



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Rural Affairs and Islands Committee

Wednesday 15 May 2024

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE
13th Meeting 2024, Session 6

CONVENER

*Finlay Carson (Galloway and West Dumfries) (Con)

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

- *Alasdair Allan (Na h-Eileanan an Iar) (SNP)
- *Ariane Burgess (Highlands and Islands) (Green)
- *Rhoda Grant (Highlands and Islands) (Lab)
- *Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)
- *Emma Harper (South Scotland) (SNP)
- *Emma Roddick (Highlands and Islands) (SNP)
- *Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

- Tim Eagle (Highlands and Islands) (Con)
- Mairi Gougeon (Cabinet Secretary for Rural Affairs, Land Reform and Islands)
- Richard Leonard (Central Scotland) (Lab)
- Edward Mountain (Highlands and Islands) (Con)
- Brian Whittle (South Scotland) (Con)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 15 May 2024

[The Convener opened the meeting at 09:02]

Interests

The Convener (Finlay Carson): Good morning, and welcome to the 13th meeting in 2024 of the Rural Affairs and Islands Committee. Before we begin, I remind everyone using electronic devices to please switch them to silent.

We welcome to the meeting our new member, Emma Roddick, who replaces Kate Forbes. I invite Emma to declare any relevant interests.

Emma Roddick (Highlands and Islands) (SNP): Until 5 May 2022, I was a councillor at Highland Council.

Subordinate Legislation

Animal Welfare (Livestock Exports) Enforcement Regulations 2024

Ivory Act (Extension of Meaning of “Ivory”) (Transitional Provision and Miscellaneous Amendments) Regulations 2024

09:03

The Convener: We begin with consideration of consent notifications for two United Kingdom statutory instruments: the Animal Welfare (Livestock Exports) Enforcement Regulations 2024 and the Ivory Act (Extension of the Meaning of “Ivory”) (Transitional Provision and Miscellaneous Amendments) Regulations 2024.

As members have no comments on the notifications, do they agree with the Scottish Government’s decision to consent to the provisions that are set out in the notifications being included in UK rather than Scottish subordinate legislation?

Members *indicated agreement.*

Agriculture and Rural Communities (Scotland) Bill: Stage 2

09:04

The Convener: We will now continue our consideration of the Agriculture and Rural Communities (Scotland) Bill at stage 2. I welcome Mairi Gougeon, the Cabinet Secretary for Rural Affairs, Land Reform and Islands—I do not know whether that title has changed since last week—and her supporting officials.

As I did last week, I will briefly explain the stage 2 procedures for members and the public. There will be one debate on each group of amendments. I will call the member who lodged the first amendment in that group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call any members who have lodged amendments in that group. Members who have not lodged amendments in that group but who wish to speak should catch my attention. If she has not already spoken, I will then ask the cabinet secretary to contribute to the debate. The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up.

Following the debate on each group, I will check whether the member who moved the first amendment in the group wishes to press it or withdraw it. If they wish to press it, I will put the question on that amendment. If a member wishes to withdraw their amendment after it has been moved, they must seek the agreement of other members to do so. If any member present objects, the committee immediately moves to a vote on the amendment. If a member does not want to move their amendment when it is called, they should say, “Not moved”. Please note that another member present may move that amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in any division is by show of hands, and it is important that members keep their hands clearly raised until the clerk has recorded the vote. The committee is required to indicate formally that it has considered and agreed to each section of the bill, so I will put a question on each section at the appropriate point.

Section 4—Power to provide support

The Convener: Amendment 134, in the name of Rachael Hamilton, is grouped with amendments 135, 50, 136 to 138 and 157.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): Amendment 134 would require support to be provided through multiyear budgets and ring-fenced funding. It is an important amendment that would give farmers and producers much-needed certainty about future support. Farms and crofts often work to long-term plans, which require certainty about future support. Farmers need to be able to plan for the future. The bill must therefore include a commitment to multiyear ring-fenced funding. We know that many stakeholders, such as NFU Scotland, Scottish Land & Estates and the food and agriculture stakeholders task force, support that.

The NFUS is calling for the five-year funding framework that the UK Government delivered for agriculture from 2019 to date to be repeated by the next UK Government, and the Agriculture Act 2020 sets in legislation the detail of a seven-year funding cycle. It is possible and realistic to have a commitment covering more than one year in the bill.

Amendment 136 would enshrine in the bill that any future peatland restoration or agroforestry support schemes would be accessible to tenant farmers. The amendment would help to remove barriers that tenant farmers often face when applying for support. I have been contacted by the Scottish Crofting Federation, which would also like crofters to be able to access some of those funding schemes. It is possible that we might end up working together on that amendment, cabinet secretary.

Amendment 138 would place a statutory duty on the Scottish Government to consult all relevant stakeholders on future agricultural support. Again, it is a very important amendment and is supported by key farming lobby groups. Similar to other amendments, and as noted in the stage 1 report, amendment 138 would provide much-needed reassurance to stakeholders by requiring a statutory consultation on future agricultural support.

I look forward to hearing colleagues' explanations of other amendments in the group.

I move amendment 134.

The Convener: I call Rhoda Grant to speak to amendment 135, in the name of Colin Smyth, and to other amendments in the group.

Rhoda Grant (Highlands and Islands) (Lab): Colin Smyth sends his apologies. He has to attend another committee meeting, so I have agreed to speak to his amendments.

Colin Smyth's amendment 135 would require support schemes to be consistent with the rural support plan. The Government has a responsibility to spend money effectively and in the public

interest. A link with the rural support plan would allow it to demonstrate a clear rationale for the use of public money. However, the amendment would also provide flexibility and allow for departure from the plan, should there be reasons for that, but with the requirement that ministers set out those reasons and why the support remained consistent with the bill's overall objectives.

My amendment 50 would ensure that the Scottish Government would have to consult before making regulations under section 4 to amend schedule 1. Schedule 1 lays out the things that can be supported under the bill. Although members may, at this stage, seek to add items that can be supported, the Government will be able to add other items in the future. I will not repeat my arguments for greater scrutiny. However, amendment 50 would ensure that, when items were added or, indeed, taken away, there would be effective consultation with those who would be affected by any changes that were made to the schedule.

I support Rachael Hamilton's amendment 134. Farming is not a short-term business, and security of support is necessary to enable farmers and crofters to provide the public goods that we all require. I believe that the other amendments in the group could also strengthen the bill.

The Convener: I call Rhoda Grant to speak to amendment 50 and other amendments in the group.

Rhoda Grant: I have just done that.

The Convener: Thank you very much. I call Ariane Burgess to speak to amendment 137 and other amendments in the group.

Ariane Burgess (Highlands and Islands) (Green): My amendment 137 would require ministers to engage with and consult communities that would be affected by forestry activities before making regulations on those activities. It is part of a package of amendments that includes amendments 114, 118 and 176, which seek to make changes that stakeholders have suggested in order to expand and strengthen the section on forestry support to ensure that the right trees are planted in the right places.

I am aware that there are requirements for community engagement in the forestry legislation and the related standards and guidance, but those pertain largely to felling and public land, which means that there are gaps with respect to planting and other activities on private land, as well as the farming-forestry interface.

Community engagement and consultation are particularly important when it comes to forestry, as forests are often hugely valued by the local community and are seen as a public amenity to a

greater extent than is the case with most agricultural land. I would be interested in hearing the Scottish Government's response.

Tim Eagle (Highlands and Islands) (Con): Good morning. Amendment 157 would place a reporting requirement on ministers to assess the performance of functions delegated by ministers within a year of the bill coming into force. The intention behind amendment 157 is to ensure that organisations to which functions of the bill have been delegated are held accountable for their performance. It would provide a means of tracking their progress on key functions of the bill and would offer ministers the opportunity to assess whether delegation was the correct approach.

We know how important accountability is for the effective operation of legislation. Amendment 157 would improve the level of accountability in relation to not only ministers but all stakeholders who were involved in implementing the bill's provisions.

Cabinet Secretary for Rural Affairs, Land Reform and Islands (Mairi Gougeon): I will start with amendment 134. As Rachael Hamilton knows, and as we touched on in the discussion last week, I would love to be in a position in which we could set a multiyear budget, as we were able to do under the common agricultural policy when we were in the European Union. Ultimately, such an arrangement provides us all—especially our farmers and crofters—with clarity and certainty.

However, the UK Government has failed to meet its promise to engage in meaningful discussion with us and the other devolved Governments on the future of agriculture spending. I must be clear with everyone that that means that, after next year, we have no certainty that there will be any funding at all in the future, which, of course, is not acceptable. While that remains the case, it is not reasonable to accept amendment 134, and I urge the committee not to support it.

Rachael Hamilton: Will the cabinet secretary share with the committee what information the UK Government has shared with her and the Scottish Government about the timeframe for announcing future funding—for example, in the next spending review?

Mairi Gougeon: As far as I am aware, there has been no such communication—there has certainly been no communication with me. I have had no communication at all from the Secretary of State for Environment, Food and Rural Affairs in relation to that. However, I would be happy to share such information with the committee, should I ever receive it.

I do not believe that amendment 135 is necessary. Last week, we discussed at length the

need to have a rural support plan that is underpinned by statute to set out precisely how public support will be provided to deliver the objectives of the bill, how progress will be tracked and how and with whom the plan will be co-developed. In last week's discussion, I set out in detail my intention to lodge a wraparound set of amendments to enable the points that were raised by members to be addressed. In lodging those amendments, I will consider what Colin Smyth is looking to achieve with amendment 135. Therefore, I hope that amendment 135 will not be moved today, so that we can have further conversation.

09:15

On amendments 50 and 138, I have been consistent and clear on the Government's approach, which is to co-develop with the industry and our wider partners to ensure that the support that we underpin through legislation has the support of those who are due to receive it and, ultimately, that it best meets the wider interests of rural Scotland—agriculture, in particular. That co-design work is already well under way, so it is debatable how useful consulting on the content of regulations would be. It would unhelpfully slow down the process of making relatively minor changes to vital support, and I do not think that that would be in the best interests of farmers, crofters and land managers. I therefore urge members not to support Rhoda Grant's amendment 50 or Rachael Hamilton's amendment 138.

Amendment 136 seeks to make specific support accessible to tenant farmers. I am fully committed to ensuring that tenant farmers are given equality of opportunity to access the new agricultural support framework and that its four tiers work for all types of land tenure. Some of the barriers to that happening, particularly in relation to peatland restoration and agroforestry, relate to the landowner-tenant relationship and where power currently lies. The provisions in the Land Reform (Scotland) Bill, which I introduced to the Parliament in March, seek to remedy some of the issues with that. I hope that Rachael Hamilton will support the provisions in that bill and, because we are dealing with such issues in that bill, I hope that she will not move amendment 136.

Amendment 137 proposes to place a precondition on the Scottish ministers to engage with any communities or persons who might be affected by forestry activities prior to making regulations in relation to forestry support under section 4 of the bill. Although I can understand the overall rationale for the amendment, it would create an unreasonable burden. The forestry support that the bill provides for extends far

beyond woodland creation; it covers areas such as deer control, work to improve habitats and species at a landscape scale and even work to improve the accessibility of woodlands around large population centres. Given the breadth of areas that are covered, I am concerned that amendment 137 could result in a duty being placed on the Scottish ministers to engage with every community in Scotland before making regulations to adjust what forestry activities might be supported, which would be impractical.

I assure Ariane Burgess that forest planning and woodland creation guidance documents are already under review and are being aligned with the Scottish Land Commission's community engagement guidance. I am happy to provide committee members with more information on that process. I hope that, given my explanation of the work that is under way elsewhere, Ariane Burgess will not see the need to move amendment 137.

I believe that Tim Eagle's amendment 157 is well intentioned. As I said, the rural support plan is the right place for reporting on the monitoring and evaluation of our performance. The timescale that the Scottish ministers must produce a report within one year of the section coming into force is arbitrary and would be unreasonable, because it fails to account for other reporting cycles that would be established to each and every delegated function as best fit. I urge Tim Eagle not to move amendment 157.

Rachael Hamilton: I will press amendment 134. I am disappointed that the cabinet secretary does not agree with the concept of ring-fenced funding. In 2022, the Scottish Government received £33 million following a 2019 UK-wide review into the fair allocation of farming support. That cash was intended for agricultural support, but it should have been spent on rural affairs. That money for the rural affairs budget has, so far, not been returned, so my amendment should allow the Government to clarify how the money that has been allocated for the agriculture budget has been used. We are disappointed that that money—which was supposedly ring fenced—has not been returned to the budget. That further proves the point that ring-fenced money is very important to Scottish agriculture. I thank Rhoda Grant for supporting the amendment.

The Scottish Conservatives will support all the amendments in the group. Ariane Burgess's amendment 137 is particularly important, because communities are often left behind in relation to afforestation. It is an excellent amendment.

Tim Eagle's amendment 157, as he described, would provide further scrutiny, clarity and accountability. It would also help everyone to be part of, and to become involved in, the concept of the bill.

The Convener: The question is, that amendment 134 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 134 disagreed to.

Amendment 135 not moved.

Amendment 50 moved—[Rhoda Grant].

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 50 disagreed to.

Amendment 136 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 136 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 136 disagreed to.

The Convener: I call amendment 137 and ask Ariane Burgess to say whether she wishes to move it.

Ariane Burgess: Not moved, convener.

The Convener: Does another member wish to move the amendment?

Rachael Hamilton: Yes, I will do so.

Amendment 137 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 137 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 137 disagreed to.

Amendment 138 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 138 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 138 disagreed to.

The Convener: I call amendment 139, in the name of Tim Eagle, and ask him whether or not he wishes to move it.

Tim Eagle: Is it not amendment 157, convener?

The Convener: No, it is amendment 139.

Tim Eagle: Okay—is that mine? [*Interruption.*]

Ariane Burgess: There is an error in the groupings, convener. The groupings have amendment 157, but the marshalled list has amendment 139.

Tim Eagle: Okay—it is just that I have amendment 157 in front of me.

Amendment 139 moved—[Tim Eagle].

The Convener: The question is, that amendment 139 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 139 disagreed to.

Section 4 agreed to.

Schedule 1—Purposes of support

The Convener: Amendment 140, in the name of Kate Forbes, is grouped with amendments 141 to 143, 51, 52, 6, 53, 7, 144, 145, 54, 146, 55, 147, 56 to 58, 8, 10, 11, 148, 59 to 62, 149 and 63.

Emma Roddick: Amendment 140 is a clarification amendment. Whereas the bill refers only to “fruit growing” and “seed growing”, the new wording in the amendment would clarify and reassure our industry that, in Scotland, we grow crops not just for food but for other purposes.

Specifically, the amendment highlights the fast-developing energy crop sector. We must be explicit in the bill that we recognise those future opportunities for our agricultural sector, and including

“crops ... for the production of energy”

in the schedule of eligible agricultural activities enables that aspect to be supported in the future, should ministers choose to do so. By including growing crops for other non-food purposes, we ensure that the bill provides future flexibility as our producers adapt to climate change and new market opportunities that might open, and so I ask the committee to support this amendment in the name of Kate Forbes.

I move amendment 140.

Tim Eagle: Amendment 141 is an attempt to get a few slight changes into the bill in order to clarify some points for farmers. It seeks to include the farming of deer and game in the bill’s definition of agriculture in order to support deer and game farmers in continuing to produce those products. Such farming contributes to the overall production of high-quality food as any other form of livestock farming does; indeed, at a recent event, we had venison on the table. It would not be logical to specifically exclude that type of farming, when the farming of other animals would qualify for support under section 4 of the bill. I add, for the avoidance of any confusion, that amendment 141 relates only to farmed livestock and does not make provision to support the taking of wild game.

Amendment 143 would include

“cereals and oilseeds, peas and beans”

and

“other foraged crops”

in the bill’s definition of “agriculture” and, by doing so, would support farmers in continuing to produce those products. As with amendment 141, those are important categories that are, at present, missing from the bill, and they should be included so that we can recognise their contribution to Scottish agriculture and make the list more comprehensive.

Amendment 148 aims to highlight one of the key challenges that I know farmers and land managers across Scotland face. Access to land and the right to roam are privileges that we all enjoy in Scotland; however, with that right comes a responsibility to ensure that we respect the land that we are accessing, and my amendment would add the word “responsible” to the provisions on supporting access to land, just to clarify that all access to land should be carried out responsibly.

Farmers and land managers are constantly dealing with cases of irresponsible use of land that

cost them time and money and which in some cases can lead to harm to livestock. Examples can range from leaving a field gate open or littering along a footpath, to livestock worrying and fly-tipping, and the inclusion of the word “responsible” in the legislation would underline our commitment to tackling such behaviour and encouraging greater accountability among those who access farmland for any purpose.

Amendment 149 would enable compensation to be provided to farmers in respect of additional costs incurred and income lost as a consequence of reintroduced species. The amendment aims to recognise the challenges that reintroduced species have thrown up for the agricultural sector and provides an opportunity to mitigate them without directly impacting our efforts to successfully re-establish certain species in Scotland. It would support Scotland’s farmers, provide them with reassurance that the impact of reintroduced species on their ability to produce food is being properly assessed and help to alleviate wider industry concerns that the impact of reintroduced species is not being given adequate consideration in policy making.

I understand that the prevention of significant agricultural damage is already covered in previous agricultural legislation. However, amendment 149 has been written in conjunction with farmers who have a more developed understanding of the impact of reintroduced species on farming activities. Farmers have made it clear that they want to see those provisions on the face of the bill, and I am absolutely committed to ensuring that their views are heard in today’s proceedings.

Ariane Burgess: I will speak initially to my amendment 201, which is a new amendment and seeks to add a definition of “horticulture” as used in part 2 of schedule 1. It states:

“‘horticulture’ means the growing and harvesting of edible horticultural crops, including fruit, vegetables, tubers, mushrooms, herbs, bush and tree nuts and seeds”

I just wanted to clarify that, because some people interpret horticulture in a narrower way, and I want to ensure that growers producing any of those crops will be eligible for support.

