached with the social housing sector. My view is that that has achieved a level of stability for tenants in a way that has been agreed mutually with the sector.

Some of the sector's concerns might be more focused on the eviction moratorium rather than on rent. We believe that, in the current climate, it remains important for people to have the additional time available to them if they are faced with the prospect of eviction. Safeguards remain for social landlords that need to evict someone—for example, that can happen in cases of severe or serious antisocial behaviour. For the most part, social landlords, whether they are local authorities or housing associations, have been very responsible landlords and have never wanted to move to eviction as their first recourse. They seek to achieve better outcomes for their tenants. They have had pre-eviction protocols in place for substantially longer than they have been a requirement in the private rented sector.

Therefore, I believe that we still have the right balance when it comes to protection for tenants who might face the prospect of eviction in some circumstances, and protection for landlords, whether in the social sector or the private sector, who, in rare circumstances, have a legitimate need to pursue an eviction order.

Willie Coffey: ALACHO said that the measure simply pushes the rent that is due to the end of the process—it is a bigger amount at the eviction point—and does not ultimately reduce the number of evictions. What would be your response to that?

Patrick Harvie: We were clear when we debated the Cost of Living (Tenant Protection) (Scotland) Bill and took it through the Parliament that, in cases of severe rent arrears, a tenant does not simply need to be stuck in one place, accruing ever more debt. That was one reason why severe rent arrears were included as a ground for pursuing eviction.

Willie Coffey: In some of the evidence, there has been a suggestion that the supply of private rented homes has been adversely affected by the emergency legislation. What do you have to say about that, and about the potential deterrent to institutional investment in private rented housing? Are we seeing an impact in those areas?

11:45

Patrick Harvie: Again, I would draw a distinction between anecdotal evidence that is being put about and what we are seeing on the ground. It was only ever possible for the Cost of Living (Tenant Protection) (Scotland) Act 2022 to have a direct impact on rental incomes for a period of 18 months. Now that we are at the point of proposing the extension for the final six months, the effect of a decision today cannot possibly impact on the rental income of properties that are subject to investors' decisions at the moment. Investors' decisions at the moment would be about

the supply of homes that are available to generate rental income in the future, after the temporary provisions in this legislation have ceased.

Some of the wider concerns of institutional investors are around the Scottish Government's longer-term proposals for rebalancing the private rental sector and, in particular, for a new national system of rent controls. We are keen to continue to work closely with the sector, which includes engagement that I and Paul McLennan as Minister for Housing have with investors as well as developers as we work through the process to determine the shape of the housing bill that will be introduced next year to give effect to that commitment to a national system of rent controls.

The impact that we are seeing on rental prices reinforces the need to commit to that work. We need to ensure that affordability is part of our understanding of what adequate housing is and that all people have a human right to adequate housing. We will continue to develop that work in a way that is well informed by the perspectives of tenants, landlords, the people who work with them and investors. Across Europe, the situation that Scotland and the rest of the UK have been in in recent years and decades is unusual. It is a particularly unregulated market in private housing terms.

Investors—particularly the bigger institutional investors—make decisions across a wide range of countries and they are well used to making decisions about more regulated and less regulated markets with regard to rental property. Evidence from across Europe is very clear: a well-designed rent control system is entirely compatible with a vibrant housing market and investment in homes made for private rent. We believe that that can be achieved in Scotland as well and that it will be consistent with supplying the quality homes that Scotland needs and achieving affordability, which has been lacking in too many cases.

Willie Coffey: Thank you for the detail in that response, minister.

Miles Briggs: The committee has received evidence about landlords' increased costs, which have been impacted on by rising interest rates in recent months. What is the Government's view on the case for increasing the rent cap from 3 per cent to 6 per cent for prescribed property costs?

Patrick Harvie: As I said, we will continue to keep under review the proportionality and necessity of the measures. The next report that I mentioned is due by mid-October; it will inform the committee's consideration of our proposals at that stage. As was set out in the statement of reasons that we published in June, we believe that the evidence is sufficient to justify continuation of the rent cap. Any subsequent variation in the level of

the cap would be likely to be covered in the report in October.

The cost crisis is continuing to have an impact, and we need to recognise that that continued impact is being felt by tenants as well as by landlords. It has always been part of the design of the legislation to recognise the protection that tenants need, but it also recognises that safeguards for landlords are needed and that there must be a proper balance between those needs.

