



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Net Zero, Energy and Transport Committee

Tuesday 14 May 2024

Session 6



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Tuesday 14 May 2024

CONTENTS

CIRCULAR ECONOMY (SCOTLAND) BILL: STAGE 2	Col. 1
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NET ZERO, ENERGY AND TRANSPORT COMMITTEE
17th Meeting 2024, Session 6

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

*Jackie Dunbar (Aberdeen Donside) (SNP)

*Monica Lennon (Central Scotland) (Lab)

*Douglas Lumsden (North East Scotland) (Con)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sarah Boyack (Lothian) (Lab)

Maurice Golden (North East Scotland) (Con)

Gillian Martin (Minister for Climate Action)

Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Net Zero, Energy and Transport Committee

Tuesday 14 May 2024

[The Convener opened the meeting at 08:30]

Circular Economy (Scotland) Bill: Stage 2

The Convener (Edward Mountain): Good morning, and welcome to the 17th meeting in 2024 of the Net Zero, Energy and Transport Committee.

Our only agenda item is day 2 of consideration of the Circular Economy (Scotland) Bill at stage 2. I welcome Gillian Martin, the Minister for Climate Action, and her supporting officials. During the meeting, non-committee members—including Sarah Boyack, Maurice Golden, Clare Adamson and Graham Simpson—will appear. I welcome them all formally now. Later in the meeting, we might reach amendments that have been lodged by Murdo Fraser and Sue Webber, so I will welcome them formally now, too.

I will not go through all the things that I said at the previous meeting, but I briefly remind members that they should have with them the marshalled list of amendments, which sets out the order in which amendments will be disposed of, and the groupings document. If anyone does not have them, they are on the bill web page.

There will be one debate on each group of amendments. The member who lodged the first amendment in the group will speak to and move that amendment and, if they wish to, they will speak to other amendments in the group. I will then call other members who have amendments in the group to speak to, but not to move, their amendments and to speak to any other amendments in the group if they so wish. I will then call any other members who wish to speak in the debate. If any member wishes to speak, they just have to catch my eye.

Finally, I will call the member who moved the first amendment in the group to wind up. At that point, they should indicate whether they wish to press or withdraw the amendment. If the amendment is pressed, I will put the question on it. If they wish to withdraw their amendment, I will ask whether any member present objects. If there is an objection, I must put the question on the amendment.

Other amendments in a group are not debated again when they are reached, so, if they are

moved, I will put the question on them straight away. If a member whose amendment has already been debated does not wish to move it, they should simply say, “Not moved.” Unless anyone else then says that they want to move the amendment, I will move straight on to the next amendment on the marshalled list.

I remind everyone that, if there is a division, only committee members may vote. Their choices are yes, no or abstain. Voting will be by a show of hands, and it is really important that members keep their hands raised until the clerk has recorded their names. No members are attending remotely, so that makes it somewhat easier.

At last week’s committee meeting, we ended consideration of the bill at section 5 and disposed of amendment 190, so we can head straight on. *[Interruption.]* Sorry—I will bring in Jackie Dunbar.

Jackie Dunbar (Aberdeen Donside) (SNP): Thank you, convener. Considering what happened last week, I thought that it would be best to declare that, as set out in my entry in the register of members’ interests, I was a local councillor in my first year of being an MSP, just in case the subject arises again.

The Convener: Thank you very much. You have probably prompted Douglas Lumsden to say something, too.

Douglas Lumsden (North East Scotland) (Con): Yes—I will do exactly the same. I remind members that my entry in the register of members’ interests shows that I was a councillor at the beginning of the current parliamentary session.

The Convener: Given that we are all making declarations, and to get them out of the way, I remind members, just in case Mr Doris suggests that we talk again about agriculture—a subject that is very close to my heart—that I am a member of a family farming partnership in Moray. I note that, as a family farming partnership, we suffer from fly-tipping, as does probably everyone who owns land or a farm in the countryside across Scotland. If we come to discuss fly-tipping, members should know that I have had to deal with that issue on my farm. Having made all those declarations of interests and, I hope, having cut Mr Doris off at the pass, we can move on.

Section 6—Circular economy targets

The Convener: Amendment 81, in the name of Douglas Lumsden, is grouped with amendments 147 and 150. I call Douglas Lumsden to move amendment 81 and speak to all the amendments in the group.

Douglas Lumsden: Amendment 81 is quite simple. It would change the word “may” to “must”. It might be just one word, but it is an important

change that should be made to the bill. If we are serious about moving to a circular economy, we must set ourselves targets. The use of the term “may” in setting targets does not really cut it, which is why the Government must take this on board, change “may” to “must” and get a move on.

I understand that amendments 147 and 150, in the name of Bob Doris, go together, and I support them both. One thing that I would like to highlight about amendment 150 is that it states:

“The Scottish Ministers must, as soon as reasonably practicable after laying a copy of the proposed regulations, publicise them in such manner as they consider appropriate.”

I hope that we will hear from Mr Doris what is meant by publicising the regulations as ministers “consider appropriate”. Perhaps that phrase is always in legislation, but I would like to know what is meant by it; we might hear about that from the minister as well.

Another thing to flag in amendment 150 is that the

“representation period must be at least 90 days, of which no fewer than 30 must be days on which the Parliament is not dissolved or in recess.”

If it is the worst-case scenario of just 30 days, I want to get an idea of whether that would be enough and whether that period is standard in legislation. I hope to hear about that from Mr Doris and the minister.

I move amendment 81.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): In this small group of amendments, the committee is working constructively with the Government on some of the concerns in our stage 1 report. Transformative state change is needed to move from a linear to a circular economy, and statutory targets will provide a strong focus for action, certainty and direction of travel across policy. The amendments would provide, as the committee recommended, that initial targets under section 6 of the bill should be subject to an enhanced form of parliamentary scrutiny.

The pre-laying or super-affirmative procedure that is outlined in amendment 150 is in line with section 9(8) of the bill on charges for single-use items, providing a consistency of approach and creating the opportunity for greater scrutiny by Parliament. It requires that the Scottish ministers must lay draft regulations before the Scottish Parliament at least 90 days ahead of going through the usual affirmative procedure. During the 90-day period, the Parliament will be able to scrutinise the regulations in the manner that it deems appropriate, and ministers must take account of any representations, resolutions or

reports made by the Parliament ahead of laying the final regulations for approval.

I understand that that is consistent with how super-affirmative procedures have been used before. I encourage members to lock in that enhancement to scrutiny.

If members want to reflect on anything else ahead of stage 3, they can of course do that. I take on board the fact that Mr Lumsden is seeking clarity, but that would be best coming from the minister rather than from me. I urge the committee to support amendments 147 and 150.

The Convener: I am just looking around to see whether any other members want to speak. There do not appear to be any, so I move to you, minister.

The Minister for Climate Action (Gillian Martin): The Scottish Government is happy to support amendment 81 in the name of Douglas Lumsden. Given the transformative change that is required to move from a linear to a circular economy, statutory targets will provide a strong focus for action and certainty in direction of travel across policy. Any targets would be set by future regulations, would be subject to detailed consultation and would sit alongside a monitoring framework that would inform policy choices and allow us to prioritise action on areas such as consumption reduction. On that basis, we are content that there should be a duty and not just a power for ministers to set targets.

We are also very happy to support amendments 147 and 150, in line with the committee’s recommendations at stage 1 to provide enhanced parliamentary scrutiny of initial targets by means of a super-affirmative procedure. I want to give the clarity that Mr Lumsden required about the meaning of “as they consider appropriate”. That is the usual wording for that type of provision. It just means that ministers can choose how to publish that information, which nowadays would generally be on the Scottish Government’s website.

The Convener: I call Douglas Lumsden to wind up and to press or withdraw amendment 81.

Douglas Lumsden: I thank the minister for taking on board amendment 81, which will firm up what the Scottish ministers “must” do, and for providing clarification on the use of the word “appropriate”.

I press amendment 81.

Amendment 81 agreed to.

The Convener: Amendment 4, in the name of Maurice Golden, is grouped with amendments 124, 100, 191, 101 to 103, 142, 143, 192, 214, 144, 125, 126, 145, 193, 194, 146, 195, 127, 9 and 10. I point out that, if amendment 214 is

agreed to, I cannot call amendments 144, 125, 126, 145, 193, 194, 146, 195 and 127, due to pre-emption. I call Maurice Golden to move amendment 4 and speak to the amendments in the group.

Maurice Golden (North East Scotland) (Con):

The amendments in this group are progressive and positive, and I hope that the committee will look kindly on them.

Amendment 4 seeks to ensure that targets are set for 2030, and amendment 142 would ensure that waste is

“managed in line with the waste hierarchy”.

Amendment 143 would ensure that

“waste materials are managed as locally as possible, preferably in Scotland”.

Obviously, if the committee supports that amendment, that will signal that it wants waste to be managed as locally as possible rather than exported to other nations, so it is another example of a progressive policy.

Amendments 9 and 10 are on circular economy targets. Convener, you might agree that we might want to have circular economy targets in a circular economy bill. I will put the issue in context. The first target is that the Scottish economy will be 5 per cent circular by 2027. The Scottish economy is currently 1.3 per cent circular, which is below the United Kingdom level of 7.5 per cent and the global average of 7.2 per cent, so reaching 5 per cent would still mean that Scotland was below the global average on circularity.

The Scottish Parliament and the Scottish Government are determined to be ambitious with such targets, which is why amendment 10 would set the 2030 target at 10 per cent. That might or might not be above the global average by the time we get to 2030, but it would at least take Scotland above the current global average. Those are relatively easy targets to meet, but I am happy to listen to any comments.

I move amendment 4.

The Convener: I call Ben Macpherson to speak to amendment 124 and other amendments in the group.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Good morning, colleagues. I will not be moving amendment 124, as it relates to amendments 122 and 123, which I did not move in our previous meeting.

I believe that my amendments 125 and 126 are helpful for completeness in that, in addition to increasing reuse and recycling, they would add the obligations to increase “refurbishment” and “repair”. We heard about those two themes in our

stage 1 evidence, and the amendments would help to complete section 6 in relation to what we are trying to achieve together.

I will also be moving amendment 127, because the sectors and systems that will be prioritised in the strategy need to be considered in section 6, too.

08:45

The Convener: I call Sarah Boyack to speak to amendment 100 and other amendments in the group. Ms Boyack, you may wish to reflect that you missed the first part of the debate on the group before you address the amendments. I am very happy for you to do that now, if you like.

Sarah Boyack (Lothian) (Lab): First, I apologise for being late. That was not my intention.

As with previous sections, I propose through amendments 100 to 103 that the word “things” be replaced with “goods, products and materials” in order to provide clarity. I hope that the minister will be keen to support those amendments.

On scrutinising section 6 in advance of the debate on this group, I still had a fundamental question, and it remains unanswered. What will the targets look like? When I met the former minister and asked that exact question, I did not get an answer. We are being asked through the bill to provide ministers with powers to set circular economy targets, but we do not have clarity on what those targets will look like or at what level they will be set.

I missed the opening comments by Maurice Golden, but I know that he has been pushing on that issue as well. This morning, I would very much welcome an outline of the minister’s thoughts and an answer to the fundamental question of what the targets will look like, because that is critical to MSPs being satisfied that the right targets will be set, that they will be supported by industry and civic society, that there will be a clear route to achieving them and that there will be clear routes to monitoring the targets and holding the Government to account.

I am under no illusion that all my amendments to section 6 will be agreed to, but I lodged them to test what the targets will look like. I would be happy to work with the Government, other parties and members round the table to develop those ideas further.

Amendment 192 would require ministers to have regard to the waste hierarchy and amendment 193 would require targets to be set in line with achieving the waste hierarchy. To create a circular economy, we need people to see more value in what they put into recycling or straight into their

refuse bin. We have to raise awareness of the waste hierarchy and get people to think about it. For example, instead of throwing out a punctured bike tyre, could a person repair it, or is there somewhere locally where they could go and get it repaired? If a pair of trainers that they ordered from a website do not fit but they have worn them a couple of times, what other opportunities are available to sell them or gift them? We also need to rethink and redesign goods and products so that they can be used for multiple purposes. That requires manufacturers to change their designs and users to change their habits.

My strong view is that having targets would place an emphasis on all stages of the waste hierarchy; send a signal to producers, manufacturers and voluntary organisations, who already do a great deal of work in our communities, that the Scottish Government and Parliament are serious about creating a circular economy; and push towards that step change.

Douglas Lumsden: I agree that more probably needs to be done by the designers of products to get us to a circular economy, but how does the Scottish Government fit into that process? For example, once my phone battery starts fading, I will probably get a new phone. What steps can the Government take to influence manufacturers on that?

Sarah Boyack: Part of it is about awareness. You should have the choice to buy a phone that will not just stop working. At present, you cannot replace the battery and you have to get rid of the whole phone, but the cost of a mobile phone is a huge amount of money for a consumer. There is something about awareness and something about pushing on what new technology is being developed. We would now laugh at the phones that we had when this Parliament was set up, because they would look historical. Technology and businesses are shifting, but it is partly about awareness and partly about raising the bar and getting consumers to push companies harder so that they think about what they need to do.

My amendment 194 would provide for carbon-based targets, ensuring that emissions from the whole life cycles of products are reduced. Importantly, the amendment covers the whole life cycle, not just the life cycle and supply chain of a product in Scotland. There are lots of issues here where more could be done.

Amendment 195 would provide for targets to be made in relation to different materials, which takes me back to the point that Douglas Lumsden made. It would enable progress to be tracked on items that we use every day. A number of manufacturers have contacted me to say that they would like their products to last as long as possible and they are prepared to invest. The setting of targets on a

product-by-product basis could send a signal to industry. That is the point that Douglas Lumsden made. It could also send a signal to local authorities about their waste recycling, a message to consumers on the Government's commitment to products being used for longer, and a message to encourage those who are falling behind.

I realise that there are a range of other options in the current group of amendments, but I wanted to get my issues on the agenda and probe what is in the bill. Ben Macpherson's amendment 124 is similar to what I have proposed. Monica Lennon's amendment 145 includes food waste. Amendment 146, which we talked about last week, mentions the "do no harm" principle, and Mark Ruskell's amendment 191 covers the most polluting materials. We have different ways of addressing the issues, but they are all about how we can strengthen the bill at stage 2 to make it as robust and effective as possible.

Maurice Golden's amendment 4, which seeks to ensure that targets are set that will be known as the "2030 targets", is critical. If we are going to have the reuse, recycling and reduction of waste, we need to have a better hierarchy in the bill that will inform everybody and promote the progress that we all want to see.

The Convener: Thank you for your apology, Sarah. It is noted and accepted.

I call Mark Ruskell to speak to amendment 191 and other amendments in the group.

Mark Ruskell (Mid Scotland and Fife) (Green): I mentioned amendment 191 when we debated amendment 183 last week. Members might remember that they are about considering harmful and polluting materials in the determination of targets. I did not hear from the minister—unless I did not take note of it last week—a commitment to work with me on the issue between stages 2 and 3. I am not going to say whether that requires a legislative change at this point. Perhaps I misheard, but I did not hear that commitment last week.

I am also listening for commitments in relation to other amendments that we are debating this morning, because there is clearly value in many of the matters that members are raising for consideration. I do not feel that many of those amendments are supportable at this point, but I would like their spirit to be moved into stage 3 if the minister does not accept everything today.

The Convener: I call Monica Lennon to speak to amendment 144 and other amendments in the group.

Monica Lennon (Central Scotland) (Lab): Good morning. Amendment 144 aims to increase the uptake of reusable nappies by requiring

ministers to set targets for that. Other amendments that I have lodged in a later group would provide the means by which we can increase uptake, but amendment 144 is about the target.

Anyone who followed stage 1 and heard the evidence on the bill will have heard me talk about the issue and will know that I am passionate about it. More than 160 million disposable nappies go to landfill every year in Scotland alone; the figure for the UK is around 3 billion. On average, each baby or toddler will go through about 5,000 disposable nappies. It is clearly a huge issue for the circular economy, but it is also about how we can provide families with choice to help them to save money.

I am grateful to the Scottish Government for the time that it has spent working with me on the proposals. That included a fact-finding visit to see North Ayrshire Council's trailblazing birth-to-potty scheme, which is a good initiative whereby the council works with waste officers and other local partners to give parents choice and access to free reusable nappies. The scheme has been going for about five years and it is cost neutral. The council can save money on landfill and the scheme does not cost it any additional money. That is the principle behind it.

The Scottish Government is also doing good work with the baby box, which gives people access to a voucher that they can redeem to try out reusable nappies and see whether they like them. However, as I will perhaps talk about when we get to a later section, other support is needed around education and awareness. As Sarah Boyack said, people need awareness, but this is not about forcing people to use reusable nappies. I want to make that clear. As a parent who has used them, I am a big fan, but they are not for everyone.

Sarah Boyack: You talked about the practical experience in North Ayrshire. Do you want to say a bit about parents' awareness? The statistic that 160 million disposable nappies are thrown away in Scotland every year—5,000 per child—is striking. Will you also say a bit about the costs? Consumer attitudes are important, but so is the work of the councillors who put the scheme in place and are keeping it going.

Monica Lennon: The figures vary and it will depend on what brand of nappies people are using.

Maurice Golden: Will the member give way?

Monica Lennon: I will in a moment. I am trying to remember the figures. I was going to talk about them later. It is estimated that switching to reusables can save families between £600 and £1,000 a year, or more.

Some parents, including parents we met in North Ayrshire, take a hybrid approach. They might use a disposable nappy at night time or if they are going on holiday or are out and about. I hope that, as our communities and businesses become more supportive of the circular economy, we will see better facilities for these things. I was about to say to the minister that there is some similarity with the work that we did together as back benchers with the Government on reusable period products.

I am happy to hear from Maurice Golden.

Maurice Golden: I was going to save some of these comments until we get to the later group—

Monica Lennon: I am getting carried away.

Maurice Golden: —but I have some general comments and a specific comment on your amendment 144. The minister may come to this, but I note that the Scottish Government previously ran a real nappy campaign—I was in charge of that almost 20 years ago—and there must be results from that, with behavioural analysis of many of the aspects. We do not have access to that, but the committee should. The Scottish Government also ran—

The Convener: As a great person for procedural things, I note that the purpose of an intervention is to ask a question, not to debate further issues. That comes later, and you will definitely get your chance.

Maurice Golden: I was trying to be helpful in relation to amendment 144 and the minister's response, but I will turn to my specific question. The amendment includes the word "free". For completeness, is that part of the picture? You might want to increase the use of reusable nappies full stop. Does that make sense?

Monica Lennon: That is a fair question, and you made some helpful comments. Overall, it is about increasing the use of reusable nappies and reducing reliance on disposable nappies. Later amendments that are not in the current group cover different schemes that could be introduced, but I have modelled this on the North Ayrshire Council example. In Parliament, we are always keen to hear about good practice and the amazing things that are going on in local government, and North Ayrshire Council has been quietly working on this for five years.

The scheme was brought in by a Labour administration and it survived a change in administration—it is a Scottish National Party-led council now. I met the environment convener, and they are very proud of what the council is doing across the political divide, because it is a really practical way to help families. Some people engage with the scheme because they want to be

more sustainable, and for others it is about trying to save money. We need such practical schemes that are free of any sort of judgment. People are not going to be policing this and asking others, “Did you use disposables some of the time?”