In that light, I cannot support Kate Forbes’s amendment 140, which would allow the production of crops for energy—known, as we have heard, as biofuels—to be supported with agricultural money. If amendment 140 were agreed to, it would lead to double funding for biofuel production and increase the use of prime land for fuel, taking it away from food production. Many of the large farms that grow crops for biofuels already receive an enhanced guaranteed price for the energy produced via Office of Gas and Electricity Markets—or Ofgem—energy supply contracts. Should those same crops also receive basic payment scheme money,

meaning that, in effect, already wealthy funded farms receive double funding from taxpayers? Some 11 per cent of Scottish arable land is already being used to grow biofuels. Instead of incentivising more of that, agricultural support should be focusing on food production.

09:30

Just yesterday, the UK Government announced a new package of measures in support of domestic food production, notably more support for horticulture—that is, for food—which it said will boost food security. If Kate Forbes’s amendment 140 is accepted, my definition of “horticulture” in amendment 201 will be even more important to ensure support for growing fruit and seeds for food, not only for energy.

Rachael Hamilton: I visited IndiNature in Jedburgh, which makes organic insulation products from hemp. Can Kate Forbes’s amendment be interpreted as including support for growing hemp, which is a non-food crop? A number of farmers are looking to grow hemp, and it is quite an important aspect of agricultural rotation—that is, non-food production.

Ariane Burgess: I am a big supporter of hemp production and the work that is being done by the folks in the Borders. The great thing about hemp is that we can both grow food and create the fibre that is then used for the material. Hemp can be used for a lot of things. What I am saying is that we should not put agriculture money into supporting something that will be used as fuel when there is already money that people who grow biofuels can get. Agriculture money needs to go towards producing food.

My amendment 51 pertains to the section on support that helps ensure that agricultural activity or activities of a certain type continue in a particular area or on a particular type of land. It simply adds the possibility for that support to evolve, instead of continuing exactly as it is now, and it would give ministers the ability to adjust conditions for, say, the less favoured area support scheme or the Scottish upland sheep support scheme while still continuing to provide support. That would provide sufficient time for recipients to plan and adapt, help farmers and crofters make a good living through sustainable and regenerative practices and align agricultural support with climate and nature objectives in this time of climate and nature emergency.

My amendment 52 simply adds “wool” to the list of products that can be supported. Wool is a natural material that could substitute for oil-based materials in several parts of the economy and our lives, yet farmers and crofters do not get a good

return—actually, no return—from it on the market. Therefore, its production should be supported.

My amendment 57 adds to the section on supporting rural communities by making it clear that support can be received for providing community benefits such as “clean air, ... clean water”, “access to nature”, “biodiversity gains” and “wider economic and social benefits”. At stage 3, I would like to amend amendment 57 to add natural flood management to the list of benefits that can be supported.

My amendment 58 pertains to the section on support for starting a business or enterprise, adding “nature restoration” businesses to the types of enterprises that can be supported and thereby supporting rural communities to play a key role in a green economy.

My amendment 59 offers another way of supporting rural communities by giving ministers the power to provide support

“to assist investment in nature-based enterprises in rural areas.”

My amendment 60 improves the description of soil health in relation to supporting activities that protect or improve the soil. By referring to

“the physical, chemical and biological condition of the soil”,

it aims to draw attention to the importance of biological soil health, which is too often overlooked because of a focus on chemical make-up. That will be important in encouraging management practices that limit the use of chemical inputs, which are a significant contributor to climate emissions, and in ensuring that appropriate testing for biological soil health is easily accessible to Scottish farmers.

Rachael Hamilton: Ms Burgess, I am minded to support a lot of your amendments, but I have noticed that you have chosen not to move a lot of them. Is that because you plan to come back at stage 3 with those amendments, or will you stay true to the intention that you have described and move the amendments so that we can understand whether we will be supporting them? I also wonder why you did not support my own amendment on soil health and the objectives.

Ariane Burgess: You will see what I will do when I come to move the amendments—or not.

As for supporting your definition of soil health and the objectives, I did not think that the bill was the appropriate place to put them. We need to keep the objectives really clear, but the main point is that farmers, crofters and food producers must look at soil biology as we go forward. We need to recognise that soil is a living system and understand its ecosystem, and we must have a way of supporting people through the testing

processes. We know about the national test programme, but it must factor in the soil’s biological conditions. I know that many farmers and crofters are already moving towards regenerative practices, but they do not have the support to look at the soil and the impacts of their good practices.

My amendment 62 would give ministers the power to support farmers and crofters to maintain areas of land for nature

“and to prevent further biodiversity loss.”

Given that the conversion of land into farmland is one of the key drivers of biodiversity loss, it is crucial that landowning farmers, crofters and other land managers do not feel financially pressured to convert more land into farmland and that they receive some income for providing public goods by protecting wildlife and habitats, such as our iconic machair, alongside their actively farmed land. That will also be crucial in maintaining EU alignment through the 30 by 30 commitment to protecting 30 per cent of our land for nature by 2030.

There might be some concerns about land being set aside and then neglected, but the land would need to meet certain climate and nature standards as part of the enhanced conditionality of the new payment framework, and I would argue that the support that would be enabled by all my amendments in this group should not be competitive. I also suggest that it be extended to farmers, crofters and other land managers who have already set aside land and provided public goods such as restored and rewetted peatland, to reward them for previous good actions that they paid for out of their own pockets.

My amendment 142 would add a list of benefits that woodlands can provide on farms, to make it clear that planting and maintaining trees on farmland for those purposes would be eligible for support. The purposes outline some advantages of agroforestry or integrated planting, including

“providing shelter to livestock ... reducing flood risk ... reducing soil loss”

and

“reducing risks to wader birds”.

If done without proper sensitivity, tree planting on farmland can be very damaging to waders, including curlews, the UK’s most threatened breeding bird. Therefore, support should incentivise agroforestry to reduce that risk.

I also have two probing amendments in order to continue the conversation about ensuring that the right tree gets planted in the right place. Scotland is one of the most nature-depleted countries in the world. Native trees can and must play a significant role in realising the Scottish Government’s vision to halt nature loss by 2030, and my amendment

146 would ensure that all woodland that was supported through public funds would have a positive impact on biodiversity as well as on carbon and, where appropriate, on local amenity, too. Existing forestry legislation and guidance on such issues pertain largely to felling and to public land, which leaves gaps with regard to planting and other activities on private land, as well as the farming-forestry interface, as I have mentioned.

Amendment 146 would ensure that public funds deliver public goods and are not spent on forestry projects in a way that will have a negative impact on the environment through soil damage and/or on communities, while amendment 147 would require that any forestry project that was on land of 40 hectares or above or that would

“exceed 40 hectares if adjoined with existing woodland”

could receive support only if an environmental impact assessment had been conducted.

Spruce plantations are notorious for causing the spread of non-native invasive species through self-seeding, damaging native woodlands and high nature value grassland and jeopardising all the progress that has been made on restoring peatland, not to mention the issue of all the money that has been put into that. That is why environmental impact assessments should be a precondition of public funding for forestry projects of such size. For a matter of such importance, it is not enough to rely on guidance being followed. I am aware that there is already a threshold of 20 hectares for forestry on most land types; however, that is only guidance and, should the amendment be agreed to, I will lodge another amendment at stage 3 to change the threshold for support to 28 hectares, to align with the guidance.

I should say that I will not move the forestry amendments today; they are intended to start a conversation in advance of stage 3.

Turning to some of the other amendments in the group, I do not support Tim Eagle’s amendment 141, which seeks to enable the provision of support for “deer and game farming”. The high levels of deer throughout much of Scotland are blocking an effective response to the climate and nature emergencies. We know that deer numbers need to be reduced through culling, and we need more people working in deer stalking, as such roles are not only crucial but are key to rural communities. I would like there to be more support from the rural support budget for deer stalking instead of new support for deer farming. Furthermore, we should be eating the wild venison that is killed by necessity. If we encourage the production of more farmed deer in Scotland, there will be a glut on the market, leading to more food waste.

I worry, too, that support for game farming would largely go to wealthy grouse moor and estate owners, who already benefit the most from area-based farm support systems. The amendment, therefore, seems to run counter to several policy objectives, and I cannot support it.

I also cannot support Tim Eagle’s amendment 143, which seeks to enable support specifically for “foraged crops” to feed livestock. The list of products that can be supported already includes cereals, oilseeds, protein crops and fodder, and I am wary of increasing support for the production of livestock feed when growing food directly for humans uses less land and less energy.

Tim Eagle’s amendment 149 seeks to add “reintroduction of species” to the list of things that farmers can be compensated for if—

Rachael Hamilton: Will Ariane Burgess take an intervention?

Ariane Burgess: Yes.

Rachael Hamilton: On Tim Eagle’s amendment 143, some of those crops are really important for rotation. For example, peas and beans are particularly good for nitrogen fixing. What is it that the Scottish Greens do not like about the natural fixing of essential nutrients? Would you rather see artificial nitrogen put on the fields?

Ariane Burgess: I really appreciate that comment. We support nitrogen fixing through natural crops, but the concern is that the use of those crops would be focused on feeding livestock.

As I have said, amendment 149 is about reintroducing species. Management schemes such as the sea eagle management scheme already help farmers to deliver a positive outcome when working alongside other species, but the idea of compensation assumes that reintroductions are inherently negative. This sees nature as a problem, and that cannot be the way forward for sustainable and regenerative agriculture. Instead, we should look to improve and extend species management schemes to ensure that farmers are not out of pocket.

I support Mairi Gougeon’s amendment 8, which clarifies that enterprises that can be supported include

“co-operative societies and similar organisations.”

I would welcome the cabinet secretary’s assurance that food hubs would be included, too, as they are growing in popularity and offer a lifeline to small producers in the form of shared infrastructure and markets.

Finally, I have a query about Rhoda Grant’s amendment 53, which seeks to add both “herbs” and “machinery” to the list of supportable

products. I understand that it has been motivated by a desire to support machinery rings, which allow crofters to collaboratively purchase equipment. That approach should, of course, be encouraged, but I am not sure whether the amendment as worded would allow support to be provided for that. It looks as though it would enable support for the production of machinery, and I would appreciate some clarification in that respect.

Mairi Gougeon: A lot of important points have been raised today. I would also like to think that there are a lot of points of agreement around the table, given what we have heard so far and what I think we will hear when other amendments are spoken to.

First, I turn to the amendments in my name. Amendment 6 seeks to add “pig meat” to the list of products in paragraph 3(3) of schedule 1 to which Scottish ministers can provide particular support. That also includes support for ancillary purposes such as the packaging or distribution of the product. We are committed to supporting the pig sector, and enabling such support will give us more tools to do that.

Amendment 8 seeks to clarify that enterprises to which Scottish ministers might provide support in schedule 1 include

“co-operative societies and similar organisations.”

Agricultural co-operative societies make a vital contribution to our diverse agriculture industry and its diversity, and they are important for ensuring that we have innovation, sustainability, resilience and, ultimately, food security for Scotland and its rural communities.

Amendment 10 seeks to amend schedule 1 so as to give ministers as much flexibility as possible in providing support relating to research and development.

09:45

Amendment 11 seeks to amend paragraph 8(2) of schedule 1 to extend the range of ancillary activities for knowledge, innovation, education and training that can be supported to include the full range of purposes, as set out in sub-paragraphs (a) to (d) of paragraph 8(1) of the schedule. Including paragraph 8(1)(d) extends the coverage of ancillary activities so as to include support in connection with research and development to

“support those living, working or operating in rural areas ... improve or support rural land (or land use), or ... improve or support the environment”.

I ask the committee to support amendments 6, 8, 10 and 11.

I will turn to some of the other amendments in the group. Amendment 140 clarifies that growing crops is an agricultural activity, including, in particular, the growing of energy and non-food crops. It recognises that energy crops are an increasingly important component of Scottish agriculture as a way of meeting our growing domestic demand for biomass feedstock. I appreciate the discussions and the points that have been made around the table today about competing pressures on land. We must always seek to balance the amount of sustainable domestic biomass production without significantly impacting wider land use needs and opportunities, including food production. I ask the committee to support amendment 140.

Rachael Hamilton: I completely understand what you have said about protecting good food-growing land while ensuring that we can meet our environmental targets. I am minded to support the amendment, although Ariane Burgess is not. I wonder whether the right thing to do in the future would be to consider some of the schemes so that land is protected, noting that a limited number of schemes can support the biofuels industry. I am looking closely at what the UK Government is doing.

Mairi Gougeon: Absolutely. We are open to having a further discussion on that. By no means are we setting up a payment scheme here. The measures in the bill that we are discussing today will allow us potentially to provide support in the future. I hope that we will engage and have further discussion on that, and I am more than happy to pick that up with the member.

Amendment 141 seeks to amend paragraph 1 of schedule 1, which sets out examples of agricultural activities that might be supported by us in the future. As we have heard from Tim Eagle, the amendment adds “deer and game farming” to that list of agricultural activities. That is important, given the importance of both of those types of farming to a diverse agricultural industry, so I ask the committee to support amendment 141.

Amendment 142 seeks to add

“providing shelter to livestock ... reducing flood risk ... reducing soil loss”

and

“reducing risks to wader birds, including curlew”

among the “references to agriculture” in the bill. Support for those purposes is already covered by paragraphs 1 and 15 of schedule 1, but I am happy to support amendment 142.

Amendment 143 seeks to add

“cereals and oilseeds, peas and beans, other foraged crops”

among the “references to agriculture”. That provision is similar to amendment 140, which has been moved by Emma Roddick and which is more comprehensive than amendment 143. Given that, I would ask Tim Eagle not to move amendment 143.

Amendment 51 seeks to amend schedule 1, which sets out the range of support that can be provided for the production of agricultural products. The amendment expands the range of outcomes that support will achieve by adding support for the transition to sustainable land management. I am happy to support that amendment.

Amendment 52 seeks to amend schedule 1 by adding “wool” to the list of products in paragraph 3(3). Wool is an important and sustainable ancillary product of the agricultural industry. I ask the committee to support amendment 52.

Amendment 53 seeks to amend schedule 1 by adding “herbs” and “machinery”. I have no issue with adding herbs to the list of products that can be supported, but I have concerns similar to those that were raised by Ariane Burgess in relation to adding machinery to the list, as it is not an agricultural product. I should point out that it is already possible for us to provide support in respect of machinery under paragraph 7 of schedule 1. That would include investing in rural businesses and co-operatives, which would include support for machinery rings. I would ask Rhoda Grant not to move amendment 53, perhaps with a view to making a change to cover herbs at stage 3.

Amendment 7 seeks to add “poultry meat and eggs” to the list of products in paragraph 3(3) of schedule 1, and amendment 144 seeks to add “venison” to that list. The Government is committed to supporting the poultry, broiler, egg and venison sectors, so I ask the committee to support amendments 7 and 144.

Amendment 145 would amend paragraph 3(4) of schedule 1 to provide that people would not be able to be supported under the terms of paragraph 3(2) if they produced venison only as an “ancillary activity”. I do not believe that that change would support the venison sector, and I am not entirely sure of the reasoning behind the amendment, so I look forward to hearing more information about it. At the moment, though, I ask the committee not to support amendment 145.

Amendment 54 would amend schedule 1 to require that preference be given to those involved in “primary production activities” when assistance was provided under paragraph 4 for those producing or processing food. Paragraphs 2 and 3 of schedule 1 already provide for support for primary producers, and our support priorities will,

of course, be set out in the rural support plan when we publish it in due course.

However, amendment 54 pre-empts the decisions that we will want to make with the sector as part of the co-development work that we are undertaking. Through that approach, we will work out when it is appropriate to give preference to primary producers and when it is not, for a legitimate reason. I will give an example to highlight some of the potential issues with the amendment. It could result in less support being available to food processors, despite the valuable contribution that they make to our Scottish food and drink industry, so I ask the committee not to support amendment 54.

Amendment 146 seeks to restrict the support that could be given in the future for creating new woodland. The Scottish ministers must already have regard to the forestry strategy when we exercise our functions in relation to sustainable forest management, and the strategy’s principles must be adhered to when we develop any forestry support, including any support that will be provided under the bill. The underlying principles behind amendment 146 would limit the support that we could provide, even if there was a good and legitimate reason for us to provide support, such as the protection of jobs in rural communities. However, I appreciate the overall objective that Ariane Burgess is trying to achieve, and I am keen to strengthen our commitment to creating more sustainable Scottish woodland, so I ask her not to move amendment 146, to allow me to consider the proposals further and work with her ahead of stage 3.

Amendment 55 seeks to amend paragraph 5(1)(c) of schedule 1 to restrict the types of available forestry support for agroforestry activities on arable land to only “hedges and wind breaks”. Although I completely understand the concerns that have led to the amendment being lodged, it would prevent agroforestry systems on all arable land, and some such land could be suitable for a mixed production approach. Paragraph 5(1)(c) provides support to farmers for the implementation of agroforestry systems, which are critical to integrating trees on farms while maintaining primary agricultural production and offering additional benefits to arable businesses, including through carbon capture, enhanced biodiversity and business diversification. Given that clarification, I hope that Rhoda Grant will not move amendment 55. If she does, I encourage the committee not to support it.

Rhoda Grant: The cabinet secretary is surely aware that an awful lot of trees are being planted in the wrong places, on good arable land. We need to do something about that. Obviously, we cannot do everything about it through the bill, but

we can stop public money going to support that activity. Will the cabinet secretary meet me prior to stage 3 to try to find a way of stopping public money being used to support that wrong activity?

Mairi Gougeon: I am more than happy to meet Rhoda Grant to discuss the issues further, because, as I said, I completely understand the rationale for amendment 55 being lodged. However, the way that the amendment has been drafted means that it is too restrictive in relation to the types of activity. As I said, I am more than happy to pick up that conversation with her before stage 3.

Amendment 147 seeks to limit the power of the Scottish ministers to provide forestry support under the bill unless an environmental impact assessment has been completed for all woodland creation schemes on land of more than 40 hectares and for smaller schemes on land that would, cumulatively, exceed 40 hectares.

