OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Social Justice and Social Security Committee

Thursday 26 September 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 26 September 2024

CONTENTS

Col.
SOCIAL SECURITY (AMENDMENT) (SCOTLAND) BILL: STAGE 2 1

SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE
25th Meeting 2024, Session 6

CONVENER

*Collette Stevenson (East Kilbride) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)
*Katy Clark (West Scotland) (Lab)
*Roz McCall (Mid Scotland and Fife) (Con)
*Marie McNair (Clydebank and Milngavie) (SNP)
*Paul O'Kane (West Scotland) (Lab)
*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Maggie Chapman (North East Scotland) (Green)
Shirley-Anne Somerville (Cabinet Secretary for Social Justice)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Social Justice and Social Security Committee

Thursday 26 September 2024

[The Convener opened the meeting at 09:00]

Social Security (Amendment) (Scotland) Bill: Stage 2

The Convener (Collette Stevenson): Good morning and welcome to the 25th meeting in 2024 of the Social Justice and Social Security Committee. The first item of business is the committee's consideration of the Social Security (Amendment) (Scotland) Bill at stage 2, which we started last week. Shirley-Anne Somerville, who is the Cabinet Secretary for Social Justice, joins us again for this item. Thank you for joining us, cabinet secretary.

I will briefly explain the procedure that we will follow during today's proceedings. Members should have with them a copy of the bill, the marshalled list and the groupings, which were published on 23 September. For anyone who is observing, those documents are available on the bill page on the Scottish Parliament's website.

I will call each amendment individually, in the order on the marshalled list, and the member who lodged the amendment should either move it or say "Not moved" when it is called. If that member does not move the amendment, any other member present may move it instead.

The groupings of amendments set out the amendments in the order in which they will be debated. There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in the group to speak to, but not to move, their amendments and to speak to other amendments in the group if they wish to do so.

I will then call any other members who wish to speak in the debate. Members who wish to speak should indicate that by catching my attention or the clerk's. I will then call the cabinet secretary if she has not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether he or she wishes to press the amendment or to seek to withdraw it. If the amendment is pressed, I will put the question on the amendment. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member present objects. If there is an objection, I will immediately put the question on the amendment.

Later amendments in a group are not debated again when they are reached on the marshalled list. If they are moved, I will put the question on them straight away. If there is a division, only committee members are entitled to vote. Voting is by a show of hands, and it is important that members keep their hands raised clearly until the clerk has recorded their names. In the event of a tie, as convener, I must exercise a casting vote.

The committee is also required to consider and decide on each section and schedule of the bill and the long title. I will put the question on each of those provisions at the appropriate point.

Section 14—Power to make provision in relation to appointments made by a Minister of the Crown

The Convener: We now move to consideration of the amendments and start with the grouping on appointees and representatives.

Amendment 52, in the name of the cabinet secretary, is grouped with amendments 53 to 56, 126, 9 and 102. I ask the cabinet secretary to move amendment 52 and to speak to all the amendments in the group.

The Cabinet Secretary for Social Justice (Shirley-Anne Somerville): Good morning, convener. The Scottish Government's amendments 52 and 53 are technical changes to clarify that an individual's eligibility to receive assistance has no bearing on whether an appointee may act on their behalf. An appointee may act in connection with a determination, even if the result of that determination is that the individual is not eligible.

Amendments 54, 55 and 56 are minor drafting amendments relating to terminology: they change the words "their" and "they are" to "the person's" and "the person is", respectively, to avoid any potential ambiguity as to whom is being referred to. It has no substantive effect on the operation of the provision or policy.

Amendment 102 corrects an error in the Social Security (Scotland) Act 2018. My officials, while considering other amendments to the bill, identified that section 85B(5) of the 2018 act on appointees is not included in the list of negative procedure powers in section 96(3). Amendment 102 amends section 24 of the bill to correct that. I ask the committee to support amendments 52 to 56 and amendment 102.

Amendment 126, in the name of Jeremy Balfour, seeks to allow Scottish ministers to appoint a person who already has authority to act on behalf of a child—for example, someone with existing parental responsibilities and rights. I again thank Mr Balfour for his on-going interest and support in relation to ensuring that we make payments to the right person and based on the best interests of disabled children. That is, I think, our shared aim, and I will explain why I do not think that the amendment will meet that aim.

I believe that amendment 126 could create uncertainty or an unnecessary additional step for parents who, in most cases, already have the right to be their child's legal representative.

Social Security Scotland already has procedures in place to ensure that the child disability payment goes to someone who is suitable to manage that payment on behalf of the child. If Social Security Scotland receives information that suggests that persons may no longer be suitable to manage payments, it will take action urgently. It will also ensure that payments are suspended when there is a risk of financial abuse or when someone is no longer able to continue managing the assistance.

I am concerned that amendment 126 could result in Social Security Scotland or the First-tier Tribunal for Scotland being used as an arena for some separated parents to play out their disputes, with neither being suited to fully arbitrate such disputes. I believe that that would be a negative outcome for Social Security Scotland, the tribunal and the child, particularly when there are processes in place to manage such disputes. I have written to Mr Balfour to provide more information, and I hope that he has had the opportunity to reflect on that additional information.

For those reasons, the Government does not support amendment 126, and I ask Mr Balfour not to press it.

I turn to Jeremy Balfour's amendment 9, which seeks to put third-party representatives on a statutory footing by setting out existing policy and processes in primary legislation. Nomination of a third-party representative can already be achieved under common law using a mandate form, and the process has been in place at Social Security Scotland for more than four years. Clients are not restricted to using Social Security Scotland's mandate. They can nominate a third-party representative using other methods, such as over the phone or by submitting an organisation's own mandate.

I understand the motivation behind amendment 9. I assure the committee that the Government continues to listen to clients and stakeholders and will seek to streamline the administrative process for nominating a third-party representative as much as possible. For example, for the launch of the pension-age disability payment, we have integrated a mandate into the application form, reducing the need for any additional forms or phone calls from the client.

I am not persuaded that we should remove the flexibility to respond quickly to feedback and to continuously improve our processes by setting out such operational detail in primary legislation. We have heard similar things from organisations that regularly act as third-party representatives in connection with social security. Citizens Advice Scotland told us that it does not support amendment 9. CAS said:

> "The insertion of this process into legislation and the addition of the word 'must', may create operational difficulties",

noting that representatives can change in the course of a client journey.

Therefore, although I very much respect the intent behind amendment 9, I encourage Mr Balfour not to press it.

I move amendment 52.

The Convener: I invite Jeremy Balfour to speak to amendment 126, and other amendments in the group.

Jeremy Balfour (Lothian) (Con): I am fully supportive of the Government's amendments and will vote for them.

I think that there has been some confusion around amendment 9, from some of the feedback that I have had from third sector organisations. I am also slightly concerned that we are relying on practice notes and things that happen within Social Security Scotland, because those can change without any scrutiny by Parliament or this committee. On certain issues, we need to have things either in primary legislation or within regulations so that if changes are made by Social Security Scotland, or if a different Government comes in and changes practice, we have at least some role in scrutinising that. There has been mixed feedback on how Social Security Scotland has dealt with those issues in the past four years.

My amendment 9 seeks to make it the case that, where a person wants to have the same representative all the way through, they are able to say, at the start: "I want that individual to have the papers all the way through to the end of a First-tier Tribunal, if it goes that far." That would safeguard the individual. For example, somebody may have early dementia or some other condition, or they might live in a very chaotic household—papers will come in and go out, and they will often not know when they have to be responded to.

I would be happy if the cabinet secretary could pick up on this point. There seems to be a presumption that a person gives a six-month notice of representation; then, after that six months, they have to go back to Social Security Scotland and ask for that individual to continue to represent them. My fear is that, if people forget at that six-month point, their representative no longer gets the papers, and the claim could go off track.

That does not stop the individual from saying at any point, “I do not want that person to represent me”, but it puts that person in charge. I think that that is the way forward, and that it gives the claimant the assurance that the representative gets all the documentation that is required from Social Security Scotland.

On amendment 126, in relation to children, I accept what the cabinet secretary said; however, again, we are being asked, as a Parliament, to rely on Social Security Scotland acting in a certain way.

I have read the correspondence, for which I am grateful to the cabinet secretary, but I am still not absolutely sure of the legal basis for Social Security Scotland being able to do all that. Who gives it the power to make those notices and to make all those things? Where is the legislation allowing it to do that? I would be interested to hear the cabinet secretary deal with that issue in her closing remarks.

At the moment, I am still minded to move my two amendments, but I look forward to hearing what the cabinet secretary has to say in her closing remarks.

Paul O’Kane (West Scotland) (Lab): We are supportive of the Government’s amendments in this group.

I will turn briefly to Mr Balfour’s two amendments. I recognise some of what the cabinet secretary said, particularly on amendment 126, around ensuring that there is flexibility in the system to appoint the right person to receive money on behalf of a child, and around not interfering or challenging the established processes.

I hear the cabinet secretary’s concern that family court situations might be played out within the social security system. We need to be very careful, and I am reassured by what she has said about the processes and procedures that will be in place.