09:00

The purpose of the group of amendments is to set targets, and that is all about being able to monitor and encourage these things and see where we are making progress. I note that the Scottish Government has already agreed to carry out some research on the matter. I am probably stealing the minister’s lines here, but the James Hutton Institute is conducting some research on the barriers that exist.

Maurice Golden is right, and it is great that we have an expert with us who has been working on this for two decades—I did not think that he was quite as old as that. Support used to be in place. My daughter is now almost 18, but I used reusable nappies a long time ago and, although we did not get any support for doing so, I remember reading information about some of the potential health benefits, including not being exposed to some of the chemicals in disposable nappies.

Douglas Lumsden: I am trying to work things out in my head as we go through the bill. Why do you believe that disposable nappies should be in the bill? We seem to be targeting just one product here. Last week, as you know, we talked about not targeting just the construction industry. Why should we target that particular product? Is there not a danger that a whole list of products might come forward?

Monica Lennon: It is a matter of impact and proportionality. I agreed with Ben Macpherson when he talked last week about the impact on the construction sector. However, we do not put things in the bill as a punishment; we do it to maximise opportunities. In any case, I think that we will return to the construction sector.

I have already narrated some of the figures, but I note again that, in the UK, 3 billion disposable nappies go to landfill every year. There are opportunities in the circular economy strategy and the route map, but I point out that the North Ayrshire example—I really encourage colleagues to look at that—has been in place for five years and no other local authority in Scotland has run with it or put something similar in place. North Ayrshire does it well because it has waste awareness officers and leadership on the issue. It has really bought into it. Other local authorities perhaps do not have the time, capacity or knowledge to do the same thing. Sometimes, therefore, we have to put things in legislation.

I draw a parallel with the Period Products (Free Provision) (Scotland) Act 2021. We did not say in that act that people must use reusable products, but if we put in place legislation that says that there must be access to such products, we create choice and start the culture change. If we do not put disposable nappies in the bill, we will miss an opportunity. In 10 years’ time, we could still be talking about the great scheme in North Ayrshire that no one else is doing.

I have, of course, been speaking to the Convention of Scottish Local Authorities, because we want to do this with local government. It is very interested in the work in North Ayrshire. We have had some discussions about the issue and they will continue.

Mark Ruskell: You are bringing back fond memories of hanging up real nappies on the washing line over the summer.

You talked about local authorities taking the lead. About 10 or 12 years ago, there were some pilots—I remember Stirling Council being involved—in which disposable nappies were collected separately and they went through a materials recovery process, particularly for the plastics. In your discussions with the Government, have you reflected on that route? Clearly, it is not at the top of the waste hierarchy, but it is certainly a way of recovering materials and reducing the impact of disposables. I am just not sure to what extent that is still a thing.

Monica Lennon: That was another really important contribution. I come back to the work that is being done on barriers, because there is a perception—I should say that it is not an unfair one—that using real nappies can create extra work, and we live in a society where a lot of unpaid work at home falls to women. The ability to save money is an incentive, but if it means having to spend a lot of time doing extra laundry, that could—quite rightly—put some people off. We certainly need to look at that. I cannot remember exactly, but I am pretty sure that I lodged some written questions about schemes that might be available for support with laundry.

In our scrutiny of the circular economy, we have talked a lot about the importance of the third sector. It is important for colleagues to know that there are organisations in our communities that are doing a lot of work on education and awareness. For example, there is a nappy library that operates across Ayrshire, although it is in a bizarre situation where it operates pan-Ayrshire but only one part of Ayrshire—North Ayrshire, and not East or South Ayrshire—has the birth-to-potty scheme.

In my area, we have the Lanarkshire real nappy project. I recently met some of the mums at

Swaddle—a social enterprise that sells pre-owned reusable nappies, which are really cheap. People might think, “Oh, you’re buying second-hand nappies”, but they are washed and sterilised and are perfectly good to be used again. However, people might think that they are not going to touch a nappy that someone else has used, so it is about education around that.

I will draw my comments to a close. I think that I have warmed everyone up for a later discussion about why reusable nappies are important and why they are an important feature of a circular economy. However, amendment 144 is simply about the target. We will come to the other amendments on the subject in due course. Amendment 144 seeks to ensure that secondary legislation that is made on the target commits ministers to increasing the uptake of reusable nappies. That would support measures that are introduced elsewhere in the bill.

Amendment 145 seeks to achieve a similar result for food waste. Colleagues will know that Scottish Environment LINK and others mentioned food waste at stage 1. If we are more circular in relation to food, we will have opportunities to improve biodiversity and the climate.

Amendment 146 seeks to ensure that targets that are set under section 6 will align with the “do no harm” principle. That would support Sarah Boyack’s amendment to section 1 that will implement the requirements for that principle.

I will not comment too much on other people’s amendments in the group, but there are some really good suggestions. Sarah Boyack’s amendment 192 would ensure that the waste hierarchy is considered when the targets are devised. We heard in the stage 1 evidence that there is a feeling that the bill is still quite recycling heavy, and amendment 192 would contribute to rebalancing that.

Ben Macpherson’s amendments 125 and 126 will contribute to creating a more holistic approach by increasing repair and refurbishment and they, too, will rebalance the bill away from a disproportionate focus on recycling.

The Convener: Thank you Monica. I am looking around and no other member has indicated that they wish to participate in the debate, so we will go to the minister.

Gillian Martin: I am sorry to say that I cannot support amendment 4, in the name of Maurice Golden. Our draft circular economy and waste route map sets out that the target-setting process will follow the development of the monitoring and indicator framework from 2025. Work is already under way to establish the framework, which will be used to track various aspects of the circular economy and will form the basis of future targets.

The development process will include stakeholder input and engagement in the coming year. That stakeholder engagement process is the right way to approach the setting of targets.

Amendment 4 would provide no flexibility in the approach and would require that the first targets be set for 2030, which would mean that the first targets could not be set for any years before or after 2030.

Amendments 100, 101, 102 and 103 are consistent with Sarah Boyack’s amendments that have been agreed, and which inserted similar wording in section 1. They will replace “things” with “goods and products”. I am happy to support those amendments.

I thank Ben Macpherson for saying that he will not move amendment 124.

I turn to amendments 125, 126 and 127. Although the list in section 6(3) simply sets out examples of possible target areas and is not intended to be exhaustive, I agree that “refurbishment”, “repair” and priority “sectors and systems” that are identified in the development of the circular economy strategy should all be referenced, given their potential significance in focusing actions further up the waste hierarchy. I am happy to support amendments 125 and 126 from Ben Macpherson, and I am generally supportive of the aims of his amendment 127. I am happy to work with the member ahead of stage 3 to see what we can do in that respect.

I am happy to work with Mark Ruskell on amendment 191—I think that I said that last week. I will not rehearse the arguments that I gave in last week’s session about why I cannot support it, but we can certainly do some work to see what we can do to make the amendment stronger.

We discussed the issue in amendment 192 in last week’s debate on group 2, in relation to the circular economy strategy. I appreciate Sarah Boyack’s additions to the waste hierarchy. However, the description of the waste hierarchy, as set out in Government amendment 136, derives from article 4 of the European waste framework directive, so it ensures consistent application of the waste hierarchy that everyone is familiar with and which exists across waste-related legislation in Scotland. I think that it is unnecessary to include that requirement in provisions relating to targets, so I cannot support amendment 192.

Sarah Boyack asked what the targets would look like. I go back to what I said in relation to Maurice Golden’s amendment 4. As a result of the co-design and engagement process, targets will be set following the development of the monitoring and indicator framework. That will be developed over this year and next year and will include stakeholder engagement. Apart from—as I said—

working with stakeholders being the right thing to do, it means that when the targets are set there is buy-in from all the stakeholders who will have been involved in the creation of the targets.

Similarly, the Scottish Government cannot support amendment 143, which is also in the name of Maurice Golden. Although a circular economy can provide significant opportunities for communities in repair and reuse, for example, as we have previously discussed, that is, because of logistical and economic realities, not always the case. Indeed, they are not always desired by communities. I get that by “locally” Maurice Golden means “in Scotland”, but what is meant by “local” is quite subjective. I understand the reasoning behind the amendment—that all waste materials should be treated as locally as possible. That would be desirable, but I do not think that we can mandate it in the bill.

Maurice Golden: The amendment says “as locally as possible” and “preferably in Scotland”. That indicates, at least, that there is an international dynamic. I am just seeking clarity that the Scottish Government’s position is that waste materials should not be managed as locally as possible.

Gillian Martin: The wording “as possible” is not the kind of language that we want in the bill. What does it actually mean? Maybe Maurice Golden and I can discuss that ahead of stage 3, so that we can get to the nub of what he is asking for and see whether we can make the wording better. As amendment 143 stands, we cannot support it.

We also cannot support amendment 142. I agree that having regard to the waste hierarchy is crucial. My amendment 136 will ensure that, in the preparation of the circular economy strategy, ministers must have regard to the waste hierarchy. That does not have to be restated in the section on targets.

Regarding amendment 193, which is in the name of Sarah Boyack, targets need to be both measurable and deliverable. Concepts such as “rethinking” or “encouraging” are unlikely to be suitable because they would be difficult to define, design or measure. I agree that repairing is a significant part of the efforts to focus action further up the waste hierarchy, so I support Ben Macpherson’s amendment 126, in that context. However, for the reason that I have given, I cannot support amendment 193.

Amendment 195 sets out that “different targets” can be made

“in relation to different materials, such as ... glass ... PolyEthylene Terephthalate”

and “cartons”—although cartons are not a material, but a type of packaging. Section 6

already allows for targets to be set for specific materials, so identifying only some specific materials in the bill is not necessary. It would also be inappropriate to highlight certain materials over others, given that the relative importance—

Sarah Boyack: [*Inaudible.*]

Gillian Martin: I will finish this point and then take a quick intervention.

It would be inappropriate to highlight certain materials over others, given that the relative importance of setting targets for specific materials will change over time. I think that I made that argument last week. It would be prudent to future proof that power as much as possible. That is my reasoning.

I will take Sarah Boyack’s question.

Sarah Boyack: Thanks very much. The question is really just to push a bit further. You have talked about the strategy. Would the strategy potentially have elements that would focus on different types of products, to raise issues up the agenda even if they are not in the bill?

09:15

Gillian Martin: The difference between having that in legislation and having it in the strategy is that we have flexibility within the strategy. The strategy is about the here and now and the few years after the strategy. It will identify some of the most problematic areas where there is a great deal of waste. That is why the strategy will have that detail in it. I give Sarah Boyack my assurance that some of the things that she perhaps wants to see in the bill at the moment will be prioritised and dealt with in the strategy. I made that point in relation to quite a few members’ questions about specific materials last week.

I turn to amendments 214 and 194. At stage 1, the committee noted the need for a robust approach to setting targets and offered its support for rigour in that process. I think that requiring, in the bill, targets for specific measures would undermine that process. The circular economy and waste route map sets out that the target-setting process will follow the development of a monitoring and indicators framework from 2025, as I have already said. That work is under way and will go on into next year.

Furthermore, the Scottish Government is already required to publish carbon footprint statistics annually, but those statistics are not suitable for targets because much of the data that underpins them is based on averages and is dependent on emissions from other countries, over which Scotland has no control. Therefore, we cannot support amendment 214 or amendment 194.

I absolutely understand the sentiment behind amendments 144, 145 and 146, which are in the name of Monica Lennon. It is laudable that local authorities do what they can to facilitate use of reusable nappies. A great example was given from North Ayrshire Council. I was not in post at that time, but I have heard great things about the work that has been done there. We want to encourage sharing of best practice as much as possible. The work that will be done after the bill is passed will facilitate that. When we have the circular economy route map, there will be examples for local authorities to look at, and there will be the vehicle of using the work that Ms Lennon has said that COSLA wants to do on encouraging take-up and sharing of good practice.

The things that are mentioned by Ms Lennon in her amendments, including reusable nappies and food waste, could already be the subject of targets, should those be deemed to be appropriate when we are developing the regulations. Targets and regulations could already be made for use of reusable nappies and food waste, so it is not necessary for them to be inserted in the bill through amendments.

The Scottish Government is doing what it can through the voucher that is included in the baby box. I am looking forward to receiving the results of the research that Ms Lennon mentioned, which I believe is coming to me quite soon. There is a lot more that we can do on promotion of reusable nappies and in development of the circular economy route map, but I do not think that it is necessary to have that in the bill.

I hope that Monica Lennon will not press the amendments. I will understand it if she does, but I cannot support them.

Monica Lennon: Today has been a good opportunity to discuss the issue, given the way that the bill is set out. Perhaps it will not be today, given the time, but I hope that we will have time to have a conversation about the more substantial amendments. I take the point that the minister made about targets and that there could be a place for those in regulations. That is important.

I ask the minister and colleagues to think about the fact that we have had that example in North Ayrshire for five years. That good practice has existed, but something is missing in terms of others proactively learning from it. In other hearings of the committee, when we have had council leaders in front of us, I have put that example to them and they have all said that it is very laudable and good, but nothing has happened.

There is a danger that we will continue to fall behind other parts of the UK, where there is quite a lively programme of work around reusable nappy

week, which happens in April every year. Other local authorities elsewhere are doing some good work.

I do not have the data here today, and I do not want to name and shame individual councils—it is not about that—but every year I have put in freedom of information requests to find out what schemes are available, and we have seen a reduction, so I would welcome—

The Convener: I am sorry, Ms Lennon. I am trying to be fair to everyone. Interventions are to ask a specific question. You have made a heap of points there, which should have come out in the debate.

Monica Lennon: I apologise.

The Convener: I ask you respectfully to ask a question when you make an intervention. Otherwise, we could be in danger of being here until 10 o'clock tonight.

Monica Lennon: I apologise for the preamble. The question is, of course, will the minister meet me to talk about the amendments, so that we can make progress on the topic together?

Gillian Martin: I am always happy to meet Ms Lennon. It is a topic that we need to have a discussion about, whether it is about its inclusion in the bill through amendments or about a wider programme of work that we need to do. I am happy to meet Ms Lennon.

Monica Lennon: Thank you.

Gillian Martin: Finally, convener, the Scottish Government cannot support amendments 9 and 10, which are in the name of Maurice Golden. In the stage 1 report, the committee said that it understands the need for a robust approach to setting targets. I agree with that, because targets would have significant implications across policy and for stakeholders, so they should be informed by further consultation in all parts of society.

That is why I have set out an approach to setting targets that is based on development of a monitoring and indicator framework, as I have said many times and will not rehearse. Amendments 9 and 10 would replace the ability for Scottish ministers to set targets by regulations following that robust analysis and consultation. For the reasons that I have rehearsed many times, I do not want to do that, so I urge the committee not to support amendments 9 and 10.

The Convener: Thank you very much, minister. I ask Maurice Golden to wind up and to press or seek to withdraw amendment 4.

Maurice Golden: With regard to sharing best practice, it would be really helpful if, in advance of the debate around reusable nappies, in particular, the Scottish Government would publish its findings

on communications in relation to real nappies; the lifecycle analysis and what individuals are required to do, and all the analysis around the absorbent hygiene product trials that Mark Ruskell referred to—there are two different ways of doing that—so that the committee has all the evidence with which to fully consider Monica Lennon’s amendment. That information will be very easy for the Scottish Government to find; indeed, I might have some of it, if I have backups of some emails. The Scottish Government will have the information on how much things cost, behaviour change and all those aspects.

On targets in the bill, I think that in previous sessions we have put targets in bills and have found that that allows us to hold the Scottish Government to account. If we put everything in a strategy, given the debate from last week and given that commencement will be two years after royal assent, a cynic might suggest that the targets in that strategy would be up for further debate post 2026.

I find it bizarre that the Scottish Government does not want circular economy targets in a circular economy bill and, indeed, that waste materials are not to be managed as locally as possible. Clearly, if it is not possible to include such targets, waste cannot be managed in such locations.

Douglas Lumsden: On trying to deal with waste as locally as possible, I am trying to understand why the Government would not want that, especially if the waste is not being dealt with in Scotland. Is there a danger that we could just offshore all our waste if we do not have in the bill something such as you are proposing?

Maurice Golden: To be fair, the Scottish Government has not set that out as a policy, but it is the fact. Let us look at plastic recycling: 2 per cent of plastics that are collected for recycling in Scotland are recycled in Scotland. One could suggest that the Scottish Government is saying that we want to export all our waste and that not accepting the suggestion is evidence of that, because only 2 per cent of plastics are recycled here. I would love to see a plastics recycling facility in Scotland, which amendment 4 would not deliver, but it would signal that that is the direction of travel. However, it is clear that that is the opposite of the Scottish Government’s policy position, which is entirely a matter for it.

In closing, I seek to withdraw amendment 4.

Amendment 4, by agreement, withdrawn.

Amendment 124 not moved.

Amendment 100 moved—[Sarah Boyack]—and agreed to.

Amendment 191 not moved.

Amendments 101 to 103 moved—[Sarah Boyack]—and agreed to.

Amendment 142 moved—[Maurice Golden].

The Convener: The question is, that amendment 142 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 142 disagreed to.

Amendment 143 moved—[Maurice Golden].

The Convener: The question is, that amendment 143 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 143 disagreed to.

Amendment 192 not moved.

The Convener: I call amendment 214, in the name of Sarah Boyack, which was already debated with amendment 4, and I remind members that, if amendment 214 is agreed to, I cannot call amendments 144, 125, 126, 145, 193, 194, 146, 195 and 127.

Amendment 214 moved—[Sarah Boyack].

The Convener: The question is, that amendment 214 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 214 disagreed to.

Amendment 144 not moved.

Amendments 125 and 126 moved—[Ben Macpherson]—and agreed to.

Amendment 145 moved—[Monica Lennon].

09:30

The Convener: The question is, that amendment 145 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 145 disagreed to.

Amendments 193 and 194 not moved.

Amendment 146 moved—[Monica Lennon].

The Convener: The question is, that amendment 146 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 146 disagreed to.

Amendment 195 not moved.

Amendment 127 moved—[Ben Macpherson]—and agreed to.

Amendment 147 moved—[Bob Doris]—and agreed to.

The Convener: I call amendment 5, in the name of Graham Simpson, which is grouped with amendments 6 to 8, 19 to 22, 30 to 34, 40 to 43, 45, 47 to 54, 61 to 64, 68 to 71, 73 to 77, 175, 176, 78, 177, 178, 79 and 179. I remind members that amendments that are direct alternatives to others in the group are shown on the groupings paper.

I call Graham Simpson to move amendment 5 and speak to all amendments in the group.

Graham Simpson (Central Scotland) (Con): Thank you, convener. I will start by apologising to the committee because I have 40-plus amendments in this group. I promise to spend no longer than five minutes on each, and I have no doubt that the minister will do the same, which is about six hours' worth—[*Interruption.*] Of course I am jesting, convener, before you jump in.

Last week, I argued that the two-year deadline for publishing the circular economy strategy was too long and pushed for it to be cut to a year. The minister was not at all keen on that and wanted it to remain at two years. At one point, Mr Ruskell even argued that there should not be a deadline, until he realised that there was one in the bill and reappraised his stance.