I understand that the amendment is based on a recommendation that was made in a report that was published by the Royal Society of Edinburgh. Scottish Forestry believes that the recommendation and the thought process that led to it were based on a flawed understanding of how EIA regulations for forestry work. All new Scottish planting schemes that exceed 20 hectares are already subject to screening assessments under the Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017, as are any other projects that are in an environmentally sensitive area, regardless of the size of the project.

Amendment 147 would apply only to grant-funded woodland, which would result in a two-tier system developing in which grant-funded woodland creation would be subject to more onerous administrative and financial requirements than woodland creation that is funded by private investment, which could include community-owned woodland. That could result in a slowdown in woodland creation or, worst of all, a significant downturn in the creation of new woodland, particularly native woodland, and in natural regeneration. It would directly disadvantage Scottish farmers and other land managers, whereas woodland investment that was privately funded would not be disadvantaged. If it were to pass, amendment 147 would significantly increase the bureaucracy and costs related to publicly funded tree planting.

I hope that committee members agree that we do not want those things to happen, particularly at a time when we want to support our Scottish land managers to undertake the right climate change mitigation actions for their needs. That is why I do not support amendment 147. I ask Ariane Burgess not to press her amendment.

Ariane Burgess: I am interested in discussing this further and in bringing together the folks in the forestry sector and the RSE to get clarity in relation to the misunderstanding of how forestry EIA regulations work. The RSE has done a tremendous body of work. It would be helpful to keep it on board and to get some kind of collaboration going with the society.

Mairi Gougeon: I am more than happy to have that conversation.

I turn to Brian Whittle's amendment 56, which seeks to amend part 4 of schedule 1 by specifically referencing the

"identification of rural anchor institutions".

I fully recognise and value the important role of anchor institutions in supporting rural development, and I am happy to support amendment 56.

Amendment 57 seeks to enable support to be provided to rural communities to help to create community benefits. Amendment 58 seeks to enable Scottish ministers to assist people to start a business or enterprise for the purpose of nature restoration, which is a core objective of our agricultural policy and our vision for agriculture. Amendment 59 seeks to enable Scottish ministers to provide support to assist

"persons to invest in nature-based enterprises in rural areas."

I agree that we should be able to do that. Amendment 62 seeks to amend schedule 1 to widen the activities that could be supported under the new rural support framework. I support the objectives behind those amendments, and I urge the committee to support amendments 57 to 59 and 62.

Tim Eagle's amendment 148 seeks to amend paragraph 12 of schedule 1, which covers support for recreational access to land. It would have the effect that support could be provided only for the purpose of improving recreational access to land. However, I do not think that that would be a useful change. If persons use the improved access, access must be responsible under the right to roam, as set out in the Land Reform (Scotland) Act 2003. If they use the improved access on some other basis—for example, because it is a right of way or because the owner gives consent—ministers would not be able to provide support. I ask the committee not to support amendment 148.

Amendment 60 seeks to improve paragraph 13 of schedule 1, on soil, by providing further details of what can be done for the purpose of improving or protecting soil health and quality, which are of vital importance for our farmers and the wider environment. I think that the clarification provided

by the amendment is useful, so I ask the committee to support it.

Amendment 61 seeks to amend schedule 1 so that assistance should include actions relating to “agriculture, forestry, land use and land use change.”

I am happy to support that amendment.

Amendment 149 seeks to augment the purposes of support to include compensating persons in respect of the additional costs that are incurred and income that is lost by the person in consequence of the implementation of the reintroduction of particular species. I have some sympathy with what Tim Eagle is trying to achieve with his amendment. As has been mentioned, we provide compensation in relation to some species, but we do not normally do that through this route. However, it would be worth while to provide the opportunity to provide such support in the future under schedule 1.

I note that amendment 149 also covers the introduction of non-native species, which I do not think was necessarily intended. I ask Tim Eagle not to press amendment 149 at this stage in order to allow me to consider the issues further ahead of stage 3.

Amendment 63 seeks to amend schedule 1 to expand support under the new proposed rural support framework to include those persons, businesses and organisations that wish to preserve or protect water and the land’s capacity for holding water. I am therefore happy to support amendment 63.

10:00

Lastly, amendment 201 seeks to add a definition of “horticulture” to paragraph 2(2) in schedule 1. I think that the word would otherwise take its ordinary meaning, which does not appear to be particularly different but offers more flexibility. That said, I understand that the amendment is intended to bring further clarity and I am happy to support it, although I may come back to tweak some of that wording ahead of stage 3.

Rhoda Grant: I will speak to amendment 53 and the other amendments in my name. I have heard what the cabinet secretary said about herbs and machinery. I accept the reassurance that she gave about machinery rings, which was the aim of that amendment. I will come back at stage 3 with an amendment with regard to herbs.

Amendment 145 is consequential to Beatrice Wishart’s amendment 144. I support her amendment in so far as it relates to venison farming. However, like others, I do not believe that wild deer should be supported through agricultural

subsidies. My amendment, like Tim Eagle’s, seeks to restrict that support to venison farming.

On amendment 55, again, I hear what the cabinet secretary said and I will take her up on her offer to discuss how we can try to stop the wrong trees being planted in the wrong place and having valuable farmland lost to tree planting.

Amendment 61 relates to the section on greenhouse gases and climate change, ensuring that actions stipulated in other plans in this policy area, such as the climate adaptation plan, have influence on the legislation. The amendment tries to provide for joined-up policy making.

Amendment 63 adds a reference to “the water holding capacity of land”

and is designed to look at flood prevention and protection. We need to look at ways in which to prevent flooding, given climate change. Farmers and crofters have a role to play, but we have to work with them. We cannot risk their crops and livelihoods being wiped out, so we must plan flood responses with them and ensure that Government assistance is available to do that.

Ariane Burgess’s amendment 62 causes me some concern. I am afraid that we may end up returning to the days of slipper farmers, when people were paid to do nothing productive on their land in return for public funding. It did not bring any benefit at all—quite the opposite. It had a negative impact on nature.

The other amendments in this group seek to add items to schedule 1, and I will support those where appropriate.

Beatrice Wishart (Shetland Islands) (LD): Amendment 144 seeks to expand the schedule 1 list of products that could be supported by Scottish ministers by adding venison to the list. Stakeholders have expressed concern about the extent to which the bill supports or does not support different areas. The amendment provides much-needed clarity that venison is a product that can be supported by Scottish ministers. It provides important future flexibility, as venison presents an opportunity for the agricultural sector and for food security, particularly in relation to finding new markets for culled venison. I ask the committee to support amendment 144.

Brian Whittle (South Scotland) (Con): My amendment 54 is an effort to support the production of high-quality food in Scotland. We know that Scotland produces high-quality, nutritious food through primary production. What we are trying to do in the bill—and what we should be doing across portfolios and across legislation—is ensure that there is availability of high-quality food across our society, as opposed to highly processed food, which is the current situation.

The NFUS supports the amendment and, contrary to what the cabinet secretary said, the amendment also supports on-farm processing. Scottish food travels too far to be processed; some of it is processed down south and we do not do enough processing in Scotland. Amendment 54 aligns with the aims of the Good Food Nation (Scotland) Act 2022 by investing in local businesses, adds value to farm businesses and helps with their sustainability and the economy.

We would all agree that having higher-quality food available in Scotland would reduce the negative consequences of poor diet that cause a strain on our national health service. Ill health in Scotland is the biggest drag on the Scottish economy. That widens out to the local authority level. We are demanding from local authorities good food nation plans that focus on local procurement for schools and hospitals. Early diet interventions in schools have been shown to create long-term healthy eating habits.

We are also looking across portfolios at things such as education and trying to tackle poor mental and physical health, low attainment and even behaviour issues. Having access to a better diet and pushing the message out there about having a better diet speaks across the education portfolio. Healthier diets in hospitals also promote better and quicker recovery, which tackles the time that people spend in hospital. We need to move outside our portfolios and work across portfolios and across bills.

Supporting primary production in Scotland reduces food miles for imports and makes Scotland more food secure. It is illogical that we are driving our food producers to produce ever greener food yet we are arguing about an amendment to a bill that is trying to aid that. It seems illogical for us to ask our farmers to be ever greener when we are not doing that ourselves. The cabinet secretary says that other bills that are coming down the line will address that, but every bill should be addressing it. Why should this bill not help to drive that change?

My amendment 56 seeks to include the “identification of rural anchor institutions”

as a subsection of the development strategies for rural areas, to tie in with future community wealth-building legislation. Although current research on anchor institutions in rural areas is limited, it is clear that anchor institutions in rural areas are not the same as they are in urban areas. Large public sector bodies, such as hospitals and schools are a typical model for urban areas. We need to look at how we can help rural communities to identify economically viable businesses and enterprises in their area that could serve the same function as traditionally defined anchor institutions. Examples

might be farming co-operatives, markets and processing facilities.

Amendment 56 is supported by the Scottish Rewilding Alliance, which believes that it will help to support a place-based approach to building a nature-based economy and investing in local areas. I ask the committee to support the amendment.

Rachael Hamilton: Will the member take an intervention?

Brian Whittle: Of course.

Rachael Hamilton: I had never heard of rural anchor institutions, as you well know—we have discussed that. I was a bit sceptical about the amendment being something that others could understand, but I think that, from your description, it is really important. Rhoda Grant has been highlighting machinery rings, which can offer a number of ancillary services, some of which—co-operatives and others—help people with things like mental health and set up supportive networks. Amendment 56 is really important and I will support it.

Brian Whittle: I thank Rachael Hamilton. As I said, it is important that we do not consider bills in isolation. We should look at other bills and at other legislation that is coming down the track. We should look at how we, in delivering the bill, can drive the direction of travel of other bills. Parliaments in general are bad at cross-portfolio work, so I appreciate Rachael Hamilton’s contribution.

The Convener: I call Emma Roddick to wind up and to press or withdraw amendment 140, which is in the name of Kate Forbes.

Emma Roddick: The amendment provides much needed clarification for those producing crops for the uses listed. I will press it, and I encourage colleagues to vote for it.

The Convener: Just in case there is any confusion in the future regarding groupings, Ariane Burgess’s suggestion that the groupings are wrong is, in fact, not correct. The list of groupings shows the order in which amendments will be debated, not the order in which they will be disposed of. I therefore have confidence that the decisions taken earlier were correct.

The question is, that amendment 140 be agreed to. Are we agreed?

Members: Yes.

The Convener: I call amendment 141, in the name of Tim Eagle, which has already been debated with amendment 140—

Ariane Burgess: I am sorry, convener—can we go back to amendment 140? I was just thrown a

little bit by your earlier comment. I was not saying that anything was wrong—I was simply saying that the grouping on the power to provide support procedure contained amendment 157 when, in fact, it should have been amendment 139.

Can we go back to amendment 140, please? I would like to vote no on it.

The Convener: Your assertion is still wrong. The groupings are correct.

Ariane Burgess: It was just one number in a grouping, not the groupings themselves.

The Convener: They are actually correct—they are not wrong.

We will move back to amendment 140. The question is, that amendment 140 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 8, Against 1, Abstentions 0.

Amendment 140 agreed to.

Amendment 141 moved—[Tim Eagle].

The Convener: The question is, that amendment 141 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Burgess, Ariane (Highlands and Islands) (Green)

The Convener: The result of the division is: For 8, Against 1, Abstentions 0.

Amendment 141 agreed to.

Amendment 142 moved—[Ariane Burgess]—and agreed to.

The Convener: Amendment 143, in the name of Tim Eagle, has already been debated with amendment 140.

Tim Eagle: I agree with the minister's point and therefore will not move the amendment.

Amendment 143 not moved.

Amendments 201, 51 and 52 moved—[Ariane Burgess]—and agreed to.

Amendment 6 moved—[Mairi Gougeon]—and agreed to.

Amendment 53 not moved.

Amendment 7 moved—[Rhoda Grant]—and agreed to.

10:15

Amendment 144 moved—[Beatrice Wishart]—and agreed to.

Amendment 145 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 145 disagreed to.

Amendment 54 moved—[Brian Whittle].

The Convener: The question is, that amendment 54 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 54 disagreed to.

Amendments 146, 55 and 147 not moved.

Amendment 56 moved—[Brian Whittle]—and agreed to.

Amendments 57 and 58 moved—[Ariane Burgess]—and agreed to.

Amendment 8 moved—[Mairi Gougeon]—and agreed to.

The Convener: I suspend the meeting for a short comfort break. We will resume at 10:30.

10:18

Meeting suspended.

10:30

On resuming—

The Convener: Amendment 9, in the name of the cabinet secretary, is grouped with amendments 12, 18 and 19. If amendment 12 is agreed to, I cannot call amendment 179 due to pre-emption.

Mairi Gougeon: I do not have much to say, because amendments 9, 12 and 18 correct some minor typographical errors that were identified following the bill's introduction.

I will add one point on amendment 19, which reverses the repeal of section 60 of the Agriculture (Scotland) Act 1948. Initially, we included the repeal in the bill because it was thought that the power to appropriate land in section 60 was no longer used. However, it is used, including in respect of the 2018 action that was taken by Scottish ministers to acquire the land at the former Ravenscraig hospital from NHS Greater Glasgow and Clyde for the purposes of local housing.

I encourage the committee to support the amendments.

I move amendment 9.

Amendment 9 agreed to.

Amendments 10 and 11 moved—[Mairi Gougeon]—and agreed to.

Amendment 148 moved—[Tim Eagle].

The Convener: The question is, that amendment 148 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 148 disagreed to.

Amendment 59 moved—[Ariane Burgess].

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

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 6, Against 3, Abstentions 0.

Amendment 59 agreed to.

Amendment 60 moved—[Ariane Burgess]—and agreed to.

Amendment 61 moved—[Rhoda Grant]—and agreed to.

Amendment 62 moved—[Ariane Burgess].

The Convener: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)

Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)

Against

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)
 (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 5, Against 4, Abstentions 0.

Amendment 62 agreed to.

The Convener: I call amendment 149, in the name of Tim Eagle.

Tim Eagle: I am happy to work with the cabinet secretary, so I will not move the amendment.

Amendment 149 not moved.

Amendment 63 moved—[Rhoda Grant]—and agreed to.

Schedule 1, as amended, agreed to.

Section 5—Funding third party support

Amendment 64 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)
 (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)

The Convener: The result of the division is: For 4, Against 5 Abstentions 0.

Amendment 64 disagreed to.

Section 5 agreed to.

Section 6—Form of support and conditions

The Convener: Amendment 202, in the name of Brian Whittle, is grouped with amendments 66 and 203.

Brian Whittle: My amendments 202 and 203 seek to place the production of food and drink on high-quality agricultural land at the heart of the bill

by ensuring that such land is retained, as far as possible, for agricultural use and not other uses.

Prime agricultural land should be reserved for the primary production of food products, and consideration of other activities such as tree planting and renewables must be given with future food security in mind. The amendments seek to prioritise those primary production activities. They are supported by the NFUS and Scottish Land & Estates.

I make it clear that Regulation (EC) No 178/2002 of the European Parliament and of the Council, which Food Standards Scotland adheres to, defines “primary production” as

“the production, rearing or growing of primary products including harvesting, milking and farmed animal production prior to slaughter. It also includes hunting and fishing and the harvesting of wild products”.

Agriculture is the single biggest use of land in Scotland, but half of that land is rough grassland and many areas are inactive. When you look at how that breaks down, arable agriculture makes up 8 per cent of Scotland’s total land area. We must protect that land. Improved grassland, which is limited to grass production due to circumstances such as slope, is only 18 per cent of the total area; mixed agriculture is only 20 per cent, and rough grazing, where land has severe limitations that prevent improvement by mechanical means, totals 51 per cent. We do not have an awful lot of primary production land, and, given our concerns about food security, it is important that we use that land specifically for the production of food when we can. I am interested in how the committee will respond to that issue, because it speaks to how the Government sees Scottish land use.

As I said, amendments 202 and 203 are about placing the production of food and drink on high-quality agricultural land at the heart of the bill.

I move amendment 202.

Rhoda Grant: Amendment 66 seeks to ensure that any conditionality is

“proportionate to the size of land where the activity is taking place.”

The legislation will give funding support and will rightly impose conditions on that support. Amendment 66 seeks to ensure that that conditionality is proportionate to the size of the enterprise concerned. I recognise that there might be better ways of doing that, so I will listen carefully to any comments.

I am supportive of Brian Whittle’s amendments in this group.

Mairi Gougeon: Section 6 will enable us to provide future support in different forms, such as grants, loans or guarantees, and it will also enable

us to then put conditions on that support. It is deliberately broadly drafted to provide maximum flexibility and to enable the Government and Parliament to future proof the provisions introduced by the bill.

Amendments 202 and 203, in the name of Brian Whittle, seek to prioritise support for different activities. I have been consistently clear that there is no contradiction between high-quality food production and producing food in a way that works for climate and nature. Amendments 202 and 203 directly contradict that and fly in the face of what we have tried to set out. The powers in section 6 are already broad enough to enable us to prioritise “primary production of food and drink products”

in the manner intended, if it is right to do so. I do not consider amendments 202 and 203 to be helpful additions to the bill, because they would probably confuse things rather than help understanding. I therefore ask the committee not to support them.

Amendment 66 would impose conditions on how we deliver future support. Although I understand the intention behind the amendment, which Rhoda Grant lodged, it does not work, because the purposes for which support can be provided extend far beyond land. Examples that highlight that are existing cross-compliance statutory management requirements, such as those that relate to animal health and welfare, food and feed, safety and traceability, and the requirements for the conservation of wild birds. There are also other examples. Those are all vital conditions for protecting animal and human health and the environment. Such measures cannot be restricted on the basis of farm size. That is why I encourage members not to support amendment 66.

Rhoda Grant: My amendment 66 does not seek to do what the cabinet secretary suggests. A lot of the conditions that could easily be met by large farms with lots of employees cannot be met by small farmers or crofters—single-handed businesses. Will the cabinet secretary reassure me that the conditions that are placed on any support will be proportionate to the size and scale of the operation?