The fact is that the economic circumstances have not fundamentally changed. The cost crisis has not fundamentally gone away and, even if the hopeful projections around reduced inflation come to pass in the months ahead, people are still living with the increased costs that they have been landed with. That applies to tenants as well as to landlords and does not change the fundamental calculation that we have made about the balance between protection of rents and the safeguards for landlords that we have proposed.

Miles Briggs: Thank you. I will come back to my other questions later.

Pam Gosal: Good morning. As the minister will probably know, the 2022 act has had unintended consequences for both tenants and landlords. We have heard from multiple organisations that landlords are increasing their rents between tenancies in order to cover their costs and anticipated costs due to fear of on-going rent controls.

In the 12 months to July 2023, private rental prices experienced their highest annual percentage change since 2012. Do you accept that the legislation is leaving landlords with no choice but to increase rents for new lets by more than they might have done had the legislation not been in place?

Patrick Harvie: I do not agree with that characterisation of what the legislation has done.

Pam Gosal is right that rent increases between tenancies are not covered by the legislation. As it is emergency legislation, it was not ever going to be possible, through it, to fundamentally restructure the way that private residential tenancies—PRTs—work. There was recognition that the 2002 act was only ever going to provide protection within tenancies in relation to the annual in-tenancy increases that are allowed under the PRT.

As a result of the legislation being in force in Scotland, the difference is that we are seeing only inter-tenancy increases and tenants are—excepting the exceptional 6 per cent cases—being protected with a 3 per cent rent increase cap within tenancies. Down south, people are being

subjected to both. We know that increases in market rents—rents that are being advertised—are significant; for example, the increase is 12 per cent in Glasgow and 10 per cent in Aberdeen. We also know that similar figures are being seen in parts of England; for example, we see increases of 10.4 per cent in Cardiff, 10.7 per cent in Southampton and 13 per cent in Manchester.

The inter-tenancy increases are happening for a wide range of reasons. I am sure that they are a necessity in some cases, but some landlords are pursuing whatever they can get away with. That last point is by no means a characterisation of the whole private rented sector. There are landlords out there who are committed to trying to provide housing that is as affordable as possible for their tenants, but there are also landlords who will go to the maximum that they think the market will bear.

In Scotland, sitting tenants have protection from annual in-tenancy rent increases, rather than their being subjected to both in-tenancy and intra-tenancy rent increases. The level of protection that exists for tenants is higher in Scotland as a result of the legislation.

Pam Gosal: Are you aware that students have been really affected by cases of landlords making prices higher? I know from the Indian student groups and associations who have contacted me that some students have had to go back because they could not find appropriate accommodation, as the rents are so high that they cannot afford them. Sometimes there is even a lack of supply of housing in the market for rent.

Patrick Harvie: Absolutely. The increase in intra-tenancy rents is significant. It is significant both down south and here, partly because of economic circumstances and partly because of the unregulated nature of those rental increases. For me, that reinforces the need to continue to make progress on the development of the new housing bill and a rent control system for Scotland that will be fully effective, rather than our relying on emergency legislation that can protect only people in tenancies. The 2022 act, as emergency legislation, was only ever going to be able to do that. It was also only ever going to be temporary, as it has to be subject to the continual test of necessity and proportionality.

It is very clear that the affordability issues in the private rented sector more generally require longer-term reform, which the Scottish Government is committed to.

The Convener: We move to questions from Ivan McKee.

Ivan McKee: In the interests of transparency I reiterate my declaration of interests with regard to ownership of rental property and a share of a property rental business.

I turn to the period after March next year. You answered Willie Coffey's question about investors looking at the longer term. As much certainty as you can give tenants and landlords about the situation would be helpful in relation to their interests and longer-term planning. You have previously told the committee that the way to bridge the gap between the end of the rent cap and longer-term rent control measures would be the rent adjudication measures in the 2022 act. What is your current thinking on how those powers might be used and when will you announce your proposed approach for the period after the end of March next year?

Patrick Harvie: That question is hugely important, and Ivan McKee is right to point to that power in the legislation. It allows an adjustment to be made to the rent adjudication process, the idea of which is to prevent an immediate cliff edge when the temporary emergency legislation is switched off. We are still at the point of exploring the options to make the most effective use of that power. I am afraid that I am not able to publish detailed proposals on that, but we can expect them to come forward in time for expiry of the rent cap.