With that in mind, I wish to fall into line with the minister and propose only two-year deadlines in my many amendments in this group. Therefore, I will not press amendment 5 or move the other amendments that would create a one-year deadline. Those are amendments 7, 19, 21, 30, 32, 40, 42, 47, 49, 51, 53, 61, 63, 68, 70, 73 and 75.

Convener, I notice that the clerk is talking to you. Is it a procedural matter?

The Convener: Yes, it is a procedural matter. I am trying to work out the best way to deal with the amendments, but I think that we will have to dispose of each amendment as we come to it, although we know that you are not going to move them. Thank you for the notification, Mr Simpson.

Graham Simpson: I thought that that might be the case.

I will address the rest of the amendments. There is currently no deadline in section 6 for setting circular economy targets—it is open ended. That suggests to me that the minister who was previously at the helm of the bill wanted as long as possible to set those targets, which, to me, does not sound like the kind of environmentally friendly

stance that the minister should be taking. If we are to save the planet, we need to be far more ambitious. I argued that last week but, for reasons that remain a mystery to me, neither the committee nor the minister saw it that way.

In principle, we should give the Government of the day, whoever that is, deadlines to work to. If we do not, there is no incentive for it to get on with anything. My amendments in this group would have given the committee a choice of deadline—either one year or two years. I will now move only those amendments that would set a two-year deadline, because that is the timetable that the minister and the committee backed last week.

Amendment 6 would give the Government a two-year deadline to set circular economy targets. That seems reasonable to me.

Amendment 8, again, puts the Government on watch. It is a sunset clause, which relates to section 6 and also to section 7, which is about monitoring and reporting on targets. Amendment 8 says that if the Government has not made regulations under sections 6 and 7 within two years, the sections expire. That should focus the minds of any minister, whoever that is.

Amendment 20 sets alternative timing for regulations being brought in under section 8, which is on

“Restrictions on the disposal of unsold consumer goods”.

Amendments 22, 31 and 33 are further sunset clauses, for the same reasons as before.

I turn to amendment 34. The bill introduces new section 87A to the Climate Change (Scotland) Act 2009. It gives ministers a power to introduce a charge for the supply of a single-use item. I have many concerns about introducing a power to require charges for single-use items, which I will outline later. Amendment 34 would require section 87A to come into force the day after the Circular Economy (Scotland) Bill receives royal assent.

I turn to amendments 41, 43 and 45. Section 10 relates to the “Householder’s duty of care” with respect to the household waste that is produced on their property. Although we can all agree that it is important that an occupier of a property makes the best effort to ensure that their waste is transferred properly, the committee’s report highlighted that householders are “largely unaware” of their current duty of care and noted that the pressures that are faced by councils in enforcing that duty would need to be addressed.

I have concerns about how workable the enforcement of section 10 would be. Proposing bin fines if people have the wrong items in their bin is not practical. Responsible people could put out their bins only for someone else to come along and put something else in them. They would then

be hit by a fine. There would be even bigger problems for people who live in flats with communal bins. Who would get fined if those bins had the wrong items in them? That was addressed in the stage 1 debate but was not properly answered. I am therefore not comfortable with section 10. However, if the Government is committed to retaining it, it needs to act on the regulations. If, through a fear of public backlash, the Government were to let such regulations drift, perhaps that would say something about the nature of the proposals.

My amendments urge the Government to get on with the regulations under section 10(9), about substituting the fixed-penalty amount of £200 and section 10(16), which is about adding another category of persons to the definition of “authorised officer”. My amendments propose a timetable for setting the regulations and they give the Government a deadline by which to do so; otherwise, the power to legislate for fixed-penalty notices for offences under section 10 would expire.

Douglas Lumsden: Does Graham Simpson share my concern that, if we do not put some of those deadlines in place, bits of the bill could just sit on the shelf gathering dust and not be enacted? I guess that that is the reason why he has lodged the amendments.

Graham Simpson: Douglas Lumsden is exactly right. He has clearly heard what I said. He has understood the argument.

The argument is just as he has laid out: if any Government—it does not matter who it is—does not set a deadline, then things can just drift and never get done. Even though I might have concerns about a provision, if it is in a bill, surely the government of the day must be serious about it. If it is serious about it, it should get on and do it; if it fears a public backlash, then it might not do it—but, if that is the case, why have it in the bill?

As with my previous amendments, amendments 48 and 50 set another two-year deadline for the Scottish Government with regard to section 11, on “Household waste requirements”. Amendments 52 and 54 also relate to “Household waste requirements” under section 11. Again, I have set a deadline of two years for those regulations to be made, otherwise, the section would expire.

Amendments 62 and 64 set a deadline for the Government with regards to section 13, which is on

“Targets for local authorities relating to household waste recycling”.

The deadline would mean that regulations must be made

“within two years of this section coming into force”,

otherwise, section 13 would expire.

I come to amendments 69 and 71. Section 14 covers civil penalties for “Littering from a vehicle” and provides new enforcement penalties to tackle that problem. As with several of the other sections of the bill, the committee—with good reason—expressed concern about the practical implementation of such powers. As such, a consistent, robust and realistic approach to enforcement needs to be taken. That requires a timetable for regulations and, again, I am saying that would be with a deadline of two years, or the section should expire. You might think that that is a bit extreme, given the seriousness of the issue, but this is about asking the Government to act and avoid the legislative drift that I mentioned earlier.

My amendments 74, 76 and 77 are to section 15, which deals with

“Enforcement powers in respect of certain environmental offences”,

enabling enforcement authorities to stop a vehicle, require a vehicle owner to provide personal details, enter commercial premises and search or seize a vehicle. Those additional powers would help the Scottish Environment Protection Agency and local authorities to tackle perpetrators of waste crime. The committee highlighted the importance of Government funding to underpin that enforcement. My amendments set another deadline for the Government and would insert another sunset clause.

Amendments 78 and 79 relate to the commencement of the act. Amendment 78 calls for section 3, on the

“Publication and laying of strategy”

to come into force on the day after royal assent. It is important that the date on which the provision will come into force is stipulated in the bill and that there is a clear date by which the first strategy should be delivered. In order to expedite that process, I am calling for section 3 to come into force on the day after royal assent.

Amendment 79 calls for section 6, which relates to the development of statutory targets, to come into force on the day after royal assent. The committee argued that setting those targets should be, in its words,

“an obligation, not an option.”

My amendment seeks to make the setting of those targets more urgent by calling for section 6 to come into force on the day after royal assent.

Amendments 78 and 79 reflect two of the most urgent and crucial aspects of the bill and it is essential that both aspects are implemented as early as possible.

You will notice, convener, that I have read the committee report very carefully. I am trying to go along with what the committee said. If that has been the committee’s view, I hope that it will support my amendments. Given the minister’s comments last week with regard to the two-year deadline, I hope that she will reflect on that point and support the amendments.

That covers the group in rather less than the three hours that I had anticipated, convener.

I move amendment 5.

09:45

The Convener: For that, we are extremely grateful. Will you press your amendment 5? I understand that—

Graham Simpson: Amendment 5 is one of the one-year ones, so I will not press it.

The Convener: If you confirm that you will not press amendment 5, but that you will move amendment 6, it will give members a chance, during the open debate, to say whether they are happy with that.

Graham Simpson: That is, indeed, the position.

The Convener: That is helpful. It might save a bit of time, which we might already have lost in this debate.

The Convener: I call Maurice Golden to speak to amendment 175—

Maurice Golden: I think that we are just checking some procedural points—

The Convener: Yes. Sorry, carry on.

Maurice Golden: In essence, the amendments in this group, including my own, aim to push on with the commencement of the regulation-making powers under the bill. The Circular Economy (Scotland) Bill was announced in the 2016-17 programme for government. Even if it were a truly transformational circular economy bill—which it is not—it has taken eight years and dozens of civil servants and agency staff to pore over details around the circular economy in order to push on with it. It is, indeed, an onerous task, but it has taken place over a gigantic period.

What is so far on offer in the bill, however, is an update of the 2010 “Scotland’s zero waste plan” and the “Making Things Last: a circular economy strategy for Scotland” document. It took eight years—we are talking about perhaps a decade’s worth of work to date—to produce an update to a plan. You can tell my exasperation about how it could possibly take so long. I appreciate that the committee voted against co-design last week, which could add time once the initial thoughts of the Government are published. Nonetheless, my

five amendments in this group—amendments 175 to 179—offer a suite of options with regard to the issue.

I do not intend to move all or perhaps any of them, but I intend to discuss what is possible and to see whether the Government and the committee want to promote and get moving on circular economy policies of sorts, because we have had a long time.

The Convener: Thank you, Mr Golden. Let us see whether any other members want to participate in this debate.

Douglas Lumsden: I will join in briefly, convener. I have heard, and hear in the chamber a lot, that there is a climate emergency. If we are serious about that, we have to be serious about setting some timelines. The amendments in the name of Graham Simpson are trying to tell the Government that if it thinks that the issue is important and that it should be doing something about it—and we all agree on those points—then it should do so.

Maurice Golden mentioned that this is nothing new and that it has been in the making for eight years. If we do not have any deadlines, we will probably be sitting here in another eight years thinking that we might progress soon. It is right that what has been lodged should set clear deadlines for the Government to just get on and do it. I am sure that most people would agree to that and would be able to support the amendments.

The Convener: Before I turn to the minister, I will, unusually, comment. Having a deadline for targets to be set within two years is tight, but a two-year deadline is exactly where we should be, so that we can, as parliamentarians, scrutinise the bill to ensure that it comes forward. As a committee convener in the Parliament, I obviously support post-legislative scrutiny, which the conveners group is very keen should happen. Without deadlines, it becomes difficult to identify whether the legislation has proved its worth.

That said, I put my convener's hat back on and call the minister to speak in the debate.

Gillian Martin: The Scottish Government cannot support any of the amendments from Graham Simpson or Maurice Golden in this group. I understand that people want action to happen quickly, but I will deal with the practical reasons why the amendments will not work.

I will deal first with the many amendments that seek to impose time limits of one or two years, although I thank Graham Simpson for saying that he will not move the amendments pertaining to one year. The arguments relating to the amendments for two years are similar. Many

amendments relate to regulation-making powers that are subject to the affirmative procedure, such as those relating to the circular economy targets and household recycling targets for local authorities. Others, such as regulations to impose charges for single-use items, are even subject to the super-affirmative procedure. Making those regulations depends on parliamentary approval and the scheduling of parliamentary business, so the amendments are at risk of not being workable, as the timing of parliamentary procedure is outwith Scottish Government or ministers' control. *[Interruption.]*

The Convener: Hold on. There are two people trying to intervene, in case you did not hear them, minister.

Gillian Martin: I will just finish my point. Furthermore, the deadlines that have been proposed for making regulations, whether one or two years, do not take account of the time that is required to carry out meaningful consultation, which the Parliament would expect in advance of the finalising of any draft regulations.

Graham Simpson talked about public acceptance. I go back to the point that I have been making ever since I have been in this chair—public and stakeholder acceptance is absolutely dependent on that meaningful consultation. The consultation periods that are required for a strategic environmental assessment alone can take up to six months.

Douglas Lumsden: We have all agreed that one year is a bit too ambitious, and that two years is maybe unrealistic, as the minister has said. Will the minister accept different timescales at stage 3—perhaps three or four years? Surely we must be able to set a timescale so that it does not just drift along. As I said earlier, this cannot just be a piece of legislation that sits on the shelf.

Gillian Martin: This will not drift. There is a climate emergency, and the bill puts in place a raft of work that will be done in consultation with stakeholders. I am making the point that the deadlines that I have been asked to put in the bill are outwith the control of the Scottish ministers, because a lot is dependent on parliamentary process and the timetable that Parliament decides for dealing with the regulations.

Douglas Lumsden: Will the minister take a further intervention?

Gillian Martin: No, I will continue. In relation to amendments—

Graham Simpson: Will the minister take an intervention from me?

Gillian Martin: Yes.

Graham Simpson: It is up to ministers when they lay regulations, so the timing of those regulations is entirely down to the Government. I am very familiar with the affirmative and the super-affirmative procedure. I was convener of the Delegated Powers and Law Reform Committee in the previous session, and we dealt with that sort of thing all the time.

Getting something through within two years is not onerous. Minister, do you accept that the argument that you made to the committee last week was that you needed two years, and that two years was enough? Now you are telling us that, for these amendments, two years is too tight. The two arguments do not add up, do they?

Gillian Martin: Many regulations will be put forward. I will not be tied to a timeline that requires me to have them all delivered within two years. Undertaking the consultation will take longer for some regulations than for others. That is the point that I have been making while I have been sitting in this chair.

On amendments 19 and 20, which relate to the regulations for the prohibition or restriction of the disposal of unsold goods, the draft circular economy and waste route map set out that we will commission research in 2024 into potential products in order to inform consultation on regulations in 2026. The amendments do not provide sufficient time to undertake that vital work, which should come first to ensure that we take an informed approach, which the Parliament would expect, with the fullest data and analysis available.

Regulations under the powers in new section 34ZC, which will be inserted into the Environmental Protection Act 1990 by section 10 of the bill, would enable important future changes in relation to the fixed-penalty notice procedure for failure to comply with the householder duty of care. Those powers are not for the purpose of implementation but to ensure that the penalty amount can be adjusted in the future and to accommodate any changes to enforcement authorities that are necessary, for example, as a result of the establishment of a new national park. Those regulations are not likely to be made within the first year, or the first two years, of the coming into force of the new section 34ZC. Amendments 40 and 41, which would require ministers to use those powers within the next one or two years, simply do not make sense.

A similar problem arises with amendments 73 and 74. Section 15 will provide SEPA and local authority officers with additional enforcement powers, including a power to search and seize in relation to vehicles that are believed to have been used in the commission of certain waste offences. Ministers have been given the power to make regulations to allow offences in other acts,

including future acts passed by the Parliament, to be designated as offences for which those additional enforcement powers can be used if a vehicle is believed to have been used in waste crime. That is a specific power to ensure that the legislation can be adjusted for any new waste offences that are created in the future. It might well not need to be used within one or two years following its coming into force. Therefore, amendments 73 and 74, which would require ministers to use those powers within one or two years, do not make sense.

I will now talk to Graham Simpson's related amendments that seek to impose expiry dates on various regulation-making powers in the bill if they have not been used within the next one or two years. Those expiry dates, or sunset clauses, which Graham Simpson is seeking to impose in relation to many sections of the bill, are sometimes used in legislation that confers on the Government particularly intrusive, or what people might call "draconian", powers. We saw a lot of them being used during Covid, but we are very far from that here.

The Scottish Government could not support the precedent of imposing a range of unnecessary sunset clauses on what are, in some cases, ordinary policy-making powers to make regulations and, in other cases, necessary regulation-making powers that will allow changes to be made, such as changes to the level of fixed penalties, or to ensure the application of enforcement powers without the need for primary legislation. The sunseting of all those powers surely cannot be something that the Parliament would want either, particularly in relation to powers to make small adjustments as a result of future legislative changes.

A whole series of amendments from Graham Simpson and a couple from Maurice Golden seek to ensure early commencement of various sections of the bill. Apart from the final sections, 18 to 20, the sections of the bill will come into force on such date

"as the Scottish Ministers may by regulations appoint"

by virtue of the commencement provision in section 19. That will allow for appropriate preparation to be undertaken before implementing regulations are made.

As regards amendments 175 to 179 and amendments 78 and 79, which all relate to the circular economy strategy and targets, I appreciate that there is the need to make swift progress in that area and that timelines are important. However, it is standard practice that sections are commenced no sooner than two months after royal assent, so I cannot support those amendments.

Other amendments from Graham Simpson purport to insert early commencement provisions into acts that are being amended by the bill, such as the Environmental Protection Act 1990. Those amendments are not legally effective given that sections of the bill can be brought into force only by commencement regulations made under section 19. For all those reasons, I urge the committee not to support any of those amendments.

The Convener: I call Graham Simpson to wind up and to confirm whether he wants to withdraw amendment 5.

Graham Simpson: I will do that right at the start. I wish to withdraw amendment 5 but I will move amendment 6.

That is one of the most disappointing contributions that I have heard from a Scottish Government minister. It is absolutely clear that the minister is not serious about delivering on the bill—she does not want to be tied to any timescale. I have set a very reasonable timescale, which is not even particularly quick, of two years. Given that this has already been worked on for a number of years, as Mr Golden said, two years is not particularly ambitious.

Essentially, the minister is saying that she does not want the Government to be tied down to any timescale for any of this. That could mean that there are some sections of the bill that might never take effect. What is the point of passing legislation that might never take effect? That is why you set timetables.

10:00

We like to recycle things such as cans, but I am afraid that the minister is kicking the can down the road to an unknown point; we just do not know where that can will end up. There is no timetable and no ambition, which is very disappointing. I know that the committee will not back me, but it should be pushing back against this unambitious minister and saying, “We want to get on with this.”

Amendment 5, by agreement, withdrawn.

Amendment 6 moved—[Graham Simpson].

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 6 disagreed to.

Amendment 7 not moved.

Amendment 8 moved—[Graham Simpson].

The Convener: The question is, that amendment 8 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 8 disagreed to.

Amendment 9 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 9 disagreed to.

Amendment 10 moved—[Maurice Golden].

The Convener: The question is, that amendment 10 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Abstentions

Lennon, Monica (Central Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 10 disagreed to.

Section 6, as amended, agreed to.

**Section 7—Circular economy targets:
 monitoring and reporting**

The Convener: Amendment 82, in the name of Douglas Lumsden, is grouped with amendments 11, 148, 149, 12 to 14 and 152. I call Douglas Lumsden to move amendment 82 and speak to all amendments in the group.

Douglas Lumsden: Amendment 82 is on the annual reporting of targets. There is no point in us doing any of this work if we are not going to monitor our progress towards a circular economy so that we can see what additional steps are needed, what is working and what is not working. For me, annual reporting seems to be a sensible approach and I am hoping that everyone can support my amendment, which seeks to ensure that there is not a drift in the move towards a circular economy. As Maurice Golden has stated, the debate on a circular economy has been on-going since 2016. Without having an annual review of the targets, we will not be able to see where we are going wrong, what adjustments need to be made and where we need to move forward. It seems to me to be a simple and sensible approach.

Jackie Dunbar: You said that the targets must be reported on and reviewed. Do you mean that the targets should be changed annually or that we should review our progress on the targets on an annual basis? Those are two separate things. I might be misunderstanding.

Douglas Lumsden: We should review progress on our targets and whether we are going to meet them. After making an assessment of the targets and seeing where we are heading, the Government may think that we have to make some changes—not to the targets but to some of the things that we are doing to ensure that we are on track to make progress on the circular economy that we are all hoping for and moving towards. If we do not measure the targets and do not know what is happening, it will be difficult to meet those targets.

Maurice Golden's amendment 148 is about whether the targets are achievable. I think that it is

only right that we do that. Some of the climate change emissions targets have not been achievable for quite a while, which has been swept under the carpet. We are looking at whether the circular economy targets are actually achievable.