Mairi Gougeon: I absolutely understand why the amendment was lodged and what it is trying to achieve. We are working with farmers, crofters and land managers to develop future support because we realise that there cannot be a one-size-fits-all approach. We need to make sure that the measures that we introduce work for small farmers and crofters as well as for larger landowners. The work that we do on that will be important.

The Convener: I call Brian Whittle to wind up and clarify whether he will press or withdraw amendment 202.

Brian Whittle: I will press the amendment, convener.

The Convener: The question is, that amendment 202 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 202 disagreed to.

Amendment 66 not moved.

Section 6 agreed to.

After section 6

Amendment 150 moved—[Rhoda Grant].

The Convener: The question is, that amendment 150 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 150 disagreed to.

Section 7—Guidance

The Convener: Amendment 151, in the name of Tim Eagle, is grouped with amendments 152 to 155.

Tim Eagle: All the amendments in the group are in my name, so I will try to rattle through them.

The group is about clarification. I do not quite understand where we are between guidance and statutory or legal duties.

Amendment 151 would clarify the guidance referred to in section 7, which is confusing on how the code of practice on sustainable and regenerative agriculture could be used. The mention of the code in that context should be removed.

Amendments 152 and 153 seek to change the bill to ensure that guidance on a particular scheme or purpose is laid before the Scottish Parliament and published. The bill allows for one or the other. If the committee agrees to amendment 152, it will need to consider amendment 153, as the phrase “(or both)” at the end of section 7(2)(a) will no longer be required.

Amendments 154 and 155 would ensure that guidance that is produced under section 7 remains as guidance or advice rather than stringent regulation that must be complied with. The section states that provision will be made that specifies

“the extent to which compliance with guidance on a particular topic”

relates to

“a statutory duty or condition of support”,

as well as

“the admissibility or evidential value of the guidance in legal proceedings.”

Therefore, the removal of sections 7(2)(c) and 7(2)(d) would assure farmers and crofters that guidance will remain just that, rather than a statutory or regulatory prism.

10:45

Mairi Gougeon: I hope that some of my comments will help to provide Tim Eagle with some of the clarification that he seeks with his amendments.

Section 7 enables us to make regulations about guidance. Regulations can provide for whether any particular guidance should be published or laid, whether any person should have regard to the guidance, the legal effect of not complying with it and the status of guidance in legal proceedings. We issue a lot of guidance, most of which can and should be administrative guidance only. It does not need to be laid or formally published and it can

stand on its own terms. However, some guidance is more significant than that, which is why the power in section 7 is important. We have to be able to make rules about the important guidance, including about the cases where compliance with the guidance is relevant to some other question and cases where guidance should be admissible and have evidential value in legal proceedings.

On amendment 151, the code of practice on sustainable and regenerative agriculture aims to provide guidance for farmers, crofters and land managers on how to deliver sustainable and regenerative practice. It is intended not to be prescriptive but to provide examples and good practice. It is also intended to be readily updated and added to as our practice and understanding of what works in those practices adjust over time.

In section 26, we set out that

“The Scottish Ministers must prepare and publish a document providing guidance on sustainable and regenerative agriculture”

and that, in doing so, we have to consult our industry and, of course, beyond that. The code is explicitly referred to in section 7 to make it clear that the guidance in the code is guidance for the purposes of the powers in that section. Removing that reference, as amendment 151 proposes, would not change the status of the guidance in the code, because it would still be guidance. That is why I encourage the committee not to support amendment 151.

Amendments 152 and 153 remove the flexibility for ministers to choose to simply publish guidance or to lay it before Parliament, or to do both. I thought that there would be merit in that flexibility, which is why the bill was drafted in that way, but I am more than happy to support amendments 152 and 153.

I am still not entirely clear what the issue is with amendment 154. The power in section 7 is relatively modest and technical. Any regulations that we make will, of course, be subject to scrutiny by the Parliament. I do not know whether Tim Eagle thinks that the power would be used to impose unfair burdens on farmers and crofters and that we would penalise them for not following guidance. I can clarify that that is not the case. It is certainly not what we have set out.

Rachael Hamilton: I would like to understand where the cabinet secretary is coming from, because Tim Eagle’s amendment 154 speaks very much about what the Government has just advocated in relation to the guidance, rather than guidance that has an aspect of being a regulatory or statutory prism. I believe that the cabinet secretary is arguing against supporting amendments 154 and 155 by not agreeing that it

is unnecessary to have a statutory obligation, which is what amendment 154 sets out to remove.

Mairi Gougeon: I hope that the rest of my comments will better answer some of the concerns that you raise. I understand the concerns that have been raised, because we discussed the issue at length in committee. I also understand why the amendments in the group have been lodged. However, I am trying to set out why section 7 is relevant and important.

Amendment 154 shows a misunderstanding of why we might want provisions on compliance with guidance and why that should be taken into account when we determine whether a duty or condition has been met.

In the example of a farmer who had potentially been challenged, a provision of that type might help them to show that what they were doing was lawful or that it met a condition of support. It might help them to show that a particular penalty should not be applied, which would be more likely to ensure fairness than the contrary, as well as helping farmers to manage their businesses with certainty.

Another example is that, under the current schemes, scales of compliance are reflected in cross-compliance. There are currently 32 ways in which a breach of cross-compliance can be assessed that recognise intent, extent, severity, permanence and reoccurrence. Penalties can range from 1 per cent to 100 per cent. Guidance on penalties is currently set out on the rural payments and services website, which provides clarity to claimants.

We could use that power to set out the extent to which compliance with the guidance is relevant in determining whether there is a breach. That would provide greater certainty for farmers who just want to do the right thing. By removing it, amendment 154 would remove the ability to provide that clarity. To be fair, I do not think that that was the intent of the amendment. Therefore, I encourage Tim Eagle not to press the amendment. If he does, I encourage the committee not to support it.

Rachael Hamilton: During the evidence sessions, many stakeholders and farmers—those people at the grass roots—described the guidance as having to be, from the Government's point of view, carrot rather than stick. I am surprised that we are now in this conversation whereby the Government is looking at assessing what level of cross-compliance there should be when the whole of section 7 is about guidance. I think that it will be quite worrying for farmers that you have said that, cabinet secretary. I am concerned that farmers will be worried that they are not being given the carrot and are being given more of the stick.

Mairi Gougeon: As I have outlined to the committee previously, the code of practice in sustainable and regenerative agriculture is meant to be that guidance and support. It will adapt and change over time. It is meant to be a supportive document for our farmers and crofters. I am trying to outline alternative examples of how its use or application could benefit a farmer or crofter, and I think that that helpfully illustrates how it is intended to be used.

In relation to amendment 155, although guidance might not be mandatory, there are circumstances in which it is helpful to the parties or to the court for them to be able to give due weight to guidance and legal proceedings. That is why section 7(2)(d) has been included in the bill. Current cross-compliance provides an example of that. We have the 13 statutory management requirements, which are based on existing legislation. Cross-compliance operates separately from the criminal process, but criminal proceedings can run in parallel. For example, a claimant who has falsified a cattle passport might be prosecuted by the local authority, as well as having a penalty applied to the support scheme payments. Again, we have set out that information on the relevant websites, which provide clarity to claimants.

By removing section 7(2)(d), amendment 155 would remove the ability to make regulations that would help the courts to act in a way that is fair to everyone. Again, as with the previous amendment, I do not think that that is the intention or what is looking to be achieved, which is why I ask the committee not to support the amendment.

Tim Eagle: It was not my intention to cause added confusion. Picking up on Rachael Hamilton's points, my purpose in bringing that up was to make sure that the guidance really is guidance, rather than statutory provisions. I say that because my experience is that many farmers were worried in the past about environmental schemes such as AECS—the agri-environment climate scheme—whereby the regulations were such that they prohibited them from accessing the scheme for fear that something was going to go wrong. It was about making sure that we support farmers. I understand what the cabinet secretary is saying and I will not press amendment 151, but I would like to move amendments 152 and 153.

Amendment 151, by agreement, withdrawn.

Amendments 152 and 153 moved—[Tim Eagle]—and agreed to.

Amendments 154 and 155 not moved.

Amendment 156 moved—[Beatrice Wishart].

The Convener: The question is, that amendment 156 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)
 (Con)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 156 disagreed to.

Section 7, as amended, agreed to.

Section 8—Delegation

Amendment 157 not moved.

Section 8 agreed to.

Section 9—Power to cap support and assistance

The Convener: Amendment 67, in the name of Ariane Burgess, is grouped with amendments 158, 68 to 71 and 159 to 165.

Ariane Burgess: My amendments in the group relate to redistribution of the agriculture support budget in line with social justice principles. Under the area-based system, the more farmland you have, the more support you get, regardless of what you do with that land or how much food you produce.

Many stakeholders are rightly highlighting the injustice of that system. Committee members might remember the demonstration outside the Scottish Parliament in February that was organised by the Landworkers Alliance, the Scottish Crofting Federation and three other organisations. They do not think that it is right that half of the agriculture budget goes to fewer than 10 per cent of Scottish farms—the largest, wealthiest and most profitable ones—while the small and medium-scale farmers, crofters and growers who produce our food and support nature restoration are struggling to make ends meet. It is not fair for farmers and it is not fair for the Scottish public, who expect public funds to support public goods, not to subsidise already wealthy landowners.

Section 9 gives ministers the powers to cap and/or taper farm support payments. If enacted, that would mean that funding would not increase

indefinitely in line with the amount of farmland owned. That recognises that there is social value in limiting the amount of public funds given to the largest, wealthiest farms and in freeing up some of the agriculture budget to redistribute to some smaller or medium-sized farms, crofts or plots.

The current farm payment system already makes use of some minor capping and tapering and it would be seriously regrettable to backtrack on that progressive policy. Amendment 67 changes the power for ministers to enact capping and tapering to a duty to do so.

Amendment 68 would establish a minimum income floor for recipients of agricultural support. That would work well in conjunction with my later amendments on establishing a productive activity assessment as an optional route to qualify for income support, so that we can be sure that public money is supporting public goods. The farmers and crofters who are working hard to provide those public goods should be assured of a liveable income. Surely, that is essential to achieving the Government's fair work and just transition aspirations. Perhaps it could form the basis of a trial of some kind of universal basic income for all farmers and crofters in Scotland.

Amendments 70 and 71 would give ministers the power to front load farm payments, which would mean that farmers would receive a higher rate for their first number of hectares up to a certain threshold. That would do the most to support small producers, who currently receive very little, if any, of the farmers support budget. Scotland has an income tax and benefits system that redistributes money from the asset-rich to the poor, because our society sees the value in that. Why not do similarly in farming, where just 9 per cent of holdings account for 76 per cent of the land? The Scottish Government has said that it will transform the way that it supports farming and crofting, but the committee's report quotes the SCF's submission that,

"after over 20 years of discussion about 'public funds for public goods' ... no commitment is made to meaningfully reform the system of area-based payments which, in its present form, mainly favours large landowners."

That needs to change.

11:00

The cabinet secretary assured me that the Scottish Government is exploring the most effective mechanisms for achieving those policy intentions, which might include some combination of capping, tapering and/or front loading, or other mechanisms. I would welcome additional assurance about that.

I support Colin Smyth's amendment 158, which would limit capping and tapering to tier 1, the most

basic level of farming support. That would avoid the imposition of limits on schemes in tiers 2 and 4 that are designed to incentivise improvements for climate and nature and other policy objectives. Capping and tapering tier 1 would free up additional budget for those crucial schemes.

I move amendment 67.

The Convener: I call Rhoda Grant to speak to amendment 158, in the name of Colin Smyth, to amendment 69 in her name and to the other amendments in the group.

Rhoda Grant: Amendment 158, in the name of Colin Smyth, reflects some stakeholders' concerns about the capping of higher tiers that allow for carbon sequestration and nature restoration, which might mean that those public goods are less well funded. They argue that, in the higher tiers, public policy benefits increase as payments increase, meaning that capping the limit in those tiers might have unintended consequences. I wonder whether the cabinet secretary can assure us that capping will not reduce public goods and will indicate how we can maximise public benefit through carbon sequestration and nature restoration in a way that allows every holding to contribute and play its part.

My amendment 69 seeks to use redistribution to ensure that small-scale producers can afford to operate. We know that small producers provide benefits to local food production and that their methods are often more carbon neutral and nature friendly than those of others. I spoke last week about the uneven distribution of funding and about how the most challenged areas receive the least, while the least challenged areas receive the most. Many small producers cannot afford to pay themselves a living wage. We must ensure that all agricultural work is fairly paid, but we must focus on small producers to encourage them to stay in business.

Beatrice Wishart: Section 9, as drafted, gives the Scottish ministers the power either to cap or taper payments. Rightly, it does not compel the Scottish ministers to use those powers, nor does it stipulate how they are to be used, leaving that for secondary legislation. My amendment 159 seeks to state in the bill that the Scottish ministers also have the power to use a front-loading approach, which is similar to, but distinct from, tapering. Stating that within the bill will indicate that the Scottish ministers have the power to use that tool to address the disadvantages faced by crofters and smaller farmers.

My amendment 165 defines "payments under tier 1" in section 9.

Amendment 163, in my name, would define the persons consulted on the powers in section 9 as those who are

"likely to be affected by provisions in this section".

I believe that that more specific wording will ensure that those who are affected by the provisions have the opportunity to voice their views through consultation.

Amendment 164, in my name, would require regulations made under section 9 to be subject to the affirmative procedure. In my view, that would be the appropriate level of scrutiny for the powers that the Scottish ministers have in that section.

I ask members to support my amendments 159, 163, 164 and 165.

Rachael Hamilton: My amendment 160 requires a consultation, within six months of royal assent, on the proposed use of the section 9 powers to cap. A suggestion to that effect was highlighted in the committee's stage 1 report, which asked the Government

"to ensure that any consultation on capping, tapering or frontloading payments is completed at an early opportunity with consideration for businesses that would be affected by any change."

My amendment would give stakeholders the opportunity to make representations on key issues to the Scottish Government. Requiring that to be done within six months of royal assent would provide certainty about future payment schemes for those who are affected by any changes.

Regarding some of the other amendments in the group, we will support amendment 159 and particularly amendment 161, which provides for effective consultation, as well as amendments 162 and 163. I also very much support amendment 164, which makes the capping powers subject to the affirmative procedure.

Edward Mountain (Highlands and Islands) (Con): Before I say anything, I remind members of my declaration of interests, about which I will be entirely clear. I have 140 pedigree suckler cows that produce top-quality beef in Scotland. I grow grain that is used for the production of whisky and feed, and I grow vegetables under contract. I employ three people, who are fully involved, one of whom lives on the farm with his family. I generate and pay tax in Scotland and the single farm payment that I receive covers less than 15 per cent of the annual outgoings for the farm. I hope that that is clear and that there is no dubiety about where I come from.

Regarding the previous amendments in this group, one must be really careful when capping things, for the simple reason that capping a payment may prevent large-scale activity taking place. I do not believe that payments should be based on the size of a holding. Payment should be based on the activity taking place in a holding. If that activity is in the public interest, it is good and

should be rewarded, and capping it would, therefore, be bad.

My amendments 161 and 162 are about ensuring that the Government talks to people before it considers capping things. Amendment 161 asks that

“persons in receipt of support or relevant assistance”

that could be capped be consulted before that capping takes place. That seems logical, otherwise we will revert to the situation that we had in 2016, when the Pack review came about and Richard Lochhead capped payments. Farmers did not know that that was coming until just before it happened and they had already made commitments. I am therefore keen for people to be consulted in advance.

I am also keen for the Government to pay particular attention to the committees within this Parliament. I am a committee convener, so you would be surprised if I did not say that. I believe that, before it sets about capping, the Government should also ask the committee who should be consulted. That seems logical to me.

Amendment 162 inserts the word “other” after “such” to ensure that any consultation regarding capping is carried out as widely as possible. The Government may try to reject that proposal, but it would just mean that it would have to talk to more people, which is surely what politics is about and must be a good thing.

I look forward to hearing that the cabinet secretary agrees with me and I do not intend to speak to the other amendments in the group.

Mairi Gougeon: I appreciate the points that members have made. A wide range of amendments have been put forward in this group, both for and against capping, redistributive action and what has been called front loading. I ask members to consider my comments on each, bearing in mind that section 9 already allows for redistributive payments.

Ariane Burgess’s amendment 67 seeks to make capping mandatory. I think that that should be a matter for the Scottish ministers to consider. The power that we have drafted and set out is a permissive one, and any decision to use it will be based on consultation with those persons the Scottish ministers consider appropriate. Edward Mountain made some points in relation to that, but he has not been part of the other discussions that we have had at previous committee meetings, when I talked about how co-development is foundational to our approach for developing policy. It is critical to remember that.

It is necessary for us to retain overall flexibility to be able to deliver the flexible, future-proof legislation that we will need if we are to deliver our

vision for agriculture. It must work for us today, but we must ensure that we have legislation that will work in the future. For that reason, I ask the committee not to support amendment 67.

Amendments 68, 70, 71 and 159 all seek to address matters related to our smaller producers. I have already made clear our commitment to ensuring that smaller producers continue to thrive, and I am happy to reiterate that commitment again today. If anything, we want there to be more small producers.

Our small producer pilot, which I have previously mentioned to the committee, is just a start on that journey, as we seek to ensure that we listen to small producers and co-develop support that will work for them. Given their unique contribution to rural Scotland, we want to ensure that small producers are not considered only as an add-on to a generalist support model.

Rhoda Grant: The small producers support fund is tiny and does not provide the amount of support that is required in that area. Will the cabinet secretary expand on how that could be developed to provide more support—and greater equity of support—for small producers?

Mairi Gougeon: Absolutely. The point is that we want to develop it further. It is a pilot at the moment. Ultimately, we want to work with small producers to find the best means of providing support and to discover what support will work best for them.