On amendment 9—or do I mean amendment 126? I am getting my amendment numbers mixed up. In relation to third parties being appointed, I have some concerns around trying to understand exactly the views that have been expressed by the third sector. There has been a variety of views, and this debate has been helpful, but the further clarity that Mr Balfour is looking for from the cabinet secretary would be helpful to have prior to making our decision.

The Convener: As nobody else would like to come in, I invite the cabinet secretary to wind up.

Shirley-Anne Somerville: I will respond to some of the points that Mr Balfour and Mr O’Kane made on the authority of Social Security Scotland to make the decisions in relation to children around some aspects, based on the common-law approach.

With regard to amendment 9, I can see where Mr Balfour is coming from on third-party representatives. However, that is one of the areas where we must be careful of unintended consequences. For example, there is a default position that representation is for three months. That was asked for by the Scottish Women’s Convention. We can imagine circumstances where a woman who is experiencing coercive control by her partner or husband might wish not to have something like Mr Balfour’s suggestion in place. Therefore, primary legislation is really not the place for such a provision, because the system needs to be flexible.

09:15

Of course, a client can ask for longer. The default position is that representation is for three months but it does not have to be three months. Clients have the opportunity, as I said in my opening remarks, not just to use the mandate form from Social Security Scotland and not just to have representation for three months but to choose to do something different should they so wish.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I am supportive of the position that you outline, cabinet secretary, but I am also conscious that Mr Balfour suggested a scenario in which the individual wanted the representative to stay in place but, for whatever reason, the paperwork, the bureaucracy and the administration around refreshing that authorisation went astray. There could be a variety of reasons for that, and I think that Mr Balfour—I am not speaking for him; I am just trying to get clarity from you, cabinet secretary—was worried that that could be an unintended consequence of withdrawing that representative mandate. What safeguards would be in place under the Government position? Is it more about the culture and practice within the system than having specific provisions in the bill?

Shirley-Anne Somerville: I would not suggest provision in the bill. As I said, on those issues, it is important that we are able to be much more flexible than we would be able to be under primary

legislation. Social Security Scotland, of course, follows strict guidance. Yes, we need the culture and the ethos but, more importantly, we must have the guidance.

On the concern about not having scrutiny, the committee can call the chief executive and others from Social Security Scotland to come to discuss anything that the committee wishes or has concerns about. Of course, the Parliament also has the power to ask the Scottish Commission on Social Security to report on any matter relevant to social security if there is a concern.

I absolutely recognise that, as I have said on many issues, Social Security Scotland is still new. The agency is learning, open to learning and open to adaptations. That is the way to address the matter in conjunction with stakeholders, knowing that we have the ability for the Parliament or SCOSS to scrutinise and investigate should they wish to do so. Therefore, I still ask Mr Balfour not to move amendment 9.

Amendment 52 agreed to.

Amendment 53 moved—[Shirley-Anne Somerville]—and agreed to.

Section 14, as amended, agreed to.

Section 15—Liability of appointees under sections 85A and 85B of the 2018 Act

Amendments 54 to 56 moved—[Shirley-Anne Somerville]—and agreed to.

Section 15, as amended, agreed to.

After section 15

Amendment 126 moved—[Jeremy Balfour].

The Convener: The question is, that amendment 126 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
McCall, Roz (Mid Scotland and Fife) (Con)

Against

Clark, Katy (West Scotland) (Lab)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
O'Kane, Paul (West Scotland) (Lab)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 126 disagreed to.

Amendment 9 moved—[Jeremy Balfour].

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
McCall, Roz (Mid Scotland and Fife) (Con)
O'Kane, Paul (West Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

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

Because the result is a tie, I must exercise a casting vote. My vote is against the amendment, which is therefore disagreed to.

Amendment 9 disagreed to.

Section 16—Information for audit of social security system

The Convener: Amendment 57, in the name of the cabinet secretary, is grouped with amendments 10, 58, 99 and 103.

Shirley-Anne Somerville: Before I speak to the individual amendments in the group, it might be helpful to offer some context on the development of the provisions and the rationale that underpins them. I recognise that some stakeholders and members have raised concerns about what is being proposed and hope to address those today.

First, let me be clear that the ethos of treating individuals with fairness, dignity and respect is the bedrock on which our social security system is built. I am content that nothing in this section of the bill runs contrary to that ethos. As a Government minister, I have a duty to ensure that I am stewarding public finances responsibly and take that duty very seriously. Value for money is also one of the fundamental social security principles in section 1 of the 2018 act.

In its 2021-22 annual audit report, Audit Scotland considered it a matter of priority for the agency to develop the capability to assess the levels of fraud and error present within its case load. Ministers and accountable officers also have a duty under the Public Finance and Accountability (Scotland) Act 2000 to understand the levels of fraud and error that are present within the devolved social security system. It is therefore crucial that the agency can produce robust estimates. In developing the provisions, we have sought to balance those duties with our ethos of fairness, dignity, and respect and with the principle

of value for money. I am content that we have struck the right balance to protect individuals and the public purse.

I will speak first to the non-Government amendments, before moving to the Government amendment in my name. Amendment 10, in the name of Jeremy Balfour, would remove from the bill the provisions that allow the Scottish ministers to make a decision to suspend entitlement in cases where the agency has repeatedly and unsuccessfully tried to gather the necessary audit information.

Although I recognise that the laudable aim of the amendment is to protect individuals from having their entitlement suspended unnecessarily as part of the audit process, I cannot support it. When repeated attempts to obtain the required information have not been successful, the agency must be able quickly to establish that the individual remains entitled to the assistance and that significant overpayments are not being accrued. We might, for example, have to establish whether the individual still resides in Scotland and thereby meets the necessary residency criteria.

Following detailed consideration of options, suspension has been identified as the most effective tool to ensure that people participate in the audit process. I hope that the committee will recognise that it is a proportionate intervention where, as we clearly intend, it is applied in line with our ethos of treating people with dignity, fairness and respect.

Although the suspension powers are new, the committee should bear in mind that they are entirely consistent with the Scottish ministers' existing powers to suspend assistance where they require information to make a determination of entitlement. If somebody stops responding to Social Security Scotland, that will rightly raise a concern. The existing suspension powers are in place so that people and the public purse can both be protected. Removing the suspension powers from this part of the bill would not, therefore, prevent the possibility of suspension altogether. It would simply undermine the whole point of taking the powers in the first place.

However, the existing powers may be used only in situations where ministers require information to decide whether someone is still entitled to assistance—for example, where somebody has stopped responding to Social Security Scotland's correspondence. They could not be used to request information to inform a statistical sample. That is one reason why the additional suspension powers in part 6 are required. The other reason is that we consider it to be more transparent to place the relevant powers in the relevant part of the primary legislation.

I reiterate that a decision to suspend payments is not one to be taken lightly and that it will only ever be done when the agency has made extensive and repeated efforts to gather the necessary information for the audit process. I hope that that further reassures the committee that safeguards are built into the process. Individuals will have the right to ask the Scottish ministers to review the decision to suspend their assistance, and any suspended assistance will be backdated if they subsequently respond to the request for information. Therefore, the Scottish Government cannot support amendment 10.

Maggie Chapman's amendment 58 would remove the provisions in relation to information fraud in their entirety. I will also deal at this point with amendments 99 and 103, which I understand are simply consequential. My officials undertook a detailed options appraisal on how to provide an audit framework and considered best practice for gathering such information in other parts of the UK and other countries, and that work informed the development of the provisions.

If amendment 58 was agreed to, the agency would be left with no powers to require information from individuals. It would be able to gather information only from individuals who opted to participate in the audit process. That self-selection of participants would likely mean that those who knew that they should have reported a change of circumstances but did not do so and those who knew that they were claiming under false pretences would simply not participate. The approach would also be inconsistent with similar mandatory client survey approaches that are conducted in other countries, including the rest of the UK, Ireland, Canada and Australia.

Amendment 58 would damage the validity of any data that was gathered and it would prevent the agency from responding effectively to Audit Scotland's recommendation. It would arguably cut across ministers' duties under the Public Finance and Accountability (Scotland) Act 2000 to accurately assess levels of fraud and error in the case load.

However, I recognise that stakeholders may still have concerns in that area, and I reassure the committee that my officials will work to address them, including through public consultation. We have included safeguards in the process to ensure that individuals will be supported to participate, with the right to an advocate or supporter. As ever, we will continue to engage and work with stakeholders as the bill progresses and any subsequent legislation is developed.

I committed to lodge my amendment 57 at stage 1 and I urge the committee to support it. It will place a duty on the Scottish ministers to undertake a public consultation on the categories of

individuals who should be exempt from participation in the information for audit process. Although it would not be appropriate to prejudge the results of that or indeed any future consultation, or to definitively list types of individuals who would be exempt from providing information, it may help the committee if I offer an example of a category that could be included in the regulations. Initial policy discussion suggested that those whose entitlement has recently been reviewed would automatically be exempt from participation. We will, of course, welcome stakeholder views on other categories of people who should be exempt from the exercise.