I am supportive of amendment 149 and I support amendment 12, in the name of Graham Simpson—he will talk to the amendment himself. It is often the case that the Government wants to set fines for other bodies, so if the Government is not meeting its targets, it should get fined. That money should go to local authorities and the third sector to be fed back into the system to try to ensure that we reach the targets that are set. If there are no fines for the Government, that may not move forward.

Jackie Dunbar: You are saying that the Scottish Government should be fined. Which budget would that come out of?

Douglas Lumsden: That would be up to the Government when it sets its targets. Just as it wants to fine other organisations, there should be a financial penalty for the Scottish Government. The money should be reinvested, which is key, into the circular economy through the third sector and local authorities.

I will speak to some of the other amendments in the group. Amendment 13 is just a review of targets. As we have heard, the Government has set emissions reductions targets before and those have not been met for eight out of the past 12 years. There should be a review of that, as targets are constantly being missed.

Amendment 14 links to the Climate Change (Scotland) Act 2009. Obviously, the legislation might change in the future, but that seems to be a sensible approach.

Amendment 152, in the name of Maurice Golden, is also supportive of the view that there is no point in the Government having a plan if the people who would have to deliver a huge chunk of the work do not have plans in place. It would ensure that plans are put in place.

I move amendment 82.

The Convener: I call Maurice Golden to speak to amendment 11 and any other amendments in the group.

Maurice Golden: Douglas Lumsden has given an excellent overview of all the amendments, including mine. I do not want to double up, given the time constraints.

It is important that circular economy targets are reviewed. If they are not met, we and the public deserve to know why and what actions will be taken.

Amendment 13 states that the circular economy act must be reviewed if net zero emissions targets are missed. We all recognise that, if our overall climate actions are not going in the right direction, we might want to take more action within the auspices of the bill.

Amendment 152 states that a public body must produce a circular economy plan for the Scottish ministers for approval. I hope that the committee and the Government agree that target setting, monitoring, reporting and enforcement are incredibly important. This group of amendments does just that.

The Convener: I call the minister to speak to amendment 149 and any other amendments in the group.

Gillian Martin: On amendment 82 in the name of Douglas Lumsden, section 7 already requires that regulations must set out arrangements for monitoring and reporting on progress towards achieving targets. Those regulations would enable provision to be made on the frequency of reporting, which would depend on the nature of the target and the availability of data to measure it, and that would be established as part of the development of a monitoring and indicator framework and the consultation on the targets themselves. As I do not believe that it would be appropriate to pre-empt that process, I cannot support amendment 82.

On amendment 148, in the name of Maurice Golden, section 7 sets out that regulations must make arrangements for the monitoring of and reporting on targets. The achievability or appropriateness of the targets would be covered in the development of the targets themselves, instead of being a matter for the progress reports. Depending on the targets that are provided for in regulations, they might not necessarily be attributable to sectors; additionally, those sectors would be set out in the strategy rather than in section 1(4). For those reasons, I cannot support amendment 148.

The Scottish Government cannot support amendment 12, in the name of Graham Simpson, as it proposes activity that I think is unworkable. I am also not entirely sure that what Graham Simpson is proposing is needed. Scottish ministers will be required to report to the Scottish Parliament on progress towards targets and any actions that have been taken to achieve them, and that will provide a strong level of accountability.

Moreover, Mr Simpson's amendment does not set out the basis upon which the Parliament would impose fines or the mechanism for distributing them. In response to Douglas Lumsden's point that it is the Government that imposes fines, I would just note that the amendment that we

lodged and which was agreed last week removed penalties for local authorities not meeting their targets, and that the amendment came about as a result of a great deal of consultation with the Convention of Scottish Local Authorities.

On amendment 149, the committee, in its stage 1 report, called for more clarity and mandated action to meet the targets in section 7, which deals with reporting on progress towards targets. As meeting the targets will constitute a statutory duty, Scottish ministers will already be legally required to take action to do so. In response to the committee's recommendation, we have lodged amendment 149 to clarify that reporting on the targets will focus on current action being taken by ministers, in recognition of the fact that the reporting requirements in section 7 are to do with monitoring the progress that has been made towards achieving the targets. I hope that members will support the amendment.

On amendment 13, in the name of Maurice Golden, Scottish ministers will, under section 7, be required to report to the Scottish Parliament on progress towards targets. As I have just noted, amendment 149 means that the regulations will require the report to set out the actions that ministers are taking to achieve those targets, and that reporting provision will give a very strong level of accountability. The bill, once enacted, will consist of a wide range of provisions, not all of which will be relevant to the delivery of any specific target, so a requirement in the reporting provisions to review the act's operation as a whole would be disproportionate and unnecessary.

Similarly, we cannot support amendment 14. It is unnecessary to introduce for the circular economy targets an additional review and reporting requirement that is linked to the 2045 net zero target set in the Climate Change (Scotland) Act 2009. The climate change targets already require their own reporting to Parliament, and the measures in the 2009 act will apply to the measures in this bill, where appropriate. Therefore, a requirement to review the operation of the act as a whole is again disproportionate and unnecessary.

On amendment 152, I agree that public bodies have a significant role to play in delivering Scotland's circular economy, and the amendment highlights the role of procurement in particular. The Procurement Reform (Scotland) Act 2014 introduced the sustainability procurement duty, which requires public bodies to consider how they can improve economic, social and environmental wellbeing and secure improvements. Public bodies should outline in their annual procurement strategy how they will use procurement to contribute to the response to the global climate emergency and report progress in their annual procurement

reports. That is required explicitly to address climate change and circular economy obligations.

In addition, public bodies are required to comply with and report on wider climate change duties. Since 2015, more than 180 public bodies have been required to report annually on their compliance with climate change duties under the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015, including, where applicable, targets for reducing indirect emissions.

10:15

Mark Ruskell: I am interested in many of the comments that have been made about climate change and the need for action, particularly with regard to regulations and on a number of issues that have been raised in both this group and the previous one. Can the minister, who will presumably be in charge of the next climate change plan, confirm that that plan will contain specific costed policies with deadlines for introduction that relate to the circular economy and which might also relate to the kind of regulations that we have been discussing in our consideration of the bill? Is this really where we are going to see the commitment to action that I think many members are trying to insert into the bill ahead of schemes being developed, worked up and agreed on with stakeholders?

Gillian Martin: That brings me to my final point. With regard to any action following the bill that relates directly to the circular economy, the consultation that we are carrying out on the route maps and the strategy will inform quite a lot of the work that we do, and obviously, all of that will feed into the climate action plan. The cabinet secretary will be taking that forward, and I do not want to put words into her mouth, but what I will say is that a lot of these pieces of legislation, plans and strategies dovetail into one another to provide a cohesive approach not just for one portfolio of Government but across many. That is where these actions will exist; they will not necessarily exist in my portfolio, which is all about setting out the strategy, but across a lot of sectors outwith my portfolio.

Finally, Maurice Golden's amendment 152 risks creating burdensome additional duties on public bodies not only to develop specific plans but to submit them to ministers. However, there might be some merit in considering what we might expect from public bodies, particularly those that have a delivery function in relation to key aspects of a circular economy, in helping to deliver the bill's aims and the route map. That might involve putting some provision in the bill. I therefore ask Mr Golden not to move the amendment but to allow me to consider the matter and to come and speak

to me ahead of stage 3 about how we might strengthen the proposal and put it in the bill. However, if the amendment is moved, I encourage members not to support it.

The Convener: I call Graham Simpson to move amendment 12 and to speak to any other amendments in the group. [*Interruption.*] I am sorry—did I say “move”? I meant to say “speak to amendment 12 and any other amendments in the group”.

Graham Simpson: I will speak only to amendment 12, and not for very long.

As the committee knows, it is all very well setting targets in legislation, but the Government can just shrug its shoulders if those targets are missed—or even just scrap them. I have always thought that there is little to no point in putting targets in law, but that is what we will end up with—targets set in regulations. [*Interruption.*] I am not quite sure what that noise is, convener.

The Convener: It is the window closing.

Graham Simpson: Very good.

I do not think there is any point in putting targets in law—or, indeed, putting anything in law—if there is no redress if the targets are missed. [*Interruption.*] Would you like me to stop while the window closes, convener?

The Convener: I heard every word that you said—keep going. I am listening intently, Mr Simpson.

Graham Simpson: Very good.

My amendment does just that: it says that, if the Government misses the targets—targets that are set in law—it breaks its own law. If you break the law, something must happen, and what I am saying is that that something should be a fine and that any such fine—which, to answer Ms Dunbar's point, would come from the Government—should go to councils, which are having to do a lot of the heavy lifting here.

Jackie Dunbar: The question that I asked was not whether it would come from the Scottish Government, but which of its budgets it would come from. If you would be happy to answer that one, that would be quite good.

Graham Simpson: My amendment does not go into that level of detail, but I would be delighted if Ms Dunbar were prepared to accept the principle that there should be a fine. Is she prepared to accept that if a Government—or, indeed, anyone, or any public body—breaks the law, which is what I am talking about, there should be some form of punishment? Otherwise, why would we have such a law? If someone breaks the law, something needs to happen.

Monica Lennon: I did think that Graham Simpson was more of a carrot rather than stick kind of guy. However, I am interested in hearing whether there are examples in other acts of this Parliament where such a mechanism is used. Has Mr Simpson any examples of the Scottish Government being fined for missing targets?

Graham Simpson: I say to Ms Lennon that I am generally a carrot rather than stick kind of guy—she is absolutely right. However, the problem is that there are no examples. The Government can ignore targets and there is never any comeback. I suppose that I am being quite radical in saying that there should be such a system. Otherwise, why should we have something in law? I am simply saying that fines should go to councils and environmental charities, which I would have thought would delight Mr Ruskell.

Mark Ruskell: Will Mr Simpson give way?

Graham Simpson: I am glad that Mr Ruskell has come in at this point.

Mark Ruskell: I am just wondering whether Mr Simpson feels that the principle should apply to the UK Government as well, especially given that it has the majority of powers in relation to import of materials, which could have an impact on the circularity of the UK economy. I stress that we live in a single economy within the UK.

Graham Simpson: To answer Mr Ruskell's point, my principle would apply to any Government. It is based on the principle that if we set things in legislation and someone breaches the law, there should be a punishment. I am glad that Mr Ruskell seems to accept that point. Therefore I seem to have the support of both Mr Ruskell and Ms Dunbar—although we will wait and see. I am absolutely delighted. I will end on a high.

Jackie Dunbar: Will Mr Simpson take an intervention?

Graham Simpson: I have just ended my contribution.

The Convener: Ms Dunbar, I think that Mr Simpson has finished. However, I can call other members at my discretion. Sarah Boyack wants to come in. I have a feeling that the minister also wants to come in briefly, to make a specific point—but not to sum up on every single amendment, please, minister. I will bring in Ms Boyack first.

Sarah Boyack: I certainly do not want to speak on every amendment, but four in this group are really worth considering. Amendments 149 and 150, from the Scottish Government and Bob Doris respectively, would help to strengthen the bill and so are definitely worth supporting.

I will comment briefly on amendments 14 and 152, both of which are in the name of Maurice Golden. We must think about how we raise issues up the agenda. Listening to Graham Simpson has reminded me that we have clearly not seen the Climate Change (Scotland) Act 2009 being implemented. However, the circular economy did not have a high profile in that legislation. It might have been included in the sense of people saying, "Oh, it would be good if we did this" or "We should do this", but it was not there. It is important to draw the connection between circular economy principles, on which the committee has taken excellent evidence, and lowering our carbon emissions. It is a key part of that.

I will support Maurice Golden's amendment 152, because procurement is absolutely critical. Earlier, Douglas Lumsden intervened on me about what the Scottish Government can do and how it should relate to businesses. Procurement is an incentive to businesses to go down the circular economy route, because it enables them to produce products that will earn money but will also be used by the public sector.

The minister said that public sector organisations should be part of the circular economy, but we have not been given any analysis that tells us that brilliant progress is being made on that. We must push harder on that. We can see the impact that it has made on fair trade, for example, with local authorities using fair trade principles in procurement.

The main point there is about raising the importance of procurement and creating positive incentives in supply chains by using public sector investment. That would bring down costs in the long term and would certainly reduce our carbon emissions.

Bob Doris: Will Ms Boyack give way on that point?

The Convener: Mr Doris, if you would like to comment I will be happy to bring you in now.

Bob Doris: Sarah Boyack name-checked an amendment of mine as being in the current group, which set my alarm bells ringing as I do not have any in this group. Perhaps she is referring to one on scope 3 reporting, which is in a later group. She also mentioned Maurice Golden's amendment 152 on procurement. Is Ms Boyack aware that the Economy and Fair Work Committee is currently working on an inquiry on public sector procurement, and that there are already many obligations on local authorities on the matter of ethical procurement? We should ensure that whatever additional regulation is brought in by the legislation that is before us is not overly burdensome for local authorities, and that we get

that balance right. That is not a reason not to do it, but we have to be aware of it.

Douglas Lumsden: Will Mr Doris take an intervention?

Bob Doris: I am already intervening on Ms Boyack.

Sarah Boyack: May I comment on that point?

The Convener: Hold on—we are in danger of going completely off track. The point that you have made, Mr Doris, is that an inquiry is going on and you want to know whether Ms Boyack understands that. From the fact that she is nodding, I think that she has understood that.

Sarah Boyack: I mistakenly included amendment 150 in my remarks on this group. That was because when I was looking at amendments 149 and 150 I noted that I would support them both. The key point is that we must raise the profile of the issue. Unless the bill is made stronger, it will not do that.

The Convener: I think that we are there, then. I am looking around, and I see that no other member has indicated that they wish to speak. I will bring the minister in very briefly, and then I will come to Douglas Lumsden to wind up.

Gillian Martin: I have a point of clarification, convener. In response to amendment 12, I said that I had already moved amendments in which we proposed to remove penalties to local authorities. I was away ahead of myself. I have not done that yet; that point will be dealt with in group 11.

The Convener: So there is news on both fronts.

Douglas Lumsden, could you wind up, please, and press or withdraw amendment 82?

Douglas Lumsden: I had been thinking that there might have been some confusion, but I was not quite sure myself. Last week was a long week.

I will sum up on a few points. I was trying to intervene on Bob Doris, who was actually intervening on someone else. He had made the point that public bodies are already doing quite a lot on procurement procedures. The minister also mentioned having climate change duties for many such public bodies.

I listened to what Sarah Boyack said earlier about trying to increase the issue's profile and get it further up the agenda. If a lot of that work is being done already, it should not place too much of a burden on public bodies to create their own circular economy plans. That would be a good thing for raising the profile and getting bodies to think about the steps that they can take. Much of that work will be there already and could be fed back to ministers for approval. Such an approach

would not place a great burden on public bodies at all, but it would help us get to where we are trying to go.

The aim of my amendment 82 is simply to firm things up. The minister said that a lot of progress might happen in the future, once its approach goes through co-design. However, my amendment would put urgency at the forefront by saying that it must happen and that the Government must report. If the Government has nothing to hide, I am sure that that will be accepted. It should commit to doing so.

I will also speak to amendment 12. As we have heard, and whether it likes it or not, the Scottish Government has missed out on its past 12 emissions targets, and there have been no repercussions at all. The point of amendment 12 is to say that if the Government is serious about hitting its targets, there has to be some penalty. It cannot just be the case that it misses its targets every year but nothing happens until the next year, when the targets might be missed again or they might be hit. The aim of amendment 12 is to say, "If you do not meet it, something is going to happen. There is going to be a fine." It is to get the Government to step up. There is a good set of amendments in this group.

I will press amendment 82.

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 82 disagreed to.

10:30

Amendment 11 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 11 disagreed to.

Amendment 148 not moved.

Amendment 149 moved—[Gillian Martin]—and agreed to.

Section 7, as amended, agreed to.

After section 7

Amendment 150 moved—[Bob Doris]—and agreed to.

Amendment 12 moved—[Graham Simpson].

The Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 12 disagreed to.

Amendment 13 moved—[Maurice Golden].

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

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 13 disagreed to.

Amendment 14 moved—[Maurice Golden].

The Convener: The question is, that amendment 14 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
 Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 14 disagreed to.

The Convener: Amendment 128, in the name of Ben Macpherson, is in a group on its own.

Ben Macpherson: Amendment 128 is a probing amendment. It is based on evidence that we heard at stage 1 and on the wider considerations of local government on the implementation of legislation and the Verity house agreement.

During the committee's stage 1 evidence taking, both around this table and on our visits, we heard from stakeholders that appropriate and, especially, accessible infrastructure will be very important to individuals in all the constituencies and regions that we represent in ensuring that they are able to take items for reuse, refurbishment and recycling. In order to raise that issue, and to bring into service what is set out in paragraphs 129, 390 and 421 of the committee's stage 1 report, I have lodged this probing amendment.

I am interested in hearing the minister's reflections on the infrastructure issues. As I said in my speech in the stage 1 debate—and as others have emphasised, including at this meeting with regard to other amendments—if the people whom we represent cannot easily get to certain facilities or use the infrastructure to participate in the circular economy, it will not be realised in the way that we all want, if the Parliament passes the bill at stage 3. When we put ourselves in all our constituents' shoes, we see that local authorities or the third sector need to provide adequate infrastructure to make a circular economy a reality. That is why I have lodged this probing amendment.

Bob Doris: Looking at the amendment, I am reminded of my time as convener of the Local Government and Communities Committee in a previous session of the Parliament. When Scottish ministers decide what funding is appropriate for local authorities, there is often a significant disparity between that and what COSLA thinks is appropriate. Is the amendment's underlying intent

not just to release funds but to ensure genuine, constructive dialogue between local authorities and Government about the art of the possible and what can be funded? There will be aspirations that cannot be funded, but there will also be direct funding that is required and which can make a meaningful impact. It is all about dialogue.

Ben Macpherson: Bob Doris has made some important points. Further consideration will need to be given to the funding streams for infrastructure when it comes to implementing the bill, if and when it becomes an act, and the question is whether that funding will go to local authorities, which will then contract out to the third sector; whether local authorities will provide the facilities themselves; or whether some facilitation will be directly funded by the Scottish Government, as is the case at the moment through some of what Circularity Scotland does.

Because that further consideration is needed, I will not be pressing my amendment. However, if and when the bill is passed, we as a Parliament—and, of course, the Government—will need to think carefully about the concerns that local government has expressed, sometimes understandably, about primary legislation being passed without the necessary consideration of its capacity to deliver any further obligations. It is a two-way process. The Verity house agreement is important in those considerations, as I know that the minister appreciates.

Douglas Lumsden: In our evidence taking, we visited Leith and went to the Edinburgh Tool Library and the Edinburgh Remakery. It is not only local authorities that have a part to play here; for example, men's sheds could play a big part, too. Does the member envisage the funding for such organisations always going through the local government route or would there be a role for the Government in directly funding some of the organisations that provide services in our communities?

Ben Macpherson: Like Bob Doris, Mr Lumsden makes good points. This is exactly why I do not want to press the amendment. Further consideration needs to be given to the wider matters and the bill's drafting, because a process needs to be undertaken, either during the bill's passage or, thereafter, when it comes to considering the route map and the question of how funding streams are organised and allocated. In certain situations, third sector partners or other constituted organisations might be best placed to deliver and facilitate accessible infrastructure to realise the circular economy. The point is that further consideration is needed, and I am interested to hear the Government's response.