As I have just outlined, we are at the start of that process. We must take the actions that we learn from the pilot need to be taken and look to develop that fund in future. I am more than happy to continue to engage with the member and the committee, and to provide them with an update on that work as it progresses.

Amendment 68 seeks to create an unspecified minimum level of support that an applicant can receive. I am not able to support amendment 68, because it would create the potential for public support to be gained even if the contribution to outcomes might not merit it.

Amendments 70, 71 and 159 are all variations on the same idea, which call for unspecified levels of front loading to be put into primary legislation. As I have already outlined to the committee, I am committed to supporting small producers according to their needs, and to working with them to develop that support.

Concepts such as front loading and minimum levels of direct support reflect people’s issues and the concerns that they have highlighted with the present and soon-to-be past model of support that we are currently working in. I readily acknowledge that that model has not done enough to support

small producers, but, as I outlined to Rhoda Grant, we need the time to develop how best to do that in future as part of our future framework and tiered support. For those reasons, I urge the committee not to support amendments 68, 78, 71 and 159.

Rachael Hamilton: What is the process for developing the concept of supporting smaller farmers and crofters through front loading and access to particular environmental schemes?

Mairi Gougeon: In relation to front loading, I do not think that it is right that we include such commitments in the bill, because we need to have the flexibility to be able to design the new system. If we decide to take that decision after we have done the co-development work, we have the powers to do that. I do not think that it is right for us to embed in the bill a provision that commits us to a particular system or scheme without us having had that conversation. That is still part of the co-development work that is to be undertaken.

Rachael Hamilton: You do not see the need for a consultation provision to be included in the bill.

Mairi Gougeon: I am sorry, but consultation is mentioned in relation to section 9.

Like amendment 159, amendments 158 and 165 seek to specify the tiered support model in the bill when that would be better done through regulations. Beatrice Wishart's amendment 165 goes so far as to define tier 1 in the context of an existing support payment. As with amendment 159, I am concerned that that would limit the future flexibility of the framework for which the bill provides. I hope that I have highlighted that it is important for us to retain that flexibility and to future proof the legislation.

That will include potentially capping or tapering future payments and schemes within the tiers when and where the Scottish ministers consider that appropriate. Crucially, that will involve industry and other partners helping to co-develop the right approaches for the new tiered payments, including on capping and tapering. That is why I encourage the committee not to support those amendments.

I turn to Rhoda Grant's amendment 69. The Government is committed to the principles of fair work and to ensuring that workers in rural Scotland are paid a fair wage for their labour. My amendment 5 puts that principle at the core of the rural support plan and ensures that it will be a central consideration in the provision of that support. Rhoda Grant will be aware from previous discussions on the matter, including last week, that, in drafting the provision, due care and attention have been paid to the Parliament's present competences in relation to legislating on employment matters. That is why I ask the committee not to support amendment 69.

11:15

I turn now to amendments 160 to 163. Rachael Hamilton's amendment 160 seeks to impose what I think is an arbitrary time window for consulting on this section of the bill, and Edward Mountain's amendments 161 and 162 prescribe who is to be consulted. I do not think that those amendments are reasonable, and I think that they lose sight of the existing process of co-development that I have talked about. I think that they could cut across that work to the detriment of the support that farmers, crofters and land managers might receive in the future.

Edward Mountain: I am not sure how amendment 161 cuts across that work. It applies to people "in receipt of support". If co-development is being pursued, surely they would be consulted anyway. I do not quite follow your logic. Could you explain that to me, please?

Mairi Gougeon: That is what I am just coming to. I am talking about all those amendments in the round.

Section 9(2) already places on the Scottish ministers a requirement to consult, and, because capping is a budget control mechanism, the timing of any regulations will be linked to the standard budget processes. It is doubtful that that would be possible within the six-month period that is specified in amendment 160.

Beatrice Wishart's amendment 163 also seeks to amend the bill in a way that could limit the breadth of consultees on the expenditure of public money, even though there is potentially a wider interest in that regard. For the reasons I have outlined, I encourage the committee not to support amendments 160 to 163.

On amendment 164, we had initially proposed that regulations under the section be subject to the negative procedure, as I expected that the power would be used in respect of matters of detail and to fine-tune funding in the light of experience, in order to provide the best outcome against the vision while trying to maintain public value. However, I appreciate the concerns that have been raised by stakeholders as well as by MSPs, so I am happy to recommend that the committee support amendment 164.

The Convener: I call Ariane Burgess to wind up and to press or withdraw amendment 67.

Ariane Burgess: My amendments in the group are probing amendments that are intended to open up the conversation about the redistribution of the agriculture support budget, which they have done. An economist turned crofter with whom I have been working calculated that a full half of all farm support payments go to just 6.6 per cent of recipients: those with the most land. My

amendments in the group and those from Colin Smyth, Rhoda Grant and Beatrice Wishart in support of redistribution would help to redress that imbalance.

Redistribution would be consistent with land reform objectives to tackle the scale and concentration of land ownership. It would also be consistent with biodiversity objectives, discouraging the consolidation and standardisation of farms with little diversity, and with the desire for a diverse and resilient sector. It would also help to maintain EU alignment, since the new EU cap includes a mandatory redistributive element.

I want to underline the vital importance of achieving those policy intentions, and to impress on the Scottish Government the importance of taking on board the discussion today and the calls from numerous stakeholders for redistribution. I also want to underline that, although the cabinet secretary frequently mentions the small producers pilot, what I hear from those producers is that that pilot is not working and that that funding is not reaching small producers directly. We need to do something to address that.

I agree with the cabinet secretary that Edward Mountain's amendments 161 and 162 and Beatrice Wishart's amendment 163, which are about consulting on capping and tapering, are not necessary, as the bill already requires ministers to consult such persons as they consider appropriate.

On Beatrice Wishart's amendment 159, I do not agree that a definition of payments under tier 1 is needed in the bill, as that is still being determined by the Scottish Government. The bill is a framework bill to provide flexibility for the tiers and to enable payment schemes to evolve over time.

I seek to withdraw amendment 67.

Amendment 67, by agreement, withdrawn.

Amendment 158 not moved.

Amendment 68 moved—[Ariane Burgess].

The Convener: The question is, that amendment 68 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 68 disagreed to.

Amendments 69 to 71 not moved.

The Convener: I call amendment 159, in the name of Beatrice Wishart.

Beatrice Wishart: Given what the cabinet secretary said about recognising the views from around the table and recognising that there will be more work to be done, I will not move the amendment.

Amendment 159 not moved.

Amendment 160 not moved.

Amendment 161 moved—[Edward Mountain].

The Convener: The question is, that amendment 161 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 161 disagreed to.

Amendment 162 moved—[Edward Mountain].

The Convener: The question is, that amendment 162 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley)

(SNP)

Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 162 disagreed to.

Amendment 163 not moved.

Amendment 164 moved—[Beatrice Wishart]—and agreed to.

Amendment 165 not moved.

Section 9, as amended, agreed to.

Section 10—Refusal or recovery of support where in the public interest

The Convener: Amendment 166, in the name of Rachael Hamilton, is grouped with amendments 72, 167 and 169.

Rachael Hamilton: Amendment 166 would require the Scottish ministers to define what is considered to be in the public interest. A clear definition of what public interest means is required. Although there is a clear and accepted definition of public good, there are outputs and outcomes that do not meet that definition but could be deemed to be in the public interest, such as high-quality food production.

I support all the other amendments in the group.

I move amendment 166.

Rhoda Grant: Amendment 72 seeks to ensure that people who claim support know the expectations that are placed on them in return for that support before they apply. The amendment ensures that the reasons why support could be refused or recovered in the public interest are clear to all those who apply.

I believe that there are times when Government should recover support that has been paid. I therefore cannot support Edward Mountain's amendment 169, but I believe that the reasons for doing so must be understood.

Beatrice Wishart: Amendment 167, in my name, seeks to change the wording regarding who is to be consulted, from those whom "Scottish Ministers ... consider appropriate" to those who are

"likely to be affected by provisions in this section".

That wording is more in line with previous legislation. I believe that the more specific wording will ensure that people who are affected by the provisions will have the opportunity to voice their views through consultation.

Edward Mountain: My amendment 169 is a probing amendment, because I want to see where the cabinet secretary is going with the power in

section 10. It seems to be a fairly draconian power, as it will give the Government the absolute right, without any right of appeal or ability for the person involved to speak to the Government, to withdraw all payments—and, in fact, to reclaim payments.

In the past, with regard to reclaiming payments, the Government has, interestingly, been draconian by demanding all the money back at very short notice or by refusing support on the basis of rules that some people did not understand. However, when the Government makes a mistake, it is, of course, not held accountable at all.

The aim of my amendment is to get an undertaking from the cabinet secretary that she will meet me to discuss section 10 and see whether there is a way that we can build in a right of appeal, so that anyone who has that draconian power used against them can speak to the Government without the impenetrable barriers that people sometimes meet in the rural payments department.

I propose not to move the amendment if the cabinet secretary gives me that undertaking. If she does not, I will move it and we will see where we go.

Mairi Gougeon: I will come to Edward Mountain's amendment 169, but I will cover the other amendments in the group first.

With regard to amendments 166 and 72, under the existing agricultural support scheme, conditions can be imposed that relate to quite a wide range of matters. Where conditions are not complied with, Scottish ministers can require the repayment of support, including with interest. In rare cases, it might be right to refuse, or to recover, support that is otherwise due, even if the standard conditions for support are met.

I hope that we would all agree that it is appropriate to take forward such provisions into a new financial support framework. Section 10 therefore provides ministers with the ability to

"refuse to provide support if they consider that it is not in the public interest for a person to receive it"

or to recover support that has already been paid.

They have to do so, however, in accordance with the regulations that will be set out under section 10. Those regulations will make provision in respect of the meaning of "the public interest" for that purpose. Any regulations that we bring forward would be subject to scrutiny by Parliament. It might, for example, be in the public interest to be able to refuse to pay support for animal welfare purposes to a person who has an animal cruelty conviction or to recover previously granted support from such a person.

Rachael Hamilton's amendment 166 and Rhoda Grant's amendment 72 would require any regulations to make provision in respect of the public interest. However, their proposed changes are not necessary, because section 10 already provides the powers that we need for that purpose. Rather than providing clarity, therefore, those amendments could make the scope of the power to make regulations less clear.

Rachael Hamilton: Can the cabinet secretary direct me and my colleagues to the conditions that are set out, and the definition of "the public interest" test, whereby the Government agency would refuse to pay support? Where is that?

Mairi Gougeon: I have already said that section 10 provides us with the powers, but we would have to bring forward the meaning of "the public interest" in regulations. I cannot produce a definition, because we have not yet introduced those regulations.

Rachael Hamilton: Right—so we are leaving it in your hands to define that. That is not really what this committee is about. It is about ensuring that we can, by regulation, define what is considered to be the test of "in the public interest". I am surprised that the Scottish Government is scared of amendment 166.

Mairi Gougeon: But we would be bringing forward regulations for parliamentary scrutiny. That is the whole purpose of section 10.

As I hope I have been able to outline, that is why I ask the committee not to support those amendments. I am happy to support amendment 167, from Beatrice Wishart, and to consult on that basis.

With regard to amendment 169, I am glad that I now know the reason behind the lodging of that amendment, because it was quite hard to understand when I initially saw it. I am happy to engage in further dialogue with Edward Mountain in relation to the powers in section 10.

11:30

The Convener: I call Rachael Hamilton to wind up and say whether she wishes to press or withdraw amendment 166.

Rachael Hamilton: I will press my amendment, which is supported by the NFUS, SLE, FAST and others. Despite what the cabinet secretary has said, it is right that a definition of "the public interest" is brought forward in relation to section 10. The Government has the ability to do that and to allow Parliament to scrutinise it. It is important to give people clarity on the outcomes.

I was going to support Edward Mountain's amendment 169, on removing section 10,

although it is a bit of an oxymoron, but it sounds as though he is not going to move it. I am happy to support the other amendments in the group.

The Convener: The question is, that amendment 166 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 166 disagreed to.

Amendment 72 not moved.

Amendment 167 moved—[Beatrice Wishart]—and agreed to.

Amendments 168 and 169 not moved.

Section 10, as amended, agreed to.

Section 11 agreed to.

Section 12—Declaration relating to exceptional market conditions

The Convener: Amendment 73, in the name of Rhoda Grant, is in a group on its own.

Rhoda Grant: Amendment 73 seeks to extend the length of time for which exceptional market conditions support can continue. Although it would be hoped that such occurrences would be rare and short lived, they could run beyond the three months that is allowed for in the bill. My amendment would increase that time to six months. In doing so, it would not prescribe that every scheme would run for six months; it would simply allow it to do so should the need arise. I hope that the power would very seldom require to be used, but it is needed to provide stability in difficult times.

I move amendment 73.

Mairi Gougeon: With regard to amendment 73, committee members will, no doubt, be aware that the three-month period that we have specified in the bill mirrors what is in the UK Agriculture Act 2020. Three months seems to be a reasonable period for an exceptional power to intervene in

agricultural markets, especially as section 12(8) of the bill provides a means for the extension of that declaration and section 12(9) provides for

“making ... another ... declaration”,

which may relate

“in whole or part to the same exceptional market conditions”

if that proves to be necessary.

I think that the existing provisions that we have set out are proportionate. They also offer the appropriate means by which the period can be extended when necessary.

Rhoda Grant: On that matter, would there be a delay? If you are using that power, there are pretty exceptional market conditions and people are quite concerned. If there was a delay between the initial three months and an extension of that scheme under the powers allowed, that could cause issues for those who are really dependent on that support.

Mairi Gougeon: Absolutely. The on-going oversight and the parliamentary scrutiny are important. We would have to set out whether we intended to continue that support if we needed to, and we would do that in good time or before the deadline approached. What we have set out in the bill as drafted enables us to continue to do all that, but it also provides for parliamentary scrutiny of the use of those powers, which is important. If the committee supported the amendment, it would remove some of that scrutiny, which is why I ask the committee not to support the amendment.

The Convener: I call Rhoda Grant to wind up and to press or withdraw amendment 73.

Rhoda Grant: I have taken on board the assurances that the cabinet secretary has provided, so I will seek to withdraw the amendment.

Amendment 73, by agreement, withdrawn.

Section 12 agreed to.

Section 13—Regulations about support

The Convener: Amendment 74, in the name of Ariane Burgess, is grouped with amendments 170, 75, 78, 79 and 173 to 182. I remind members that, if amendment 12 is agreed to, I cannot call amendment 179 due to pre-emption.

Ariane Burgess: My amendments in the group are intended to see whether the cabinet secretary will meet me to work on the significant problems brought on by a payment system that is exclusively based on area of land. We have already discussed the injustice with the principle of the area-based system, which needs reforming through redistribution, but I recognise that the

area-based payment system is working smoothly and that many recipients are happy with it. The amendments would not change that.

The amendments are designed to give small-scale farmers, crofters and growers a different route to access and be assessed for direct payments for future tier 1 and tier 2 payments. Under the current system, farmers, crofters and growers on less than three hectares of land are ineligible for basic payments. Even those with more than three hectares but who are still on the smaller end of the spectrum, such as the numerous small producers in the Highlands and the Western Isles, receive negligible amounts of financial support. Others do not bother applying, because the amount that they would receive would not be worth the time and effort spent on the application. However, farmers, crofters and growers are providing public good—food for local markets, jobs and stewardship of the land—and they should be supported. Although the amendments would not remove the area-based payment option, they would add a second option that would throw small producers a lifeline—a route to direct payments at a meaningful level, based on their agricultural activity or labour.

Amendment 74 to section 13 stipulates that regulations must allow the recipients the choice of being assessed for support either on the basis of land area or on the basis of productive agricultural activity.

Amendment 78 would oblige ministers to create criteria for receiving support on the basis of agricultural activity. Eligibility would be based on either

“the amount of hours of activity”,

being the labour, per year, or the standard labour requirements—SLR—for the holding for farms that had already been assessed in that way. In either case, ministers would set a threshold for the amount of labour required on a holding in order to be eligible for direct payments.

Amendment 79 specifies that, when making provision for eligibility criteria in connection with the activity carried out by any recipient, ministers may consider the criteria as set out in my previous amendment or establish a turnover threshold that farms must meet alongside producing a minimum of 10 crops.

Amendment 75 would remove the line on page 7 of the bill that states that ministers may make provisions about

“how the amount of support is to be determined.”

That would be superseded by my amendment 74, which would require regulation to allow recipients to choose how the amount of their support will be determined.

To pre-empt any concerns that my amendments could incentivise overproduction, let me explain why they would not. First, the proposals are different from the old hedge payments. Farms would not receive a unit payment per ewe or per crop; they would receive payments for being a productive farm business. Secondly, activity-based eligibility has been implemented in Austria and it has not led to overproduction there. Instead, the small farms that have chosen that option have tended to diversify and have increased the value of what is produced on farm. For example, pig farms have started to process meat into charcuterie on farm, and other farms have expanded agritourism offerings. That is because the labour-based payments have incentivised them to expand their rural businesses, contributing to thriving rural communities.

Large and medium-sized farms would opt to continue to receive area-based payments, as they would receive more support via that route. They would not be incentivised to overproduce, and both the market conditions and cross-compliance conditions would continue to limit farms from overstocking livestock. The number of people directly employed by farms is now only 61,000, which is about half of what it used to be. Providing an option to link payments to labour would support more jobs on the land, which we desperately need in order to achieve the objectives of the bill.

My next amendments, amendments 170 and 173 to 182, would replace the concept of payment entitlements with those of assessments and allocations throughout the bill. "Entitlements" gives the impression that farms are entitled to receive public money solely for occupying land, and they are not based on any assessment. They also lead to trading entitlements, which is firmly not in the public interest. My series of amendments would modernise that antiquated system and would make it fairer and more accurate.

Rachael Hamilton: I am a little bit confused by Ariane Burgess's amendments. Innovation and technology are supporting farmers to make efficiencies and cut their costs. I am very much supportive of ensuring that labour is part of the whole farming and agricultural landscape, and we know that it is, as it supports rural communities, but are you saying that, in order to get support, farmers need to increase the number of people they employ, even if they do not need them?