I hope that amendment 57 further illustrates our commitment to work with stakeholders and address any concerns that they have. As I have outlined, the provisions seek to balance two different sets of priorities. As the committee noted in its stage 1 report, that is not easy to achieve. However, as a Government minister, I have a duty to ensure that the public purse is protected and that funds are spent wisely and appropriately. At the same time, that cannot come at a cost of departing from our principles and the ethos of treating people with dignity, fairness and respect. I am content that we have struck the correct balance in the bill's provisions.

09:30

It is not feasible, for the reasons that I have outlined, for the agency not to undertake audit activity to assess the levels of fraud and error in its case load. However, I am aware that some stakeholders have concerns about what is proposed. I hope that the measures and safeguards that we have outlined will help to ease some of those concerns.

I move amendment 57.

The Convener: I invite Jeremy Balfour to speak to amendment 10 and other amendments in the group.

Jeremy Balfour: It would be fair to say that, of all the areas that we looked at during stage 1, this was probably the most controversial and perhaps the hardest for us to come to a view on. In some ways, it is unfortunate that Mr Mason is no longer with us, as he was a bit of a Rottweiler on this particular issue.

With your permission, convener, I will take a wee bit of time to explain where I am coming from. Let me be absolutely clear: I believe in audit. That is why I think, at this moment, that I will not support Maggie Chapman's amendment 58, which would get rid of the audit completely, although I look forward to her trying to persuade me otherwise.

I believe in audit, but the issue is who is being audited. The point of having an audit, as set out in the original purpose of the bill, was to audit Social Security Scotland. I feel that we have taken it a step further and are saying that we want to audit people who have been given an entitlement to an award even though nothing has changed. Nothing in their circumstances has changed, but we are now going to take away that entitlement.

The Scottish Government has moved quite cleverly, through a back door, from saying that it wants to audit Social Security Scotland to saying that the audit is actually about fraud and has nothing to do with how Social Security Scotland is doing.

Shirley-Anne Somerville: I hear where Mr Balfour is coming from. Can he perhaps try to persuade me that we can audit Social Security Scotland and the way in which it does things without auditing the decisions that it makes and, therefore, its case load? I simply do not see how to do that. The entire purpose of Social Security Scotland is to deliver the right decisions at the right time; therefore, we must examine the decisions.

Jeremy Balfour: You took the words right out of my mouth, cabinet secretary—here is my persuasive argument. Can you imagine the Royal Bank of Scotland, the Bank of Scotland or any of the other big banks being audited in such a way? The banks are audited on an annual basis, and rightly so, but can you imagine them coming to account holders and saying, "We want to audit how you are managing your account as an individual. If you don't give us that information, we will close down your bank account"? That is what we are doing here. We are saying that we will go beyond auditing the organisation and look at the people who benefit from social security. That does not seem to me to be what auditing is.

There should be a power for Social Security Scotland to go to a claimant and say, "Will you share that information with us?" However, if the claimant, for whatever reason, does not want to do that, I do not think that they should be penalised.

I will develop that further. Section 52 of the 2018 act allows for unscheduled review of entitlement. Therefore, Social Security Scotland can already review anybody—it has that power. What it does not have is the power to take away an award without doing a review. That is a very significant difference.

In its submission to the committee, the Law Society of Scotland says that the provisions "conflate audit and fraud". It also says:

> "It is not clear why individuals should need to be involved in auditing the system in this way, or indeed, why Ministers

could not obtain the information they need through other channels."

For once, I agree with the Law Society of Scotland—it is absolutely right. We are trying to use audit as a way of bringing about fraud claims. With due respect to the Government, I think that we have stepped over the line of treating a claimant with dignity, fairness and respect.

Beyond that—and it does not matter what terminology you use—we are now introducing sanctions to deal with people. We have been having debates about sanctions for a long time now. Marie McNair has said that benefit sanctions are

"a vehicle for penalising those who are in need of benefits",

while Ben Macpherson, the previous social security minister, said:

"we have shown ... that people respond much better to support and encouragement than they do to threat and fear."—[*Official Report*, 31 March 2022; c 32, 46.]

However, if we support the bill as it stands, we as a committee will be voting for sanctions. We will be voting to say to somebody, "If you do not give Social Security Scotland some kind of response, we will take away or hold back your benefit." They might get it back later, but that does not help them in the immediate period.

It does not seem to me that we would be treating those people with dignity, fairness and respect, because those individuals have done nothing wrong. Their circumstances have not changed; the claim that they were entitled to is still the same; all that they are saying is, "We do not want to be involved in this audit process." Therefore, what is proposed seems unfair to me.

I was interested to see that, in the Scottish Government's response to our stage 1 report, we seem to move from talking about audit to talking about "fraudulent". As the cabinet secretary said in that response,

"If there is no such power to suspend,"—

in other words, no power to sanction—

"there is no incentive for anyone who is claiming assistance fraudulently ... to participate in the process."

That is true, but my point is that the Scottish Government already has the power to do that under section 52 of the 2018 act. However, what it wants is the power to sanction someone without reviewing their claim, and I believe that that goes too far. I am not arguing against an audit of Social Security Scotland—that is where I probably disagree with Maggie Chapman—but I am totally against auditing vulnerable individuals with regard to decisions that they have no power over.

On the presumption that I might not be successful in the next few minutes, I will support the Scottish Government's amendment 57, which I think at least gives organisations and individuals a further bite at the cherry. However, I genuinely urge members to think about what they are voting for and whether they are going too far with regard to getting information from vulnerable individuals who have—I repeat—done nothing wrong. Their circumstances have not changed; all they have been unwilling to do is to respond to what is, in fact, an audit of an organisation, not an individual.

The Convener: I call Maggie Chapman to speak to amendment 58 and other amendments in the group.

Maggie Chapman (North East Scotland) (Green): Thank you. Good morning, everyone.

I thank the cabinet secretary for the conversations that we have had about the bill in the run-up to stage 2. I will be speaking to amendments 58, 99 and 103, the substantive one being amendment 58.

At the outset, I say that I believe in audit; I just do not think that, as set out, the measures in section 16 are appropriate at this time. The section gives powers to Social Security Scotland to request information from random individuals receiving payments in order to ascertain levels of error by the recipient and fraud in the system. It follows an Audit Scotland annual audit report that recommended that something needed to be done about the issue.

Some categories of people can be made exempt by regulation, and individuals who have a good reason not to respond—for example, because of recent bereavement—can ask for the request to be withdrawn or postponed. However, that will not necessarily be granted. If people do not give the information requested, their payments can be suspended until they do, and, ultimately, a new determination might be made that could mean their payments being stopped altogether.

The provisions were not included in the public consultation, and stakeholders including the Child Poverty Action Group, Scottish Action for Mental Health, Citizens Advice Scotland, the Law Society of Scotland, the Royal National Institute of Blind People and others are concerned about the effects of the section. I will come on to the reasons for their concerns in a moment. The cabinet secretary has suggested that she will work with organisations on producing guidance, but the only Government amendment to section 16 seeks to add public consultation on the exempt categories, not on the broader powers set out in the section.

There are five key concerns with section 16, the first of which is about the lack of public consultation. The public consultation on most of the bill was run in 2022, and the Audit Scotland report that the cabinet secretary and I have

referred to was published in 2023. In other words, the report that suggested that something needed to be done to provide for an audit capacity did not come until after the public consultation on the bill. Given the very wide concerns that stakeholders have raised about the lack of consultation and the substantive provisions, I have serious concerns whether the provisions in section 16 are the right ones at this time. There is the possibility that we will leave ourselves hostages to fortune and open to unintended consequences.

The second concern is about whether the information from individuals is needed in the way that section 16 outlines. Erica Young of Citizens Advice Scotland pointed out that rates, even of suspected fraud, are very low, and there are already adequate audit procedures in place to estimate official error. Several witnesses suggested that estimates of user-led error or fraud could be obtained by other means, including by looking at evidence from determinations, redeterminations and appeals, and CPAG and the ALLIANCE have outlined those processes quite clearly. The Audit Scotland report said only that we needed to continue to develop processes in this space, not necessarily put in place the sort of immediate and far-reaching action outlined in the section.

The third concern is about the need for punitive sanctions, about which Jeremy Balfour has already outlined significant concerns. The bill includes provision for suspension of payments and redetermination if information is not provided, but many stakeholders have found that approach to be disproportionate and deeply concerning. It has the potential to lead to stigma, practical difficulties with compliance by vulnerable groups and issues for people who have already been exposed to trauma and mistrust through previous experiences with, for instance, the Department for Work and Pensions. There are also questions of hardship caused by suspension of benefits and unfairness of suspension where no suspicion of actual fraud is evident.