I move amendment 128.

Monica Lennon: I have been listening carefully to Ben Macpherson. On paper, I was pleased with amendment 128—Mr Macpherson has put a lot of thought into it. Indeed, he referenced our report in his comments, and I was just looking back at the paragraphs that he mentioned, including paragraph 421.

Let me just read out some of that paragraph. Some councils told us that they were recycling

“a significant amount of materials ... that could have been repaired and reused”,

citing “a lack of infrastructure” as “the primary reason”. Again, our report contains really good evidence on this issue, with funding as the elephant in the room throughout the whole process. Indeed, we know that there have been concerns about the financial memorandum. I appreciate that Ben Macpherson has said today that amendment 128 is a probing amendment, but we really need a serious discussion about this issue, and it would be good to hear what the minister has to say.

The reference to the Verity house agreement was important. From my discussions with COSLA and local government, I know that they have appreciated, up to this point, their dialogue with Ms Slater and officials. I hope that that dialogue will continue because, in my view, local authorities want to do the right thing. They are ambitious for the circular economy, but the funding and the lack of capacity are putting real constraints on local authorities and other partners.

It was really good that Douglas Lumsden mentioned men's sheds, as there has been a lot of media coverage about the funding challenges that the national organisation faces and what the situation might mean for men's sheds in our regions and constituencies. It would be a real shame if some of them had to close.

I support amendment 128, and I thank Ben Macpherson for bringing it forward for discussion.

Gillian Martin: This has been a really interesting discussion. Although I cannot support amendment 128, which Ben Macpherson is not pressing anyway, I recognise the resource limitations that local authorities and other bodies face. The Scottish Government faces its own limitations, as we know.

I will just outline some of the work that we are doing to support local authorities in their efforts with regard to the circular economy. We have supported 25 councils to reduce waste and increase recycling rates through the £70 million recycling improvement fund, and we expect those projects to deliver significant results locally over the coming years. Moreover, co-designing the new household recycling code of practice with local

authorities offers a platform to discuss the issues raised in the discussion that we have had about finding new ways of working, as well as the associated costs, feasibility and affordability.

Adjustments to waste management, recycling and reuse services, alongside the transition to a mandatory code of practice, will be closely tied to the implementation of the extended producer responsibility with regard to packaging. That initiative will assist in financing those services by ensuring that producers, not the taxpayer, are responsible for the costs of packaging. It is expected to be a significant funding source for local authorities—indeed, the estimate is £1.2 billion across the UK—and it will help improve quality, consistency and, therefore, the value of the material that local authorities are collecting.

Mark Ruskell: Minister, you mentioned the code of practice that is being developed for local authorities. Will that specifically cover the ambition with regard to reuse, refurbishment and repair?

Gillian Martin: I imagine that everything that we want to see in the hierarchy will be discussed as part of the development process. Ben Macpherson has mentioned particular repair facilities, for example—and that brings me on to some of the issues that have been mentioned in relation to third sector organisations and what part they play in that.

A variety of sources of Government funding supports other bodies that contribute to the development of a circular economy, such as the Circular Communities Scotland share and repair network, Social Enterprise Scotland and the just transition fund in my constituency in the north-east area, which I share with some of my colleagues here. I have been able to assist quite a lot of third sector organisations in applying for just transition funding, including Ellon men's shed, other men's sheds in my constituency and, indeed, other third sector organisations that are doing a great deal of work on the circular economy. There are a lot of other funding streams, and all new policy commitments as well as changes to existing policy are discussed with our colleagues in COSLA and have agreement from Scottish ministers and COSLA political leaders, as everyone here knows.

As Mr Macpherson knows, I am happy to discuss with him how we can better signpost the many funding streams that are available to third sector organisations. It should not be for MSPs to pick up the phone and ask people whether they are applying for funds—that knowledge should be readily available.

10:45

Ben Macpherson: Will the minister take an intervention?

The Convener: She is about to wind up.

Gillian Martin: Convener, I see that you are winding me up, so I will do so.

The Convener: I am certainly not winding you up. If I am, I am doing a very bad job of it.

However, I turn to Ben Macpherson to wind up and to press or withdraw amendment 128.

Ben Macpherson: I apologise, convener. I had not recalled that I would have the opportunity to wind up.

I thank the convener, my colleagues and the minister for their responses to the issues raised in amendment 128. The collaboration with local authorities, third sector partners and other constituted organisations in the delivery of a more circular economy has been widely recognised around the table.

I want to emphasise the importance of the word “accessible” in amendment 128. I mean accessibility in the widest possible way but particularly in the sense that people should be able to take items for repair, refurbishment or reuse, ideally in their communities and certainly without any requirement to use private transport. That will be a challenge arising from the implementation of the bill, if it is to become an act.

I am glad that, as we move forward, the widest consideration is being given by all of us to providing the necessary infrastructure. I look forward to further consideration of and discussion on the matter, both in the next stage of the legislative process and if and when Parliament passes the bill to become an act. We can then look together at implementing it effectively.

At this juncture, convener, I seek to withdraw amendment 128.

The Convener: Ben Macpherson wishes to withdraw amendment 128. Does any member object to the amendment being withdrawn?

Douglas Lumsden: Could I press the amendment instead, convener?

The Convener: Yes. In that case, I will put the question. The question is, that amendment 128 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Abstentions

Lennon, Monica (Central Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 128 disagreed to.

Amendments 151 and 152 not moved.

The Convener: That seems to be a logical place for a short stop. I must ask members to be reseated by 11 o'clock.

Before I suspend the meeting, though, I will just point out that we are a wee bit behind where I thought that we would be at this stage, and it looks like we will have an early start next week, unless things happen to change that position.

10:49

Meeting suspended.

11:00

On resuming—

The Convener: Welcome back to the second day of stage 2 consideration of the Circular Economy (Scotland) Bill. I call amendment 15, in the name of Maurice Golden—*[Interruption.]*

I am sorry, I jumped ahead of myself. I was trying to save time and I got it wrong.

Amendment 215, in the name of Maurice Golden, is in a group on its own. I call Maurice Golden to move and speak to amendment 215.

Maurice Golden: The single amendment in this group is intended to ensure that each public body must take reasonable steps to prevent human rights harm and to ensure environmental due diligence with regard to the body's operations, products and services, and, in particular, public procurement. I am aware that many public bodies will already be looking at their supply chains and procurement practices, but I feel that it is important to recognise that area and to ensure, via legislation, that every public body adheres to those standards. I hope that the committee believes that we have a responsibility to consider how we consume and procure and that it will therefore be in a position to support the amendment.

I move amendment 215.

The Convener: No one else has indicated that they wish to speak, so I call the minister.

Gillian Martin: I agree whole-heartedly that preventing human rights harm and ensuring

environmental due diligence are values that should be upheld. Our national performance framework has a very clear commitment to a Scotland in which rights are respected, protected and fulfilled and a significant body of rights, derived from the European convention on human rights, is already hard-wired into the devolution settlement. In fact, it is already unlawful for Scottish public authorities to act in way that is incompatible with those rights. Strengthening our rights framework will be the subject of the Government's forthcoming Scottish human rights bill.

Our national procurement legislation, the Procurement Reform (Scotland) Act 2014, established a national legislative framework for public procurement to support sustainable economic growth by delivering economic, social and environmental benefits. The sustainable procurement duty in the act requires contracting authorities to consider and act on opportunities to improve economic, social and environmental wellbeing. Contracting authorities with a procurement spend of £5 million or more in any financial year must set out, in an organisational procurement strategy, how they intend to comply with the sustainable procurement duty and their policy on the procurement of fair and ethically traded goods and services. They must also report on compliance with this strategy in their annual procurement reports. In the interests of transparency, both procurement strategies and annual procurement reports must be published.

In addition to national procurement legislation, legislation that is derived from European directives already includes a range of mandatory and discretionary grounds on which economic operators can be excluded from procurement. In transposing the directives, Scotland took a distinct approach from other parts of the UK, requiring contracting authorities to include conditions that relate to performance of the contract, to ensure that the economic operator complies with environmental, social and employment law, specifically the International Labour Organization standards and other international conventions, such as the Vienna Convention for the Protection of the Ozone Layer and the Stockholm Convention on Persistent Organic Pollutants.

The Scottish Government slavery and human trafficking statement, which was published in December 2023, outlines the strategies and actions that we have taken to identify, prevent and mitigate slavery and human trafficking in our own operations and supply chains. We support compliance with procurement law through on-going guidance and training that alert a contracting authority to supply chain risks and provide a route map to addressing such risks and ways to improve

working practices and environmental impacts in their procurement activity.

Therefore, given the range of legislation that is already in place, which I have outlined, and the Scottish Government's proposed human rights bill, our view is that this new duty on public bodies would be unnecessary as well as potentially confusing and burdensome for public bodies.

Mark Ruskell: I thank the minister for giving way. It was useful to hear about the European Union directives and the continued work on that agenda in Europe. Will the minister outline what the Scottish Government's on-going commitment is to that work and whether she is aware of more work that will be happening in the European Union in the years to come that we could adopt in this country to maintain our alignment and the hugely important European Union standards and values?

Gillian Martin: I will speak generally to that point. Our mission in the Scottish Government is to continue alignment with the European Union in those areas. I do not have to hand an indication of what will be coming forward, but we have stated on many occasions that we wish to be aligned with the EU.

Monica Lennon: I appreciate the letter that the committee received recently from Ms Slater, which recognised the EU's work on preventing ecocide, and her helpful comments on my proposed ecocide prevention member's bill. The minister mentioned the human rights bill. Will she clarify when that will be introduced and whether that will include the right to a healthy environment?

Gillian Martin: I will have to go back and ask the new Minister for Parliamentary Business when that bill will be brought in, because I do not have that information. Obviously, we have also had a change in ministerial appointments, and I will need time to reach out to the new people in post and get that answer for Ms Lennon, but I will ask my officials to look into that for you.

I also want to point out that the UK Parliament is looking at the Economic Activity of Public Bodies (Overseas Matters) Bill. If and when that becomes law, the Scottish Government will have to ensure that our policies and guidance comply with that. If anything, the bill seems likely to give us less freedom to set out our own approach rather than more.

I support the intention behind the amendment and I am happy to consider what more we can do within the existing frameworks that I mentioned, including through guidance in relation to the sustainable procurement duty. Through the forthcoming Scottish human rights bill, I will also do what I can across portfolios to influence what happens in relation to the sentiments that Maurice Golden has expressed. However, I cannot support

the amendment as it is written for the reasons that I have said.

The Convener: I call Maurice Golden to wind up and to press or withdraw the amendment.

Maurice Golden: There is no locus in a human rights bill coming forward to the Parliament because, as we have heard on previous occasions, an intention to introduce a bill—even if it is mentioned in the programme for government—does not mean that a bill will be introduced. Therefore, we cannot predicate any decisions on something that we have not seen and might never see during this parliamentary session.

Monica Lennon: Maurice Golden might have noticed, as I did, that, last week, there was prominent media coverage of the fact that more than 100 civil society organisations signed an open letter to say that they are really worried that the human rights bill might be scrapped, so the information that Ms Martin is going to seek on the bill will be important for us all.

Therefore, we do not know about the human rights bill. Does Maurice Golden recognise that Sarah Boyack has proposed a member's bill on a wellbeing and sustainable development commissioner? Some of the intentions of his amendment could be picked up by a commissioner, if, collectively, as a Parliament, we agree on that. Does he recognise that there could be an opportunity there?

Maurice Golden: Yes, certainly. I will not get involved in the wider commissioner debate, because that is a whole different conundrum. Therefore, yes, I accept that that is the case, but you can look only at what you have before you. If the committee believes that public bodies should take reasonable steps to prevent human rights harm, they will vote accordingly and support the amendment. If they do not believe that taking reasonable steps to prevent human rights harm is something that they associate with, they will vote against it.

The Convener: I might have missed it, but please can you confirm that you wish to press amendment 215?

Maurice Golden: Yes, I wish to press amendment 215.

The Convener: Thank you very much, Mr Golden.

The question is, that amendment 215 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dunbar, Jackie (Aberdeen Donside) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Abstentions

Lennon, Monica (Central Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 1.

Amendment 215 disagreed to.

The Convener: Amendment 15, in the name of Maurice Golden, is grouped with amendments 16 to 18, 205, 164, 60, 90, 165 to 168, 206 and 91. I call Maurice Golden to move amendment 15 and speak to the other amendments in the group.

Maurice Golden: I struggle to call these targets because, with where we are now, they are just a very low bar—a bar so low that it could be a rope on the floor in terms of achieving the targets that I have set out. They are not my targets. They are the Scottish Government's targets.

Amendment 15 is the Scottish Government's target to reach 50 per cent of household waste being recycled. That was to be achieved by 2013, according to the Scottish Government. I am suggesting that it might be able to make it by 2025, which is actually 12 years after the Government said that it would meet the target. I think that that will probably happen anyway. That target is very easy to meet.

Similarly, amendment 16 is on a 60 per cent household recycling rate, which is not my target. It is the Scottish Government's target from 2020, so that would be seven years late. Again, unless you are actively trying to push recycling rates down or are completely incompetent, you will meet that, so these are very easy amendments for anyone to make.

Douglas Lumsden: Maurice Golden said that the target is easy to meet, but it cannot be that easy to meet because the Government is not meeting its targets. What is going wrong, in your opinion, that those targets are not being met?

Maurice Golden: The problem has been a series of changes to policy, policy direction and support for local authorities. Broadly, the Scottish Government has moved away from supporting local authorities in meeting the targets and is supporting businesses and other organisations. In terms of meeting the 50 per cent target, it is as simple as putting Glasgow City Council into special measures. Based on the latest statistics, its recycling rate is currently sitting at 27.6 per cent, which drags the whole of Scotland down. If

you had a change in leadership in Glasgow City Council, you could very easily improve that and help the whole of Scotland.

It is quite a varied picture in terms of what councils are doing and how they are doing. A lot of it is not rocket science, so I am astounded that we are still talking, in 2024, about a 2013 target. It is almost frightening. I would go so far as to say that the Scottish Government has a far more sophisticated record on the delivery of ferries than it does on household waste recycling. To give you an idea, the recycling rate in Scottish Borders is 57 per cent and in Renfrewshire it is 53 per cent. Aberdeen City Council is at almost 42 per cent, so it can be done in a more urban environment as well.

The third amendment in the group, amendment 17, is to reach a household recycling target of 70 per cent by 2030. That one was introduced by me, and I think that it is certainly achievable. I could do it myself, so I am sure that the minister will be able to do it and will agree to that.

Amendment 18 goes back to a Scottish Government target, which I have codified as an amendment. I have not come up with that; it is what the Scottish Government has said. I am sure that members will all vote with what the Government has said. What is the point of putting any targets in, if you do not attempt to meet them?

11:15

Amendment 164 changes “may” to “must”.

Amendment 60 is about requirements for reporting on progress. I suggest, convener, that if we had that sort of reporting on progress, something would happen from the failure to meet the 2013 target. That accountability is what I would be looking for, because it is, in my opinion, completely unfair for some local authorities to be doing very well and investing in the area while others are not. That is an uneven playing field and I think that the Scottish Government should be reporting on that, and on where it is making interventions, as it has done in the past.

Graham Simpson: Does Maurice Golden agree that, as we have that disparity in performance between different councils, it would be useful to ask councils why they are doing well or not doing so well to find out the reasons behind that?

Maurice Golden: I think that it would be. Actually, the predecessor committee to this one, the Environment, Climate Change and Land Reform Committee, spoke to Glasgow City Council back in 2016 about it underperforming with regard to household waste recycling. That was eight years ago and it is still languishing at the bottom of the table. To put it in context, there are

issues in other councils. I do not want to focus only on Glasgow, but it is a good example because it is a large authority that is underperforming, which affects the household recycling rate for the whole of Scotland.

Bob Doris: That is very helpful. The member is quite right that Glasgow has to do significantly better in relation to recycling. Would he acknowledge that in the past year or so there was significant investment from the Scottish Government to overhaul a lot of the infrastructure in Glasgow and that pilots are on-going? Time will tell whether that dramatically improves the rates, which we need to see happen. However, it is only fair, when Glasgow is rightly being criticised for not having done enough, that we acknowledge that we are going through a rapid transition at the moment and investing in infrastructure.

Maurice Golden: Yes, I welcome that investment. There are some benefits to being an urban-based council in that when you roll out new kerbside infrastructure you can get benefits from rerouting, which is far more challenging in a more rural community or, indeed, our island communities. It is about infrastructure investment. It is also about linking that to kerbside communications with householders over what they can and cannot recycle, which I think have dropped off the entire Scottish Government agenda, not just for Glasgow but across Scotland. That communication can help to boost the rate.

Jackie Dunbar: I am listening intently to what you are saying about the recycling targets. As part of a local authority before, I was in a group that delved down into the issue. As the local authorities are pushing the reduce, reuse, recycle message, do you think that reuse and reduce, if those figures go up, could actually have an impact on the recycling targets? Folk might not be putting stuff in their bins to recycle because they have reduced their consumption or are reusing—like Mr Macpherson's iron that we were discussing earlier. Would you agree that those kinds of targets will have an impact on the recycling targets? I do not know how we would measure that.

Maurice Golden: I think, conversely, that what you are talking about is changing consumer behaviour. I would suggest that, when a consumer changes their behaviour to more green-friendly practices such as reuse and repair, they are more fastidious on their recycling as well. Therefore, even though I appreciate the argument, they are actually likely to recycle more. However, in terms of behaviour change, it is worthwhile analysis.

There is a big, Scotland-wide push around food waste because if we get our participation rates up that would certainly help. I think those aspects work in tandem. For example, the Scottish Government rolled out food waste collections at

the same time as rolling out a campaign called "love food, hate waste" to get people to reduce the same food waste that it was beginning to trial collecting. Fife, and Perth and Kinross, did that back in 2005. I appreciate that the two aspects might appear to compete, but I think that they are complementary in boosting recycling rates. Also, in the context of my amendment 15, we are talking about a target of only 50 per cent. To give some idea of where we are, the national household recycling average is 43.4 per cent, so we are talking about a relatively small increase, compared to where we have come from.

I move amendment 15.

The Convener: I invite Sarah Boyack to speak to amendment 205 and other amendments in the group.

Sarah Boyack: In addition to the earlier discussion about targets, I am keen to hear the minister's view of the role that a national target for household waste recycling might play. Amendment 205, in my name, would set a national target for household waste recycling, which would complement the target for local authorities that is set out in section 13.

The discussion that we have just heard is really important, because it is important to learn lessons from local authorities in both urban and rural areas. We might expect urban authorities to have higher recycling rates than rural ones, but that is not necessarily the case. Infrastructure, political leadership and investment all play a part in public awareness.

Amendment 205 says that,

"before laying a draft of a Scottish statutory instrument",

the Scottish ministers would consult local authorities and the Scottish Environment Protection Agency, but also such persons as the Scottish Government considered appropriate. That would ensure that there was a wide discussion—particularly one that followed on from the discussions that we have had in considering the bill.

Amendment 206 is a consequential amendment that would ensure that targets for local authorities could not jeopardise the setting and achievement of national targets.