Ariane Burgess: No, I am not saying that. I am just introducing another option. At the moment, farmers get support through a land-based payment, and I am introducing an activity-based payment. One option is that, if it makes sense for the farmer to go down the route of having people working on farm, that is the way that they would do it, but the other way would remain in place. As I

said earlier, it is clear that that is working smoothly for some farmers, but we need to find a way to support very active small producers who receive absolutely nothing at the moment. That is the intention, and that is what I want to explore with the cabinet secretary.

Amendment 182 defines "allocation" as "the amount of support to be provided" once an area-based or activity-based assessment "has been completed."

Amendments 170 and 174 to 181 simply replace the word "entitlements" with "allocations" in each place.

Amendment 173 would allow for regulations on payment allocations to set a

"minimum labour requirement"

or for an

"assessment and allocation of standard labour requirements"

for those who opt to be assessed by activity.

I would appreciate hearing the Scottish Government's responses to my amendments, and I would very much like to continue constructive discussions in this area as we move to stage 3. I will therefore not move my amendments at this stage, and I will seek to withdraw amendment 74.

I move amendment 74.

Mairi Gougeon: I appreciate what Ariane Burgess has set out regarding her amendments, and I am, of course, happy to meet her to discuss the matter further, as I would be with other members around the table.

We have set out clearly that we need flexibility in the bill, and the amendments would restrict us in that regard. Some of the amendments are unworkable administratively, too, and there would be significant concerns around some of the amendments as they have been drafted. I am more than happy to meet the member to discuss the matter further.

Ariane Burgess: I appreciate the cabinet secretary's indication that she will meet me. I wish to clarify why the measures contained in my amendments in this group are needed. I have been speaking with the cabinet secretary about a dedicated support scheme for small growers, which would be hugely welcomed by key workers in green jobs. We should do more to support them, and we should give them access to the core farm support payments. After all, horticulture is farming.

11:45

Stakeholders believe that a separate scheme for market gardens would be more precarious and time limited than mainstream tier 1 and tier 2 funding. There is also an argument that small producers need direct income support even more than large farms do, because they are smaller and are more likely to be operating on a very thin profit margin. Allowing small producers—and, specifically, market gardeners—to access tier 1 and tier 2 funding would show that the Government is serious about transforming farm support and using it to drive the objectives stated on page 1 of the bill.

My amendments provide a route for those small producers to access core direct payments at a meaningful, fair level, based on the amount of work that they do and on their output, but without changing the entire area-based system, which is working smoothly for many recipients.

I sincerely welcome the cabinet secretary's offer to explore the issues in advance of stage 3. I believe that that would be a significant step forward.

Amendment 74, by agreement, withdrawn.

Amendments 170 and 75 not moved.

The Convener: Amendment 76, in the name of Rhoda Grant, is grouped with amendments 171, 80 and 81. I remind members that amendments 76 and 171 are direct alternatives. The text of whichever is the last agreed amendment is what will appear in the bill.

Rhoda Grant: Amendment 76 will ensure that, before making regulations under section 13, the Scottish ministers must consult such persons as they consider

“to be interested in or affected by provisions in this section”, rather than simply those the Government deems appropriate.

Amendment 80 will ensure that grazing committees and, indeed, other co-ops can be collectively supported. Many crofting activities are carried out as part of a collective. Currently, it is difficult to access funding on that basis. It is important to allow individuals who are part of a grazing committee or co-op to apply for support in their own right under a different claim—obviously claiming only once for any activity. That would allow them more access to environmental funding when, collectively, they would be better able to compete against large land holdings, for which support is dependent on the number of features protected. Those with small crofts or farms have often been locked out of environmental support projects because of that, and amendment 80 attempts to right that wrong.

Beatrice Wishart's amendment 171 seeks to do something similar to my amendment 76, and I will listen to the thoughts of the committee and the cabinet secretary. I hope that there will be support for one of those two amendments.

Amendment 81 is consequential on amendment 80.

I move amendment 76.

Beatrice Wishart: Amendment 171 seeks to change the wording regarding who is to be consulted, from those who the Scottish ministers “consider appropriate” to those who are “likely to be affected by provisions in this section”.

That wording is more in line with that contained in existing legislation.

I acknowledge that my amendment is similar to Rhoda Grant's amendment 76. However, I believe that the more specific wording in my amendment will ensure that people affected by the provisions will have the opportunity to voice their views through consultation. I intend to move amendment 171, and I will be interested to hear what the cabinet secretary has to say.

Mairi Gougeon: I appreciate the intent behind amendment 76, in the name of Rhoda Grant. The bill's current drafting already commits the Scottish ministers to consulting appropriate persons, but the amendment signals more explicitly the commitment that I have already set out to co-developing the detail of support, which will come before the Parliament in secondary legislation. I am therefore more than happy to support the amendment. However, purely because of my support for that amendment, I must ask the committee not to support amendment 171, as I do not think that it will be needed.

Amendment 80 specifies that grazing committees and co-operatives can claim support as a collective for joint projects, which, as Rhoda Grant has outlined, will be separate from individual support. There is absolutely no doubt that crofting common grazings play a really important role in collective action to mitigate and adapt to climate change, as well as in protecting and restoring nature. I also note that amendment 81 complements that by defining the phrase “grazing committee”. I strongly agree that we should be supporting grazing committees and co-operatives, and I am happy to do whatever is thought to be helpful to clarify that in the bill. For that reason, I welcome both of Rhoda Grant's amendments and urge the committee to support them.

Amendment 76 agreed to.

Amendment 171 not moved.

The Convener: Amendment 77, in the name of Rhoda Grant, has already been debated with

amendment 132. I point out that, if amendment 77 is agreed to, I cannot call amendment 172 because of pre-emption.

Amendment 77 moved—[Rhoda Grant].

The Convener: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 77 disagreed to.

Amendment 172 moved—[Tim Eagle].

The Convener: The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 172 disagreed to.

Section 13, as amended, agreed to.

Section 14—Eligibility criteria for support

Amendment 78 not moved.

Amendment 203 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 203 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 203 disagreed to.

Amendment 79 not moved.

Amendments 80 and 81 moved—[Rhoda Grant]—and agreed to.

Section 14, as amended, agreed to.

Section 15—Payment entitlements

Amendments 173 to 178 not moved.

The Convener: Amendment 12, in the name of Mairi Gougeon, has already been debated with amendment 9. I remind members that, if amendment 12 is agreed to, I cannot call amendment 179 due to pre-emption.

Amendment 12 moved—[Mairi Gougeon]—and agreed to.

Amendments 180 to 182 not moved.

Section 15, as amended, agreed to.

Section 16—Checking, enforcing and monitoring support

The Convener: Amendment 183, in the name of Edward Mountain, is in a group on its own.

Edward Mountain: I speak to amendment 183 with some trepidation, because the last time that I questioned the Government on enforcement and regulation, I received—surprisingly—a whole farm inspection and a 100 per cent cattle inspection within three months of doing so. I am sure that there was no connection, but we will see whether the same thing happens this time.

I am glad to say that I did not fall foul of the system, but there is genuine fear among farmers when it comes to enforcement and the way in which it is carried out. I have particular concerns about certain provisions in section 16, particularly section 16(2)(i), which relates to monetary penalties. The problem with the European Union with regard to single farm payments was that, if we made a minor error, we got a monstrous fine. For

too long in my professional life, when filling out single farm payment claims for clients, I noticed that the Government itself had made mistakes, for which there were no fines and as a result of which farmers were adversely affected.

Amendment 183 seeks to test the water, as it were—or the Government—by proposing that appeals be made within three months. I am trying to see whether the Government agrees that it is reasonable for a farmer to appeal within three months, and if it accepts the amendment, whether it accepts that that appeal must be determined within three months, too. After all, what is good for the goose is good for the gander.

I will be moving and pressing amendment 183, but I want to discuss the whole section with the cabinet secretary, as I have grave concerns that it will be very inequitable to people who inadvertently make a mistake when filling in a claim. There is just no flexibility in the system.

I move amendment 183.

Mairi Gougeon: I appreciate the argument that Edward Mountain has set out and that the powers in sections 13 and 16 and what results from them will be of great significance to our farmers and crofters. However, I must ask the committee not to support amendment 183, because, although I agree with Edward Mountain that, in some cases, a three-month timeframe is appropriate, I do not think it fair to restrict ourselves in that way. It might be appropriate to have longer periods for appeals and their determination. I therefore think that we need flexibility, as I set out earlier.

Edward Mountain: A constituent has written to me to say that they appealed something and have been waiting for a determination for five years. Surely that cannot be equitable—it must be equitable to sort that out much quicker. After all, people's lives and businesses are on the line if their appeals are not heard on a reasonable timescale. Do you not think that my amendment proposes a fair way of doing that?

12:00

Mairi Gougeon: I appreciate the point that Edward Mountain has raised and how important it is. If he has particular cases, he should write to me about them so that we can look into them. We want to make sure that we have an appropriate appeals process in place. That will be subject to the regulations that we introduce, but we must ensure that we have the flexibility to set an appropriate period. That is why I ask the committee not to support amendment 183.

The Convener: I call Edward Mountain to wind up and to press or withdraw amendment 183.

Edward Mountain: I will not be any more verbose than I have been already, convener, so I will just press amendment 183.

The Convener: The question is, that amendment 183 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 183 disagreed to.

Section 16 agreed to.

Section 17—Publication of information about support

The Convener: Amendment 82, in the name of Rhoda Grant, is grouped with amendments 13, 83, 14 and 15.

Rhoda Grant: Amendment 82 would ensure that information about the support provided, its purpose and the amount of support that is given must be published. This is public money, and it is in the public interest to have transparency about the levels of support that are given.

Amendment 83 seeks to ensure that such a report must also include progress towards the objectives of the bill and that that information should be broken down into the tiers in which the Government provides support.

Transparency is essential when public money is being spent, and I hope that amendments 82 and 83 gain support from the committee. I also support the other amendments in the group.

I move amendment 82.

Richard Leonard (Central Scotland) (Lab): Amendment 13 seeks to amend section 17, which is about the publication of information about support. The purpose of amendment 13 is to widen the scope of reporting, so that what is reported and published is not simply the name of the recipient of support and the amount and purpose of any support provided but

“the beneficial ownership of the recipient of any support provided”.

Beneficial ownership means people who ultimately own or control an asset. The standard definition is that the scope of that covers people with 25 per cent or more shares or direct or indirect voting rights in the property or company.

The purpose of amendment 13 is to promote openness and transparency and to allow us to track the redistribution that we have spoken about in earlier parts of the discussion this morning. It is regarding the application of public funds. Around half a billion pounds of public money is involved, so maximum transparency is required. That is a matter of public interest, so it should be open to public scrutiny. Amendment 13 would also prevent the misuse of corporate structures and improve the prevention of economic crimes such as fraud, money laundering and tax evasion. It is good audit practice.

I also reflect on the fact that, since 2016, people with significant control have had to be registered with Companies House. Since 2022, it has also been necessary to make a declaration regarding overseas entities in the register of overseas entities. Under the regulations on the register of persons holding a controlled interest in land, there is now a requirement for information on that to be lodged with the Registers of Scotland.

There would be only a very limited administrative burden on those who are required to make the disclosure, because the disclosures are already made. Therefore, amendment 13 is an entirely reasonable extension of transparency and openness.

Mairi Gougeon: I will touch briefly on amendments 14 and 15, in my name. They are minor technical changes to section 18, to improve the drafting and ensure that we have consistency. They are not a change in policy, so I hope that the committee will support them.

I understand the intention behind Rhoda Grant's amendment 82. I reassure members that the Scottish Government will continue to publish information about direct payments and will work with the sector and stakeholders to consider what other information should be made public. Amendment 82 would mean that any regulations about the publication of information would have to include an information requirement under section 17, even if there was no need for that. Therefore, I ask Rhoda Grant not to press amendment 82. If she does, I ask members not to support it.

With regard to what Richard Leonard has set out in relation to amendment 13, I am absolutely sympathetic to the intentions of his amendment, because it seeks to promote greater transparency. That is what we intend by enabling ministers to

make regulations on the publication of information about payment recipients.

However, there are some technical issues with amendment 13 as drafted. That includes the reference to the concept of “beneficial ownership”, which does not have a clear meaning under Scots law. Some information about the control of companies and trusts, as Richard Leonard has outlined, can be obtained from other sources, including the new register of persons holding a controlled interest in land that he mentioned.

There is also the question of the extent to which the bill should legislate for matters that might not relate to agricultural policy, even if they have a wider public benefit. We would also need to get the consent of the Information Commissioner in terms of the current consultation, which is still ongoing. However, I am happy to have further discussions about that. I ask Richard Leonard not to move amendment 13, so that we can continue that discussion before stage 3.

With regard to amendment 83, section 17 makes provision for the publication of information about support payments to particular individuals or legal persons. Rhoda Grant's amendment 83 would change that section so that it covers information about the strategy for and outcomes of agricultural policy. I listened carefully to the rationale that Rhoda Grant set out for the amendment, but I do not think that this is the appropriate place to put that measure. I am not convinced that the particular enabling powers in sections 13 and 17 are suitable for that purpose.

As we discussed at length last week in relation to the rural support plan, I am open to considering how reporting and monitoring could be improved as part of further changes. I am happy to have that further discussion with Rhoda Grant on what that might look like and to consider the matters that she raises as part of amendment 83. Because of that, I ask Rhoda Grant not to press her amendment 83 today.

Ariane Burgess: I will indicate my support for some of the amendments in the group. I support Rhoda Grant's amendment 82, which would require ministers to make provision for publishing information about rural support that is provided. Rural land management impacts all of us, through its large impact, both positive and negative, on the environment, climate and our food supply.

For many people in Scotland, there is a sense that the wealthiest landowners receive the most public money simply for owning land, and that is unjust. For transparency's sake, it is only right that the public can find out who is supported, how much they receive and why, and what public goods are enabled by that support.

For similar reasons, I support Richard Leonard's amendment 13. If some landowners are not applying for support directly but are using third-party businesses to do so, the public and the public purse still have a right to know who is the ultimate recipient of that support. That would help to close any loopholes that might allow large landowners to receive support above the capping level, if they apply through more than one business.

I take on board the cabinet secretary's point about the lack of a clear definition in Scots law of "beneficial ownership". If we had a system, the information that would be published—thanks to Rhoda Grant's and Richard Leonard's amendments—could support the creation of a cadastral system for Scotland, which the Scottish Land Commission has recommended. That would be a set of records and maps that described the ownership boundaries, value and use of land, as is used in other countries such as the US and 14 EU members.

Having all that information in one place would be crucial for a carbon emissions land tax or any land-based replacement for council tax. If the information needs to be collected for those purposes anyway, there should be no reason not to publish it for transparency, provided that data protection is properly considered.

Publishing that information would also allow an external body to conduct a value-for-money assessment of the support that is provided, which I intend to propose at stage 3.

Rachael Hamilton: Will Ariane Burgess take an intervention?

Ariane Burgess: I was just finishing.

For all those reasons, I support those amendments.

Rachael Hamilton: Will the member take an intervention now?

Ariane Burgess: I am done.

The Convener: I call Rhoda Grant to wind up and to press or withdraw amendment 82.

Rhoda Grant: I have nothing to add. I have listened to what the cabinet secretary has said and will not press amendment 82.

Amendment 82, by agreement, withdrawn.

Amendments 13 and 83 not moved.

Section 17 agreed to.

Section 18—Processing of information

Amendments 14 and 15 moved—[Mairi Gougeon]—and agreed to.

Amendment 184 not moved.

Section 18, as amended, agreed to.

Sections 19 to 25 agreed to.

After section 25

The Convener: Amendment 185, in the name of Rachael Hamilton, is in a group on its own.

Rachael Hamilton: Amendment 185 would require Scottish ministers to review payments that are made under the legislation that is listed in the Agriculture (Retained EU Law and Data) (Scotland) Act 2020. Briefly, I would like some reassurance from the cabinet secretary that the Scottish Government has the ability to monitor and evaluate the effectiveness of payments and the delivery of the required outcomes, because I am concerned about that. For example, will the powers that Scottish ministers have to shape the rural support plan allow for monitoring and evaluation of the effectiveness of the required outcomes?

I move amendment 185.

Mairi Gougeon: I am happy to give an assurance on that.

I will turn to the amendment and what it sets out in relation to the CAP scheme. I understand the requirement for monitoring and evaluation and that, when we are using public money, we need to be able to evidence how it is being used and what is being delivered. However, we have existing reporting requirements for CAP within the rural development regulations, and the bill does not change that. I touched on an example at the committee meeting last week: last month, we commenced the formal ex-post evaluation for the Scottish rural development programme for the entire 2014-20 programming period, as part of the formal closure requirements for the programme. We will continue to report on CAP schemes.

The purpose of the bill is to provide the powers to enable a payment framework that will replace the previous CAP legislation. As I set out in the discussions last week, I think that the rural support plan is the right place for that. Last week, I made a substantial offer on funding, which will cover what currently exists for CAP alongside what we are going to introduce as part of our future framework, too. Therefore, I ask Rachael Hamilton not to press her amendment.

Rachael Hamilton: I am content with the cabinet secretary's response to my concerns. I just hope that monitoring and evaluation will be included within the lens of the rural support plan to ensure that we get to the outcomes that we are trying to achieve and that the plan is effective. I will not press amendment 185.

Amendment 185, by agreement, withdrawn.

The Convener: I suspend the meeting for five minutes. We will start again at 12:20 sharp.

12:14

Meeting suspended.

12:20

On resuming—

Section 26—Code of Practice on Sustainable and Regenerative Agriculture

The Convener: Amendment 84, in the name of Rhoda Grant, is grouped with amendments 85, 86 and 186 to 188.