I appreciate certain provisions, including those on the categories of people who are not required to give the information and the cabinet secretary's amendment with regard to public consultation on that matter. However, not everyone who will suffer as a result of the provisions will fall into clear, permanent or documented categories. The cabinet secretary argues that, without sanctions, the system will be ineffective, but I do not think that that is necessarily so. Those who are determined to commit deliberate fraud might well be able to obtain exemptions. It has also been stated that the sample of those asked to provide evidence would be random. However, it will not be random if people can self-select—and it is arguably not random in any case if some categories of people are exempt, as of course they should be. Claire Andrews of the RNIB made the sensible suggestion that we could introduce something initially, but without suspensions or sanctions, on a test-and-learn basis, and I ask the cabinet secretary, in her summing up, to outline why that approach has not been taken.

The fourth concern is about the separation of functions, which Jeremy Balfour has already talked about—in other words, the conflation of an audit process and a fraud investigation. There are comments in the explanatory notes to the bill suggesting that the two systems must be kept separate, but the fact is that they cannot be kept separate if the information provided by an individual might incriminate them because of how they have provided it. As Jeremy Balfour has outlined, the Law Society has said that there will be a clear need to caution people and give them information about their rights when they are asked to provide information, in case they incriminate themselves.

09:45

For my final reason for objecting to section 16, I come back to the point about its compatibility with principles. Many stakeholders raised fundamental questions about how section 16 would work with other social security processes, including those in the bill. Jon Shaw noted that even its language is different in style from that of other sections. I would argue, then, that the section as it stands is not proportionate and indeed might not, as Michael Clancy has suggested, be compatible with our human rights obligations.

I understand the need for some audit functions to ensure the due diligence that the cabinet secretary has outlined: the duty to steward public funds effectively and to ensure value for money in our public services, but section 16 blows that line and takes things too far. The lack of public consultation on the operation of the section gives me cause for concern, and I therefore ask committee members to support amendment 58 in my name.

Finally, if I had a vote today, I would be supporting Jeremy Balfour's amendment 10 and the cabinet secretary's amendment 57. Thank you, convener.

The Convener: Before I invite others to speak, I remind members that they should try to be as concise as possible and, where possible, not to repeat themselves, although I understand that members want to get their points across.

With that, I invite Bob Doris to come in.

Bob Doris: No pressure on me to be concise then, convener. I appreciate your proactive chastisement of my remarks.

I believe that Jeremy Balfour has made incredibly well-intentioned and important arguments, but I genuinely and sincerely think that his solutions are weak. I would make a similar point about Maggie Chapman's amendment 58, too, and I will reflect on that in my contribution.

Having an audit process that was entirely voluntary, as Mr Balfour appears to suggest, would mean that it would not be systematic and methodical, and that would be a key weakness in trying to meet the recommendations that Audit Scotland made a few years ago. It would put the legislation at a disadvantage if we were to agree to Mr Balfour's amendment, so I suggest that we do not do so.

Jeremy Balfour: Are you comfortable with someone who has been awarded a benefit and whose circumstances have not changed being sanctioned simply because they have not returned a piece of paper to Social Security Scotland? Do you think that that is treating people with fairness, dignity and respect?

Bob Doris: I will come on to that later in my contribution, but I refute the way in which Mr Balfour has framed his question to me. I will say more about that a little later, too.

If we were to take Mr Balfour's advice, Social Security Scotland would have the best audit in the world. I accept that the level of fraud is very low at the moment, but I think that it would be almost completely non-existent, and errors would be almost non-existent, too, if we had a self-selecting audit. Those likely to step forward to be audited in the first place would be those who were absolutely not likely to have had an overpayment or to have engaged in fraudulent activity. It would be the best audit in the world and would show that Social Security Scotland was doing a fantastic job. I am sure that it is doing a very good job, but we have to identify any weaknesses that there might be, and a self-selecting audit would not allow us to do so.

Jeremy Balfour: Does Social Security Scotland not already have that power under section 52 of the 2018 act? Why do we need an additional power?

Bob Doris: I am happy to take more interventions from Mr Balfour, but I suggest that, if he waits a wee bitty, he will see that I am going to come on to all of that. I just want to say that, if we agreed to his amendment today, any such audit would lack credibility.

It is weak to argue that we already have a backstop through the power that relates to an unscheduled review of circumstances. If Audit Scotland were to use that power for audit purposes, one would feel that it was targeting individuals; after all, the power exists to deal with cases where Social Security Scotland thinks that there might have been a change of circumstances, fraudulent activity or an overpayment. Therefore, the use of that power indicates—almost—that something is amiss, whereas with a random, statistically significant, structured, strategic and methodical audit, no one would be targeted. Using the backstop power that Mr Balfour has suggested would, in my view, mean targeting individuals.

I would like the cabinet secretary to provide a bit more information ahead of stage 3, or perhaps at stage 3, on the exemptions that will be consulted on. I would also like to get a bit more clarity on the threshold at which payments will be suspended. Mr Balfour made a strong point about the fact that one of the reasons that someone might not supply the required information is that they are clearly vulnerable. I want to know about the threshold at which Social Security Scotland will move to suspend a benefit. For example, will the person concerned get a knock on their door from someone who has come to do a welfare check? I want to know what risk assessment will be done and how a person's risk profile will be assessed before any move to suspend assistance is made. It is important that we get more information on that, but that does not mean that I concede that, as well intentioned as Mr Balfour's and Ms Chapman's amendments are, they should be agreed to.

Finally, perhaps the cabinet secretary could say a bit more about how, once the audit process is embedded in Social Security Scotland, the agency will review the process to improve or finesse it. I believe that the suspension of payments should be an absolute last resort. Therefore, we need to get the threshold right and to put welfare before the suspension of benefits. There is a balance to be struck there, which Mr Balfour and Ms Chapman are trying to explore today, but I do not think that their amendments would secure that.

Kevin Stewart (Aberdeen Central) (SNP): As they always do, the words, "dignity", "fairness" and "respect" have come into play today. As the person who first got those three words into legislation as an amendment to the Welfare Funds (Scotland) Bill, I recognise how important they are. I also recognise that we should not pay lip service to them but should ensure that dignity, fairness and respect are at the very heart of all that we do.

I want to hear from the cabinet secretary, in her summing up, about certain aspects of what is proposed, because various things have been said this morning. I recognise that the Government has a duty to steward public funds appropriately, and I

am concerned about scenarios in which people could ignore requests for information, which in itself would cause real difficulties from an audit point of view. The amendments of Mr Balfour and Ms Chapman could mean that there would be an inability to produce robust fraud and error estimates, which I think that others would want to have as part of the audit process.

I would like to hear more from the cabinet secretary about the commentary in which it has been said that there are adequate procedures to deal with fraud. I would also like to hear from her on the exemptions, because I think that that is an extremely important area. Overall, I would like to know how else the Government could come up with robust fraud and error estimates, which I think that everyone would require the Government to do, if Mr Balfour and Ms Chapman's amendments were to be agreed to.

The Convener: I will now bring in Paul O'Kane.

Paul O'Kane: I am grateful, convener. The contributions of colleagues have been helpful. As Mr Balfour and others have alluded to, section 16 is a contentious section—in fact, from the evidence that we took from stakeholders, it is probably the most contentious section of the bill, and it is those stakeholders whom I am keen to put at the forefront of our consideration.

I recognise and understand the principle of desiring information for audit. It is important for understanding how the social security system operates, its impact, its inefficiencies and efficiencies, and the support that it rightly gives people. It is also important for identifying where there might be fraud and error—particularly fraud, which can have a criminal element. We should all be concerned about that.

I would not support Maggie Chapman's approach of removing section 16 from the bill entirely, because I think that important work is being done in this space.

In relation to Mr Balfour's amendment 10, I recognise the concerns that have been raised. The amendment is challenging, so perhaps we could do further work in consultation with the stakeholders I spoke about to understand how the system might work more efficiently. There are opportunities to look at co-designing regulation, which might give people more input than they would have over something that is in the bill.

Bob Doris: I appreciate the balanced approach that Mr O'Kane is taking in considering the amendments. Whatever the committee and Parliament ultimately decide, does he agree that if someone does not supply information, that does not necessarily mean that there has been an overpayment or any fraud? It could mean that there is vulnerability, which is why they have not got back to Social Security Scotland. If we proceed with the suspension of payments, which I think we should do, we have to be very clear about the threshold in relation to welfare checks around when suspension might ultimately kick in.

Paul O'Kane: I acknowledge what Mr Doris has just said and what he outlined in his contribution. It is helpful to the point that I am trying to make, which is that, in relation to section 16, I would like to see further work to put on a statutory footing some of the measures that Mr Doris talked about. I say to Mr Balfour that removing part of section 16 by amendment and not replacing it with something else gives us an opportunity at stage 3 to consider what we might do to put some of those things on a statutory footing. That is why the issue is important—I want to put that on the record.

I am sure that the cabinet secretary will want to talk about some of this in her closing remarks, but perhaps we should think about how we could put different requirements, different forms of consequence and different forms of support on that statutory footing. That is why I have sympathy with Mr Balfour for seeking to take out part of section 16 so that we can return to it at stage 3.

The convener is asking for brevity. I could go on, but I will leave it there. I am very grateful.

Shirley-Anne Somerville: I thank members for all their thoughts. Again, I put on the record that I very much appreciate where Jeremy Balfour's and Maggie Chapman's amendments are coming from and their concerns.