The Convener: I invite Douglas Lumsden to speak to amendment 90 and other amendments in the group.

Douglas Lumsden: Amendment 90 is quite simple. A lot of work will be required from local authorities, so amendment 90 calls on the Scottish Government to fund them correctly to ensure that they can carry out any duties that the bill will impose on them.

Amendment 91 is a little different. I can give an example that I used in discussion with the former Minister for Green Skills, Circular Economy and Biodiversity when she was trying to understand the rationale behind the amendment. Local authorities may have contracts with providers—the example that sprang to my mind was of the contract that is in place to guarantee that a certain amount of waste will go to the energy-from-waste plant in Aberdeen. Some of the things that local authorities will have to do because of the bill will significantly reduce the amount of waste that goes to that plant.

My amendment 91 would ensure that local authorities were not punished for contracts that they put in place beforehand with good intentions and which may have to be revisited because of the bill. That is the simple idea behind the amendment, which would ensure that local authorities were not penalised for something that was put in place out of good will before the bill came into force.

The Convener: I invite the minister to speak to amendment 165 and other amendments in the group.

Gillian Martin: I will first deal with the Scottish Government's amendments in the group—amendments 165 and 166, which relate to recommendations from the committee and COSLA. I hope that the amendments will reassure members that we have listened carefully to those views and have shown willingness to address an issue that became clear at stage 1.

Section 13 of the bill inserts a new section 47B into the Environmental Protection Act 1990 to give ministers the power to make regulations to set household recycling targets for local authorities. Amendment 165 will remove the power for the Scottish ministers to include in such regulations a provision to impose financial penalties on a local authority that misses the household recycling targets.

Amendment 166 makes a consequential change to new section 47B by removing wording that would have allowed ministers to make provision for local authority appeals against the imposition of targets, as such provision is no longer required. That follows constructive engagement between the Scottish Government and COSLA on the development of an improvement programme in relation to household recycling.

I am satisfied that the principles that have been agreed for that programme will help to meet the bill's aims of improving recycling and increasing accountability. In a letter of 16 April, Councillor Gail Macgregor, who is COSLA's spokesperson for environment and economy, confirmed the political commitment of COSLA members to that

approach—when I was given responsibility for the bill, my first meeting about it was with Councillor Macgregor, and she reiterated that commitment when I met her on 30 April.

I turn to Mr Golden's amendments 15 to 18. I understand his intentions with those amendments, but I will set out why I cannot support them. They would pre-empt the detailed consideration and consultation that will be required before any future statutory national targets are set.

Maurice Golden: Will the minister take an intervention?

Gillian Martin: I would like to make a little progress. Mr Golden had a long time to go through his amendments, and I would like to comment on why I am not going to support them.

Setting relevant statutory targets for the circular economy will help to provide a strong focus for action and make clear our intention in terms of policy and ambition. We have set out our intentions in that regard.

I note that, in its stage 1 report, the committee supported the need for a robust approach to setting targets, as well as the need for rigour. I also note the Climate Change Committee's previous advice to the Scottish Government and Parliament regarding consideration of separate waste streams and of carbon-based metrics when setting future targets. That is why the Scottish Government's view remains that it would be inadvisable to set future recycling targets now in the bill; instead, we have set out an approach to targets that is based on developing a comprehensive monitoring and indicator framework, to ensure consistency and certainty of the data on which targets can be based.

I will take Maurice Golden's intervention.

Maurice Golden: I am struggling to understand the minister's position because, if we park amendment 17, my amendments represent the minister's own targets. The Scottish Government has set those targets and done due diligence on them. All that my amendments would do is give the Government 12 years extra to meet its own targets. It would help if the committee could hear whether the Scottish Government did not know what it was doing when it set the targets or whether it has no confidence in meeting targets a decade or more after they were set.

Gillian Martin: It is neither, Mr Golden. Sections 6 and 7 of the bill already enable the Scottish ministers to set targets by regulations. Such regulations will

"provide for targets in relation to ... increasing recycling"

as well as "reducing waste" and "increasing reuse".

The powers in the bill do not require the Scottish ministers to specifically set national targets for recycling. The aims of amendments 15 to 18 could be achieved by existing provisions, once appropriate targets are developed and agreed. The important point is that those targets will be developed and agreed in consultation.

The Convener: I have listened carefully to the discussion. I have commented before that it is difficult to conduct post-legislative scrutiny in this Parliament if we are to look at bills that do not have targets in them, because we cannot assess whether they have achieved their aims. I therefore struggle to understand why there is a reluctance to put in a bill a target that will let us see whether the bill, when it becomes an act, has actually worked. In the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, targets were set. If the Government was happy to do that then, why is it not happy to do that now?

Gillian Martin: We have set out our intention to co-design a process that would set recycling targets per local authority. It is important to mention that using the powers in section 13 of the bill will help to drive continued improvements in local recycling.

Every local authority area faces different challenges and might have different targets that it wants to meet. Glasgow has been mentioned; as Mr Doris said, it is putting in a great deal of infrastructure. It has been in receipt of quite a lot of recycling improvement fund money to be able to do that.

Douglas Lumsden: Will the minister take an intervention?

11:30

Gillian Martin: I am responding to one intervention at the moment—let me respond to Mr Mountain's point. Amendments 15 to 18 do not take account of and would pre-empt the co-design process. I keep coming back to the importance of that. Each geographical area has its own circumstances; it is only right that improvements should be designed locally and that the targets should be local. I reassure the committee that the development of appropriate statutory circular economy targets, including consideration of the potential for future recycling targets, will be a key priority.

I will take Mr Lumsden's intervention now, if that is okay, convener.

Douglas Lumsden: I am struggling to understand why you cannot accept the targets that the Scottish Government created many years ago—I do not remember how many years ago Maurice Golden said that it was. You seem to

suggest now that the recycling targets would differ for each local authority. Why was that not the case when you set the 2025 and 2027 targets, which were blanket figures for the whole of Scotland?

Gillian Martin: The point of the co-design in each local authority area is for us to be able to set targets and a strategy to achieve them through working with the people who will be achieving them. We want to set those targets for local authorities. In certain local authority areas, we could go further than we said that we would go under the targets that Mr Golden mentioned. Certain local authorities could say that they can make a substantial leap to go well beyond the targets that they were aiming for previously.

It is important that discussion, consultation and a co-design process should take place. Before me, Ms Slater was working on developing the strategies, and I will continue that work with COSLA and local authorities. We could aim to go further.

Douglas Lumsden: Will the minister take an intervention?

Gillian Martin: I will not take Mr Lumsden's intervention. In the interests of time, I should probably wind up.

Recent statistics show that the recycling rate in Scotland is 62.3 per cent, which is the highest level since recording began in 2011. There is a mixed picture across Scotland, and it is important to reflect in the co-design process that there must be a local approach with local partners, so that those who feel that they can go well above a target have the ability and are empowered to put their strategies in place, and so that we can support those who are not doing well enough to do better.

For similar reasons to those that I have given previously, I will not support Ms Boyack's amendment 205. Sections 6 and 7 of the bill already provide the means to set national

"targets ... relating to"

the

"circular economy,"

which might include targets in relation to increasing reuse and recycling. Section 13 provides a power to set local authority targets for household recycling, including the power to set different targets for different local authority areas, if that is what comes out of the co-design process. Work is under way to establish an agreed monitoring and indicator framework that can be used to track different aspects of the circular economy.

I therefore encourage members not to support amendment 2,005—I mean amendment 205; thank goodness it is not amendment 2,005.

The Convener: Thank you, minister.

Gillian Martin: Amendment 164 proposes that the Scottish ministers should be required to impose household waste recycling targets for local authorities by way of regulations that are made under new section 47B of the 1990 act, which section 13 of the bill inserts. The bill does not impose on ministers a duty to use that power. That reflects our intention—again—to jointly consider and co-design such targets with COSLA and the local authorities, which directly reflects the principles of the Verity house agreement.

That seems to me to be the right approach to take, and it is the approach that COSLA and local authorities want. It is incumbent on us in the Scottish Government to work with our local authority partners in order to realise their ambition and to support them in it. I therefore cannot support amendment 164.

Amendment 60 proposes that the Scottish ministers should be required to report annually

“on local authorities’ progress towards achieving”

any household recycling targets that regulations under powers that are introduced by section 13 of the bill set out. I agree that it is important for information on progress towards targets to be transparent and accessible. SEPA already publishes comprehensive annual waste statistics, including data on local authority household recycling rates, so amendment 60 is unnecessary. I hope that Maurice Golden will be reassured that annual statistics are in place and that he will not move his amendment.

Amendment 90, from Douglas Lumsden, proposes that the Scottish ministers should make regulations to impose waste management targets on local authorities. The regulations would also have to specify what additional funds or resources were to be provided to local authorities.

I have noted that the Scottish Government is committed to working with COSLA, in the spirit of the Verity house agreement, to co-design an appropriate and effective approach that would require collaboration on how targets were set and on how they are funded and achieved. I mentioned that in relation to Mr Macpherson’s amendment 28, which he sought to withdraw. We have agreed the principles of a planned improvement programme, including that it would provide a practical route for local authorities to plan to meet targets and to explore what will be required to deliver those targets, which includes potential funding implications. I therefore encourage members to vote against amendment 90.

I am nearly finished, convener; actually, I am not—I have two more pages of notes.

I will not be supporting amendment 167. Targets under new section 47B of the 1990 act will be imposed on local authorities, and targets that are set under section 6 of the bill will be imposed on ministers, so the amendment would have limited legal effect.

Amendment 168 would modify new section 47B of the 1990 act by requiring the Scottish ministers to solicit the views of the public in relation to draft regulations to set targets for local authorities. However, section 47B already requires ministers to consult the public.

I cannot support Sarah Boyack’s amendment 206. It does not appear to be in the spirit of the Verity house agreement, as it could potentially prevent the setting of different local authority recycling targets in consideration of individual local authority circumstances.

As for amendment 91, local authorities are responsible for their own procurement and contract management. As I have said, it is for them to be cognisant of any potential long-term changes that relevant policy will make. It is not clear to me why local authorities would require to cancel contracts in relation to the new provisions that section 11 of the bill inserts. I cannot support that amendment.

The Convener: I call Maurice Golden to wind up and to press or withdraw amendment 15.

Maurice Golden: I found that statement from the minister utterly bizarre. I am not sure what the Scottish Government’s policy is on the targets that it has set for itself. For the avoidance of doubt, having local authority targets does not preclude national targets being set. In fact, if we had what the Scottish Government previously said it would have, which is national targets, we might well want some local authority targets to be set, because they would help in meeting the national targets. The Scottish Government’s own targets, which presumably resulted from extensive detailed analysis, appear to have now been suddenly thrown in a big landfill bin, which is quite shocking.

The worry around all of this is that, if a local authority is looking at investment and making contracts, it will now find that its direction of travel—which has been very obvious as the recycling rate that local authorities are expected to make—is going to be the result of a negotiation process. Lots of local authorities that have invested significant amounts, such as Renfrewshire and Scottish Borders, could be left hung out to dry as a result of this new process. The uncertainty around it is quite shocking for local authorities across Scotland, because who knows what that negotiated outcome will be? Will

there be a first-mover advantage for local authorities that have invested heavily, such as Aberdeenshire Council, or will councils that have taken their eye off the ball in terms of kerbside roll-outs get a big win because they will get extra funding now? I do not know. I do not think that anyone knows.

One thing that we do know is that it is incredibly unclear, and the Scottish Government seems to be disowning the targets that it has set. That is what we have established today.

Douglas Lumsden: Does Mr Golden share my thought that those targets are being abandoned at this stage because the Government has failed to meet them for the past seven years?

Maurice Golden: There appears to have been a vast change in approach. It would be very easy and not costly to meet the 50 per cent household recycling target, which was to be achieved by 2013. I do not think that that would have to rely on investment. I will not name the local authority that was paying a waste contractor to collect air because it no longer had enough waste in its residual bin—we want to avoid that situation. However, as a result of the uncertainty and the unclear market signal that the Scottish Government has sent about what might be required, that could easily occur, which is incredibly concerning.

Monica Lennon: I agree with a lot of the sentiments behind amendment 15, but I wonder whether it is possible to strike a more optimistic note. We know that, with the moratorium on new incinerators, there is a question about the legacy infrastructure, but we are going to see a reduction in the waste that is going to incineration. I share the concerns about what we are doing now on reuse and recycling, but we have already seen a big shift in policy because we have introduced a block on new incinerators. Did you take that into account when you thought about the need for your amendments to the bill? Does that give you any comfort that there will be a different approach from the local authorities that have been too reliant on incinerators?

Maurice Golden: Incineration capacity is going up and will continue to go up. Rather than being less reliant on burning waste, we are going to become more reliant on it. Although I welcome the ban on new incinerators entering the planning system, the reality is—it seems that Governments like to do this these days—that it was a ban on something that the market was never likely to deliver. We banned something that was unlikely to exist, because there are so many incinerators in the planning system already and there is overcapacity. I am not convinced that that will help the situation.

I go back to my earlier point. If local authorities have contracted incinerators—quite rightly, because they are entitled to do so—they could be hooked into those contracts for as long as 25 years in some cases. Therefore, it is really only the Government that could advise the committee on which local authority has signed which contract and what that means in terms of its recycling rates. I would support the Government doing that.

I am concerned about the likely increase in incineration and the effect that that could have on recycling rates. That said, it does not stop us meeting the 50 per cent target. We should not be concerned about the target in that context. It is a very easy target to meet, as the Scottish Government recognised when it said that it could meet it by 2013.

I think that that is enough from me, convener.

The Convener: Do you want to press amendment 15?

Maurice Golden: I am happy to press amendment 15.

The Convener: The question is, that amendment 15 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 15 disagreed to.

Amendment 16 moved—[Maurice Golden].

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 16 disagreed to.

Amendment 17 not moved.

Amendment 18 moved—[Maurice Golden].

The Convener: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 18 disagreed to.

The Convener: Before I go any further, I think that the deputy convener would like to clarify something he said earlier.

Ben Macpherson: Thank you, convener. I refer back to my comments on amendment 128. I erroneously cited Circularity Scotland, but, of course, I meant Zero Waste Scotland. I would be grateful if the record could be corrected.

11:45

The Convener: That was very precise. Thank you for that, deputy convener.

Considering the speed with which we are dealing with amendments, I suspect that we will finish closer to 1 o'clock than the normal finishing time of 12:30. I am sorry about that, but that is where we are.

Amendment 196, in the name of Mark Ruskell, is grouped with amendments 197, 72 and 171 to 173. I call Mark Ruskell to move amendment 196 and speak to the other amendments in the group.

Mark Ruskell: If agreed to, amendment 196 would insert new requirements for those in receipt of public funds to review their activity in relation to the circular economy and to report annually on their actions to move further up the waste hierarchy. The intention is not to penalise businesses, organisations or public bodies—groups receiving funding; it is about providing a real focus on the circular economy and a real attention to detail across the economy, to ensure

that we end up with an economy that is much more resource efficient in how it operates.

The reporting requirement is not meant to be onerous. It requires that those in receipt of public funding must provide a statement on the extent to which their current operations impact on the waste hierarchy, and the report must also include a statement on the steps taken over the course of the funding period to improve that. It is an important mechanism for extending the awareness of the circular economy across sectors. In many ways, it is what we have done with climate reporting.

I am keen to work with the Government to get drafting that is workable in practice, so I will be interested in hearing the views of the minister when we come to her contribution.

Monica Lennon: Will Mark Ruskell give way?

Mark Ruskell: Yes. It will give me a chance to drink some water and clear my throat.

Monica Lennon: I think that what you are trying to do with amendment 196 is a good intention, but I wonder what it would mean in practice. Do you have any idea of how many companies or organisations would have to file such a report? Who would then assess that? Do you think that the Government has the capacity to look at that in a proper and meaningful way?

Mark Ruskell: That is a good point. I would be interested in hearing the minister's reflection on what the resource requirements would be within Government to monitor and meaningfully engage with those statements. We already have grants going out to organisations, and there is already a process of monitoring and reporting on how grants are being delivered and whether objectives are being delivered. Within those objectives, it would be appropriate to have a circular economy focus. That would deliver benefits to the organisation and public benefits through the funds that are being distributed and are supporting the work of those organisations.

I will turn to other amendments in the group. Bob Doris's amendment 197 requires large companies to report on their scope 3 climate emissions. I am sympathetic to that and keen to hear what the minister's view is on the amendment.

Graham Simpson's amendment 72 would require the Government to develop, by law, an app to provide information on the disposal of household waste. I do not know whether that would be a first—a Government having to deliver an app by law. I am curious to understand why a national app would be required at this point, when many councils already have that information

available online, but we will come to Mr Simpson in due course.

Monica Lennon's amendments 171 to 173 would insert requirements for information on food waste, recycling and textiles to be made publicly available. I am sympathetic to what the amendments are trying to achieve. Again, I will listen carefully to the minister when she comes to address amendments 171 and 173, to see what progress can be made on the intention behind those amendments.

I move amendment 196.

The Convener: I call Bob Doris to speak to amendment 197 and other amendments in the group.

Bob Doris: I will listen carefully to the case that colleagues make for their amendments but will restrict myself to speaking to amendment 197, which would introduce provisions for scope 3 emissions reporting for large companies. I emphasise that I see it as a probing amendment. I am cognisant of two factors in that regard. There may be more, but I am cognisant of two in particular: first, the potential burdens on business, and, secondly, the UK reporting landscape on emissions.

Company emissions can be classified into scope 1, which is direct emissions from an owned or controlled source; scope 2, which is indirect emissions from the generation of purchased energy; or scope 3, which is all indirect emissions that are not included in scope 2 that occur within the reporting company's value chain.

Some of the largest companies that operate in the UK are already required to report their scope 1 and scope 2 emissions under the Government's streamlined energy and carbon reporting framework. The greenhouse gas protocol is an internationally recognised standard for reporting scope 3 emissions. I point out that the protocol gives detailed guidance on how compliance can be achieved, but it admits that it is a complex area.

From June 2024, large companies operating in the European Union will be required to obtain, monitor and report their scope 3 emissions under the EU corporate sustainability due diligence directive. That was referred to during an earlier grouping of amendments. I note that that EU directive has a proportionality clause, which stresses:

"The burden on companies stemming from compliance costs, has been adapted to the size, resources available, and the risk profile."

It goes on to talk about commensurate measures, so the feeling is that that is a balanced directive.

Amendment 197 would create a provision in the Circular Economy (Scotland) Bill for mandatory scope 3 emissions reporting for large companies that operate in Scotland. That would be a meaningful step towards businesses beginning to take responsibility for the environmental impacts in their supply chains and would allow Scotland to keep pace with EU policy, as the minister and Mr Ruskell mentioned.

Our stage 1 report stated:

"The Committee believes there are a number of other characteristics desirable in a circular economy and recommends the Scottish Government consider the proposals made by stakeholders to include reference to international impact and environmental impact."

Amendment 197 is an attempt to address that recommendation.