Rhoda Grant: In seeking to ensure that the code of practice on sustainable and regenerative agriculture is a regulation, amendments 84 to 86 would change the way in which the code is produced and consulted on and scrutinised by the Parliament. The bill is enabling legislation, and the codes and associated provisions are where the information underpinning the funding and the conditions attached to that funding are laid out. The provisions must be scrutinised to ensure that funding is not misused or needlessly withheld.

I move amendment 84.

Rachael Hamilton: I will speak to my amendment 186, and I confirm my support for all the other amendments in the group.

Amendment 186 would require the code of sustainable and regenerative agriculture to include an assessment of the potential impact that the reintroduction of species might have on food-producing land. The amendment is designed to protect productive land from any negative impacts of reintroduced species. It seeks to further safeguard food-producing land to ensure that the right land is used for the right purpose.

I acknowledge that the reintroduction of species aims to improve Scotland's natural environment and biodiversity. However, the reintroduction of certain species into our natural environment must be done in a responsible manner. A scientific and evidence-based approach should always be taken, to ensure that species are properly introduced. That is important in rural areas, where the concerns of farmers and land managers must be taken seriously, particularly where the reintroduction of certain species could harm livestock or have other negative impacts on food-producing land.

I reiterate the call of my colleague Murdo Fraser, who, in a portfolio question time session on rural affairs, asked about the possibility of there

being future compensation schemes for crops and grazing land lost to production.

Edward Mountain: When I spoke to the cabinet secretary yesterday, she said that she was going to support some of my amendments. We are four down with two to go, so I hope that my amendment 187 will be one of those that she supports.

Amendment 187 suggests that, 180 days after royal assent, a draft code should be published. At that stage, we will all understand what sustainable and regenerative agriculture is. I have been farming for 40 years but I struggle to understand the definition of it. If you look closely into the matter, you find that sustainable and regenerative agriculture seeks to

“rebuild the biological and chemical processes that may have existed at one point but have diminished over time”.

I am not sure whether those time periods are BC or AD, 100 years ago, 200 years ago, 300 years ago, last week or last month. That is why I think that farmers need a clear explanation of what sustainable and regenerative agriculture is. However hard I have looked and however hard I have listened, I cannot define it. I would say that most farmers are engaged in sustainable and regenerative agriculture, but it would be extremely beneficial for the Government to confirm that that is the case by explaining what it is within 180 days of royal assent.

Tim Eagle: Amendment 188 is my final amendment, so here's hoping. It relates to the code of practice on sustainable and regenerative agriculture and follows on from my points about the rural support plan. That document is very important to the bill and all the finance that will come behind it. Amendment 188 would require that the code that is dealt with in sections 26(4) and 26(5) could be adopted only by resolution of the Scottish Parliament.

Mairi Gougeon: On Rhoda Grant's amendments in this group, section 26 places a duty on the Scottish ministers to prepare and publish a code of practice. As I have already set out, the intention is to give farmers and crofters guidance on a range of ways in which they could voluntarily undertake activity that constitutes sustainable and/or regenerative agriculture. Many activities could be undertaken, because not everything will suit every sector, geography or business.

Rhoda Grant's amendments would neither enable nor empower farmers and crofters to take up activity that best suits their needs. As we know, regulations are a form of legislation, so requiring them for the code of practice would make the code prescriptive and would limit farmers' and crofters'

agency and choice. Therefore, I urge committee members not to support amendments 84 to 86.

Rachael Hamilton's amendment 186 would require the code to assess the impact of species reintroduction. I suggest that there is no need for the amendment, because that assessment could already be made under section 26(3), which sets out what the code should include. Moreover, lots of different actions and activities should be considered in terms of their impact, and it is not helpful to single that one out and put it in the bill. I am also not clear why the code of practice should cover the reintroduction of species, especially when that is not defined. I therefore ask the committee not to support amendment 186.

Edward Mountain might be in luck, because I am, of course, sympathetic to the intention of amendment 187. Although the amendment's drafting is technically defective, I am happy to work with him on the drafting of an amendment ahead of stage 3.

I am sorry to say this, given that amendment 188 is Mr Eagle's final amendment, but, as I have said, section 26 requires the Scottish ministers to consult

"such persons as they consider likely to be interested in or affected by"

the code of practice and to lay it before the Scottish Parliament prior to publishing it, which, in my view, gives Parliament and members sufficient opportunity to input their views on the code before it is finalised. Therefore, I ask members not to support amendment 188.

The Convener: I call Rhoda Grant to wind up and to press or withdraw amendment 84.

Rhoda Grant: Sustainable and regenerative agriculture is included in the bill as a primary aim, yet it is not defined in the bill, and stakeholders were quite clear that they would prefer it to be. If it is a primary aim of the bill, the cabinet secretary should surely not be treating it as an optional extra that people can do or not do. Making the code a regulation would mean that there would have to be consultation on it, which would ensure that everyone would have an input. People could be given a suite of options that they could carry out—there would be no need for a prescriptive approach whereby certain things had to be done by everybody—which would ensure that nothing was missed and that people would understand what was required of them in order to access funding.

Therefore, I press amendment 84.

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 84 disagreed to.

Amendment 85 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 85 disagreed to.

Amendment 86 not moved.

Amendment 186 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 186 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 186 disagreed to.

Amendment 187 not moved.

12:30

The Convener: I call amendment 188 and ask Tim Eagle to say whether he wishes to move it.

Tim Eagle: Apologies, convener—I forgot to make a declaration of interests at the beginning of the meeting. I am still new, so I am not sure whether I should have done so. I refer members back to what I said last week, when I declared an interest as a small farmer.

The Convener: Thank you.

Amendment 188 moved—[Tim Eagle].

The Convener: The question is, that amendment 188 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 188 disagreed to.

Amendment 87 moved—[Rhoda Grant].

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

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)

Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 87 disagreed to.

Section 26 agreed to.

After section 26

Amendment 189 not moved.

Amendment 190 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 190 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 5, Abstentions 1.

Amendment 190 disagreed to.

The Convener: Amendment 191, in the name of Rachael Hamilton, is in a group on its own.

Rachael Hamilton: The convener will recognise that many of the amendments that I have lodged are aimed at ensuring that some of the issues that I have concerns about are discussed. Although I would like amendment 191 to be agreed to, given my track record so far today of not having the cabinet secretary support my amendments, I have little confidence that it will be supported.

Nevertheless, amendment 191 is important. During evidence sessions, the committee spoke to tenant farmers, who told us of their frustrations around accessing some schemes and having some of the challenges raised in the context of the bill. Originally, it was proposed that tenant farmers would be recognised through the lens of the Agriculture and Rural Communities (Scotland) Bill. However, a lot of that has now been moved to the scope of the Land Reform (Scotland) Bill, which is only in the initial stages of consideration.

My amendment 191 was inspired by looking at what the UK Government has done following the recommendations of the Rock review, which has included the introduction of a code of practice for tenant farmers. The amendment would give tenant farmers confidence that they are part of the bill. I understand why some may not support it—given the existing code of practice, they may not want to give tenant farmers their own code of practice. However, I think that it is really important, and I would like to hear from the cabinet secretary about how tenant farmers will be able to be part of the arrangements for access to schemes overall in the bill.

I move amendment 191.

Mairi Gougeon: I absolutely support the intent behind what Rachael Hamilton is trying to achieve with her amendment. She talked about measures that the UK Government has introduced, or is looking to introduce, on the back of the Rock review. I highlight that we have already implemented some of those measures in Scotland anyway.

The member touched on—as I have touched on in my previous responses on other amendments, because I recognise the issue—the importance of tenant farmers and the need for them to have the same access to the future framework of support. However, we have introduced measures to address some of the underlying issues in that regard in the Land Reform (Scotland) Bill, which is currently undergoing scrutiny by the Net Zero, Energy and Transport Committee under the convenership of Edward Mountain.

Therefore, my only comments in relation to amendment 191 are that, although I absolutely appreciate the intent behind it, any measures relating to tenant farmers would be most appropriately considered, keeping all those measures together, as part of the Land Reform (Scotland) Bill.

The Convener: I ask Rachael Hamilton to wind up and to say whether she wishes to press or withdraw amendment 191.

Rachael Hamilton: I have nothing further to add in winding up. I press the amendment.

The Convener: The question is, that amendment 191 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 191 disagreed to.

Section 27—Continuing professional development

The Convener: Amendment 16, in the name of Richard Leonard, is grouped with amendments 192 to 195, 88, 196, 17, 197, 198, 89 and 199.

Richard Leonard: I remind members of my voluntary register of trade union interests, particularly my membership of Unite the union, in the register of members' interests.

The purpose of amendment 16 is to broaden the scope of those people in the industry who are covered by continuing professional development. It seems to me that having farmers, crofters and line managers in there is fine, but what about the workers?

For “farm workers”, the definition that I would use—I know that Alasdair Allan has lodged a similar amendment—would be people who are covered by the scope of the Scottish Agricultural Wages Board. On that point, Unite the union, in its submission to the Scottish Agricultural Wages Board in 2024, argued—I will quote it directly—that:

“The challenges around the climate emergency and net zero targets will require a suitably reliable and qualified workforce and the development of new skillsets, targeted upskilling/reskilling and Continuing Professional development.

Opportunities should be taken now to develop existing and new skills and provide the workforce with opportunities to access support and time off to take up training.”

Unite went on to say:

“More funding must also be made available to develop Apprenticeships to raise awareness of the sector amongst young people and to make it a career of choice, and to build a cohort of new recruits with the skills to ensure there remains a future in the industry.”

The gist of my amendment is to say that continuing development is a matter for the whole industry, not just for managers and owners, and we should be encouraging the continuing professional development of all.

I move amendment 16.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Amendment 192 seeks to provide additional clarity regarding the persons in respect of whom

ministers may make regulations relating to continuing professional development.

To pick up on Richard Leonard's point, stakeholders have queried the meaning of "farmers" in section 27(1)(a) and have asked whether that would include or exclude farm workers and other persons—in particular, family members—who contribute to activities on the farm or in the business. By proposing to expand section 27(1) to include

"persons who work in agriculture (whether as employees or otherwise)",

I seek to clarify that provision and ensure that we do not leave behind anyone who is making a contribution in agriculture, while providing ministers with flexibility in relation to the design of CPD.

Rachael Hamilton: Amendment 193 seeks to require ministers to consider certain principles when developing CPD requirements. The principles that are drawn on in my amendment are outlined in the recommendations in the stage 1 committee report. Those principles are the need for CPD to be

"co-designed with the sector to which it will apply ... delivered in the most appropriate format, which could include peer-to-peer knowledge exchange ... accessible to all farmers, crofters and land managers ... include an accreditation scheme for trainers and advisers"

and, finally, for it to be

"monitored and evaluated."

By outlining those principles, my amendment 193 provides an opportunity to create effective CPD schemes that are tailored to the sector. The amendment is supported by the NFUS and SLE. Amendment 195 is consequential on amendment 193.

Amendment 197 specifies that CPD must be "affordable and accessible" for those receiving the training. That sensible amendment seeks to ensure that CPD schemes are accessible and inclusive for farmers and food producers.

Amendment 198 would insert a new subsection in section 27, stating that CPD activities could be required only if they related to relevant health and safety issues. The stage 1 committee report noted:

"Aside from recognising some training should be compulsory for health and safety reasons, there was no support amongst stakeholders for compulsory CPD."

The compulsory element has been the subject of much discussion. By stipulating that CPD activities must relate only to health and safety, my amendment 198 seeks to ensure that CPD schemes remain simple and focused, rather than excessive and burdensome.

Amendment 199 would require a report to be published by Scottish ministers annually to assess how CPD is being "carried out and managed". As has been noted in relation to other amendments in the group, CPD schemes should be simple and focused. Amendment 199 provides the Parliament with the opportunity to scrutinise the effectiveness of the schemes that are implemented by Scottish ministers and ensures that any CPD schemes work in the interests of Scottish farmers, farm workers and producers, rather than being burdensome, as I have described.

Beatrice Wishart: Amendment 194, in my name, seeks to require Scottish ministers to consult farmers, crofters and land managers before making regulations under section 27, and to

"have regard to any responses to the consultation."

CPD must be co-designed with crofters and farmers, and it must be appropriate for the size and location of crofts and farms to ensure that it is effective in achieving its aims. Amendment 194 would ensure that there is a statutory requirement for farmers, crofters and land managers to have their views considered by Scottish ministers before they make regulations about CPD.

Emma Harper (South Scotland) (SNP): I will speak to amendment 88, in my name. I have a particular interest in the parts of the bill that relate to continuing professional development. I was a clinical nurse educator in my previous role with NHS Dumfries and Galloway, and I was embedded in CPD for 30 years as a registered nurse. During those 30 years, I witnessed and experienced the value of on-going education and CPD.

The Barony campus of Scotland's Rural College in Dumfries and Galloway, which I have visited on a number of occasions to meet and hear from the exceptional expert team that provides education for our current and future farmers, is crucial for agricultural education.

I lodged amendment 88 to make it clear in the bill that continuing professional development activities need to be made available in "a range of formats". It needs to be clear that there is no requirement for farmers, crofters, land managers and other agricultural producers to attend off-farm or away from their business to achieve their CPD.

With CPD, a person who is working in agricultural production could obtain knowledge or improve their knowledge about the best techniques, innovations and skills in a range of ways that meet their individual needs. That could mean peer support and completing online learning, which is similar to how healthcare staff achieve much of their required continuing professional development. NFU Scotland has

highlighted that CPD could be obtained by engaging with professional organisations such as the Soil Association.

I am aware that there are other amendments on CPD, and I will listen carefully as everyone speaks. I will end there, and I will now hear from colleagues and the cabinet secretary.

12:45

Edward Mountain: In my time in agriculture, I have learned that the best thing to do is to sit down and talk to your neighbour and listen to what advice they have to give you on what you are doing on the farm. That can include simple things about getting an easy calving, which could be a question of putting more iodine into the mineral mix to ensure that the calf is born quickly and that the cow cleanses. That is information that you can pick up from your neighbour, from their personal experience. My amendment 196 therefore specifies

“formal and informal CPD activities, including peer-to-peer learning”.

The Government sponsored peer-to-peer learning in the past, with suckler-cow groups and arable groups. Those were sensible ideas, and those groups got farmers together. There was good reason for doing that, apart from just learning. It meant that we all talked and understood our problems, and it addressed the issues of mental health that can occur on farms at difficult times.

Amendment 196 is a very simple amendment, and I am sure that it is the one that the cabinet secretary said she was going to support, because informal learning is important.

I understand the reason that Alasdair Allan has lodged amendment 192, which seeks to extend CPD out just beyond the farming family.

I have a problem with some of Mr Leonard's comments about apprenticeships. I agree that farmers would love to have apprenticeships, but how the Scottish Agricultural Wages Board is set up specifically excludes apprenticeships, on the basis that apprentices must be paid the same wage as a normal farm worker. However, they cannot do the same job. For example, an apprentice aged 16 cannot drive a large tractor unless they have passed a tractor test, they cannot operate the handler, they cannot drive other machinery and they are precluded from doing other things. There is a real problem there, which I would be delighted to discuss with Mr Leonard, because I, too, want to see more apprenticeships on farms, but the legislation is against it.

I could go on and on, but I am hopeful that the cabinet secretary will be mindful of the importance of peer-to-peer learning, rather than direct top-down learning, as I do not think that it would be helpful for politicians to tell farmers how to do their job better.

Mairi Gougeon: A lot of important points have been raised in the discussion, and I will try to cover as many of them as possible in my comments.

I will start with my amendment 17. It makes clearer the types of criteria that CPD activity providers may be expected to comply with under regulations. Stakeholders have indicated that some CPD providers come into the profession with valuable skills and experience but not necessarily with formal qualifications. Amendment 17 ultimately seeks to recognise the value of those skills and experience, and I hope that it provides reassurance to people who have those skills and experience but who may not necessarily have formal qualifications that ministers will look to those factors when setting out the criteria for the certification of persons who are providing CPD. Accordingly, I ask the committee to support amendment 17.

Turning to amendment 16, we support the inclusion of farm workers, but that amendment is narrower in scope than, and is covered by, amendment 192, in the name of Alasdair Allan. Amendment 192 will ensure that ministers will be able to make a CPD regime that could apply more broadly to persons who work in agriculture, whether or not they are employees. That could include family members and other relations as well as other people. I therefore ask Richard Leonard not to press his amendment 16, and I ask the committee to support Alasdair Allan's amendment 192.

I will group together most of the other amendments—I realise that there are quite a few in this group. Amendments 193 to 197, 199 and 88 seek, in varying degrees, to put certain requirements of CPD into the bill, which is why I want to try to address them together. First, I want to reassure members that a substantial piece of work is already under way in relation to the future agricultural knowledge and innovation system—AKIS. Indeed, at the request of stakeholders, including farmers and crofters, CPD will form a core part of the new system. Informal consultation has already taken place with a wide range of stakeholder organisations on a future AKIS, including on CPD, which has drawn to our attention many of the matters that members are now seeking to include in the bill.

As I have said previously in relation to other amendments, it is fully my intention to co-design the CPD regime, involving a wide range of

stakeholders, to capture and address many of those matters—the formats, the scale and the scope of who might undertake CPD and in what circumstances. We intend to consult on proposals later this year, and the aim is to formally consult on the CPD regulations in 2025.

When it comes to those amendments as a whole, I ask members not to move them, so that we can work together to address some of the issues, recognising, as I said, that some of the amendments are, to varying degrees, quite similar. I appreciate what members want to be captured in the bill, and I very much want to work with them on that.

That leaves two amendments for me to address. First, amendment 198 would have the effect that Scottish ministers could introduce compulsory CPD requirements only if they related

“to relevant health and safety issues”.

I absolutely recognise the importance of health and safety in agriculture, but the effect of amendment 198 is very restrictive. Given the scope and value of learning and development competencies that are of interest to the relevant sectors and are required to deliver the agricultural reform programme’s aims and objectives, I ask the committee not to support amendment 198.