The Government has met stakeholders since stage 1 on this process, particularly because of the evidence that was given to the committee on it. They were specifically asked whether amendments should be lodged and no stakeholder asked the Government to lodge amendments. I believe that there are ways in which we can continue to reassure those stakeholders about safeguarding without the amendments that are being proposed today.

I go back to the point that I made to Mr Balfour. I simply cannot see a way in which we can audit Social Security Scotland without examining the case load and therefore asking for information from it. Everyone on the committee agrees that there needs to be an audit. This is about how we do the audit and how we ensure that it is robust. Again, I simply cannot see how we can have a robust audit if the process is self-selecting—you will have an audit, but it will not be robust.

Maggie Chapman is right to point out that benefit fraud is low. We know that it is low because there has been an audit, and the purpose of audit is to reassure us and to ensure that we can respond to those who might wish to use misinformation about the level of benefit fraud, or

to attack people who come forward for benefits, with evidence to say that that is not a major issue in our area of benefits. However, benefit fraud clearly exists and, where it happens, we must take it seriously.

10:00

Jeremy Balfour: I have sympathy with what the cabinet secretary says, but I still have concerns about the sanctions on an individual if they do not respond. I know that you are trying to address that through amendment 57, but I want to seek a consensus. Is there any possibility, to pick up Mr Doris's point, that, before stage 3, we could have a fuller list in the bill itself of who would not be sanctioned if they did not respond? Is there an opportunity for the Government to outline at least some categories of individuals? You might want to add to that after the consultation, but could the bill itself say that, if someone is in category X, Y or Z, they will not be sanctioned if they do not respond?

Shirley-Anne Somerville: If Mr Balfour will allow me to, I will take that away and reflect on it. I think that it was Maggie Chapman who made the point that there needs to be more consultation on this, and the whole point about not putting this in the bill itself was to allow that public consultation to take place. I can see where the member is coming from, but I am a bit hesitant because I have committed to having a consultation on this, which people would obviously be able to take part in. However, I will reflect on whether more can be done.

Kevin Stewart: Will the cabinet secretary also reflect on the fact that, if those exemptions are in the bill itself, it will be much more difficult to add exemptions in the future?

Shirley-Anne Somerville: Yes, I certainly will. Mr Stewart is right to point out the pros and cons of putting something in primary legislation.

I absolutely want to put on the record that, under this Government, there will never be sanctions on social security—never. The reason for that is that they are absolutely ineffective as well as immoral. Therefore, there will never be a sanction, but we need a robust system. I can provide an example of why that might be to the benefit of the client. If we begin a process and we then receive information that there has been a massive overpayment building up—for example, to a vulnerable client—the last thing that we would want to do is to allow the overpayment to continue to build up for even more time, because, at some point, it would have to be paid back. Therefore, there are reasons, which are to the client's benefit and advantage, for ensuring that the information is provided.

Mr Balfour places a lot of weight on the fact that we do not need this power because we have other powers in the previous act, but I simply have to disagree with him on that. Section 52 of the 2018 act allows for determinations without application, as set out in regulations, but that can be done only in order to make a determination because of, for example, a change of circumstances and overpayment. This is different, and therefore the powers that Mr Balfour suggests are in section 52 of the 2018 act would not assist us in this process. However, that points to the fact that we already have suspension powers that are very carefully used in the social security system.

A number of members have rightly talked about safeguarding, which is critical for what we are doing. Again, I think that we are all coming at this from the same point. The safeguards in the bill as drafted set out that individuals have a right to request withdrawal of information and a right to support for a response to Social Security Scotland. There are also safeguards in the 2018 act. Mr O'Kane raises a really important point. Again, I will need to reflect on what could be done between stages 2 and 3 and what should be in the bill itself. However, Mr O'Kane is right to point out that it is very important that, as the agency moves forward, it does so in conjunction with stakeholders. That is the way in which the guidance on fraud and error was developed when it was first introduced. It is the way in which the agency always develops guidance. It does not sit there and do it unilaterally. There is very much an openness to learn and adapt.

It is important that, while we are still working through what that operational process will look like, the stakeholders will have an opportunity to get involved in its development. However, I will reassure the committee on certain aspects. The process will be designed to be as sympathetic as possible to circumstances while maintaining statistical rigour. The individuals who are selected will have access to support. There will be scope for people to provide the required information in a range of formats. Reasonable timescales will always be in place to gather that information. People can ask to have a request withdrawn if they think that they have good reason.

Suspension and determination without application will only ever take place when people have received numerous reminders and timeframes. I absolutely appreciate the fact that members want to ensure that that is done not just in letters or in a way that might not be useful to a vulnerable client but in a way that is sympathetic to vulnerabilities. Stakeholders and the agency need to work together on that.

For the sake of near brevity, I end my remarks there.

The Convener: Thank you, cabinet secretary. Just after we deal with this section and before we

move on to section 17, we will have a comfort break.

Amendment 57 agreed to.

Amendment 10 moved—[Jeremy Balfour].

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
McCall, Roz (Mid Scotland and Fife) (Con)
O'Kane, Paul (West Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

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

As the result is a tie, I must exercise my casting vote. My vote is against the amendment, which is therefore disagreed to.

Amendment 10 disagreed to.

Amendment 58 moved—[Maggie Chapman].

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

Members: No.

The Convener: There will be a division.

Against

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
O'Kane, Paul (West Scotland) (Lab)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

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

Amendment 58 disagreed to.

Section 16, as amended, agreed to.

The Convener: We will have a small comfort break. I look forward to seeing members back in about five minutes.

10:10

Meeting suspended.

10:16

On resuming—

Section 17—Recovery of value of assistance from compensation payments

The Convener: Welcome back. Amendment 59, in the name of the cabinet secretary, is grouped with amendments 60 to 91, 100 and 101. I invite the cabinet secretary to move amendment 59 and speak to all the amendments in the group.

Kevin Stewart: Convener, before we move on, I do not think that we agreed to section 16 before the break.

The Convener: We do not need to put the question on that, but thanks for reminding me, Kevin.

Shirley-Anne Somerville: The Government has proposed amendments in my name that fall under three themes for the compensation recovery provisions: stylistic drafting changes, changes to improve clarity and some small changes to the proposed powers in the relevant parts of the bill.

Amendments 61 to 63, 68, 75, 79, 82 and 86 to 91 all make stylistic changes to the drafting of the provisions. The majority of those amendments are designed to address the overuse of the word "any" in the provisions by replacing it with the words "a" or, where appropriate, "an". Others are designed to remove duplication or to make grammatical changes. We consider those amendments to be minor and to have no effect on the operation of the provisions.

The committee will note that the compensation recovery provisions are complex. The next set of amendments is designed to provide clarity and to simplify where possible, without impacting the functionality of the provisions.

A key issue is that the provisions must make reference to multiple parties, often in the same section, which can be confusing. Proposed new section 94A of the 2018 act, in particular, refers to many different parties, so amendments 59 and 60 help to clarify to whom the specific provisions apply.

Proposed new section 94M provides for a

"review of certificates of recoverable assistance."

On reconsideration, we identified that we could reduce complexity through amendments 69 to 72 by making a small change to the wording, updating the references and eliminating the need for subsection (6).

Following engagement with bodies representing the insurance industry, we believe that via amendments 66 and 67 we can reduce complexity in proposed new section 94H when referring to policies of insurance. Those changes ensure that the meaning is clearer without having any impact on how the provision will function in alignment with the rest of the United Kingdom.

Also in that section, we intend that a "policy of insurance" should cover liability only in so far as that policy has been stated to cover, and not any further. The Association of British Insurers in particular expressed concern that the point was not clear enough in the bill. Amendment 64 removes the risk that the provision could be misinterpreted to read that the insurer covers all liability, beyond the terms of the policy.

There might be situations in which, following a reconsideration or appeal, it is revealed that a person who received a compensation payment knowingly provided inaccurate or insufficient information. We believe that also proving that person's

"intent of increasing the compensation payment"

is not necessary as there could be no other reason to do it, so amendment 77 removes that requirement in proposed new section 94P.

Amendments 78, 80 and 81 apply to the provisions on periodical payments. On review, we were concerned that those provisions could be confusing. The amendments remove words that add no value to the provisions, simplifying proposed new section 94R while having no impact on its effect.

The next series of amendments is designed to make some changes to the powers that were proposed when the bill was first introduced. Many of those changes are in response to scrutiny from both the Delegated Powers and Law Reform Committee and the Social Justice and Social Security Committee.

At proposed new section 94H, we agreed with the Delegated Powers and Law Reform Committee that the equivalent UK provision contains a more restricted power to limit the amount of the insurer's liability. We agreed that a wider power was not required, and amendment 65 makes that change.

Amendment 84 relates to the diffuse mesothelioma payment scheme administrator. As drafted, the provision could apply to anyone providing any services to the DMPS administrator, but we do not intend for that provision to apply so broadly. The amendment narrows that power to apply only to those specifically "acting on behalf of" the administrator.