I acknowledge that, in 2023, the UK Government issued a call for evidence on the benefits, costs and practices of scope 3 emissions reporting. Those findings will be of significant value when drafting future regulations under my amendment if it is approved. The minister also referred to the Economic Activity of Public Bodies (Overseas Matters) Bill, which is going through the UK Parliament, and I acknowledge that there could be crossover with that.

Given all of that, I acknowledge that there could be a pan-UK approach to scope 3 reporting. However, the clear direction of travel is towards proportionate scope 3 reporting that is not unduly burdensome to business. In a few months' time, businesses that operate in Scotland but also operate within the EU will have to comply with the EU obligations on that anyway. As we progress the matter in a Scottish context, the Circular Economy (Scotland) Bill could be a way to secure such reporting.

I will listen with interest to the minister's views when she responds to the comments that I have made.

The Convener: I call Graham Simpson to speak to amendment 72 and other amendments in the group.

Graham Simpson: Amendment 72 is in my name. We all want to ensure that recycling is done correctly, but, as the committee has identified, householders require the right information to do that. The stage 1 report noted that

"targeted communications could raise ... awareness of"

a householder's

"duty of care"

and

"the risks of engaging with illegal waste operators".

Some stakeholders suggested that such communication should come from councils, but Consumer Scotland questioned the effectiveness of that approach. It said:

“We often hear from local authorities that they provide information on how to take part in recycling or reuse schemes, but when we speak to our consumers, that is not always the message that comes back from them, so there is probably a need to simplify things and ensure that the core message is getting across.”—[*Official Report, Net Zero, Energy and Transport Committee*, 7 November 2023; c 43.]

If we want to drive behaviour change in that area, how about a mobile app that provides everyone with easy-to-access information about how to dispose of household waste and how to report incidents of unlawful disposal of waste? Instead of placing the burden on councils—which will already be tasked with enforcing many aspects of the bill, as we have discussed—why do Scottish ministers not step in with a one-size-fits-all solution that could be easily rolled out across the whole of Scotland? That suggestion might sound very odd coming from me. It feels a bit odd coming from me.

I might regard amendment 72 as a probing amendment, which I am not in favour of generally, but I am interested in what the minister has to say. I think that it would be relatively easy to set up an app. We have other national apps—ScotRail has a very good app, and there are Government apps.

Monica Lennon: There is nothing odd about you, Graham.

I think that it probably would be easy to set up an app. My question is about proposed section 14(1)(b), which relates to

“reporting any incident of unlawful disposal of waste.”

You have said that an app could be a one-size-fits-all solution, but would it take into account that different local authorities have different set-ups in relation to their staffing teams, as you will appreciate given your background in local government? Would it be as easy as you are suggesting?

Your point about information was well made. You might be familiar with the PickupMyPeriod app, which works nationally but is much more about providing information about the different public buildings where people can collect free period products. It is easier to keep that app up to date because it is based on location.

Are you concerned that including the provision on reporting could raise public expectations about getting a response to such reports? Would the response come nationally, or would it be for the local authority to respond?

Graham Simpson: That was a really good intervention. You have raised some good points. I am reflecting on things, and I encourage members to reflect on the arguments that are made in committee. I am reflecting in live time, and I am considering amendment 72.

I want to make it easy for people to get information and to report fly-tipping—the unlawful disposal of waste. I am not sure that it is very easy to report that at the moment. If the minister’s view is that a national app is not the answer, something else should be put in place.

Douglas Lumsden: When I was listening to you, I was thinking of fly-tipping, because I can see some real benefits to your suggestion. If someone sees something get dumped when they are out somewhere, they might not know which local authority they should report the incident to, and they might have to try to give a description of exactly where they are. With an app, they could give a location using the global positioning system and take a picture of what has been dumped. There could be real benefits to having an app. I imagine that such information would be fed back to the local authority for it to decide whether to take action. It is about making things easier.

Graham Simpson: That is exactly right—it is about making the process easy for people. If you spot somebody fly-tipping when you are out and about, what on earth are you meant to do? Should you take a photo? Whom should you report it to? If there was an app, that could make things easy.

As I said, I am prepared to listen to the minister on that. I am more than happy to work with her on the issue at stage 3 if she is up for it—although, given her comments on most of my amendments, she probably is not. [*Laughter.*] We live in hope, convener.

Mark Ruskell’s amendment 196 and Bob Doris’s amendment 197 could impose severe burdens on businesses. Mr Ruskell’s amendment is marginally better, in that the requirements that it proposes are to be placed on those in receipt of public funds, but it does not state what the funds should be for, so it could encompass anyone getting funds for anything. I doubt whether either Mr Ruskell or Mr Doris can tell us what their proposals would cost, and, on that basis alone, I think that their amendments should be rejected or withdrawn.

12:00

The Convener: I call Monica Lennon to speak to amendment 171 and any other amendments in the group.

Monica Lennon: I was deep in thought, listening to Mr Simpson. There were some good ideas in there.

Amendments 171 to 173 would place reporting requirements on public authorities with regard to food waste and textiles, and I am grateful to Mark Ruskell for his earlier words about them.

We know that food waste and textile waste have immense carbon consequences, as stakeholders noted during stage 1. Household recycling rates are already published by SEPA, but the amendments aim to deal specifically with textiles and unused food items that are stored and disposed of by public authorities. The proposals would give us more clarity and, I believe, more accountability and transparency around unused or wasted textiles and food in the public sector. The SEPA data that is published annually covers household recycling rates and includes some information on textile waste and food waste, but I believe that my amendments complement that and would bring further clarity—I am sorry, I have made that point already, so I will leave that one there.

Amendment 172 would place a requirement on local authorities to report on the final destination of recycled items, and that links to issues that we raised earlier about the export of waste overseas. SEPA's annual data on local authority recycling rates does not include that information, and I think that having it would help us to better understand the impact of what is being done. That also helps with the earlier points about doing no harm.

On Graham Simpson's amendment 72, there is a really important point about using technology for goods to make it easier for the public to get information and to report bad practice and potential crimes. If that helps public bodies, particularly local authorities, that is a good thing. I will be interested to hear what the minister says about the amendment. There is a lot of merit in what Graham Simpson has said, although I have some questions about digital inclusion. Again, we know that not everyone will be on apps, and I would not want to have something in the bill that would quickly become out of date. However, that kind of innovation is exactly what we should be looking at. Perhaps there should not be a top-down approach with a requirement for ministers to do something. I would be interested to hear what discussions have taken place with COSLA and local government on that.

The Convener: I invite the minister to comment on the amendments in the group.

Gillian Martin: On Mark Ruskell's amendment 196, I recognise the importance of encouraging businesses to play their part in developing a more circular economy—they obviously have a crucial role in that—but I understand that Mr Ruskell does not want to place extra burdens on businesses. I am particularly concerned about the capacity of smaller businesses and their limited ability to

impact on our aspirations in this area because of the scale of their business model. The proposal runs the risk of hindering access to funding or support that is not in line with the new deal for business that the Government has set out. Capacity is an important consideration. Small and medium-sized enterprises might struggle with the additional reporting requirement.

Although I cannot support the amendment as it stands, I am happy to explore alternatives and potential options involving working through the grants process—levers are already in place for getting support from Government agencies, for example—and talking to enterprise agencies about a more targeted approach, which can make a more significant impact than a blanket approach.

On amendment 197, Mr Doris rightly says that the United Kingdom Government—specifically, the Department for Energy, Security and Net Zero—put out a call for evidence on scope 3 emissions reporting, and I thank him for raising the point. Apparently, the responses have already been analysed, and UK officials have expressed a willingness to work with the Welsh and Scottish Governments on that. I confirm that the Scottish Government will engage in that process. As alignment across all the countries of the UK might ultimately end up having the desired effect of Mr Doris's amendment, I am not going to support the amendment, but I am happy to look at what he said in relation to EU directives. I do not have information on that at the moment.

Bob Doris: I appreciate the offer to work constructively ahead of stage 3. Reading my amendment, I see that it imposes a direct requirement on Government—it says “must”, not “may”. However, the point is that perhaps there needs to be a bit of future-proofing of this legislation, because we cannot predict what the outcome of that pan-UK agreement will be. I am keen to monitor the impact on companies in Scotland that are operating at the EU level when that EU directive goes live, so I am keen to meet to talk a little more about that ahead of stage 3.

Gillian Martin: I am happy to meet Mr Doris to discuss the matter ahead of stage 3.

Amendment 72 concerns the app that Graham Simpson would like to be in place nationally. First, I commend Mr Simpson on changing his mind in real time, based on the debate—as he says, there is probably not enough of that. However, I agree with Monica Lennon's points on the issue more than I agree with the need for an app. Local authorities already provide information. I do not know whether the way in which various local authorities do that is good enough. The fact that Mr Simpson has lodged the amendment suggests that he does not think that it is, and I am not sure that I do, either. We all know of instances where

we think that local authorities could improve the information that they provide and, in particular, the way in which the public is able to engage with them. I will not single out any council in particular, but I take Mr Simpson's point and I note that, a couple of years ago, when I witnessed tyres being burned in my constituency, I struggled to find where I could report it on the local authority's website. However, it is up to each local authority to decide its approach and I am sure that they will listen to the criticisms that have been made today.

Again, Ms Lennon's point about digital inclusion is important.

Graham Simpson: I thank the minister for her comments, and I note that, like most members, I have also seen tyres dumped in the area that I represent. However, does she accept that people might not know which local authority area they are in when they spot an instance such as the one that she mentions? Does she, therefore, accept that there is merit in what I am suggesting, and that it would be useful if there were some kind of national reporting mechanism—overseen by something like SEPA—that would get around any confusion about where the instance has occurred?

Gillian Martin: I am not dismissing that, and I think that it is an issue, but there are other apps that let people know exactly where they are. I take the point, and I think that Mr Simpson's ambition is laudable, but I do not think that the proposal is workable. Different local authorities have different mechanisms, and it is incumbent on them to improve their reporting mechanisms.

I reassure the committee that there will be opportunities to improve information on the disposal of waste through the development of the new statutory household recycling code of practice, which is provided for under section 12. On reporting illegal waste, we have amendments on fly-tipping coming up later.

I cannot support Graham Simpson's amendment 72, although this has been a very useful discussion.

Monica Lennon: On amendment 72, I want to clarify that I was not meaning to be critical of local government. The proposal could be seen as something that could enhance existing communication. Is there scope in the work on the circular economy strategy to work in partnership with our local authority colleagues and others on communication?

We would all agree that public buy-in is crucial, and the way to achieve that is to invest in public information, resources and capacity. Local authorities are doing really good work, but they all have different structures. When we went to North Ayrshire, we saw that the council there had waste awareness officers, who perform an important

role. Not every council has that, but could such initiatives go into the strategy as a piece of work to take forward?

Gillian Martin: That is where the co-design and the strategy almost engender that kind of sharing of good practice.

A survey on fly-tipping was carried out by Zero Waste Scotland, and 3 per cent of respondents said that they would prefer an app, 45 per cent preferred online reporting, and 26 per cent preferred to use email. There is something about the online reporting aspect that councils might need to consider. How deep into a council's website is that function? That is an important point.

I must move on, as the convener is giving me a raised eyebrow.

Ben Macpherson: I am aware that COSLA and the Scottish Government are reconsidering the digital strategy. Perhaps the points raised within the committee and in what you have just relayed to the committee could be considered as part of the development of the new digital strategy where that might add value, in a co-design spirit, between local authorities and national Government. Even if an app was produced, everyone would need to know about it, and that is another question.

Mr Simpson has brought an interesting idea to the table. Perhaps it could be considered within the different forums of engagement between central Government and local government, including within the digital strategy.

Gillian Martin: Absolutely. Given all the comments that have been made, it is obvious that we are all agreed that the process needs to be accessible, user friendly and known about by the public.

I understand the intentions behind amendments 171 to 173, and I agree with the aims to update the existing powers in paragraph 14 of schedule 2 to the Regulatory Reform (Scotland) Act 2014. I agree that it could be helpful for reporting to include details of the origin and destination of food items, building awareness of the ways in which food surplus and waste could be used.

I also support the desire to understand more about the end destination of material that has been collected for recycling, and the consultation on the draft circular economy and waste route map sets out our intention to develop options and to consult on the introduction of end-destination public reporting. Similarly, there might be a benefit to considering the storage and disposal of textiles, as per amendment 173. However, those aims can already be achieved by means of section 17 of the bill.

In respect of recycling, existing powers include the electronic waste tracking powers under the Environmental Protection Act 1990 and the power in paragraph 14 of schedule 2 to the 2014 act.

The enabling power under new paragraph 14A, which is being inserted in schedule 2 to the 2014 act under section 17 of the bill, does not specify any particular sectors or types of waste, as it is an enabling power that is intended to provide flexibility to determine what kinds of waste and surplus are suitable for public reporting. However, that would include the items indicated in the three amendments. For example, food waste may be the first candidate for the use of the power, which also enables the making of regulations requiring the publication of information, in contrast to the power in paragraph 14 of schedule 2 to the 2014 act.

The committee expressed concerns about the impact of the reporting requirements on small and medium-sized businesses, so providing a power in addition to what is already included would be duplicative and could risk creating additional burdens.

In summary, I believe that some of the amendments in this group are unnecessary, and they are also potentially burdensome. For those reasons, I urge the committee not to support them. However, I do agree with the sentiment behind them.

The Convener: Thank you, minister. I call Mark Ruskell to wind up and to press or withdraw amendment 196.

12:15

Mark Ruskell: I will not press amendment 196. I have listened carefully to the views of members and the minister. Particularly in these straitened times with public finance, we need to make public grant money work a lot harder. We need to see increasing conditionality put on public grants to ensure that the objectives that are set by the Government are actually being delivered. There are so many important objectives around the circular economy. I want to see public money working harder for the public and taxpayers.

I take on board the points about where to draw the line in terms of proportionality—do we apply the requirements on reporting to the smallest of small businesses? There is a question in that regard. However, those organisations and businesses that are very resource intensive will probably already have an approach to the circular economy and resource efficiency and they should be reporting and providing a statement on how they will make further progress.

I am intrigued by the minister's comments about how we can work with existing grant programmes to take a more focused approach to delivering that objective and I look forward to discussions between stages 2 and 3 on whether that requires a note in the legislation.

On Bob Doris's amendment, there is interesting interplay between some of the EU reporting requirements, the discussions that are happening at UK level and the need for us and the Scottish Parliament to maintain that dynamic alignment with the European Union. I am not sure what Bob is going to do at this point, but I will certainly reserve my position until I have heard how the discussions go between stages 2 and 3.

Graham Simpson has sparked quite an interesting debate about national apps, the idea that maybe one size does not fit all and live-time reflections on his amendment, and that was useful. Where I sit on that now is that I recognise that, when it comes to waste, the key relationship between households and communities is the relationship with the council, because that is where most people go to get their information and find out how they can recycle and dispose of waste responsibly. That is where they find out what time the bins need to be put out and where they go to source other information.

However, there are some grey areas, and where SEPA—rather than local authorities—steps in on pollution incidents is one of those. Having greater clarity about that would be useful. At the moment, if you go to the national website for SEPA, you will find some guidance on when to report an incident but that perhaps overlaps the responsibility of local authorities. That goes back to the need for a code of practice, which we have mentioned several times this morning. If the code of practice can incorporate some of those communication issues, I am sure that there would be welcome reflections on that from COSLA and its members.

Finally, on Monica Lennon's amendments, again I feel that more conversation can be had between stages 2 and 3. I acknowledge the points that the minister made about section 17—perhaps the amendments are not needed. Again, I will reserve my position and I look forward to hearing how those conversations progress between stages 2 and 3 but I will not support the amendments today.

Amendment 196, by agreement, withdrawn.

Amendment 197 not moved.

Section 8—Restrictions on the disposal of unsold consumer goods

The Convener: Amendment 104, in the name of Sarah Boyack, is grouped with amendments 83 to 86, 153 to 156, 198, 88 and 23. I call Sarah

Boyack to move amendment 104 and speak to the amendments in the group.

Sarah Boyack: Amendment 104, in my name, would make it clear in the bill that the regulations in section 8 would not cover food products.

There are some great initiatives in which unsold food products are given to local charities or organisations for onward distribution. FareShare is an excellent example of such work that is already on-going. Also, there is a financial incentive to sell products before their use-by date, and a number of retailers place discounts on food products to make sure that they are sold. That reduces the volume of products that would be captured under regulations in that sector.

The regulations could also be challenging for the hospitality sector, which already has a financial incentive to ensure that food waste is kept to a minimum in order to increase profit margins. I am aware that restaurants already employ smart ordering and preparation to anticipate demand and ensure that waste is kept to a minimum.

Retailers, in particular, are concerned about the section 8 provisions and feel that measures affecting unsold food waste, in addition to a number of other regulations that will be placed on them over a short period of time, could prove challenging. I hope that my amendment can help to remove those concerns.

Amendment 198 would enable ministers to publish guidance on how the section 8 regulations would work in practice for industry. To support scrutiny of the regulations, the guidance would be published before, or at the same time as, the regulations are published. The guidance would be helpful because it would make clear to businesses the scope of the unsold goods that would be affected. Given that a number of businesses are already trying to repurpose unsold goods and/or divert them away from landfill, that would be helpful. It is also worth saying that there are circumstances, such as when a good is damaged or contaminated, in which it would be unsafe to put it to another use. In crafting amendment 198, I tried to address the committee's recommendation that guidance should be drafted in consultation with stakeholders.

I hope that that will kick off a debate on section 8.

I move amendment 104.

The Convener: I will just clarify that, although amendment 198 is attributed to Mark Ruskell in the second set of groupings, it is actually in the name of Sarah Boyack. That is stated correctly in the marshalled list. I call Douglas Lumsden to speak to his amendments.

Douglas Lumsden: I will go through my amendments, most of which I see as clarification amendments.

The purpose of amendment 83 is to set out that, for the purposes of this section, unsold goods cannot be defined as waste if they are in perfectly good condition. The aim of the amendment is to discourage the defining of unsold goods that are in perfectly good condition as waste and therefore not to be included under this part of the legislation.

With amendment 86, I am asking the Government for a list of goods that will be exempt from the unsold goods regulations. Off the top of my head, I am thinking of things such as medical goods, which we might not want to be defined as unsold goods in this section.

I missed out amendment 84, but I will go back to it now. We spoke earlier about not wanting the legislation to be overly burdensome for businesses. Therefore, we will be looking for the Government to set out the value of the unsold goods that would be covered by the regulations. I realise that there are potential issues around doing that, and maybe this is a bit of a probing amendment. Is one screw an unsold good or does it need to be a bigger packet? Which value do you go on? Maybe there needs to be a bit more work on that.

The value of goods will also decrease over time. For example, an unsold laptop will have a high value but, after year 1, its value will be less and, after three years, it will be even less. After five years, it will probably not have any value at all. The amendment is meant to make it clear how we would work around that issue.

On amendment 88, if we want enforcement, we need to ensure that the body that is responsible for that is resourced adequately to carry out that function.

The Convener: I call Monica Lennon to speak to amendment 153 and other amendments in the group.

Monica Lennon: Amendment 153 would add provisions for the redistribution of unsold textile goods by public bodies and businesses. That would come in under section 8. I have already touched on the carbon implications of textile waste and the impact of Scotland's waste on people overseas.