Secondly, in relation to amendment 89, I absolutely recognise the importance of ensuring that CPD requirements are proportionate. As I have outlined, we intend to co-design with industry a CPD regime that is not overly burdensome and, of course, is not unfair to the industry. We have already undertaken an informal consultation, and I have set out our intentions to consult later next year. That will help to ensure that a CPD regime is fair, works for all and adds genuine value. I ask members not to support amendment 89.

Rhoda Grant: Given what the cabinet secretary has said and the reassurance that she has given, I will not waste the committee’s time by moving amendment 89.

Ariane Burgess: I will speak briefly in support of Edward Mountain’s amendment 96. Our committee has consistently heard from farmers about the success of peer-to-peer learning, and that is particularly true when it comes to regenerative and agroecological farming.

The farmers who are already using those methods can demonstrate the benefits that they have seen on their farm, which will inspire other farmers to try the same practices, as we heard from Edward Mountain. I made sure that peer-to-peer learning was highlighted in our committee report, and I am glad that Edward Mountain has picked that up for an amendment.

The Convener: I call Richard Leonard to wind up and to press or withdraw amendment 16.

Richard Leonard: I do not think that now is the time or place to have a rehearsal with Edward Mountain about whether a minimum rate of £11.44 an hour is a princely sum that prohibits people from being employed or put on an apprenticeship scheme.

With regard to the particular point that the cabinet secretary made to me, there is a distinction in law between an employee and a worker. If we simply accept Alasdair Allan’s amendment 192 as it stands, I fear that we might leave out some people whom we all intend the amendment to cover. I might not press my amendment 16, but I will ask the cabinet secretary to have a conversation with me about that important dimension. As I said, the definition that I used was those people who are covered by the Scottish Agricultural Wages Board.

I do not necessarily agree with the prescription of Rachel Hamilton’s amendment but, this afternoon, we should not lose sight of the fact that agriculture has the worst rate of fatal injuries of any industry in Scotland. Health and safety should be embedded into the continuous development of the workforce—farmers, crofters and land managers.

The Convener: Thank you, Mr Leonard. Will you confirm that you wish to withdraw amendment 16?

Richard Leonard: Yes—based on the nods and smiles of the cabinet secretary, I will seek to withdraw it.

Amendment 16, by agreement, withdrawn.

Amendment 192 moved—[Alasdair Allan]—and agreed to.

The Convener: Amendment 193, in the name of Rachael Hamilton, has already been debated with amendment 16.

Rachael Hamilton: I will not move the amendment. I will work with the cabinet secretary in great faith.

Amendment 193 not moved.

Amendment 194 not moved.

Amendment 195 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 195 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Rachael Hamilton: Actually, convener, I have made a mistake. Is it possible to not move amendment 195? I am happy to carry on if not.

The Convener: We should go to a vote.

Rachael Hamilton: No problem.

The Convener: It will not affect later amendments.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 195 disagreed to.

The Convener: Amendment 88, in the name of Emma Harper, has already been debated with amendment 16.

Emma Harper: Given what the cabinet secretary has said about co-design and working with us, I will not move amendment 88.

Amendment 88 not moved.

Amendment 196 moved—[Edward Mountain].

The Convener: The question is, that amendment 196 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 196 disagreed to.

Amendment 17 moved—[Mairi Gougeon]—and agreed to.

Amendment 197 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 197 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Burgess, Ariane (Highlands and Islands) (Green)
Carson, Finlay (Galloway and West Dumfries) (Con)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 197 disagreed to.

Amendments 198 and 89 not moved.

Amendment 90 moved—[Rhoda Grant].

The Convener: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)
Harper, Emma (South Scotland) (SNP)
Roddick, Emma (Highlands and Islands) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 3, Against 6, Abstentions 0.

Amendment 90 disagreed to.

Amendment 199 moved—[Rachael Hamilton].

The Convener: The question is, that amendment 199 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Carson, Finlay (Galloway and West Dumfries) (Con)
Grant, Rhoda (Highlands and Islands) (Lab)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
Burgess, Ariane (Highlands and Islands) (Green)

Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley)
 (SNP)

The Convener: The result of the division is: For 4, Against 5, Abstentions 0.

Amendment 199 disagreed to.

Section 27, as amended, agreed to

Section 28 agreed to.

After section 28

13:00

The Convener: Amendment 91, in the name of Richard Leonard, is in a group on its own.

Richard Leonard: The Scottish Agricultural Wages Board sets the minimum rates of pay and other conditions of service for agricultural workers in Scotland. That includes a daily accommodation offset for workers for accommodation other than a house. In 2024, that offset increased by 9 per cent to £9.99 per day, which is directly deducted from workers' pay. The Scottish Government estimates that there are between 6,000 and 7,000 seasonal workers in Scotland. They invariably have such direct deductions.

All too often, however, we hear reports and see evidence of migrant seasonal workers having been brought over by labour providers on six-month visas under the seasonal worker visa scheme and existing—I use that word rather than “living”—in uninsulated portakabins that are damp and covered in mould and that have security issues. The workers experience safety issues, rodent infestations and a lack of laundry facilities. The unsanitary conditions include broken sanitary facilities such as toilets. Shared facilities are not uncommon; there have been occasions when 30 people have had to share a limited number of them.

All those findings have been reported by the Worker Support Centre Scotland, which says that poor-quality, unsafe and unhygienic accommodation is one of the main problems reported to it. On its other work, in dealing with complaints, grievances and wrongdoings, its 2023 annual report noted that, when it speaks to migrant workers,

“often their home, the caravan, is raised as an issue of acute distress to them.”

One worker reported being accommodated in a caravan without working lighting or hot water. Others reported being given fewer than 32 hours' work per week, which the Home Office made mandatory for workers on seasonal worker visas. Despite having not been given the mandatory hours, those workers had still been charged in full

for accommodation, on top of which they had to pay gas and electricity charges.

Amendment 91 stipulates that seasonal workers should have

“satisfactory facilities for the washing and cleaning of laundry”

and that

“water, heating and power should be included in”

the £9.99 charge and not charged as extra. Its basic premise is that, if the Scottish Agricultural Wages Board is responsible for setting the daily rate for temporary accommodation, it should also ensure that such accommodation

“is fit for human habitation”.

For that reason, my amendment proposes that officers should be appointed to inspect accommodation, review the agreement between tenant and landlord, and provide for a translator to accompany inspectors. The purpose of inspection should be to ensure that accommodation is above the tolerable standard. The tolerable standard currently set out in the Housing (Scotland) Act 1987 does not apply to accommodation for seasonal workers. The Caravan Sites and Control of Development Act 1960, which makes provision for the oversight of caravans, including, for example, adequate sanitary facilities, and provides for local authorities to have a licence and inspection scheme, also exempts seasonal agricultural workers' accommodation.

My argument for lodging amendment 91 is that the current legal protection is grossly insufficient. The evidence demands a new inspection regime. Under such a regime, following an inspection, a pass should be given when no action is required and a fail should be given

“where there is a serious and immediate threat to health and safety.”

Following a fail, a list of actions and timeframes should be set out.

My amendment is an attempt to remedy a very real problem that exists in the sector.

I move amendment 91.

Ariane Burgess: I fully support the intention behind Richard Leonard's amendment 91, on inspections of agricultural workers' accommodation. For months, I have been meeting representatives of the Worker Support Centre Scotland and raising with the cabinet secretary its concerns about the exploitation of seasonal workers on large soft fruit farms. One such concern is that the housing attached to those jobs is too often of poor quality, unsafe and unhygienic.

Last year, the centre supported 63 farm workers on housing issues, including holes in caravans,

damp, black mould, rodent infestation, broken toilets and windows that would not open. Clearly, that problem needs to be addressed, but, following my discussions with the cabinet secretary, I accept the Scottish Government's position that the bill that is before us is not the right place to do that. I would appreciate it if the cabinet secretary could set out the other routes that the Government is exploring to address the issue.

Mairi Gougeon: Richard Leonard's amendment 91 seeks to fill a perceived gap in the duty of agricultural wages inspectors, and it crosses over into local authority duties to inspect accommodation to determine whether it meets the tolerable standard.

When dealing with routine or complaint inspections, agricultural wages enforcement teams already report to local authorities any concerns that employees raise with them on the condition of their accommodation. That is procedural practice and it allows the appropriate authority to deal with housing issues. I therefore do not consider amendment 91 to be necessary. I also do not think that we would want to bring housing matters into the bill, which is fundamentally about providing support for agricultural and rural communities.

That said, I absolutely recognise that we need to do what we can to ensure that everyone who lives and works in Scotland, including those who work in agriculture, has access to appropriate housing. I believe that that would be best done through our wider commitment to address the overall condition of housing in Scotland.

The Scottish Government's aim, as it is set out in our housing to 2040 strategy, is to introduce new cross-tenure housing standards, which will be set in law. The new standards will cover all homes, whether they are new or existing homes, including agricultural properties, mobile homes and tied accommodation. We want to ensure that there are no margins of tolerance, no exemptions and no substandard homes in urban, rural or island communities, in deprived communities or in tenements. By doing so, we will have consistency across all housing tenures and help people in Scotland to have access to high-quality homes that meet their needs.

Although I fully appreciate the intent behind amendment 91, I do not believe that the bill is the appropriate place for it. That is why I ask the committee not to support it.

The Convener: I invite Richard Leonard to wind up and to press or withdraw amendment 91.

Richard Leonard: The cabinet secretary should read a very good book by the undercover journalist Günter Wallraff, which is called "Lowest of the Low". It is about how the West German economy treated migrant workers in the 1980s.

The treatment that migrant workers in Scotland are undergoing is completely unacceptable, and the accommodation that is provided for them is way below the standard that any of us would accept. If the cabinet secretary is saying to me that imminent legislation will address that, I will, of course, withdraw my amendment. However, it would be helpful to understand from the cabinet secretary what the Government's timetable is for that alternative legislative proposal that would address a very clear gap in current competence and legislation.

Mairi Gougeon: I will have to follow that up with my colleague Paul McLennan, the Minister for Housing, and discuss it with him, because I do not have that information in front of me at the moment. I could provide more information on that afterwards.

The Convener: Mr Leonard, are you pressing or withdrawing amendment 91?

Richard Leonard: I will press it, convener.

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

Members: No.

The Convener: There will be a division.

For

Grant, Rhoda (Highlands and Islands) (Lab)

Against

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Burgess, Ariane (Highlands and Islands) (Green)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Roddick, Emma (Highlands and Islands) (SNP)
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)

The Convener: The result of the division is: For 1, Against 8, Abstentions 0.

Amendment 91 disagreed to.

The Convener: Amendment 200, in the name of Rachael Hamilton, is in a group on its own.

Rachael Hamilton: This is another group with a sole amendment in it. Amendment 200 would place a 60-60 target in the bill. That target would require local authorities to source 60 per cent of the food that they procure from within 60 miles of the authority region within three years of royal assent. Although a 60-60 target might appear ambitious, it would reduce emissions by cutting unnecessary food miles and would support local jobs. I brought the proposal forward in amendments to the Good Food Nation (Scotland) Bill but it was not supported. However, I still

believe that, where it is achievable, it can be an ambition.

It is not possible for the target to work in all regions, particularly remote and island communities, so I suggest tailoring the support to ensure that, if it is not possible to hit the 60-60 target, the priority would be to procure as much food as possible from within Scotland and the United Kingdom, rather than importing food, as is done so much now.

I move amendment 200.

Ariane Burgess: Rachael Hamilton's well-intentioned amendment would insert a target of 60 per cent of the food procured by each local authority to be produced within 60 miles within three years of the bill's royal assent. That is an admirable aim, and I fully support the intention to incentivise and support local food production and procurement. However, the target is problematic in practice for a number of reasons.

For the foreseeable future, it would be very difficult to source enough bread, pizza, most pulses, most fruit, tomatoes, peppers, sweetcorn, rice and more from within 60 miles. That is the unfortunate reality, and it will not change unless the Scottish Government increases support for local small-scale production, which my amendments 48 and 201 seek to achieve.

The next practical problem is to do with definitions. Is a sausage roll that is produced in Lanarkshire local if it is produced with Polish pork and French flour? Tracking back to ingredients is a challenge.

The next issue is that 60 miles is a long way for local authorities in the central belt but not far for isolated islands. An islands impact assessment would be needed.

Then there is the legal difficulty. The United Kingdom Internal Market Act 2020, which the UK Government introduced, makes a requirement to source from a particular part of the UK illegal under the principle of non-discrimination. I would be interested in hearing whether the Scottish Government is in conversation with the UK Government about allowing the specification of locally produced food in public procurement.

In any case, such a target should be included in a statutory plan, such as the good food nation plan or the rural support plan, not in primary legislation.

I support the principle of procuring local food but I do not support the amendment. However, I would welcome a commitment from the cabinet secretary to add practical measures to the rural support plan and the good food nation plan to support the local food economy using funding from the agricultural budget. That would allow a target such as the one

that Rachael Hamilton proposes to become much more achievable.

Mairi Gougeon: Ariane Burgess has articulated better than I could some of the issues with the amendment. I absolutely support the aspirations behind what Rachael Hamilton seeks to achieve, but the bill is not the appropriate place for it. The appropriate place would be discussions that we take forward on the good food nation plans.

As Rachael Hamilton highlighted, we discussed targets. Procurement is always a tricky area because there are so many things to consider between what is reserved and what is devolved. It is not an easy issue for us to fix. We have been considering the setting of targets and objectives through the good food nation plan. It is the first iteration of that plan, and it will develop as we get more data and more information that we can use to populate more targets and further objectives.

I ask the committee not to support amendment 200. Although I support the overall aspirations behind it, I think that discussions on the matter should take place as part of the development of the good food nation plans.

13:15

The Convener: I ask Rachael Hamilton to wind up and say whether she wishes to press or withdraw amendment 200.

Rachael Hamilton: This is the second time that I have tried to bring forward the particular argument for supporting local food producers to supply, through the procurement process, local schools and hospitals and local communities. I am not convinced that the framework in the Good Food Nation (Scotland) Act 2022 is going to be able to prioritise local procurement. When we debated it, there was very little support from the Scottish Government to review the current procurement process. However, I hear what the cabinet secretary says about the 2022 act being the right piece of legislation to take forward this aspect, through the consultation on, and delivery of, the local good food nation plans and so on. I am, therefore, happy not to press my amendment.

Amendment 200, by agreement, withdrawn.

The Convener: Amendment 204, in the name of Rachael Hamilton, is grouped with amendment 205.

Rachael Hamilton: We discussed this matter last week. As I said, the stage 1 committee report on the bill notes that

"A definition of 'high-quality food' is not provided in either the Bill or the accompanying documents."

If the Scottish Government is asking farmers and food producers to deliver "high-quality food", it is

important that the Government is clear about what it means by that.

Pete Ritchie of Nourish Scotland stated in evidence to the committee:

“it is bad law to put ‘high-quality food’ on the face of the bill if there is no intention to define it.”—[*Official Report, Rural Affairs and Islands Committee*, 13 December 2023; c 8.]

Others disagreed with that. However, as I stated in committee last week, we were previously told by Scottish Government officials that high-quality food relates to

“unadulterated produce that comes out of the ground and that is produced under the basic standards and expectations of Scottish agriculture”.—[*Official Report, Rural Affairs and Islands Committee*, 29 November 2023; c 4.]

To me, that is meaningless.

Last week, the cabinet secretary further suggested that,

“if people comply with the high, rigorous standards that we”—the Scottish Government—

“have in place, that will meet the definition of high-quality food.”—[*Official Report, Rural Affairs and Islands Committee*, 8 May 2024; c 13.]

That statement does not chime with the previous statement by Scottish Government officials, so there is clearly disagreement, or no official line, on the matter.

Does the cabinet secretary intend to provide a clear definition of “high-quality” in the rural support plan? If so, would she be happy to discuss an amendment to that effect before stage 3?

I move amendment 204.

Mairi Gougeon: I was not going to make an intervention at this point, convener—I did not know whether you were turning to me. Sorry—I was jumping ahead.

The Convener: Yes, cabinet secretary—sorry.

Mairi Gougeon: Sorry, convener—I was too keen to respond.

I appreciate the points that Rachael Hamilton has made, but I do not see those two things—what I have said and what officials have set out previously—as contradictory. Officials talked previously about “the basic standards”, but our basic standards are high standards, so I do not think that those two things are in conflict.

I would not agree to the amendment, because I think that it is important for us not to be prescriptive around the definition. As Rachael Hamilton touched on, there was conflicting advice on that in committee, too, and I know that other stakeholders opposed having a firm and fixed

definition. That is why I encourage the committee not to support amendment 204.

Emma Harper: Will the cabinet secretary take an intervention?

Mairi Gougeon: I had finished, but I am happy to take a point.

Emma Harper: On the point about high quality, I am interested in the work of Henry Dimbleby and Chris van Tulleken on the links between the safety of food and obesity related to ultra-high-processed food. I know that a Government consultation on high fat levels, sugar and salt in food is currently under way. Will the cabinet secretary continue to engage in looking at the evidence on ultra-high-processed food and how it impacts on health in Scotland?

Mairi Gougeon: Yes, of course. We have already touched on the good food nation plans and the issues that can be considered in that regard. That is meant to involve a cross-Government approach—we are looking at all the different areas that touch on food policy and giving them further consideration. Again, I think that the Good Food Nation (Scotland) Act 2022 is the appropriate lens through which to look at the issues that Emma Harper has raised.

The Convener: I ask Rachael Hamilton to wind up and say whether she wishes to press or withdraw amendment 204.

Rachael Hamilton: I have no further comments, and I seek to withdraw the amendment.

Amendment 204, by agreement, withdrawn.

Section 29 agreed to.

Schedule 2—Repeals and minor modifications

Amendments 18 and 19 moved—[Mairi Gougeon]—and agreed to.

Schedule 2, as amended, agreed to.

Sections 30 and 31 agreed to.

Section 32—Index of defined terms

Amendment 205 not moved.

Section 32 agreed to.

Sections 33 and 34 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and her officials, and I close the meeting.

Meeting closed at 13:21.

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