Amendments 73, 74 and 76 relate to the provisions on appeals against a certificate of recoverable assistance at the First-tier Tribunal. They remove unnecessary subsections that relate to raising an appeal; it is more appropriate that the matter be covered in tribunal rules.

The Delegated Powers and Law Reform Committee also queried the regulation-making power relating to the

"non-disclosure of medical advice or ... evidence given ... in connection with an appeal".

On review, it was identified that a power that is contained in the tribunal rules and which is already in practice makes sufficient provision in relation to the disclosure of documents and information. As such, amendment 76 removes that unnecessary power.

Amendments 100 and 101 remove the references to those powers from the section outlining procedures.

Proposed new section 94T provides regulation-making powers for the provision of information in relation to "recovery from compensation payments". It was identified that the provision might apply more broadly than necessary, deviating from the equivalent provision in the UK legislation. Amendment 85 narrows that power. There is also no need to specify mandatory content for regulations, so amendment 83 makes changes to allow for content that could be included in regulations.

I hope that everyone has followed those technical amendments, convener.

I move amendment 59.

The Convener: Thank you very much, cabinet secretary. You have done very well.

I now invite members to come in.

Jeremy Balfour: You will be glad to hear that I will not speak for long, convener. We support the overwhelming majority of the amendments but cannot support amendments 73, 74 and 76.

Again, it comes down to a different view in relation to legislation. Although I appreciate what the cabinet secretary has said, in that the provisions are already in the tribunal rules and regulations, I come back to the point that those rules are not scrutinised by Parliament, so if they happen to change one day, a very different system could be working and Parliament—although it could clearly call in the chamber president—would have no power to keep the provisions. I believe that the provisions should stay in primary legislation and that the tribunal rules should flow from them, rather than the other way round. I cannot support those three amendments, but I absolutely agree with all the others.

The Convener: Would any other member like to come in?

Bob Doris: I just want to make a general point, convener. I was going to say, “Could you just say all of that again, cabinet secretary? I did not quite catch it”, but I will not.

What is self-evident—it is really just to put this on the record—is that the Government’s legislation team is moving through the bill with a fine-toothed comb to tighten and clarify matters. In years to come, whoever is sitting on the committee will welcome those clarifications. It has clearly involved a lot of work from the officials. Although that is, of course, their job, we really welcome the work that they have put in with regard to section 17.

The Convener: No other member wants to come in, so I invite the cabinet secretary to wind up.

Shirley-Anne Somerville: I thank Mr Doris for his kind remarks to my officials. I absolutely concur that the job that they did on section 17 and, indeed, on other aspects of the bill is remarkable, so I thank him for putting that on the record.

With respect to Mr Balfour’s points, we have had many discussions about tribunals over the years, and I am afraid that that is one of those areas in which we disagree on the best way of proceeding. I see where he is coming from, but I made the points that I wished to make during my remarks on the Delegated Powers and Law Reform Committee’s queries on this area, when I explained the reasons for our decisions. Given the length of my opening remarks, I will leave it there.

Amendment 59 agreed to.

Amendments 60 to 72 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 73 moved—[Shirley-Anne Somerville].

The Convener: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
O’Kane, Paul (West Scotland) (Lab)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
McCall, Roz (Mid Scotland and Fife) (Con)

The Convener: The result of the division is: For 6, Against 2, Abstentions 0.

Amendment 73 agreed to.

Amendments 74 to 91 moved—[Shirley-Anne Somerville]—and agreed to.

Section 17, as amended, agreed to.

Section 18—Scrutiny of regulations by the Commission

10:30

The Convener: Amendment 92, in the name of the cabinet secretary, is grouped with amendments 93 to 96, 11 and 97.

Shirley-Anne Somerville: Amendments 92 to 94 bring within the scope of SCOSS’s formal scrutiny remit regulation-making powers on care experience assistance, appointees, assistance given in error and information for audit.

The bill as introduced sought to implement the findings of the Glen Shuraig Consulting review and bring specific additional regulations into SCOSS’s formal scope. At that point, the regulations that were being brought into scope did not include those for care experience assistance, compensation recovery, information for audit, appointees or assistance given in error, as those were not under consideration at the time of the review.

As the committee heard during stage 1, there were calls from stakeholders for all the new regulation-making powers in the bill to be subject to formal scrutiny by SCOSS. Following that evidence, the board of SCOSS wrote to me in April 2024, noting that it welcomed additional scrutiny of some—rather than all—of the regulations that were made possible by the bill. Amendments 92 to 94, in my name, therefore add to the existing list of regulation-making powers that are captured under section 97 of the 2018 act, in accordance with those exchanges with the board of SCOSS—[*Interruption*.] Excuse me, convener. Clearly, I am allergic to stage 2 proceedings after a certain amount of time.

I urge the committee to support those amendments. We have seen how SCOSS scrutiny adds value to the development of regulations, and I have no doubt that its scrutiny of regulations on the added topics will similarly make an important contribution.

Amendments 95 and 96 simply ensure that section 97 of the 2018 act, on formal scrutiny by SCOSS, applies to regulations whether they are subject to the affirmative or the negative procedure.

Amendment 97 ensures that SCOSS is aligned with similar public bodies in its duties to publish an annual report. The Glen Shuraig review noted that

the 2018 act's relatively onerous statutory duty on the commission to prepare accounts and submit those for external audit should be removed. Amendment 97 replaces it with a more proportionate requirement to prepare an annual report that must be submitted to ministers and laid before the Parliament. The SCOSS board has welcomed that amendment.

Amendment 11, in Jeremy Balfour's name, would expand SCOSS scrutiny to primary social security legislation as well as a broader range of secondary legislation. The Government cannot support that. The Scottish Government is already bringing the majority of the regulation-making powers in the 2018 act within the scope of scrutiny by SCOSS. That aligns with the recommendations of the independent review, which recommended a focus on areas that can have an impact on clients. The widening of the scope that is proposed in amendment 11 would both undercut that policy objective and create unclear resource implications for SCOSS.

The Government also has concerns about how the provisions on the scrutiny of primary legislation would work in some contexts—for example, if emergency legislation is required, there might not be sufficient time.

It is also important to highlight that the functions of SCOSS under the 2018 act are already wide ranging, and relate not only to the scrutiny of legislative proposals; SCOSS can, when requested, prepare and submit to the Scottish ministers and the Parliament advice on any matter relevant to social security and report on whether expectations as set out in the Scottish social security charter are being fulfilled, as well as make any recommendations for improvement. According to its most recent annual report, the commission has progressed work in that area, and I believe that it would be useful for the committee to consider those existing functions rather than create entirely new statutory functions, given that those that are available to the Parliament have been used so little.

I move amendment 92.

Jeremy Balfour: I welcome the Government amendments. When the minister closes on amendment 97, I wonder whether she will confirm that no body similar to SCOSS has to provide public accounts that have been audited, and that such a duty would take SCOSS beyond other bodies.

I will be honest. When we were putting through the original 2018 act, I was a bit of a sceptic about SCOSS. It felt to me as though it was going to be just another talking shop or another body that was not going to play a particularly positive role in the Scottish landscape. However, I am a sinner who has confessed and now have turned 180 degrees on that. I welcome the work of SCOSS. It is an important tool in the landscape. It picks up some of the gaps that we as a committee do not have time for, and it brings expertise to the process that we as a committee sometimes do not have. I would seek to give it greater power in regard to the work that it does. That would be for it to decide, however, not for us or the Scottish Government to instruct.

I was struck by what the cabinet secretary said about SCOSS being able to report to ministers and Parliament when it is requested to do so, either by the Scottish Government or possibly by the committee. I would like SCOSS to decide what it should look at.

Amendment 11 would also give SCOSS greater power to look at acts that have been passed and to do post-legislative scrutiny. There is a general view across the Parliament that we are not very good at doing that. I accept that that might come with extra resources required, but we need to make sure that the primary and secondary legislation that we are passing is the best that it can be and I believe that SCOSS plays an important role in that. To give it greater powers by future proofing the bill for future years and generations is an opportunity that we should not pass by, so I ask the committee to look favourably on amendment 11 and support it.

The Convener: I am sure that the commissioner will very much welcome your comments today.

Paul O'Kane: I will make a brief contribution, if I may. I have heard what the cabinet secretary said about amendments 95 and 96, and I have read the purposes and the explanation that it is an approach to tidying up issues in the bill. However, I share the concerns that have been raised about SCOSS perhaps feeling that its power is weakened somewhat and I think that we have to guard against that.

I would be keen for the cabinet secretary to reflect on that in summing up, particularly on the powers and duties that Mr Balfour was referring to. The points in amendment 11 about increasing the powers of scrutiny are very important. Ahead of our stage 3 consideration, we might wish to reserve judgment on a number of those items, but I am keen to put that on the record and try to get some clarity.

Bob Doris: It was lovely to hear that Jeremy Balfour is regretful of his previous views on SCOSS. I did not hear him repent, but nonetheless.