I turn to Yvette Sheppard. Are we able to say anything more at this point on the expected timescale? I know that dialogue has taken place on the subject with stakeholders, too.

Yvette Sheppard (Scottish Government): We are still taking stakeholder views into account and, as the minister has reflected, considering the different ways in which we could amend the adjudication system. Broadly, the adjudication system relies on comparisons with market rent, so we and our stakeholders are looking at what the alternative options could be in that space. We are hoping to introduce proposals in the first few months after the current extension takes place in October.

Ivan McKee: Do you accept that the longer that goes on, the more uncertainty exists, which makes it more difficult to go forward with investment to increase supply, which is clearly a significant objective?

Patrick Harvie: Yes. That is why we are keen to ensure that we are hearing from the widest possible range of voices, as we come to a decision. I hope that broad support exists for the principle that such a mechanism is necessary to prevent a cliff edge—I do not recall there being serious opposition when the legislation was passed in Parliament—but Ivan McKee is quite right to say that it needs to be designed in a way that is consistent with both our protection for tenants and the wider need for a housing market that meets people's needs.

Marie McNair: Following on from Ivan's questions, I note that some of the evidence that we have received has pointed to the need for the Scottish Government to review and update the private rented sector policy. Do you have timescales for when you will publish the tenant strategy and the housing bill to introduce long-term rent control provisions?

Patrick Harvie: The programme for government includes a commitment to introduce the housing bill to deliver the new deal for tenants, which will include the introduction of long-term rent controls and other tenants' rights, as well as new prevention of homelessness duties. I hope that members and stakeholders will take confidence from the inclusion of that commitment in the programme for government. The precise date of introduction of a new bill is always a slightly moveable feast, but we have the commitment to take that work forward and are continuing to work with a range of stakeholders to ensure that we shape that bill as effectively as possible.

12:00

The Convener: It is good to get that reassurance. We stood to attention when we heard what was in the PFG.

I have a question about joint tenancy loopholes. Living Rent has stated that there is a loophole in the legislation as a result of which a joint tenant who remains in the property after another joint tenant leaves might not be protected by the rent cap. How can such tenants be protected?

Patrick Harvie: I share the concern about the matter, although I am not sure that I would use the word "loophole". The situation is a consequence of the fact that the emergency legislation could take only temporary steps and that it was not possible to use it for a fundamental restructuring of, or major surgery on, private residential tenancy. The current legislation gives the landlord the right to decide not to agree to continue an existing tenancy when one joint tenant leaves.

The intention, of course, behind designing the PRT in that way—this is going back a good number of years—was to avoid a situation in which others were made homeless because one person chose to leave a joint tenancy. I do not think that it was the wrong decision to take that approach, but we need to recognise that one of the consequences was that the emergency legislation was not able to address that particular circumstance. Once again, I come back to the point that it highlights the need for us to make good on the longer-term commitments, including the new housing legislation and the new deal for tenants. As part of our work on developing that,

we are looking at joint tenancy issues, including the existing approach to ending joint tenancies.

The Convener: Thanks for that. Miles Briggs has a final question.

Miles Briggs: I want to raise a couple of issues with the minister. First, I think that we would accept that the approach has been useful for current tenants. However, with regard to people seeking tenancies, do you have any views on the facts that we now have among the highest-ever homelessness rates and numbers of children in temporary accommodation, and that councils are saying that they are unable to put together sustainable tenancies with the private rented sector? Do you understand that consequence of the policy?

Patrick Harvie: The issue is, of course, extremely serious. Some of the longer-term work that we are doing, including the homelessness prevention duties in the new housing bill, will be relevant.

I should, though, point out some of the information that has already been published on referrals with regard to people becoming homeless and the tenure that they previously had. A significant reduction in respect of the private rented sector has been showing up in the statistics over the period; in fact, I think that the figure has come down to pre-pandemic levels.

Adam Krawczyk might have found the graph that I have just been frantically searching for. Adam—is there anything you can say about the figures that you have in front of you?