Amendment 154 has a similar aim to amendment 153. It would place a requirement in the legislation under section 8 to include provisions for the recycling, reuse and repair of unsold textiles. That recognises that not all textiles will be suitable for businesses and public bodies to redistribute, and it builds in flexibility to provide for

other means of disposing of unsold textiles while ensuring compliance with the waste hierarchy.

Amendments 155 and 156 are connected in their aim, which is to prohibit the exportation of unsold textile goods.

I will briefly mention Douglas Lumsden's amendment 88. He makes some important points. Through my extensive research into the enforcement of existing regulations in the course of my member's bill on ecocides, I am very aware that the funding of enforcement bodies is important. I am happy to support that amendment.

The Convener: I call Graham Simpson to speak to amendment 23 and given any live consideration to other amendments in the group.

Graham Simpson: I will be incredibly brief. Amendment 23, in my name, is technical and consequential to others that I lodged. That is it.

The Convener: Looking around the table, I see that no other members wish to contribute to the debate, so I turn to the minister for some short comments.

Gillian Martin: Yes—hint taken.

I understand the sentiment behind amendment 104, but I cannot support it as it has been written. I do not think that it is workable, at the moment, for food to be defined in the bill, but I offer to work with Ms Boyack ahead of stage 3. Therefore, I will keep it brief and we can have that discussion offline.

I cannot support amendments 83 and 85, from Douglas Lumsden, although I take the point that he really wants clarification. The purpose of the new regulation-making power is to prevent the disposal of unsold goods—for example, clothing or electrical items—and instead see them being reused by those who need them. When a retailer is left with unsold goods, it does not mean that they become defined as waste. Options that prevent goods from becoming waste are those that ensure that goods are redistributed or donated, and those are the sort of outcomes that we are seeking to achieve. Section 8 provides for regulations that would focus on prohibiting or restricting the disposal of particular goods, instead of their being defined as waste, and doing so would not be required to make the regulations work. Therefore, I do not think that the amendments are necessary.

Turning to amendment 84, I acknowledge the sentiment, but in practice it is difficult to define "value" in legislation. Setting a value in regulation is not necessarily straightforward. Mr Lumsden appreciates that the value of goods can fluctuate, so it could even lead to unintended consequences. For example, if costs were reduced significantly for a short time, those goods might not be affected by

the regulations. Therefore, it is very difficult for me to agree to amendment 84, and I cannot support it.

Douglas Lumsden: I understand what the minister is saying, but if there is not some sort of value, does that mean that anything, regardless of how little value it would be, would have to be dealt with by the regulations? I was trying to put some sort of safeguard in, so that goods below a certain value would not need to go through the process that has been set out in the bill.

Gillian Martin: As the amendment is set out, it could lead to unintended consequences such as a retailer reducing the sale value of something, for example, in order to get round that. I am uncomfortable with the potential for unintended consequences.

I apologise to Mr Lumsden, but I cannot support amendment 86 either. I agree that setting out exemptions is important—for example, when products have been withdrawn for safety reasons—but that is already provided for in the new power in proposed new section 78A(5) of the 2009 act, so the amendment is redundant.

12:30

On Monica Lennon's amendments, textiles are one potential candidate for regulations restricting the disposal of unsold goods. It would not be appropriate to make express provisions in the bill, because it is already open to us to do that through regulations. I imagine that textiles will form part of the co-designed regulations, for the reasons why Monica Lennon has campaigned on the issue. The intention of the provision is to increase reuse. Ultimately, it would be for affected businesses to decide how best to comply with any regulations that prohibited or restricted the disposal of unsold goods, rather than for the regulations to specify whether those goods should be donated to specific organisations or recycled, reused or repaired.

Amendments 155 and 156 refer to the export of goods, which, sadly, is a reserved matter, so I cannot support them either.

On amendment 198, I agree that a requirement to develop guidance might be appropriate in relation to section 8, but I cannot support the amendment as drafted. The effect would be to require Scottish ministers to "prepare and publish guidance" before any draft regulations were laid before Parliament. In my view, that would not be appropriate, because it would pre-empt parliamentary approval and scrutiny of the regulations. Although I cannot support amendment 198, I am happy to work with Sarah Boyack to develop an amendment that would require the development of guidance at an appropriate juncture.

On amendment 88, budgets are set via the Scottish budget process. As we discussed in relation to councils, enforcement bodies are the appropriate resource to deliver the duties that are expected of them. That will include enforcement requirements stemming from the bill, as well as any other areas that affect them. Therefore, I cannot support the amendment. However, we will engage with SEPA on matters arising from the bill and will ensure that they are resourced appropriately. I know that SEPA will be happy to engage with MSPs directly on whether it thinks that it is well enough resourced to deal with the impacts of the bill.

Amendment 23, in the name of Graham Simpson, is legally ineffective, so I cannot support it and I ask him not to move it. I do not think that it would have the effect that Graham Simpson wants to achieve, which is to commence the new section 78 power in relation to the restrictions on the disposal of unsold goods upon the bill receiving royal assent. I do not think that the amendment is workable, so I ask him not to move it.

The Convener: I call Sarah Boyack to wind up and to press or withdraw amendment 104.

Sarah Boyack: It has been good to listen to the debate, because it has been very practical. I welcome the minister's offer of a meeting between now and stage 3, because I am keen to get the provision in the bill and to get the wording right. There is a real issue here, and the bill is a major opportunity to make much better use of unsold food products.

Monica Lennon's points were pragmatic. I welcome the minister's offer to have a proper discussion, because textile waste is a growing problem. Monica Lennon's suggestions for how we could support the third sector, particularly schools, so that waste is not created and the products are used are really important. On her points about prohibiting exports, the more that we can do on that, the better, because we are offshoring not only our waste but carbon emissions at the same time.

The points made by Douglas Lumsden in relation to his amendment 88 are important. There needs to be a proper discussion about resources for enforcement authorities. It will not happen just by somebody saying that it is a good idea; we must ensure that we are practical to allow it to happen.

There has been a constructive discussion on this group of amendments. The key point is to ensure that, when we get to the stage 3 discussion, we get cross-party support. The bill needs to be strengthened in those areas, which are really important to the implementation of the ambitions of the circular economy legislation.

I seek to withdraw amendment 104.

Amendment 104, by agreement, withdrawn.

Amendments 83 to 85 not moved.

Amendment 86 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 86 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 86 disagreed to.

Amendments 153 to 156 not moved.

The Convener: I point out to people who are watching and to members who are in the room that my intention is to push on with today's meeting until we get to the end of the group on charges for single-use items.

Amendment 87, in the name of Douglas Lumsden, is grouped with amendment 28. I call Douglas Lumsden to move amendment 87 and speak to the amendments in the group.

Douglas Lumsden: The United Kingdom Internal Market Act 2020 is often discussed and argued about in this Parliament. The aim of amendment 87 is to ensure that discussions take place between the Scottish and UK Governments ahead of the final regulations being voted on.

During a previous evidence session, we heard that the former minister had not spoken to the Office for the Internal Market because she had not felt that that was necessary at that point. We also had a meeting with the Office for the Internal Market, and I think that it had expected that there would have been more engagement from the Scottish Government, but that had not been forthcoming at that time. Therefore, there appeared to have been no early engagement between Scottish ministers and that office.

I totally accept that the Scottish Government does not like the 2020 act, but it exists and, while it does, we have a duty to pass legislation that complies with it. If issues are not ironed out ahead of time, there will be conflicts between the Scottish and UK Governments. That will add more expense, take time and bring uncertainty, so

surely it is better for dialogue to take place up front to ensure that regulations that are passed comply with the 2020 act.

I am nervous about some of the cross-border implications of the bill. For example, there are potential issues relating to unsold goods and the extended producer responsibility. We need to consider the 2020 act in relation to such issues, which is why it would be best to have provision in place to ensure that things are ironed out before the legislation reaches its final stages.

I move amendment 87.

The Convener: I call Graham Simpson to speak to amendment 28 and other amendments in the group.

Graham Simpson: It might help with your decision making, convener, if I give you warning that, in the following group, I will be speaking at some length. I just wanted to let you know that.

My arguments with regard to amendment 28 are very similar to those that Mr Lumsden has just made. The amendment deals with the issue of the internal market act as it relates to section 9 of the bill, which is the power to require imposition of charges for single-use items.

I do not need to remind the committee of the importance of complying with that power; whether members think we should or not is neither here nor there, because we must deal with reality. Allow me, if you will, convener, to quote fairly extensively from the committee's report, which I thought was excellent. It says:

"We also recognise that some key matters are reserved and that the Scottish Government must work within the requirements of the UK Internal Market Act."

It also says, on page 4:

"The framework nature of the Bill also means the Committee cannot express an authoritative view as to whether regulations made under the Bill (if enacted) would be likely to trigger the market access principles within the UK Internal Market Act 2020, with a risk of undermining their effectiveness."

Again, the report says, on page 25:

"The Internal Market Act creates two key market access principles which operate in the post-Brexit environment: the mutual recognition principle and the nondiscrimination principle. These—

'... serve to disapply relevant requirements in one part of the UK when goods or services are lawfully provided in another part of the UK. The principles will permit access to the Scottish market of goods and services which originate elsewhere in the UK under different regulatory conditions. This is likely to have a substantial impact on the effectiveness of devolved regulatory regimes.'"

On page 26, it says:

"It was widely accepted during Stage 1 that the Internal Market Act has the potential to significantly affect the

operation of the Bill if it were to become law: potentially a 'massive impact' according to some stakeholders."

My amendment, which relates to section 9, says that the Scottish Government must consult with the secretary of state, whoever that is, and provide a statement that he or she is content that the regulations comply with the internal market act. I think that Mr Lumsden's amendment does the same. Given the committee's comments in its report, which I have just quoted, I would have thought that it would support this position. However, I have thought that before when I have quoted the committee's report, so we will just have to wait and see.

The Convener: Thank you. I think that Mark Ruskell wants to contribute.

Mark Ruskell: Both amendments in this group are unnecessary. We have an internal market act in place; it puts restrictions on devolved Administrations and requires detailed conversations to be had through common frameworks. Those things exist. However, what the amendments do not do is compel the secretary of state or other UK ministers to consult Scottish ministers or compel the secretary of state to come up with a view on an internal market act exemption by a certain date. All of the power lies with the secretary of state, first, to decide whether to engage in a meaningful conversation and, secondly, to reflect on that and issue an internal market act exemption at a time of their choosing—or not, as the case might be.

The common frameworks have been working, up to a point. I am aware of early engagement between Ms Slater and the UK Government on single-use plastics; agreement was struck, and a way forward on those regulations was found on a four-nations basis. However, members will be aware that, when it came to the bottle and can deposit return scheme, no way forward was found. In fact, the Scottish Government had to wait an inordinate amount of time to finally get an exemption—an exemption that actually made the roll-out of a deposit return scheme impossible in Scotland—and that was despite the fact that there was good early four-nations engagement on the DRS and an agreement through the common framework process, allowing both Wales and Scotland to introduce their own schemes, which included glass.

12:45

However, we are where we are: the power lies with the UK Government. The internal market act is its act, post Brexit; it is not an act that this Parliament voted for. Indeed, it is not an act that the people of Scotland voted for, because we did not even vote for Brexit. However, as I have said, we are where we are with the act.

Briefly, I want to pay tribute to the convener, who on multiple occasions has tried to understand from the Secretary of State for Scotland the reasons for the internal market act exemption that was gifted to the Scottish Government but which has effectively meant that Scotland's DRS cannot go ahead. He has tried and, unfortunately, failed to do that, and if the convener cannot secure information and understanding from the UK Government about the failure to grant a proper exemption for DRS, I struggle to understand how the Scottish Government itself can get that information. Simply wishing that that were so in this bill fails to realise the power dynamic here and the fact that the IMA places all those powers on the Secretary of State for Scotland.

It is only through better dialogue between the devolved Administrations and the secretary of state that we can get proper agreements on these things, but right now, the picture is very mixed. Indeed, it has not happened at all with the DRS. The reasons for that remain unfathomable, and the committee has been unable to scrutinise the issue in any meaningful way.

The Convener: Thank you very much, Mark. I think that Bob Doris wants to say a few words.

Bob Doris: Yes, and I will be very brief, convener.

As Mr Ruskell has said, common frameworks exist, and they work to a greater or lesser extent, depending, sometimes, on the political context. However, it is reasonable to say that, with goodwill on both sides—that is, the Scottish and UK Governments—and with common sense, we could get there, even though I would rather that there was no internal market act. I am not sure that either amendment lends itself to promoting the better use of the common frameworks, or, indeed, to goodwill or common sense, and quite frankly, they might not be required. That is my view.

I also point out that, in evidence, the third sector told us that—and I will go back and check whether the quote is accurate—the internal market act could have a chilling effect on environmental endeavours towards net zero and climate action. Indeed, some in the sector have called for a more general exemption in relation to those environmental endeavours.

My final comment is relevant to the comments that we have heard so far from members in this debate and to the amendments at hand. The committee heard that there had been no engagement in relation to the common frameworks, but we were of the view—a majority view, anyway—that, because this was a framework bill, it would be at the point of co-production and putting together the details of what would come later that the common frameworks

would kick in and that such engagement was not really appropriate at the earlier stage. I think that that was lost a little bit in the earlier exchange.

Monica Lennon: Some important points have been made. Looking back at our stage 1 report, I see that paragraphs 18, 19 and 20 are relevant here; indeed, the points that have been made about trust and confidence and about co-operation between the UK and the Scottish Government are points that we have made in the report.

Amendments 87 and 28 are identical—I think. Obviously, Douglas Lumsden and Graham Simpson have been co-operating themselves. I had to wonder whether the amendments had been handed out by the secretary of state—was that a no? [*Interruption.*] Graham Simpson has said that they were not.

Having checked these amendments with the Scottish Parliament information centre, I do not think that any other act of this Parliament has the same provision, and I am not sure that inserting it at stage 2 of a circular economy bill is the best way of bringing in such principles.

The points about dialogue and co-operation are well made. In paragraph 20 of our stage 1 report, we recommended that the Government should seek advice on the bill from the Office for the Internal Market “at the earliest opportunity”. The minister can perhaps give an update on that. However, if we were to agree to the amendments in this group, I would be worried about what that said about devolution. I am sure that we are all in a reflective mood, given that we have had 25 years of the Scottish Parliament, but I do not think that we need the amendments, and I do not think that they would be the right direction to go, so I will not support them.

The Convener: I turn to the minister. I have raised my eyebrow, minister, as you said I did earlier when I was trying to not curtail debate but focus it.

Gillian Martin: It was very subtle but effective.

I have a whole speech about the issue, which very much aligns on what Monica Lennon, Mark Ruskell and Bob Doris have said. The amendments are unacceptable because they undermine the basic principles of devolution. We would be under an obligation to consult the secretary of state, but the secretary of state would be under no obligation to respond to us.

The vehicles for discussion and agreement on the United Kingdom Internal Market Act 2020 are set out through the common frameworks, as colleagues have said. Monica Lennon asked about the Office for the Internal Market. We engage with it regularly. My officials have been speaking to that office throughout the process, and we will continue

to do so. The Circular Economy (Scotland) Bill has been discussed with other UK nations through the common frameworks process. Other nations have been aware of the bill throughout its development and were informed of its contents when it was introduced to Parliament last year.

There have been discussions on the potential interaction between the bill and the internal market act at the resources and waste common framework working group and, at senior level, the senior officials programme board. Both groups noted that there were no provisions in the bill that would trigger the application of the IMA. Therefore, members will not be surprised to hear that I will not support the amendments, for the reasons that have been outlined by my colleagues, which I will not go over.

The Convener: I call Douglas Lumsden to wind up and press or withdraw amendment 87.

Douglas Lumsden: I will set out right at the start that my amendment 87 is not an attack on devolution; it just aims to make sure that anything that is passed complies with the devolution settlement and does not overstep it. We heard from Mark Ruskell that the DRS was impossible, but that was not Circularity Scotland's view. However, I agree that the dialogue between the two Governments was not what it was meant to be. I lodged amendment 87 to make sure that that dialogue takes place right up front. I heard what the minister said about the engagement with the UK Office for the Internal Market, but that is different from what we heard when we took evidence from people from that office—well, we did not take evidence from them, but we met them in an informal session. They said that there had been no dialogue with the Scottish Government on the bill, so it is good to hear that that has now taken place.

Whether we like it or not, we have got into a situation in which there is a lot of blame between the two Governments on where things are falling down, and the internal market act is being flagged up. As I said, there is no hidden agenda here and no attack on devolution. I just want to make sure that, before regulations are introduced, discussion has taken place and that there is nothing—

Bob Doris: Will the member give way?

Douglas Lumsden: I will.

Bob Doris: I have been listening intently to what Mr Lumsden said. He said that the intent of the amendment is to comply with the devolution settlement. It is worth noting that the internal market act was not part of the devolution settlement—it is reasonable to put that on the record. Given that we are talking about being in a reflective mood, and that Mr Simpson has been reflective in real time in committee today, I wonder

whether Mr Lumsden might reflect that amendment 87 is not actually required.

Douglas Lumsden: If we were in a good place where both Governments were working together, I would agree that it was not required. However, from what we have learned over the past couple of years, we know that it is required, because things have not been working according to the frameworks. I imagine that both Governments would blame each other, and we would not find ourselves in a good position.

It would be good if the amendment was not required but, from our experience over the past couple of years, I think that it is required. I will leave it there.

The Convener: Are you pressing?

Douglas Lumsden: I press amendment 87.

The Convener: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 87 disagreed to.

Amendment 198 moved—[Sarah Boyack].

The Convener: The question is, that amendment 198 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 198 disagreed to.

The Convener: I remind members that amendments 19 and 20 are direct alternatives.

Amendment 19 not moved.

Amendment 20 moved—[Graham Simpson].

The Convener: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 20 disagreed to.

The Convener: I remind members that amendments 21 and 22 are direct alternatives.

Amendment 21 not moved.

Amendment 22 moved—[Graham Simpson].

The Convener: The question is, that amendment 22 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 22 disagreed to.

Amendment 88 moved—[Douglas Lumsden].

The Convener: The question is, that amendment 88 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Lennon, Monica (Central Scotland) (Lab)
Lumsden, Douglas (North East Scotland) (Con)
Mountain, Edward (Highlands and Islands) (Con)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dunbar, Jackie (Aberdeen Donside) (SNP)

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)

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

Amendment 88 disagreed to.

Amendment 23 not moved.

Section 8 agreed to.

The Convener: On the basis that Mr Simpson has said that he is going to be particularly loquacious on the group on charges on single-use items, I propose to stop now before we get to that group. I will need to have a word with the committee after this meeting, but I lay on the table now that we are looking at an early start next week and a late finish, possibly going into the afternoon of Tuesday, unless we can get additional time from the Government. I will seek the committee's view on what it would like me to do, but I warn everyone now that we are behind where we need to be if we are to meet the deadlines that we have agreed. I ask committee members to remain seated.

I thank the minister and her officials for taking part. I remind everyone that our meeting next week will start with the group on charges on single-use items, with the timings and duration to be confirmed. I ask everyone to allow me a few moments with members—it will be as quick as possible. I close the meeting.

Meeting closed at 12:59.

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