I ask the cabinet secretary to say in summing up whether there will be a need at some point in the future for a more consolidated strategic review of

the powers and effectiveness of SCOSS, and whether it might not be the place of the bill to tack something on to increase the powers of the commission. Rather, as a Parliament at some point in the future—including this committee, which could take evidence sessions on it—we could decide what the appropriate powers and roles of SCOSS would look like. The Government could respond to that or it could do something more proactive. I am just not sure that this bill is the right piece of legislation to do that bit of work

The Convener: If no other member would like to come in, I invite the cabinet secretary to wind up.

Shirley-Anne Somerville: I, too, thank current and previous SCOSS members for their work. They have genuinely added value with every piece of work that they have done since SCOSS came into existence, and I very much appreciate the work that they do. They have made social security in Scotland better, and they can be exceptionally proud of the role that they have played in that.

I can give the confirmation that Mr Balfour seeks around the accounts, and I point out that the review that was undertaken was also about streamlining, so, in essence, it did much of what Mr Doris suggested. Obviously, it is for the committee to decide whether it wishes to do more, but the review was very wide ranging. It was about powers and it aimed to ensure that SCOSS and its structures and responsibilities were fit for purpose. There was a streamlining element to that, too. I hope that that gives reassurance to Mr O'Kane. In essence, I am very keen that SCOSS is strengthened.

On Jeremy Balfour's amendment, I say that SCOSS has not asked for such an amendment. SCOSS has not said that it wishes the implications of Mr Balfour's amendment to come to fruition, but I am happy to go away between stage 2 and stage 3 to further clarify that with the chair. I have responded to the asks that were made of me in the letter with the amendments that are in front of the committee for discussion today, so I again ask Mr Balfour, on that basis, not to move amendment 11.

Amendment 92 agreed to.

Amendments 93 to 96 moved—[Shirley-Anne Somerville]—and agreed to.

Section 18, as amended, agreed to.

After section 18

The Convener: Amendment 11, in the name of Jeremy Balfour, has already been debated with amendment 92. I ask Jeremy Balfour to move or not move the amendment.

Jeremy Balfour: In the light of the cabinet secretary's contribution, I will reflect further and will not move amendment 11.

Amendment 11 not moved.

Sections 19 and 20 agreed to.

Section 21—Duty on Commission to publish annual report

Amendment 97 moved—[Shirley-Anne Somerville]—and agreed to.

Section 21, as amended, agreed to.

After section 21

The Convener: I call amendment 12, in the name of Jeremy Balfour, which is grouped with amendment 13. I ask Jeremy Balfour to move amendment 12 and to speak to both amendments in the group.

Jeremy Balfour: Convener, I should have said at the start of the meeting, as I did at the start of our previous one, that I am in receipt of personal independence payment and hope to be transferred to the adult disability payment at some point. I am also a former member of the First-tier Tribunal for Scotland.

10:45

In the distant past—about eight or nine years ago—the deputy convener and I had a pleasant day out at Victoria Quay. We were taken down there and saw a really interesting presentation on how the new social security system would work, the Scottish Government's input to it, and how it would be an all-singing, all-dancing system. I and other members of the committee at that point had quite an interesting day out. I came away from the visit thinking that we would be able to look at the new system and say how well it was doing and how different it was from the DWP one.

Now, X years on from that point, I do not think that we have got things right yet. There is a lot of information that we would like to know from Social Security Scotland with regard to how it is doing. For example, I recently wrote to the agency and, in response, it said:

> "We are currently unable to measure or report on the time taken between the receipt of all the supporting information and the decision being made in a case."

That seems to me to be quite a fundamental issue if the committee is to scrutinise how well Social Security Scotland is doing and to see whether it is meeting its aims. That is why, through amendment 12, I seek to introduce key performance indicators for Social Security Scotland.

Not all the fault lies with Social Security Scotland—nor with the cabinet secretary, who was

not, I presume, in post at that time. The Scottish Government designed the system that Social Security Scotland is using, yet that system is unable to provide basic information, so we cannot judge how well the agency is doing against certain criteria.

My amendment 12 therefore seeks to bring in KPIs for Social Security Scotland. Having listened to the cabinet secretary on many occasions, I appreciate that it might be not appropriate to do that in primary legislation. My aim is to get the Scottish Government to consult on the matter, as it does very well with this committee, stakeholders and other interested parties, and to bring in KPIs so that we can measure how Social Security Scotland is doing. That seems to me to be a reasonable thing to happen, and it would allow us to go forward with greater assurance. Clearly, some information that is not currently there will still be missing, which will always be disappointing. However, I think that we can rectify the situation to some degree.

I would use the same arguments with regard to the work of the First-tier Tribunal, which I will address later. The committee and the Parliament need to have confidence that the policy and principles that we set will happen in practice, but my fear is that that is not happening from day to day. I acknowledge that we do not necessarily want to set KPIs for the First-tier Tribunal in primary legislation, so amendment 13 aims to have the Government consider those and introduce appropriate secondary legislation.

We all want Social Security Scotland to work—not only in principle, but because it exists to serve the most vulnerable people in our society. If we cannot know whether it is doing that, we as a committee are failing. The KPIs that amendment 12 would introduce could make a massive difference.

I move amendment 12.

The Convener: As no other member wishes to comment, I invite the cabinet secretary to respond.

Shirley-Anne Somerville: Mr Balfour's amendments 12 and 13 would introduce powers to set out key performance indicators in legislation for both Social Security Scotland and the First-tier Tribunal for Scotland. The Scottish Government does not support either amendment.

As an executive agency, Social Security Scotland already publishes an annual report on accounts, in line with the Scottish public finance manual. It must also comply with the Public Finance and Accountability (Scotland) Act 2000.

The 2018 act also requires Scottish ministers to report on the number of people who are appealing to the tribunal. The committee can—and frequently does—hear evidence from senior leadership at Social Security Scotland on matters of operational delivery.

The committee will also be aware that section 15 of the 2018 act requires a Scottish social security charter to be prepared, published and reviewed. The charter was co-designed with people with lived experience of social security and it underpins everything that the agency does. As approved by the Parliament in 2019, the 2018 act sets out the service that people should expect from Social Security Scotland. A revised charter, which was developed by using a comprehensive co-design approach with clients and stakeholders, was approved by Parliament in June.

I repeat my comments from the debate on the previous group of amendments—if the committee would like more information on an aspect, the Parliament already has the power to get it.

Jeremy Balfour: That information is simply not available. I have given an example of my having written to Social Security Scotland to ask for that information, but it is not producing it. We can have the chief executive in front of the committee as often as we want, but if the agency is not producing that information how can we scrutinise it?

Shirley-Anne Somerville: I absolutely take that point and, if Mr Balfour will bear with me, I assure him that I will get to that. However, the committee has the power to request information.

In addition, allowing Scottish ministers to set key performance indicators for the First-tier Tribunal would undermine ministers' statutory duty to uphold the independence of the tribunals, which bolsters guarantees of judicial independence that are enshrined elsewhere in legislation. That is a fundamental principle of democratic society. Like Social Security Scotland, the performance and operation of the First-tier Tribunal is already subjected to scrutiny.

On the point that Mr Balfour has raised, he and I have had discussions on that. There has been a degree of frustration about some of the information that he and stakeholders have wished to see; for example, management information is not there for Social Security Scotland to pull, and to do so quickly.

I, too, remember the trips down to Victoria Quay. I was probably responsible for social security at that time, given that I have been for more than half of Mr Balfour's time in the Scottish Parliament. He will also remember that it was an agile programme and that the aspects that were brought in were always going to require continuous updating and improvements. That was part of the process and was clear from the start. Some of that is about the ability to obtain

information and to request information in an easy way that does not, for example, require a lot of manual workarounds.

I hear and appreciate Mr Balfour's frustration on the issue. As he has already alluded to, I do not think that the way to address that is through primary legislation. I have offered to meet Mr Balfour, along with the senior management of the agency, to discuss the areas on which he feels that more information is required. We will also continue to work on that with stakeholders.

The Convener: I invite Jeremy Balfour to wind up the debate and press or seek to withdraw amendment 12, and I would appreciate brevity.

Jeremy Balfour: I will be brief, as always, convener.

I thank the cabinet secretary for her remarks, but I still do not agree that the information is coming forward quickly enough. There is frustration that we do not know some of the timescales that are involved in the process. I welcome the meeting that has been arranged, which the cabinet secretary mentioned a moment ago.

A number of committee members have previously been critical of the DWP's processes. To be fair to the DWP, at least its processes were there to be scrutinised. I still do not think that Social Security Scotland is being properly scrutinised, because we simply do not have the information. KPIs are a way forward that can be flexible because they are in secondary legislation. On that basis, I will press amendment 12.

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
McCall, Roz (Mid Scotland and Fife) (Con)
O'Kane, Paul (West Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. As the result is a tie, I will exercise my casting vote, which will be against the amendment.

Amendment 12 disagreed to.

Amendment 13 moved—[Jeremy Balfour].

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
McCall, Roz (Mid Scotland and Fife) (Con)
O'Kane, Paul (West Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. As the result is a tie, I will exercise my casting vote, which will be against the amendment.