Adam Krawczyk (Scottish Government): Sure. The biannual update on homelessness statistics were published in August, and they show that for the six months up to September 2022, before the emergency legislation came in, there were 2,990 assessments of homelessness with regard to people who had been in the private rented sector. For the six months after—that is, from October 2022 to March 2023—there were 2,200 such assessments, which means that there was a 26 per cent reduction in the number of households coming from the private rented sector that were assessed as homeless. As Mr Harvie has said, that figure for those six months is below the pre-pandemic level, in 2019.

Patrick Harvie: Again, some of that variation will be to do with protections being brought in due to Covid and then starting to ease off. Over time, such things can change significantly. I do not think that we have to go back very many years to see a period when evictions from the private rented sector were the principal—the biggest—route into homelessness. That level started to come down because of a number of actions that were taken. We need to continue to ensure that people are

protected from the risk of homelessness, and the new homelessness prevention duties are going to be important in achieving that. However, it is pretty clear that the legislation has given additional protection that has been necessary, particularly for people living in the private rented sector.

Miles Briggs: You have said that you do not want to create a cliff edge, but from my reading of the legislation, every landlord in Scotland will be able to seek a review in March without the further extension that the Government is outlining. My concern is about what that will mean for the housing tribunal, the backlog that it already faces and the resources that it will need. Has the Government considered what that will look like?

Patrick Harvie: Obviously, we stay in touch with the tribunal on the impacts with regard to the design and, now, implementation of the legislation, and we will continue to be in close contact on the implications of any further changes. What is worth reflecting on, though, is that even once the 2022 act comes to an end and ceases to apply, tenants will have the high levels of protection that they had before it. Indeed, the UK Government itself is now starting to introduce some aspects of that protection; I welcome its change of position in that respect. The end of the emergency legislation will not mean the end of tenant protection—not by a long way; tenants will return to the high level of legal rights and protection that existed prior to it.

Miles Briggs: Finally, how does the extension to the regulations fit with the Scottish Government's wider objectives in "Housing to 2040"? Moreover, I note that many of the homelessness duties that are being presented were to do with the development of sustainable tenancies within the private rented sector. I do not know whether you have to hand any data on the situation today, but my understanding is that very few such tenancies have been taken forward since the rent controls were put in place. It seems really critical that we re-establish that relationship to deal with the housing crisis that we are facing.

Patrick Harvie: I come back to the difference between the longer-term development of housing policy and legislation, the new housing bill and the homelessness prevention duties and the good level of dialogue that we are having with the sector in the broadest terms as we take forward that work and, in this instance, the specific tests that we have to go through that were required under the Cost of Living (Tenant Protection) (Scotland) Act 2022 to justify the necessity and proportionality of not only continuing but, in this case, extending the provisions. Under the legislation, we remain under the duty to keep that test of proportionality and necessity under on-going review and to expire provisions that we can no longer justify in those terms. The extension to next March at the latest

does not remove the requirement on us to continue to carry out that on-going review.

12:09

Meeting continued in private until 12:30.

Miles Briggs: Thank you.

The Convener: That concludes our questions, so I thank the witnesses for their evidence.

We move to agenda item 4, which is consideration of the motion on the instrument that we have been discussing. I ask the minister to move motion S6M-09290.

Motion moved,

That the Local Government, Housing and Planning Committee recommends that The Cost of Living (Tenant Protection) (Scotland) Act 2022 (Amendment of Expiry Date) Regulations 2023 be approved.—[*Patrick Harvie*]

The Convener: Do members wish to make any points?

Miles Briggs: As with the other extensions that have been proposed, we in the Conservative Party will oppose the motion in the vote.

Pam Gosal: I echo that comment. We will be opposing the motion.

The Convener: Do you wish to add anything further, minister?

Patrick Harvie: I just thank the committee once again for its scrutiny and for giving me the time to explore the issues with you.

The Convener: The question is, that motion S6M-09290, in the name of Patrick Harvie, be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
McKee, Ivan (Glasgow Provan) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)

Against

Briggs, Miles (Lothian) (Con)
Gosal, Pam (West Scotland) (Con)

The Convener: The result of the division is: For 4, Against 2, Abstentions 0.

Motion agreed to.

The Convener: The committee will publish in the coming days a report setting out its recommendation on the instrument.

We agreed at the start of the meeting to take the next two items in private. As that was the last public item on today's agenda, I close the public part of the meeting.

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