Amendment 13 disagreed to.

The Convener: Amendment 14, in the name of Jeremy Balfour, is in a group on its own. I call Jeremy Balfour to speak to and move the amendment.

Jeremy Balfour: Convener, you will pleased to hear that I think this will be my last contribution of the morning, so I just want to take this opportunity to thank the cabinet secretary and her officials for their positive engagement. We might disagree, but at least we do so nicely. I also thank officials for the time that they have given, both in one-to-one meetings and in writing to me, with regard to this matter.

Amendment 14 seeks to meet the principles that we all agree on of dignity, fairness and respect. The First-tier Tribunal is important as a place where people's cases can be looked at with a fresh pair of eyes and different decisions made. Statistically speaking, people who go to the tribunal are more likely to succeed in their appeals. For some, going to a tribunal in person is not what they would want, and that view should be absolutely respected. Whether their preference is for an online hearing or for the tribunal to review their case on paper, that should be their choice. However, people should also be allowed to go to the First-tier Tribunal for a face-to-face hearing, if that is what they want.

Things have changed since Covid. As I have said previously, eight or nine years ago, I was a member of the DWP tribunal when it was still run by the Scottish Courts and Tribunals Service. Across the country, from Aberdeen to Stornoway and from Gala to Dumfries, tribunals would sit on a daily basis, particularly in the central belt, and cases would be heard. We have discovered through a freedom of information request that between January 2023 and January 2024 one in-person hearing was held, while over the same period 343 hearings were held over the telephone.

I am sure that all members have been spending their evenings reading the "Scottish Tribunals Annual Report 2022-2023". It contains a really interesting sentence that is the reason for my having lodged amendment 14. It says that

"on cause shown the Chamber President can"—

and I emphasise the word "can"—

"authorise in-person hearings."

That means that the chamber president can choose whether or not to hold an in-person tribunal hearing, but it does not mean that the individual will automatically be given an in-person hearing if he or she wants it. That is why amendment 14 is really important.

I have heard from various organisations that are involved with the First-tier Tribunal that they would want hearings to be held in person if that was what the claimant wanted, but they have been put off by the tribunals service in that regard. For that reason, I think that there should be a presumption of an in-person First-tier Tribunal hearing; however, if the claimant does not want that and instead wants a telephone or online hearing, or wants their case to be reviewed on paper, that should absolutely be their choice. I simply think that the chamber president having the power to authorise such hearings seems to me to move away from the principle of treating the individual with dignity, fairness and respect.

I move amendment 14.

11:00

The Convener: If no other members wish to comment on the amendment, I invite the cabinet secretary to come in.

Shirley-Anne Somerville: The Government does not support amendment 14, in the name of Jeremy Balfour, although I acknowledge his point that some people might wish to have an in-person hearing. I also very much agree that it is important for clients to have that choice.

When the SCTS gave evidence to the committee in April, it advised that, during Covid, the chamber started operations with telephone hearings as the default and that some users enjoyed and appreciated that format. It also advised that, where appellants want a certain type of hearing, the tribunal will accommodate their choice, unless there is a compelling reason not to do so.

I also understand from the session earlier this year at which the SCTS gave evidence that it is making improvements to the service to allow people to choose the type of hearing that best suits them, including in-person hearings, and to express their preference through various channels. Moreover, I understand that the number of in-person hearings, although still small in comparison to pre-pandemic levels, is increasing. Therefore, I do not think it necessary to introduce a presumption in legislation, if there is already a process in place to allow clients to choose.

I very much encourage the committee to consider the fact that some people find a phone or video hearing much less daunting than an in-person hearing, or they might well find it more convenient and that it fits in with their day-to-day responsibilities and commitments. I fear that a presumption of an in-person hearing will have the unintended consequence of pushing people towards a type of hearing that they do not want and which does not best suit their needs.

The only other point that I would make—and I would have to refer back to the record for this—is that the figures that Mr Balfour referred to were, I think, for the appeals that were due under the DWP system, not the Social Security Scotland system.

The Convener: I invite Jeremy Balfour to wind up and indicate whether he wishes to press or seek to withdraw amendment 14.

Jeremy Balfour: I will be pressing the amendment, convener.

The cabinet secretary and I do not disagree on this—I totally accept that online or telephone hearings are the way forward for some people, and amendment 14 in no way takes that away. I do not accept that it will have unforeseen consequences.

We have to look at the evidence of what is happening on the ground, and we have to consider that sentence in the "Scottish Tribunals Annual Report 2022-2023" about the chamber president having this particular power. I believe that, as many third-party organisations have said to me, many people want to go along to a tribunal hearing. From my purely practical experience of sitting on the tribunal, I can tell you that, when the claimant walked in, you could see them face to face, you immediately understood why they were making the claim and the decision was far more likely to go their way than if the hearing had been on a telephone.

Shirley-Anne Somerville: I would hasten to add that it points to a clear problem with the DWP process if the case was that obvious but the client was still forced to appeal. I strongly suggest that evidence and experiences such as those gathered during the DWP process are not the way in which our system operates, and I simply refute the suggestion that the tribunal would make a decision on a case based on the way that an individual walked into a room. It cannot be as clear as that,

or something has gone far wrong with the initial decision.

Jeremy Balfour: I say, with due respect to the cabinet secretary, that we do not know because we are not having any in-person tribunal hearings here in Scotland. We debated this point previously—when, as happened under the DWP, a person goes to a tribunal and their case is looked at afresh, the tribunal can often come to a different view.

Bob Doris: Will Jeremy Balfour give way?

Jeremy Balfour: Absolutely.

The Convener: Please try to be as concise as possible.

Bob Doris: Mr Balfour, the policy intent of amendment 14 seems to be to have a presumption in favour of face-to-face hearings rather than a presumption in favour of choice, but your argument seems to be that you want the policy intent to be to have a presumption in favour of choice rather than a presumption in favour of face-to-face hearings. I am concerned that your policy intent does not match your amendment.

Jeremy Balfour: My policy intent is that there should be a face-to-face hearing unless the claimant does not want that to happen. That puts choice—what the claimant wants—right at the heart of things. That is why I lodged amendment 14. The evidence on paper and in practice shows that the tribunals service is not doing that. That is why we need the amendment. I do not think that it would have any unforeseen consequences. It would bring back dignity, fairness and respect, which, this morning, the committee seems to have decided that it no longer believes in.

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

Members: No.

The Convener: There will be a division.

For

Balfour, Jeremy (Lothian) (Con)
Clark, Katy (West Scotland) (Lab)
McCall, Roz (Mid Scotland and Fife) (Con)
O'Kane, Paul (West Scotland) (Lab)

Against

Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
McNair, Marie (Clydebank and Milngavie) (SNP)
Stevenson, Collette (East Kilbride) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)

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

As there is a tie, I must exercise a casting vote, and I will use my casting vote against the amendment.

Amendment 14 disagreed to.

Sections 22 and 23 agreed to.

Section 24—Regulation-making powers

Amendment 98 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 99 not moved.

Amendments 100 to 102 moved—[Shirley-Anne Somerville]—and agreed to.

Amendment 103 not moved.

Section 24, as amended, agreed to.

Section 25—Commencement

The Convener: Amendment 104, in the name of the cabinet secretary, is in a group on its own.

Shirley-Anne Somerville: The committee will be pleased to learn that amendment 104 is a minor amendment and that my speaking notes on it are short.

Amendment 14 will allow the provision that sets out the parliamentary procedure for the regulation-making powers to commence the day after the bill is given royal assent. It will remove the need for a set of commencement regulations to be laid for section 24, which would be disproportionate, given that the provision relates solely to parliamentary procedure.

I move amendment 104.

The Convener: As no members have any comments, I invite the cabinet secretary to wind up.

Shirley-Anne Somerville: I have nothing to add.

Amendment 104 agreed to.

Section 25, as amended, agreed to.

Section 26 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and her team for joining us. Amendments for stage 3 can now be lodged with the legislation team clerks.

Before we conclude our business in public, I believe that Roz McCall, who joins us remotely, has a comment to make.

Roz McCall (Mid Scotland and Fife) (Con): Thank you, convener. I apologise for doing this at the end. I had a rural internet hiccup at the worst possible time, when we were voting on amendment 58 just before the break, and I have been trying to come in ever since. Basically, I was put down as having not voted, due to the problem with the internet connection, but I would like to put

on record the fact that I would have voted against amendment 58. I apologise for the lack of internet support.

The Convener: Thank you, Roz. That is now on the record.

We now move into private to consider the remaining item on the agenda.

11:11

Meeting continued in private until 11:20.

This is a draft *Official Report* and is subject to correction between publication and archiving, which will take place no later than 35 working days after the date of the meeting. The most up-to-date version is available here:
www.parliament.scot/officialreport

Members and other meeting participants who wish to suggest corrections to their contributions should contact the Official Report.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

The deadline for corrections to this edition is:

Friday 25 October 2024

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

The Scottish Parliament
Pàrlamaid na h-Alba